PROPERTY RESTITUTION IN CENTRAL AND EASTERN EUROPE: THE STATE OF AFFAIRS FOR AMERICAN CLAIMANTS

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BEFORE THE

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PROPERTY RESTITUTION IN CENTRAL AND EASTERN EUROPE: THE STATE OF AFFAIRS FOR AMERICAN CLAIMANTS

TUESDAY, JULY 16, 2002

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PROPERTY RESTITUTION IN CENTRAL AND EASTERN EUROPE: THE STATE OF AFFAIRS FOR AMERICAN CLAIMANTS

JULY 16, 2002

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

The Commission met in Room 334, Cannon House Office Building, Washington, DC, at 2:00 p.m., Hon. Christopher H. Smith, Co-Chairman, presiding.

Commissioners present: Hon. Christopher H. Smith, Co-Chairman; Hon. Hillary Rodham Clinton; Hon. Benjamin L. Cardin; and Hon. Joseph R. Pitts.

Other Members present: Hon. Joseph Crowley.

Witnesses present: Randolph M. Bell, Special Envoy for Holocaust Issues, U.S. Department of State; Yehuda Evron, U.S. President, Holocaust Restitution Committee; Olga Jonas, Secretary, Free Czechoslovakia Fund; Mark Meyer, Esq., Chairman, Romanian-American Chamber of Commerce; Israel Singer, President, Conference on Jewish Material Claims Against Germany and Co-Chairman, World Jewish Restitution Organization.

HON. CHRISTOPHER H. SMITH, CO-CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. SMITH. The hearing will come to order. I want to welcome our very distinguished panelists who are here today. We will do a more proper introduction momentarily.

During and after the Second World War, millions of people fled Central and Eastern Europe to escape Nazism and Communist persecution. Most of them lost everything they and their families had and had built over generations including homes, businesses and artwork. In addition, totalitarian regimes seized tens of thousands of communal properties from religious and ethnic communities.

For more than a decade now, post-Communist countries in Central and Eastern Europe have struggled with the question of how to redress these wrongful confiscations of property. Since the early 1990s, the Helsinki Commission has monitored the property restitution and compensation efforts of post-Communist governments. I have personally raised concerns with officials of many countries regarding the need for nondiscriminatory laws that are faithfully implemented.

Today's meeting is the third Helsinki Commission hearing to examine these issues.

Central and Eastern European governments have done much regarding property restitution that is commendable. In particular, the return of communal properties to Jewish communities decimated during World War II have been undertaken to some extent in every country. Catholics and other religious congregations in the region have also been able to regain some of what they lost under atheistic Communist regimes. Many countries have also passed laws to govern the return of properties to individuals, which is no small achievement.

Nonetheless, the Helsinki Commission continues to receive a steady stream of letters from individuals and organized groups pleading for assistance in their struggles to recover expropriated properties. The common thread in these letters is that, despite the laws enacted and the positive efforts made, these governments cannot bring themselves to part with most of the loot stolen by undemocratic predecessors.

Governments seeking membership in Western institutions want to be perceived as reform governments by passing private property restitution laws, or by touting their efforts to return communal properties. Upon closer examination, however, one finds lackluster the implementation of the laws, or exceptions to restitution which severely limit the properties that can be returned, or bureaucratic hurdles that governments lodge before every person who actually makes a claim.

Restitution laws are specifically undermined through discriminatory citizenship requirements, which often deny restitution or compensation to individuals who left the country under previous regimes. This has been the problem in Lithuania and Croatia, but is most stark in the Czech Republic where the citizenship requirement for restitution discriminates almost exclusively against individuals who lost their Czech citizenship because they chose the United States as their refuge from communism as opposed to any other country.

The bilateral treaty that led to this loss of citizenship has not been enforced in the United States since the 1960s. Nevertheless, the Czech Republic refused to abrogate the treaty until 1997, after the final deadline for seeking restitution under the Czech law had passed.

Property restitution cases are also undermined by the serious rule of law problems in many countries. Thousands of property claimants who have brought their restitution claims to domestic courts discovered that the government entities that stand to lose possession of claimed properties will delay legal proceedings for years and will repeatedly appeal decisions favorable to claimants.

Moreover, the courts have failed to play a constructive role in the restitution process, often allowing proceedings to drag on for years, and ultimately failing to resolve cases in a manner that actually results in the return of wrongfully confiscated property.

An extreme example of this occurred in Romania in the mid-1990s when hundreds of court decisions in favor of property claimants were reversed by the supreme court after they had become final and irrevocable judgments. The European Court of Human Rights recently ruled that these actions violated the European Convention on Human Rights.

Art restitution cases further illustrate the reluctance to part with looted property. In the Czech Republic a law provides for the return of looted artwork. In several cases, a Czech museum or court has recognized an ownership claim to artwork seized by the Nazis. When the

government becomes aware of the intention to return the artwork to the rightful owners' heir, the government declares the artwork a national treasure that cannot be removed from the country.

While the cultural patrimony excuse may indeed be legally accurate for not returning the property, I would suggest that the Czech Republic rethink any policy that would build the country's collection of national treasures on property that came into the Czech Republic's possession only because of Nazi persecution and plundering.

At the end of the day, the property claims of thousands of people, including American citizens, remain unresolved in more than a dozen countries in Central and Eastern Europe.

While we will not hear testimony today from every affected ethnic group or regarding every country that is struggling with these issues. We are dealing with basic principles that have application beyond the countries that will be highlighted by our very distinguished witnesses.

I would like to yield to Mr. Pitts—Commissioner Pitts from Pennsylvania for any comments he might have.

HON. JOSEPH R. PITTS, COMMISSIONER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. PITTS. Thank you, Mr. Chairman. Thank you for holding this timely hearing on Property Restitution in Central and Eastern Europe: the State of Affairs for American Claimants.

As nations in Eastern and Central Europe continue to respond to problems created by the legacies of Nazi policies and Communism, it is vital that these nations seek to address all pertinent issues and cases, including claims of those individuals or families who may fall between the cracks of current laws.

Unfortunately, there are many individuals and communities who have legitimate claims to land and property in Eastern and Central Europe. However, they have no recourse because of government-created obstacles or because they do not fit specific profiles addressed by current American and other laws.

It is my hope that the distinguished witnesses at today's hearing will provide practical recommendations regarding avenues to address unresolved property restitution issues. I look forward to hearing their testimony and yield back the balance of my time.

Mr. SMITH. Thank you very much, Commissioner Pitts.

Commissioner Cardin?

HON. BENJAMIN L. CARDIN, COMMISSIONER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. CARDIN. Thank you very much.

Let me thank Chairman Smith for his leadership on this issue and for calling this hearing.

Our delegation to the OSCE Parliamentary Assembly for the last several years has been stressing the need for property restitution laws being enacted in the OSCE states in a fair and a nondiscriminatory manner.

Mr. Chairman, I want to thank you for your continued leadership on this issue. Our delegation has made it clear that we will not stop until all the OSCE states treat property restitution in a serious way by having an effective law to compensate for illegally confiscated property.

As pleased as I am about the leadership in our delegation, I must tell you I am disappointed that we have to have this hearing. I would have thought by now this issue would have been resolved.

We all know that after World War II much of the property confiscated illegally from those persecuted were in Communist states. So those survivors of the Holocaust faced a second tragedy, and that is that they lived in, and their properties were in, countries that were not sensitive at all to doing what was right as far as compensation was concerned.

Nevertheless, then in 1990, we thought things would change with the fall of the Communist era in Europe. We were wrong about that. We have not made the progress since 1990 that many of us would have expected to take place on property restitution.

When you take a look—this is our third hearing, as the Chairman has pointed out. If you take a look at the laws in most of the states of the OSCE concerning restitution, you will find that there is no model law. No European country has really stepped forward with an effective way to serve as a model for what we should be doing in all the OSCE states.

Instead we find laws that are discriminatory, requiring citizenship, a personal presence, or excluding certain properties or treating different religious sects differently. We find in some states they have no laws at all. In other states, they have no enforcement of the laws that are on the books. So we can do a lot better.

Mr. Chairman, I must tell you that I am energized on this issue by the courage of one of my constituents, Jacqueline Waldman. I think you are familiar with her case. We took it personally as part of our OSCE Parliamentary Assembly delegation to Romania. Her property—her parents' property was confiscated during World War II under Aryan laws because they were Jews. They established their rightful claim to the property, but were denied compensation through the courts because in one case they said the Aryan laws were legal for their time. How outrageous.

Were it not for the fact that we were able to put a spotlight on that case, that our ambassador took a personal interest in it, that we were able to get some publicity, some press on it—and, of course, Romania was attempting to come into the more normal relationship with its European states—the Waldmans would still be denied their remedy. They got their remedy because we had to go through all this.

Now, there are thousands of other cases out there that do not have the same type of press attention, but the same amount of injustice. So we can do a lot better.

I agree with Mr. Pitts. We need an action plan. We need to come out of this hearing—as we did, I think, in our efforts on anti-Semitism in Berlin, we need to come out with a commitment that we are going to see change, and we are going to rectify the injustice, at least as it relates to property confiscation during World War II.

I look forward to hearing from our witnesses.

Mr. SMITH. Commissioner Cardin, thank you very much.

It was a real honor to join you and Mr. Pitts and Mr. Hoyer and Senator Voinovich and the other members of our delegation to the Berlin OSCE Parliamentary Assembly session. As you know— and you were so much a part of it—we offered a number of resolutions on anti-

Semitism, on Roma, etc. Property restitution was one of your amendments to the anti-Semitism resolution. I am very grateful for that, and Mr. Hoyer as well.

I would like to yield to my good friend, Mr. Crowley, a member of the International Relations Committee, who is joining us today.

HON. JOSEPH CROWLEY, MEMBER, U.S. CONGRESS

Mr. CROWLEY. Thank you, Mr. Chairman. I appreciate the opportunity to address the Commission as well.

I am a great admirer of the Commission's work. As an advocate for human rights and freedom, this Commission is at the forefront of U.S. efforts to promote democracy around the world.

The Commission focuses on the behavior of allies as well as countries with which the United States has less friendly relations. Its May 22 hearing on anti-Semitic attacks in Western Europe examined the failures of some of the United States' closest partners to address this critical issue. The hearing was crucial in securing the support of 412 members of Congress when a resolution on anti-Semitism that I introduced was passed by the House last week.

I want to express my thanks to you, Chairman Smith, as well as the other Commissioners, for sending a clear message to our European allies that anti-Semitism is not acceptable, especially not in the 21 century.

Mr. Chairman, this hearing examines the behavior of several other allies and partners in the area of property restitution. Poland, Hungary and the Czech Republic are among our newest NATO allies, and the United States works with Romania and other countries in the region on a host of political, economic and security issues.

Except for Belarus and Ukraine, every post-Communist country in Europe has taken at least minimal steps toward compensating Jews and others whose properties were taken, first by the Nazis, and then by the Communists. However, one nation stands out for its refusal to take serious action: That nation is Poland.

Poland has a moral obligation to address the suffering of Polish Jews and others who suffered during the Holocaust and under communism. Eighty percent of European Jewry once lived in Poland, though the vast majority either perished in the Holocaust or were forced to flee. Though many atrocities that took place in Poland during World War II, including the horrors of Auschwitz, occurred at the hands of the Nazi occupiers, we know from recent accounts of the massacre at Jedwabne that Poles, too, had a role in the suffering of the Jewish community.

Finally, the past aside, the protection of property rights is a basic requirement for all democratic governments that operate under the rule of law.

Poland should be praised for addressing the restitution of communal property to the Polish Jewish community, but as many as 170,000 individual property owners and their heirs still wait for legislation that will restore their rights. Many of these people are in their eighties or even older. Even their heirs, often the only survivors who still remember the original occupant of a home, are senior citizens today. They cannot wait any longer for the status of their properties to be resolved.

The United States is a close ally of Poland. We are partners in NATO. Through decades of Polish immigration to America, we share important cultural ties as well. The United States must take advantage of its close ties with Poland to deliver a tough message: It is high time that Poland recognizes its responsibilities and resolves this issue.

I strongly urge President Bush to raise this issue when he meets with President Kwasniewski of Poland at the White House tomorrow. The administration should also emphasize to our other European allies that resolution of this issue should be considered a criterion for Poland's entry into the European Union.

Before closing, I want to recognize the dedication and commitment of one witness who will be testifying today, Yehuda Evron—a constituent of mine from Whitestone, Queens—who has worked tirelessly to promote the implementation of a property restitution law in Poland. His efforts have done much to educate the U.S. public, including members of Congress, about the Polish Government's failure to resolve property restitution issues. I wish to commend him for his hard work.

Mr. Chairman, I want to thank you again for allowing me to address this Commission. I look forward to hearing the witnesses' testimony, and to continuing to work in Congress to ensure that Poland and other European countries do not neglect the rights of those who suffered during the Holocaust.

Thank you very much.

Mr. SMITH. Thank you very much, Mr. Crowley, for joining us today and for your statement.

Our first witness will be Randolph Bell, who serves as the Department of State Special Envoy for Holocaust issues. Mr. Bell has a long and distinguished record of service as a U.S. Foreign Service Officer, during which time he worked consistently on Holocaust issues. He is especially dedicated to property restitution issues in Eastern and Central Europe. Immediately prior to his current assignment, he served as the director of the State Department's Office of Austria, Germany and Switzerland Affairs. He is currently awaiting confirmation to the rank of special ambassador for his role as Special Envoy.

I would just note personally that when the Helsinki Commission traveled to Prague in the 1980s, we met with Mr. Bell there. He was very helpful as a member of the embassy team. He will recall we met with Charter 77, then the human rights organization that was very bravely standing up to repression there. Father Maly, who was one of those who were part of that troika of leadership for Charter 77 that rotated.

It was great to work with you then. It is certainly great to work with you now.

Mr. Bell, you are most welcome to the Commission and I look forward to your testimony.

RANDOLPH M. BELL, SPECIAL ENVOY FOR HOLOCAUST ISSUES, U.S. DEPARTMENT OF STATE

Mr. BELL. Thank you, Mr. Chairman. I am very glad to recall those days too, not merely because it was a shared experience. But also, I think, because it reminds me how we had a shared agenda.

One thing I would like note about property restitution, and all of the other issues that I work on, it is that there is no divide between the legislative and executive branches of government in pursuing these objectives. There is no partisan divide. These are bipartisan objectives. I

like to think there is no divide between the American people and us in whichever branch of the government in which we are working. I am very warmly supportive of the Commission's engagement in these issues, particularly in property restitution.

So I want to thank you for this opportunity to address this Commission on the important issue of property restitution. It is one in which the Department of State has been engaged for many years. I am pleased to play a part in the work of the Commission and of our government generally.

I want to thank you, Congressman Smith, for your long-term commitment to the issue of property restitution and for hosting us.

It is also a great honor and privilege to represent the United States of America as Special Envoy. I would like to open my participation in this hearing by stressing my dedication to continuing the work of my predecessors.

The mission of my office remains to bring justice, however belated, to Holocaust survivors and to other victims of World War II. To ensure that the rights of all victims of communism and fascism are respected.

To achieve progress on the complicated issues of property restitution, we need cooperation: cooperation between Congress and the State Department, between our government and the governments of the former Eastern block countries and between European institutions and aspirant nations, those countries that wish to join major European and transatlantic institutions.

The Helsinki Commission and congressional actions have been powerful assets as we work together to further the process of restitution of property wrongly seized by Fascist and Communist regimes. I hope to see this cooperation grow stronger yet while I am pursuing this work.

At this exciting time in history, a time when former Communist nations are yearning to belong more fully to the West, a time when they are open to ideas of reconciliation with their past and fuller cooperation with democratic nations, at this pivotal time in history, we have an opportunity to help these countries to achieve their full potential.

The states in Central and Eastern Europe undertake the reforms they must complete in order to qualify for NATO and EU memberships. They are examining the issue of property restitution and looking to the United States for guidance. The United States Government has continually and specifically stressed to them that uniform, fair and complete restitution is a prerequisite, both to the adequate establishment of the rule of law and to the safeguarding of religious and minority rights and freedoms.

We have stressed that in joining the Euro-Atlantic mainstream and applying for membership in organizations, they are seeking to join a community of values. Membership involves continued and pervasive scrutiny of laws and practices for all of us in this community. Consequently, we stress to them that the process a country creates for achieving restitution will be expected to continue and to achieve results both before and after accession to these institutions. For countries invited to join the alliance, this will be true after their accession to NATO, just as much as it is at the moment.

Mr. Chairman, property restitution in these countries arises as an issue because of actions taken by Nazi occupation regimes and the actions of the Communist governments that acceded to power under

the aegis of the then Soviet Union. In the countries they occupied, the Nazis relentlessly seized property that had a connection to Jews, communal property owned by the various Jewish communities and private property owned by individual Jews, Roma and other victims.

Valuable, movable property, such as artwork, soon found its way into the hands of Nazi leaders where it was converted into cash to fund the Nazi war effort. Occupation regime officials took up residence in confiscated homes. Other properties, including synagogues, were used for commercial and other purposes.

When the war ended, there was some effort in several countries to return properties to their original owners. But the newly established Communist governments soon reversed that process, preferring to use the confiscated property for their own purposes.

For the victims, the change in leadership did not alter the availability of their property. They still did not enjoy its use or have access to it. With minor exceptions, the essentials of this situation remained unchanged for 4 decades.

Collapse of the Soviet Union and of its satellites presented an opportunity to reverse confiscations and to return property, real and movable, to rightful owners. We have supported that process for the last decade. There has been considerable progress in some areas, but less—significantly less in others. The trend, overall, has been in the right direction. There remains much to do.

In this connection, I want to pay special tribute to the efforts of Stuart Eizenstat, who started work on this matter while serving as the U.S. Ambassador to the European Union from 1994 to 1996, and continued his work on this subject while holding sub-Cabinet positions at Commerce, State and Treasury. As I explained to you, it has been my privilege to work side by side with Stu on a number of Holocaust negotiations.

He sensitized the leaderships of the newly established democratic governments to the need to correct the injustices of the past as a prerequisite to becoming participants in the free market world trading system and the community of democracies. His presentation to the 1998 Washington Conference on Holocaust Era Assets established a framework for dealing with this issue.

The Bush administration has continued to pursue restitution vigorously, engaging the countries of Central and Eastern Europe, and particularly NATO aspirants. The State Department takes this issue very seriously and is committed to monitoring and reporting on property restitution in annual country reports on human rights practices. Our embassies, of course, also report regularly. We are also committed, of course, to achieving action.

In this effort, we are working closely and cooperatively with nongovernmental organizations, including, as examples, the American Jewish Committee, the American Joint Distribution Committee, the Polish-American Conference, Conference on Jewish Material Claims Against Germany, and many others. I am in frequent contact personally with NGO representatives.

Property restitution is complicated and controversial. I like to note in my travels in Central and Eastern Europe that whenever you take history and you add to it courts and litigation, and then fold them into politics, you are bound to get something that is difficult. Nevertheless, the fact that it is difficult does not mean you do not do it. Changing the

ownership and use of buildings and land from one party or purpose to another can cause major disruptions that already economically challenged countries can sometimes ill afford.

In encouraging restitution, we try to keep in mind the following considerations.

Restitution law should govern both communal property owned by religious and community organizations and private property owned by individuals and corporate entities. I want to stress that we take both equally seriously. They are both very important.

To document claims, access to archival records, frequently requiring government facilitation, is necessary. Reasonable alternative evidence must be permitted if archives have been destroyed.

Uniform enforcement of laws is necessary throughout a country.

The restitution process must be nondiscriminatory. There should be no residence or citizenship requirement. The policies we are pursuing during this administration in that regard are identical to those that we were pursuing during its predecessor.

Legal procedures should be clear and simple.

Privatization programs should include protections for claimants.

Governments need to make provision for current occupants of restituted property, in fairness.

When restitution of property is not possible, adequate compensation should be paid.

Restitution should result in clear title to the property, not merely the right to use it.

Communal property should be eligible for restitution or compensation without regard to whether it had a religious or secular use. Some limits on large forest and agricultural holdings may, however, be needed.

Foundations managed jointly by local communities and international groups may be appropriate to aid in the preparation of claims and to administer restituted property.

Cemeteries and other religious sites should be protected from desecration or misuse before and during the restitution process. This, of course, touches on the hugely important subject members have raised of the current problems of anti-Semitism in the world and in Europe, something that I and my office take very seriously.

Since I assumed duties as Special Envoy on May 1, I have begun visiting all these countries. So far, I have visited Slovenia, Slovakia, Bulgaria and Romania, and have talked specifically about property restitution issues there. It is my intention before the Prague NATO summit to have gone to all of the aspirant countries, as well as to the three countries that joined NATO in the first round. I have also participated in Washington reviews of the reform process with visiting delegations from other NATO aspirant states and closely reviewed the actual state of restitution in all these countries.

Ranking colleagues in the State and Defense Departments and at the National Security Council have also traveled to NATO-aspirant capitals and engaged delegations and embassies here and in Washington. They have traveled also to the countries that joined the alliance in the first—in the more recent round of enlargement. They too have stressed the urgency of uniform and effective restitution procedures.

There are, of course, limitations on what the United States can properly do. Under accepted international law and practice, we can formally espouse individual claims—that is, present a claim to a government—

only under very specific circumstances. We, therefore, concentrate our efforts on urging countries to put in place fair, transparent, nondiscriminatory restitution processes and laws that will cover broad categories of cases.

While we have neither the authority nor the resources to advocate individual claims, our embassies and consulates abroad are able to help American citizen claimants understand what the legal requirements are in a specific country and to provide a list of attorneys who can help in the preparation of an individual claim. That does not mean that we do not raise with governments the generic issues of hindrances and of defects in laws and regimes.

One good example of the assistance that we bring to bear is the material on the web site of our embassy in Bucharest. The site includes a description of the Romanian law and the process through which a claimant must go in order to qualify, and provides lists of those who can help.

As I noted above, we divide restitution into two broad categories, communal and private. Here I might add, we expect in all the countries we deal with that both varieties of property will be dealt with. In some countries, lamentably, there have been no laws on private restitution. Some of that—and we can talk about the particulars in the question-and-answer period—may be on the way to be mended. In other instances, not in Russia and Ukraine, for instance, there is no prospect that I know of for private restitution laws coming forward.

Communal property is that which belonged to religious communities and included places of worship, schools and health facilities and community halls. Such properties provided the physical facilities used by the Jewish communities in the shtetls of pre-war Central and Eastern Europe. Christian organizations of most denominations also possessed properties, some of which was nationalized or otherwise confiscated by the Communist regimes, or earlier by the Nazis. These communal properties represent significant assets.

The U.S. Government strongly supports the restitution of both private and communal property. Private claims, in their own right, are very important because they directly affect our citizens and taxpayers. They have every right to expect that their government will do everything it can on behalf of their interests. Communal claims provide the economic means for small and struggling religious communities.

In the appended country-by-country summary, which I believe has been distributed to you, most countries, you can see, have made some or substantial progress on restitution of communal property. I would note that of the NATO aspirants, Romania is the only country that does not have a law governing communal property restitution, though one has, as of June 25, passed both houses of the Romanian Parliament, and in my understanding is only waiting presidential signature, expected to go into force in August. During my visit to Bucharest in late June I was assured that it would be.

The bill provides for the restitution of communal property—unfortunately excluding places of worship, as it is described to us—to the country's various religious groups.

It is currently awaiting, as I say, presidential signature. We have not yet obtained a full text.

I know that the Commission has had a particular interest in the fate of the property that the Romanian Government took from the Greek Catholic or Uniate Church in the late 1940s. This is an issue that arises

in Romania. It arose elsewhere in East European countries when Uniate Greek Catholic churches were taken during the Stalinist-era and given to the Orthodox Church.

During my visit in Romania, officials assured me that the communal property law would provide relief. The department and the embassy will monitor this issue very carefully. It is my understanding that the law will return some buildings, I do not know how many, that were not churches—but actually some properties to the Greek Catholic Church, which will represent some modicum of progress.

Poland's work in the communal property area is also worth special mention. In the 1990s Poland passed and successfully implemented separate laws dealing with property restitution for the major religious communities represented in that country. The Government of Poland has publicly stated that it intends to introduce new legislation providing all religious communities additional time to apply for properties. This offer will be of considerable benefit to Poland's religious communities.

Private property presents a more diversified picture. Poland does not yet have a law governing private property restitution, although in some cases claimants have regained property through the courts. Poland attempted to enact private property restitution legislation on several occasions, most recently in early 2001, but the subject arose in a politically controversial manner, and the Polish president vetoed the law.

The government has now publicly announced that it intends to introduce new legislation in early 2003. We have been assured that the legislation will not contain citizenship or residence requirements.

Romania enacted private property legislation in February 2001. At our suggestion, the original application deadline of August 2001 was extended to February of this year. The adjudication process is now well under way, and we have urged Romania to implement this law in a fair and non-discriminatory manner. I personally, when I was in Bucharest, recently noted that it is essential that there be implementation—full and fair implementation of the law, not just a law itself.

The country-by-country summary submitted to you today includes a great deal more detail about the property situation in Eastern and Central Europe. The situation varies considerably from country to country, and I do not believe that trying to deal with the details here would be particularly enlightening. I know that many of you have been engaged on this issue for many years and I am more than happy to entertain questions from you. I will be pleased to answer them to the very best of my ability as sincerely and honestly as I can. Thank you.

Mr. SMITH. Sir, thank you very much for your overview and again for the extraordinarily good work that you do.

We have been joined by Mrs. Clinton, a fellow Commissioner from the Senate side.

Any opening statements, Mrs. Clinton?

HON. HILLARY RODHAM CLINTON, COMMISSIONER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Sen. CLINTON. I want to thank you very much, Mr. Chairman, for calling this important hearing and I really appreciate the continuing emphasis on this issue.

I would just emphasize that President Kwasniewski will be here this week, and I understand there is a commitment from the Polish Government to introduce such legislation at the beginning of next year. Obvi-

ously I, along with others, would wish that would be expedited and introduced sooner than that. But certainly I hope that President Bush will, in his meetings, stress our very strong interest in this and our hope that it will be resolved expeditiously.

I appreciate very much your holding this and bringing us up to date on these important matters.

Mr. SMITH. Thank you very much, Mrs. Clinton.

Let me follow-up to that. I know on both sides of the aisle and both sides of the Capitol there is a very strong sense that Poland has let all of us down, and most importantly let down those whose properties and goods have been confiscated, either by the Nazis or by the Communists.

I wonder if you can tell us, because before President Bush went to Poland last year, several of us wrote the President in June of 2001. We wrote again on July 15, 2002. Obviously the President and the administration are very well aware that this is a very serious sore, not only between the Polish Government and those that continue to have this injustice visited upon them, but it also hurts our relationship, because it is like a sore that festers. It does carry over to our view of Poland and its government.

I wonder if you can tell us exactly what the administration is doing right now.

I mean, we have testimony from Mr. Evron, the president of the Holocaust Restitution Committee, and he notes with justifiable cynicism, "The Polish effort to provide property restitution has so far failed. Everybody knows that. Every single year however brings with it news reports that Poland is preparing comprehensive legislation to deal with the property restitution issue. However, no legislation has been passed to date." And then he goes on, next year, next year, next year. It never seems to materialize.

I wonder if you could tell us why this year might be different. Has the President made it a very significant part of his dialogue with the Polish president, and what can we do in Congress to try and help you in those efforts?

Mr. BELL. Well, let me just cut right to the quick. It is definitely right there in the briefing book to be raised. So I want to provide you reassurance on that subject for the meeting tomorrow.

What we are working with is the commitment of the Polish Government, as among other things, the prime minister has enunciated it.

So you have Prime Minister Miller publicly stating that in 2003 they will introduce this legislation. But we are not just sitting back and saying, "Oh, that's nice. We take that as resolution of the issue."

We are continually, both in Warsaw and here, in touch with our Polish friends on this subject. The Polish Embassy and I discussed the matter just about 3 weeks ago, and went through in some detail what kinds of private property concerns there are here, and the very strong interests of the Congress and the American people in these issues.

So I think what you can do, along with us, is keep the issue foursquare right there. What we had is that a head of government committing publicly to it, and we have to, within the context of the alliance and our bilateral relationship, note our continued strong interests. We do so, and you do so.

Mr. SMITH. I thank you and we will work together on that and hopefully this year might be different.

One issue on Romania, which you referenced in your testimony, I met with President Iliescu, as did you and some of the others when he was in office the first time, then Constantinescu when he was in, and now again with President Iliescu.

We know that it is always a sticky point, those churches and buildings that you mentioned are not yet being returned to the Greek Catholic Church. Do you have any real sense that things may change here? This was such a high priority for the government in the negative that it was a sticky point when the Pope was going to visit Bucharest. Why, especially since it is seemingly excluded from the legislation that is awaiting signature, do we have any realistic hope now that this church restoration might happen?

Mr. BELL. Well, one thing that I can tell you. The issue is not uniformly addressed throughout the country. Now while we all object to the lack of uniformity, in this particular instance, if I understand correctly, there may be some progress that is taking place locally in the area of Timisoara, where the clergy of the two churches are managing to cooperate on this issue.

But we return always, in our representations, and Ambassador Guest does this very frequently, to the real and material necessity of having this resolved, having it resolved in a manner that involves the Romanian Government's active participation, not leaving it simply to the two churches to work out.

It is in the end, though a Communist government that took it, a government action which initially lies behind this. We, I personally, among others, have reminded the Romanian Government that because of that it would be very difficult for the outside world to understand that the Romanian Government did not take an active role in trying to bring resolution. I talked with officials of the church when I was there. I talked with the state secretaries working on restitution issues. I talked at a high level in the foreign ministry, and I and my colleagues have uniformly pressed this issue, simply because we all know that it matters and it is not going to go away.

History may have changed, in some measure, the actual residence and membership in the various communities. To my understanding, the Uniate Church has made clear that they are not asking for the return of literally every church that they previously possessed, and have indeed narrowed down quite considerably the overall field of what they are asking for. We very much think that something needs to be done about that. We very much represent that need.

Mr. SMITH. Thank you, Mr. Bell.

Commissioner Pitts?

Mr. PITTS. Thank you, Mr. Chairman.

In your testimony regarding the Greek Catholic Church in Romania, you say. "Romanian officials recently assured me that the communal property law now under consideration would treat this property fairly."

Mr. BELL. Right, and that's what they say, so you know.

Mr. PITTS. That is a surprising assertion given Romanian President Iliescu's statement just last month that the state cannot interfere in restituting churches to the Catholic Church. Would you elaborate? Would you tell us a little bit more about your discussions with those officials?

Mr. BELL. Well I think it is part of what I just went into with the Chairman. You know, what they said to me was that the law will cover, and they did not specify exactly what, some aspect of this. My under-

standing preliminarily is that it is likely to deal with buildings; that would be things like schools and office buildings, but not the actual places of worship.

Now if the Uniate Church gets any advantage out of this, my assumption is it would be from the perspective of having saleable or rentable properties which would bring them income, and/or properties which could be adapted for other uses.

To parse their words and what they meant by saying that it would be treated fairly I think is a matter for monitoring and for us to see how the law actually is worded and how it is applied.

Mr. PITTS. The Commission recently received information that the Romanian Government continues to treat property claimants differently according to their citizenship status; Romanian citizens are treated more favorably than dual citizens or non-Romanian citizens. I think they are considered least favorably. During your recent meetings in Romania, did you express our government's opposition to this?

Mr. BELL. We have always stressed such things as the need to provide adequate notification outside Romania, which would be a discriminatory thing—if you invoke a law, and you only talk about it at home, and you do not tell the diaspora abroad, then you have not achieved much. So our government stressed to the Romanian Government the need, when Law 10 was passed, to have an adequate notification program outside Romania.

In Romania, as everywhere else, we strongly represent the principle that no restitution program is adequate which discriminates in any way according to citizenship.

Mr. PITTS. In six separate cases, the European Court of Human Rights held that Romanian Government actions violated the right to property and the right to fair trial protected by the European Convention on Human Rights. The Commission has been told that there are an estimated 1,300 property restitution cases, similar to those heard by the European court, in which final and irrevocable judgments in favor of property claimants were quashed by the Romanian Supreme Court.

Despite the clear and consistent message delivered by the European court, the Romanian Government has not yet indicated that it intends to offer redress for other similarly wronged individuals.

Should not the Romanian Government offer redress to the property claimants affected rather than continuing to make each individual claimant pursue their cases all the way to the European court? What is the U.S. Government doing to encourage them to do right by the claimants?

Mr. BELL. Well, let us just review for a minute what we know of this, and correct me if your information is different from mine.

The court noted that the applicants had been deprived of their property for more than 50 years, and that's in the Vasiliu and Hodos cases, and more than 5 years in the Surpaceanu case. In those circumstances, even supposing that the deprivation of possessions could be shown to have served some public interest, the court considered that a fair balance between the requirements of the general interest of the community and the individual's fundamental rights had been upset. So that is, sort of, the nature of the finding.

There is no new Romanian legislation, or dramatic change as a result of these cases. The cases demonstrated to the Romanian Government, I think effectively, that their actions are being watched internationally.

That is the advantage that has come from what the court did and decided. Building on that, our embassy and we in Washington stress that, "You have to have a fair nondiscriminatory law, and you have to have implementation that is fair and non-discriminatory," and that court case has strengthened that position.

Now you could go on from there.You have what we say in our dialogue with Romania and other countries about how you have the credentials for participation in the Euro-Atlantic mainstream and whatever institution you are talking about.

You know, restitution, besides being a moral obligation, besides touching on human rights and treatment of minorities, is a very practical matter too. Because if you do not have clear land title and restitution that meet the standards of the international community, you are not going to attract investment and you will not be able to generate the economic climate that you need, which in the case of that country is, of course, very important.

We do not leave those arguments by the side. We clearly make them.

Mr. PITTS. Thank you.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much.

Commissioner Cardin?

Mr. CARDIN. Thank you.

First, Mr. Bell, let me thank you very much for your testimony and for your commitment to this issue.

Mr. Chairman, I would ask unanimous consent that the statement of Mr. Ackerman be made part of our record concerning problems in Poland.

Mr. SMITH. Without objection, so ordered.

Mr. CARDIN. Mr. Bell, your statement, the 12 points that you listed in your written statement that you went over in your presentation here today as to the standards that should be included in a property restitution statute, has the United States attempted to articulate this in Europe to get broader consensus among the European states that this is what we would consider to be a reasonable effort to deal with property restitution?

Mr. BELL. May I ask what you mean, all of Europe, or do you mean in the countries we are concentrating on today?

Mr. CARDIN. Well, obviously we are concentrating in the Central and Eastern Europe, but it seems to me that the nations involved are trying to get greater acceptance within broader European community. To the extent that we have our traditional allies in Europe supporting our position on what a property restitution statute should be, it makes it easier for us to deal with the countries involved.

Mr. BELL. Well, there are two pieces of that I can emphasize to you.

One is the enlargement of the North Atlantic Treaty Organization and of the European Union, while separate processes, are obviously happening on largely the same ground, and they involve many of the same considerations. The European Union's approach, as it is described to us, comes at these issues from the perspective that I was just describing a minute ago, of economics and of the need to have adequate laws and adequate legal protection programs.

So we, in our very frequent discussions with our current allies of these issues, communicate our views of how these laws should look. I like to think that informs the EU's approach to these issues also.

But when it comes to specific …

Mr. CARDIN. If I might, I would like to take some exception to that. I think you need to be more aggressive if we are going to be able to—there is not a single nation—or correct me if I am wrong. Is there any nation that we are targeting for property restitution statues that have adopted a statute and implemented a statute that carries out these 12 principles?

Mr. BELL. I just wanted to say, just to complete what I was saying, if you wanted me to pick the country that is probably gone the furthest and where there are the fewest outstanding cases and objections and has the laws, that is probably Estonia. But I am not sure that you could take Estonia's laws and say, "This is the answer to Romania."

You know, so just conceptually, there is a problem with having a model statute, because very frequently the history is so different.

Mr. CARDIN. I appreciate that, but the principles are the same. You might need to use a different type of process to achieve the principles. Nevertheless, it seems to me the principles are quite well established, as you have laid them out here. I must tell you, this is the first time I have seen them in this format.

Mr. BELL. I am not sure you can translate those principles easily into one one-size-fits-all model statute.

What I wanted to say is, when you get then to specific aspects of restitution, we get more specific in what we say to all of the countries. An example being art restitution, where at the 1998 Washington Conference on Holocaust Assets, we put together international standards and principles, the Washington Principles on art restitution. When you get to that degree of specificity, then you can tell people what a law ought to look like, and in addition, what the other implementation instruments ought to look like; what web sites ought to look like, what the role of museums and museum directors ought to be.

In short, there is a descending hierarchy down into the details, and it is probably easier to talk about statutes which have more universal applicability when you get to the specific species of restitution. I am leery of having an omnibus restitution act that incorporates all those principles and fits every country.

Mr. CARDIN. What I am suggesting is that you proceed on two tracks: continue the strong bilateral efforts to get the right statutes in each state that we are involved with, but also work on a broader view within Europe that there is an expectation that these principles are going to be met for these nations coming into the mainstream of Europe.

I guess I would like to see us be moving in both of those directions. I do not want you to slow down on the bilaterals, because that is where we are probably going to make most of the specific progress on the specific cases, but I do think we have to raise the general expectation in Europe generally.

Mr. BELL. I think that is an excellent point.

Let me just tell you another aspect of what is happening though. Because of my own and my colleagues' travels and formal raisings of these issues, because of what we call the mid-term reviews that we have been having with aspirant states here in Washington, there is a communication from one government to the other of what it is that we and the European Union and others are saying.

So people—the message is coming more than merely bilaterally. It is coming multilaterally to all of these governments. I think that has been a salutary aspect of this era. I said in my opening remarks that we

were at a pivotal point where we have some unusual opportunities, and it is that opportunity to have the message come from more than one quarter.

But your point is well taken.

Mr. CARDIN. Thank you. Let me just raise one issue that came up at our meeting in Berlin, and I would be remiss if I did not bring it up. There is a concern about, in Germany, that after unification, there was a commitment not to go make property claims for properties confiscated by the Communists from 1945 to 1949. That seemed to be an obstacle to proper property restitution in the former East Germany.

I do not know whether this has been an area that you have been pursuing or not, but I can tell you it was a major issue brought up at our anti-Semitism meetings in Berlin.

Mr. BELL. I am aware of the issue. I have not, so far, personally engaged the German Government on it, but I will be talking to them about it all.

Mr. CARDIN. Thank you, Mr. Chairman.

Mr. SMITH. Thank you.

Commissioner Clinton?

Sen. CLINTON. Thank you, Mr. Chairman.

This is an issue that we have been very concerned about for a number of years. As I know that we are all aware that the December 2000 report by the Presidential Advisory Commission on Holocaust Assets really did a great deal to help us establish these principles with respect to artwork and hidden bank deposits and the like. But I think that the underlying message of the Commission's efforts and recommendations was that there is so much more to be done. I appreciate greatly your report to us.

I agree with my colleague, Mr. Cardin, that it is such a long, slow struggle country by country, administration by administration. When regimes change, we really almost go back to square one. It is just so frustrating. It must be extremely painful for a lot of the people who have such a personal interest in the resolution of these outstanding disputes.

In December of 2001, I introduced S. 1876, the Holocaust Victims' Assets Restitution Policy and Remembrance Act, which would establish a national foundation here in our country for the study of Holocaust assets. This would be an independent government entity that would be dedicated to completing research and disseminating information on Holocaust-era assets, as well as developing policies of promoting solutions to outstanding and future restitution issues.

The reason I thought that was so important is because even if we were to have the greatest possible results in working with the existing governments, which unfortunately, I do not foresee happening in the short term—I think we are still in for quite a long and frustrating efforts with many of them—we need to have, in our government, one place where we would coordinate the efforts of the federal government, state governments, private sector, individuals here and abroad, that would help people and their descendants to identify and reclaim these assets over time.

It would also give us some leverage that is needed to have access to the archives that exist. Because trying to track this information is time consuming, it is expensive, and sometimes it just keeps running into dead ends without some push behind the individual claimants. I think that can only come from our government.

I am pleased that Congressman Brad Sherman has introduced this legislation in the House. I would certainly invite my members here on the Commission to look at it.

Because I think without some concerted commitment on the part of our government really to help claimants over time, then even where we are successful, it may not result in the kind of outcome that justice demands.

I would look forward to working with you, Mr. Bell and others to try to see how we can put some teeth into the recommendations and to try to provide this repository of information and continuing efforts in our own government.

One issue that we keep coming back to—and I first got involved in this through Edgar Bronfman and his pioneering work back in the late 1990s—is this point again that Congressman Cardin made. We must constantly be creating an atmosphere in which these claims are viewed as appropriate, legitimate and justiciable. There must be some way we can better establish, especially in Europe, but really universally, the entitlement to these claims that should exist.

Whether there should also be a public education component, a kind of public outreach effort here, because we have to change the public environment in which these political decisions are made. Perhaps there could be some concerted effort by the administration. I know members of the Commission and other members of Congress would be interested in working with you to determine how we could lay the ground work for that. Because year after year, we basically make the same arguments, we hear the same issues time and time again.

I know we are going to hear from some witnesses, and three of those witnesses are from New York, and I will not be able to stay for all of their testimony. I wanted to thank Mr. Evron and Mr. Meyer and Mr. Singer for their continuing commitment.

I would just end by remembering someone who is not here, and that is a great champion of Holocaust survivors, Rabbi Israel Miller, who really put so many of these issues into the public's consciousness and he demonstrated such leadership in really helping the aging community of Holocaust survivors arrive at a just destination after a very long and painful journey. I think we owe him a debt of gratitude, as well as everyone who is here today.

Mr. Chairman, I think we should continue to look for ways that we could follow up. I would certainly welcome support for the legislation that Mr. Sherman has introduced on this side of the Hill to try to create some institutional memory and focus for the ongoing efforts for individual claimants to realize the benefits of whatever legislation and judicial processes are eventually agreed to by these various countries.

Mr. SMITH. Your response?

Mr. BELL. Yes, I'd like very briefly, if I could.

Certainly, the Department of State and anyone else in the administration would want to cooperate with you, Senator Clinton, in realizing the objectives you have laid out. I think that it will be important for the Senate, the House and the executive branch to look carefully at additional ways of bringing this closer to our shared objectives.

You may recall, I just observe for a moment that the approaches that we have taken so far, and I am sure Stu has talked with you about this, I recall that he has, have turned on a number of incentives in the past. When it gets to arrangements such as those we have with Germany, Austria and France, it has to do with some very specific things that the Department of Justice and the Department of Justice can only do, combined with some very specific diplomatic undertakings that we, in the State Department, try very hard to maintain. So there will be specialized roles of various areas of the government that would need to be balanced carefully in the way forward.

Just a few of the other points that you raised. With regard to the public environment, one thing that I do, with my colleagues at the Department of State and at the Holocaust Museum, is to work hard to see that the international Holocaust Education Task Force is an active and vibrant organization. It goes a long way these days toward raising consciousness.

We just had a meeting in Paris a few weeks ago of the whole 14-member organization. It started as 11 that day and ended as 14. It is growing and we are quite forward about getting many countries we are talking about here today into that institution, which not only works on textbooks and what is said in schools on issues of the Holocaust, including, in some instances, restitution but also about issues of tolerance and anti-Semitism. It is a very practical organization also that gives new entrants into the task force special projects to undertake under the tutelage and with the sponsorship of others. So, that is one instrument that we undertake.

Another matter I would raise is, of course, what this administration, and, frankly, I would hope any American administration, has said with regard to anti-Semitism in the world and in Europe, where the President and the Secretary and all the rest of us who have spoken very clearly. When I was in Paris 2 weeks ago—3 weeks ago I guess it was—I read a formal set of remarks in Paris on that subject and others have spoken to it.

I think one last little point I would raise, yes, to be sure it is very frustrating, but we should not lose sight of the fact that we are not all just toothless talkers, you know. From our various vantage points, we have achieved something. It is the case that over the 1990s, while often it was slower than many of us could wish, properties do get restituted, laws do get framed, negotiations do succeed. If you looked at the amount of property and money and valuables and art works that were restituted in the 1990s, it is the proverbial glass half-full, half-empty. We must redouble our efforts on behalf of the empty part of it. That aspect of what you say we, of course, all, I hope, share.

Mr. SMITH. Thank you very much.

Mr. Crowley?

Mr. CROWLEY. Thank you, Mr. Chairman.

Mr. Bell, in your prepared remarks you mentioned that the legislation that passed in Poland in its parliament was vetoed by the president because of its budgetary implications. Was that the reason …

Mr. BELL. Well, I said it was a complex political situation. I believe Polish politicians at the time cited budgetary aspects of it. I would not want to speak authoritatively to the motivations of the Polish president at that time. I can only note that we, the United States Government, was, in fact, in some measure relieved that he vetoed it because it would have been citizenship-discriminatory.

Mr. CROWLEY. I appreciate that.

Mr. BELL. Now, some people look at that and say, "Oh well gee, you could have encouraged your citizens to go ahead and become dual nationals." In fact, strictly legally speaking, under Polish law it probably would be possible for Americans who used to be Polish and are now American to try to reobtain their Polish citizenship, and, therefore, apply under the provisions of dual nationality. Needless to say, many Americans probably would not want to do that. So we, as a government, have favored the process that has put that formula aside and is now looking at another one.

Mr. CROWLEY. The target being early 2003. Any specific idea …

Mr. BELL. Their commitment.

Mr. CROWLEY. Any specific date in terms of production?

Mr. BELL. I do not think anybody has mentioned a calendar date, but we will take them at their word.

Mr. CROWLEY. The reason I say that is when a young person is 20 years of age, that is a relatively insignificant amount of time. When one becomes 30 and 40 like me, we begin to take note of time a little bit more often, so forth and so on—50, 60, 70, 80 and 90—that is an often long time to have to wait to have these issues resolved. In fact, unfortunately, I would predict that many individuals who are alive today will not be alive when a bill is actually passed in Poland and signed into law that would again give them ownership of the property that is rightfully theirs.

I would ask again—I know you have been asked a number of times and maybe just one more time for myself—that you do all you can. I know you work incredibly hard on these issues and I appreciate that, but I want to highlight for the administration the need to work in an urgent fashion as soon and as quickly as possible to bring about the resolution of this issue.

Let me just ask another question as it pertains to the EU and Poland's desire to be a full member within the European community. I would imagine that property rights would be a major issue in the EU. Has any pressure been brought to bear by our administration on the EU in trying to pressure Poland to move more expeditiously on these issues?

Mr. BELL. We discuss property restitution issues throughout Central and Eastern Europe directly with the European Commission and have a very close dialogue with the European Commission—of the European Union specifically on these issues. The European Union is, of course, in charge of its own enlargement process. They are fully informed of what we know and what we think, I can assure you. Beyond that, they come at this issue, as I earlier mentioned, to my knowledge at any rate, through the prism of economics and law. I believe it is fair to say that the European Union would make sure that any applicant for membership has adequate property laws and is having a situation that can clarify disputes and provide clear title. They, to my knowledge are doing that.

So while we come about it—probably come at it from a somewhat different perspective than the European Union, there is a large functional overlap there, and we have to build on that and we have to make it more, and we have to make it part of this sort of catalogue of leverages that we can use.

Mr. CROWLEY. Just finally, Mr. Chairman, I guess timing is everything and it is maybe fortuitous that the president of Poland will be visiting with our president tomorrow.

Time is of the essence. I know that democracy in Poland is a little over a decade old. It is, in my opinion, long overdue that these issues are addressed, and they have unfortunately not been addressed until now. Nevertheless, it is my hope and I know the hope and dream and aspiration of many people here today that Poland moves as quickly as possible. I thank Mr. Bell for his testimony.

Mr. BELL. Well, I can only add to that, sir, that timing in all the issues I deal with is of the essence because if you look at any of the restitution issues that fall to me and to my colleagues to try and expedite, which is what we are doing, be it the expenditure of monies out of the German Foundation or out of the Austrian agreements or the French bank agreement, or the settlement of outstanding insurance claims, everything has to take account of the fact that survivors, and sometimes even the heirs of survivors, are dying, and we do not have the time to stretch these processes out. That is true with respect to victims of the Holocaust. It is true increasingly with respect to victims of the Communist era. So we share that perspective.

Mr. SMITH. Thank you, Mr. Crowley.

Let me just ask two very brief questions, one on the Czech Republic. I and others repeatedly over the years have met with Czech leaders, including their now-current ambassador when he was a deputy foreign minister, and I know you have had many conversations as well over the years with him.

Obviously, for American citizens the invitation to get dual citizenship, that deadline has come and gone. The issue of filing deadlines has come and gone. Is there any effort being made to reopen the filing deadline? Added to that, if you can give any kind of indication as to the numbers of—you know, we expected, and we had heard previously, there were potentially anywhere from 8,000 to 10,000 Americans who would seek to reclaim properties. There was not that rush that we expected or anticipated. What were the numbers of those who actually followed through?

Secondly, on the Croatian issue. The Croatian law back in 1999 was ruled unconstitutional by the Constitutional Court. They ordered the parliament to take remedial action, which it has not done 3 years later. Perhaps, like all parliaments, they do not like to be ordered around, but they certainly have not taken action. That has had an impact, obviously, on Yugoslav citizens but also to some extent on American citizens. What is your take on the Croatian situation, please?

Mr. BELL. With respect to your question about the Czech Republic, yes, the Czech Ambassador is a man with whom in the past I have attended human rights trials when he was a dissident. So, we have a very good and close relationship, and I have stressed to him the need for additional action on restitution cases in the Czech Republic.

That 1928 agreement, that they call the Bancroft Agreement, and at that time—I know this from my work in Prague—the United States Government back in 1928, for whatever reason, was trying to have these agreements with numerous countries. It was not just the Czech Republic, it was a sort of one-size-fits-all approach to a question that was important to our own government at the time.

The number of people who have applied is something that the Czech authorities themselves keep, and on which our statistical base varies. I think I would like to take the question and try to get the most refined response to that I can.

With respect to the filing date, yes, we share your perspective, very much so, and have continually communicated that we share your perspective with regard to the need to extend it. You know, now that we are off the hook of the Bancroft Agreement, it would be a shame to have gotten that and have no practical effect of it, or too little practical effect of it. We represent that.

On Croatia, it is my understanding that after a long delay, finally on July 5, just last week, the Croatian Parliament amended the discriminatory clauses to extend to foreigners the right to claim expropriated property or receive compensation in accordance with existing bilateral agreements. The amended law pertains, unfortunately, to the Communist era only and not to the Holocaust era or to the civil unrest that immediately followed the fall of communism. We need to study the matter further, figure out what we know and think about the law and what we want to advise our citizens to do. But I can report that progress at any rate.

Mr. SMITH. Mr. Bell, I thank you for your testimony, and we will have some additional questions we would like to tender to you.

Any further comments from my colleagues?

Again, I want to thank you for your great work and look forward to working with you going forward.

Mr. BELL. Thank you very much, and thanks to all the Commissioners and we look forward to your continued support.

Mr. SMITH. May the Senate complete its work regarding your ambassador status soon.

Our second panel of witnesses will address more specifically the status of property restitution in several East European and Central European countries and will provide some additional and specific examples of how a few individuals have succeeded and failed to recover property.

Our first witness will be Israel Singer, who is president of the Conference on Jewish Material Claims Against Germany and co-chairman of the World Jewish Restitution Organization. As co-chairman, Mr. Singer has negotiated on behalf of Holocaust survivors and heirs of Holocaust victims. His background in academia includes professorships at the City University of New York, teaching political science and Middle Eastern studies, and at Bar Elan University in Israel teaching political theory.

Our second witness, Yehuda Evron, will testify regarding the status of property restitution efforts in Poland. Mr. Evron serves as the U.S. president of the Holocaust Restitution Committee, a non-governmental organization advocating for restitution of confiscated property in Poland to Holocaust survivors and their heirs. Mr. Evron was born in Romania and has spent much of his life living in Israel and the United

States. He holds degrees from Hebrew University in Jerusalem and Long Island University in New York. Prior to retiring in 1999, Mr. Evron had a distinguished career as a computer scientist.

Our next witness will be Mr. Mark Meyer, who represents clients with property claims in Romania as a partner with the international law firm of Hirschfeld and Ruben, for whom he chairs the Central and Eastern European practice group. Mr. Meyer has written several articles analyzing Romania's property restitution legislation and he serves as Chairman of the Romanian-American Chamber of Commerce.

Our final witness, Olga Jonas, has been dedicated to the issue of confiscated property returns since 1990. Her interest in the issue stems, in part, from her father's efforts to reclaim confiscated property in the Czech Republic. She was born in Prague and with her family fled Communist persecution to the United States, becoming a U.S. citizen in 1974. Ms. Jonas is an economist and has worked on economic policy for a number of international organizations. She has degrees from Williams College and Princeton University and has also studied at the University of Paris and Harvard Business School. In her personal time she works with several non-governmental organizations with a focus on the Czech Republic, including the Free Czechoslovakia Fund, the Czech Coordinating Office, the Czech Society for the Preservation of Human Rights, the International Association of Czechs for Dual Citizenship, Restitutions and Voting Rights, and finally the Union for Citizens' Self-Defense.

If we could begin with Mr. Singer?

ISRAEL SINGER, PRESIDENT,
CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY AND CO-CHAIRMAN,
WORLD JEWISH RESTITUTION ORGANIZATION

Mr. SINGER. Thank you, Mr. Chairman. That was very nice. I appreciate very much what you said about me and it is also very hot, we do not deserve that either.

I would like to tell you that I am appreciative of the fact that you gave us several minutes and I would like to, therefore, ask you if I could include in the record my full written statement.

Mr. SMITH. Without objection, your full statement and that of all your …

Mr. SINGER. I would like to add to that several items: Policy dispatch number 72 of October of this past year of the World Jewish Congress, of which I am also the chairman. It is described as Moral and Material Restitution, a summary report. It describes an update to some of the things that we have heard from the Special Envoy, Mr. Bell.

I would like to add to that another item, something that actually probably is in your record, but it is the item I am going to begin with and it is a leadership letter from the United States Congress. It was dated April 10, 1995. It was signed by the-then speaker and by Senator Dole, by Senator Gephardt, Senator Daschle, Congressman Gilman, Senator Helms, Congressman Hamilton, Senator Pell, and was a wall-to-wall statement. It said, "The collapse of Communist rule in Central and Eastern Europe presented the Jewish people with the opportunity to reactivate efforts to reclaim lost property. For the most part, Jewish properties—communal and individual—plundered by German occupa-

tion authorities, satellite governments and local populations were later seized by Communist regimes before they could be returned to their survivors as well as to the heirs.

"In 1992 the World Jewish Restitution Organization was created to coordinate Jewish claims on behalf of the world Jewish and the local Jewish communities in these respective countries and to negotiate with the appropriate authorities. Although the particulars vary in every country, governments have enacted restitution legislation with cutoff dates that have the effect, whether intended or not, of restricting the rights of Jewish communities and others and those not domiciled locally, with legitimate claims, from making claims.

"It should be made clear to the countries involved—to Belarus, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Russia, Slovakia and Ukraine—that their response on this matter will be seen as a test of their respect for basic human rights and the rule of law and could have practical consequences on their relations with our country.

"It is the clear policy of the United States that each should expeditiously enact appropriate legislation providing for the prompt restitution and/or compensation for property and assets seized by the former Nazi and/or Communist regimes. We believe it is a matter of both law and justice. Time is crucial for these survivors who suffered such griev

The U.S. Congress, and many of you Commissioners today, Chairman Smith, participated in writing this letter. Little has changed from April 10, 1995 to today. We still have most of the points that we made then outstanding today, although we have added some properties, some laws, in some countries.

As chair of the various organizations that deal with this problem—I would like to tell you that I am unhappy and I come to you today not to make you unhappy but to tell you that if I cannot sleep, I would like to have you stay awake from time to time as well. I have come to tell you that this is the 50th anniversary of the Conference on Material Claims Against Germany this week and anniversaries are important. Next Tuesday we will be commemorating the signature that was signed with the German Government. I want you to know that although I am not here to compliment any government, particularly not the German Government, I want to say that we take notice of the fact that in the last 50 years, the German Government has paid more than 100 billion marks, or today some 60 billion Euros or dollars, or whichever one is more important, and higher in value today, and I am not sure.

[Laughter.]

Nevertheless, I would like to tell you that this is a very serious amount of money that has changed the lives of many individuals. We take note of that because successes with regard to decisions made in theses halls should not be overlooked, and marginal or more failures should be. But when we state things on April 10, 1995, and we meet in the middle of July in the year 2002 and still have outstanding questions, we do not do so because we do not thank you, Mr. Chairman and your colleagues, because we do not thank Secretary Eizenstat who strived to make this his almost life's work for a period of two administrations. Then we want to thank Mr. Bell, who follows in his footsteps and has sleepless nights, and we give them to him and he takes them kindly.

I would like to say to you that we shall continue to be vigilant and appear every time you call us and give you lists like this, which are report cards, as they were described by the Congress of the United States of America, as to the behavior of the countries that we have now

admitted and that we might admit—in fact, some members of the Congress have already recommended that they should be admitted despite the fact that they have not till now behaved—well, some with provisos that they should and others with provisos less clear.

We have come here to ask you for three discrete things: The first is that in the area of communal property, and you heard that some countries have and have not yet passed full laws—some with the gold standard and others with another standard—some that have met the standards very well like Estonia and we cannot apply those because the amount of property and the problem is not the same as it is in other places, so we do not really want to compare apples and elephants, but we do need to look at those who have passed laws and have followed what they passed, and those who have not, and we give you a list and that report card should be followed.

You should call those ambassadors in because they take that seriously and they know that we are looking and you are looking and that is why we come here and that is why we thank you. That is why the situation in 2002 is different from the one that existed in 1942, where nobody cared and nobody was looking. That is why most of my family had already been killed. The hearings were not hearings with teeth, and the follow-up was not as clear as it could have been.

We do not do that by holding up any kind of recriminations but we do feel that today those few who survived should be given an opportunity to live their lives in dignity and conceivably to receive what they deserve.

So we are here to ask you:

First, to follow our report card and look at it carefully and to call in those ambassadors and ask them why—and more importantly, why not.

Second, to ask them how can you allow in your countries, NATO countries, members for a long time, for a short time and aspiring NATO members, to allow anti-Semitism to occur in your countries as a result of creating justice? We are not talking about anti-Semitism at large, hatred, racism, xenophobia at large.

Nevertheless, this Congress of the United States and the sense of the Congress' resolution suggested that as a matter of law, as a matter justice and as matter of human rights certain things should be done. If those things are merely raised, could they conceivably be one more time the cause of the very crimes that caused the theft of this property and the environment in which that theft took place, and could we be blind to that?

These are not two separate unrelated issues. We, today, see that while property restitution—a right which we and which you have promulgated—is in most places we are discussing causing anti-Semitism and being used as an excuse for it. Unconscionable, incontrovertibly insensitive on the part of those governments that do not respond to it and on the part of those members that do not raise it. Because we are here today to tell you that anti-Semitism and justice should not be relatives and they are directly related.

The last point that I have come to ask you to do if I can as a citizen of the United States of America and as a permanent annoyance, there is a moral issue here, not only a material one. More than 50 countries, and I include in the record the background at issue more than 5 decades after the Shoah collective memories being refreshed and re-

vised, a quest for moral restitution has been part and parcel of the quest for material restitution. More than 50 historical Commissions have been established to deal with various aspects of the property question in addition to investigating the truth about the fate of these assets that we are discussing.

These Commissions, as you heard before from various Commissioners throughout the world, tell the truth. That needs to be repeated, reprinted, reported and needs to be reviewed, educationally, and most importantly, from the point of view of human rights because those truths which we hold to be self-evident aren't at all.

Many countries still feel that these have been agreements arrived at, laws promulgated under duress, feel that those people in the U.S. Congress and those persons pushing you are blackmailers and worse. We wish that human rights be part of the pattern of those new countries being introduced into a community of nations in which certain values and certain educational principles be part and parcel of the justice that is being done. It is not only about the money. I repeat that time and time again, and I want to repeat it one more time today.

It is true that in Germany much money was paid, but a de-Nazification program took place as well. That de-Nazification program took place because we made it happen, and this body has a special duty not just to get back the property, but to get it back on terms that we, who understand the truths regarding the need for the return of that property, make the methods through which that property is given back and the way it is given back as self-evident as we in these halls understand them to be.

That plea is the plea with which I come to you today with the aging Holocaust survivors who are dying at the rate of 15 percent a year. So that in 3 or 4 years the issue that we will be discussing will be moot. So that the laws that aren't being passed will be written for those who will not be able to make claims, will be the grist only for people who studied law like myself to deal with, and that is not what we are here to ask for alone.

Justice is important, the environment to which justice is done is important, but the speed, particularly since it is so late in the game, is very important. Justice delayed is justice betrayed to use a worn phrase. So I am here to ask you to do that which most Jews do—when you have done somebody a favor, you ask them another.

You have called the hearing. You have helped us time and time again, all of you. We want to make sure that this job which has begun, help us finish it.

Thank you.

Mr. SMITH. Thank you very much, Mr. Singer.

[Applause.]

We appreciate your very passionate remarks and your guidance, and all of those enclosures that you mentioned earlier will be made a part of the record.

Mr. SINGER. Thank you, Mr. Chairman.

Mr. SMITH. Mr. Evron?

YEHUDA EVRON, U.S. PRESIDENT,
HOLOCAUST RESTITUTION COMMITTEE

Mr. EVRON. Thank you, Mr. Chairman.

I sincerely appreciate the opportunity that you have afforded me to testify on the important issue of the Polish restitution. I also salute your tremendous leadership in this area.

I am the president of the Holocaust Restitution Committee, an umbrella organization in the forefront of fighting for the cause of Polish restitution for Holocaust survivors and their heirs.

The process of property restitution has been critically important to my family for the past 20 years. My wife lost every member of her family in the carnage of Poland during World War II. All that is left from my wife's family are some tragic memories and her home.

The individuals that our organizations represent are well into their 80s. Even their heirs are in their 60s. They seek the return of their homes in an environment of fairness and equity. These homes were seized by the Nazis during World War II, during what has come to be known as the Holocaust or the Shoah. These properties have been expropriated by successive Communist regimes pursuant to a series of decrees. All of these decrees are still in effect today in Poland.

We expected that a nation like Poland that suffered so much during the Nazi and Communist eras would understand the suffering of other people. There are no words to describe the suffering of the Jewish people during the Holocaust. We do not understand why Poland is creating additional suffering by denying our right to our homes.

I have reviewed the transcript of your hearing on March 25, 1999, where Congressman Smith indicated that "the Helsinki Commission has monitored the property restitution and compensation efforts being made by the post-Communist countries, and I have to conclude that the efforts to return property to former owners have been uneven, and often unsuccessful or worse, discriminatory. I am here today over 3 years later to tell you that Polish restitution is indeed uneven, has been unsuccessful and is often discriminatory.

Members of our organization drew the same conclusion as Chairman Smith did and decided to file a class action in the federal court. As you know, this case is now on appeal to the second circuit, but even a favorable resolution of this case may take years to achieve.

Ladies and gentlemen, time is something Holocaust survivors do not have. We need closure now.

The Polish effort to provide property restitution has so far failed. Every single year brings with it news reports that Poland is preparing comprehensive legislation to deal with the property restitution issue. However, no legislation has been passed to date. Furthermore, Poland has failed and refused to negotiate a resolution of the property restitution issues with the HRC or any of the survivors' groups. The passage of 13 years since Poland has achieved democracy without addressing the basic human right of ownership is inexcusable. This legislative initiative has failed to garner any support either inside or outside of Poland.

Our analysis of the elements of the statute that failed to materialize in 2001 was at best a useless piece of legislation, at worst a virtual sham. Let me explain why.

First, Poland offered to issue bonds that would not be usable as currency for at least the next 10 years, a lifetime for the survivors and their heirs.

Second, only 50 percent of the value of the property would be restituted as bonds. The valuation process itself was also murky and questionable.

Third, the inheritance process that is currently unworkable would be imported into this legislative process.

Fourth, and most importantly, any restitution was conditioned upon citizenship and the two-year residency requirement. This automatically rendered the statute discriminatory.

Here I would like to comment and suggest to Mr. Bell. The new law that we hear about is very similar to the old ones that were vetoed. If you listen to the Polish foreign minister, he is talking about the new law that is only going to offer only a symbolic compensation to the owners. We went to the European Union Parliament and Mr. Popofsky, the Polish Ambassador to the European Union, answered the guidelines of the new law, which are the same as the previous one. They are talking again about monetary symbolic compensation.

We survivors lost all our families. The homes that are left are the only thing left. There is no money in the world that can compensate for these houses. We do not want any money. Besides, Poland does not have money to pay us.

So please, Mr. Bell, before you wait for 2003 to see if we will have another piece of useless legislation, look not only at the timetable, but also what the new law says.

Let me give now some case studies related to current obstacles in Poland in recovering properties. Arran had owned two properties in the town of Suvalk, Poland. All the documentation was in order. Mr. Arran has his citizenship papers and his proof of ownership. The paperwork was so good that even the Polish court system had to agree. Therefore, on July 4, 2001, Mr. Arrant received the decision permitting the return of the property to him. The Government of Poland appealed the decision and lost. The Government of Poland did not give up.

On December 15, 2001, they continued to pursue Mr. Arran and filed papers against him. This new lawsuit was brought by the Polish locality and it attempts to reconfiscate the property in 2002. This is not 1939. This is not 1948. This is not 1956. This is 2002. This is democratic Poland. Reseizing properties that his own court system refuses to allow it to keep.

This is an open violation of the Helsinki Accords. The Commission must not allow such confiscations to continue.

Peter Koppenheim had a property in the town square of Wroclaw. After the fall of communism and over his numerous written objections, the Polish Government sold the property to Thyssen-Krup. Poland sold this property even though it had prior notice of the actual and direct Jewish ownership of this property.

These two cases are only a few of the hundreds, if not thousands, of cases where Poland continues to sell on the world market property that should be restituted.

Poland continues to sell, manage and rent thousands upon thousands of private properties. When the claims are made by the rightful owners, the claimants are stonewalled until they either die or give up.

That is undemocratic. That is unacceptable.

That is why the Chief Judge of Eastern District of New York, Judge Edward Korman, said that the dismissal of the class suit against Poland places on the Republic of Poland the obligation to resolve equitably the claims raised here.

Poland claims that, if the survivors and their heirs would simply go into the Polish court system, they would be able to secure the return of their homes.

That is simply untrue. Out of thousands of active members, not a single one has yet been able to secure the return of the property. Our gentile friends with property claims in Poland have faced the same difficulties in the return of their property.

We have many members of the Holocaust Restitution Committee who are not Jewish, who have suffered the same fate at the hands of Poland over the past 50 years.

We are joined here today by Antoni Feldon, Chairman of the Union of Former Property Owners in Poland and by Dr. Edward Walata, a leading member of our organization from Boston, Massachusetts.

These people represent the non-Jewish universe of property claimants.

What can the Commission on Security and Cooperation in Europe do in the field of property restitution? First and foremost, the Commission should request the Republic of Poland to enter into discussion with the Holocaust Restitution Committee and all Jewish and non- Jewish organizations interested in this issue.

The Helsinki Commission is the most appropriate body to request the powers in Poland to resolve this problem once and for all. This should be done immediately due to the age of the survivors' population, both Jews and non-Jews.

Justice delayed is justice denied.

The United States Government, as represented by the executive branch, and more specifically the State Department can, and should raise the issue of property restitution with Poland at every opportunity.

President Bush is meeting with the Polish president tomorrow and Thursday. Congressman Cardin, the Commission, and Senator Schumer have sent letters to President Bush asking that this issue be raised at the highest level.

Similar letters should be sent by other interested senators and representatives.

Congressional representatives must raise this issue with their Polish equals at every opportunity. Whenever there are joint meetings being held with members of Eastern Europe delegations, restitution must be on the agenda and must be addressed.

I hope that these measured steps will result in an appropriate solution to the problem of property restitution.

I have also called this a crisis because it is indeed a crisis for Poland as long as Poland refuses to right the wrongs of the past era.

We are glad that Poland is now part of the free world, but Poland has to remember that the free world protects the basic human right of private property.

One final note, the Holocaust Restitution Committee respectfully suggests that the Helsinki Commission conduct another hearing one year from today to evaluate the success of these various initiatives.

In conclusion, Mr. Chairman, and Ladies and Gentlemen of the Commission, the restitution of property in Poland and elsewhere is an integral part of the need to obtain a measure of justice for the victims of Europe's major two disasters in World War II—Nazism and communism.

Thank you very much.

Mr. SMITH. Thank you Mr. Evron and …

[Applause.]

We appreciate your very persuasive and powerful testimony. We will follow this up with additional hearings, probably even before the year deadline, to keep everyone focused. Your recommendation is a good one. I thank you for it.

Mr. Meyer?

MARK MEYER, ESQ., CHAIRMAN,
ROMANIAN-AMERICAN CHAMBER OF COMMERCE

Mr. MEYER. Mr. Chairman, thank you very much for your invitation to come here and testify today regarding the status of claims by American citizens for restitution of properties that have been abusively seized by the Communists in Romania.

I also want to thank Senator Clinton for having suggested that I come before the Commission to address some of these concerns. I hope that by the time I finish speaking to you, I will have addressed a specific concern that Commissioner Cardin has raised, and that is for the establishment of an action plan for Romanian restitution. I hope, combined with the detailed written testimony that I have submitted and you have kindly placed in the record and the highlights of that testimony, which I would like to give here orally, we may have that action plan supplied to the Commission and to Commissioner Cardin.

I would like to point out that unlike other countries in the region, Romania has indeed passed a restitution law. But sadly, before Romania can take pride in real restitution for all of its citizens and former citizens who are the victims of these Communist confiscations, it is going to have to amend the law.

It is my hope and my belief based on the cooperation that the Romanian Government has shown with respect to the extension of the deadlines for the filing of the claims in the first place, in which this Commission was quite active, as was the Department of State, and the American Embassy in Bucharest, I am hopeful that with that same team, we will be able to change the various aspects of the law that currently make it unfair for claimants and really unfair for the people of Romania. The law neither satisfies the need of a democratic society not to be built on the stolen property of its people, nor does it satisfy in any way the demands of justice.

Mr. Evron mentioned, in connection with the potential Polish legislation, the fact that they are considering symbolic restitution. Indeed, the Romanian legislation also talks about that possibility, using different terms.

I would submit to you, ladies and gentlemen, that symbolic compensation is not a compensation of any value to the people who have been the victims of confiscations. It is in fact another confiscation, but one that now arises under Protocol I of the Human Rights Convention, which Romania signed in 1994.

The problem with the Romanian law in essence is that it has too many exceptions to the in-kind restitution that will be afforded.

It has so many exceptions to the overall principle of in-kind restitution that in fact it is not providing very much in the way of in-kind restitution at all.

Instead, it offers restitution in the equivalent. In the case of residences, it would be cash equivalent. I should add that we are only talking about real property. The Romanian legislation has yet to focus upon personal property—cash, art, et cetera.

So, in the case of all other real property, other than residences, equivalent compensation will be in vouchers for yet to be privatized companies. I would submit to you that, at this point, those vouchers are almost of no value. Not only that, the regulations required to determine the valuations for cash valuations and to begin the voucher system haven't even been passed.

The process itself is so cumbersome with administrative proceedings and the necessity to go through a three-tiered court process that it has created a procedural morass, a bureaucratic meltdown so that although some claimants have filed as early as a year-and-a-half ago, we have now, according to the government statistics as of July, 188,297 claims filed with the Romanian Government for restitution, of which only 2,268 claims have been resolved.

So many others cannot even begin to be resolved because those regulations, which I suggested to you are necessary, have not been implemented.

One example of a problem that an American citizen has had with the difficulty of the procedures involves a gentleman who had a claim for ownership of a large corporate entity that existed in Transylvania before the war. He filed one claim for the real property that the corporate entity owned.

Well, it turns out, having received later information from the State Archives, that in fact the property owned by that corporation consisted of more than 200 parcels. Under Romanian law, he was required to file 200 claims and will be required to process, through the court system, 200 separate litigations for just that one company.

Now this does not work for him. It is entirely too costly. It also does not work for Romania and for its court system.

What is the action plan that I present to you, Commissioner? First, I would urge this Commission to urge upon the Romanians to broaden in-kind restitution. That same individual has a claim for his family residence. They were very wealthy people, and they had a beautiful villa in Bucharest. That villa today is occupied by a Latin American ambassador as a residence. The villa is today worth between $6 and $8 million.

Nevertheless, under Romanian law, one of a myriad of exceptions to in-kind restitution prevents that villa from being returned to the family because an exception is for any property that is being used by an embassy. Also political parties have beautiful villas—they are excepted too.

I submit to you that this makes no sense under any theory of social protection. There is no reason the people of Romania have to pay between $6 and $8 million in a cash restitution for that home.

In fact, they will not pay it, and we all know that in this room.

What they will pay will be something woefully inadequate. Why? Because Romania is a poor country. Romania cannot afford to pay hundreds of millions, if not billions of dollars, in cash restitution. That is why Romania must broaden the amount of in-kind restitution that it gives and include in that the opportunity to settle claims through swaps of other land that they own if in-kind restitution is not available.

They must come up with a procedure for alternative forms of restitution that are different from cash restitution. I would submit to you that one such possibility would be long-term bonds.

This way Romania could give the rightful value of what has been taken back to the people from whom it has been taken, and not end up with a crisis for a country with so little money and so little resources.

I am not going to go into what is an eight-point program. I just want to give you one or two other ideas for procedural changes. I think it is absolutely essential that this Commission seek from the Romanian Government a commitment that it will quickly issue the regulations that are necessary in order to bring about fair valuations.

With respect to fair cash equivalents, and as well, fair valuations, I want to point out to you that Law 10 of 2001, which is what I have been referring to, provides for cash compensation that may be limited by the parliament.

Again, in my view, symbolic compensation is a confiscation. Any reduction in the value of the legitimate sum due is tantamount to another taking of property in violation of the rights of the victims of communism.

I would also ask two other things from the Commission, then I will close.

One is that restitution for personal property be included in any amendments to Law 10.

I would ask that the Commission request of the Government of Romania that it rescind Law 112 of 1995. While it took Romania 11 years to come up with a restitution law, it only took them 5 years to come up with a law that would allow the tenants of the properties that were seized, not simply to be protected for a period of time as residents and tenants, which is a fair and reasonable endeavor, but in fact to buy those homes.

Law 112 of 1995 provided that people who live in homes stolen from other people by the Communists could actually buy those homes for next to nothing without providing any kind of compensation to the people from whom they were stolen.

In fact, what has happened, although the law required that people live in those homes for 10 years, what actually happened is that many of them sold those homes at decent profits and in violation of Romanian law. This Commission can ask that Romania in those instances at least, return those homes to the original owners, if not altogether rescind that law, but, provide protection for the people who currently live there.

That is my action plan. I hope that all of you will agree that, with respect to Romania, they have at least tried to do something, and now they need our help to make it better and fair.

One final comment, I would not like to see any of the remarks that I have made here in any way affect the process of Romania's accession to NATO, which I believe very strongly and very firmly is good for the alliance, is good for NATO and will be good for resolving this problem.

Thank you very much, Mr. Chairman.

Mr. SMITH. Thank you very much.

[Applause.]

Our final witness, Ms. Jonas?

OLGA JONAS, SECRETARY,
FREE CZECHOSLOVAKIA FUND

Ms. JONAS. Thank you, Mr. Chairman.

I am speaking here about the problems that U.S. citizens have in the Czech Republic.

This is not a new topic. We have talked about this many times before. It is not a problem just for the U.S. citizens who are concerned—and most of these people are now aging widows—but also for the residents of the Czech Republic and for the establishment of the rule of law in the Czech Republic.

So let me start by quoting Secretary of State Colin Powell. This is what he said yesterday. He said, "The hidden architecture of sustainable development is the law, the law, the law. The rule of law permits wonderful things to happen. The rule of law permits people to be free, and to pursue their God-given destiny, and to reach and to search and to try harder for their country and for their family.

"The rule of law that attracts investment. The rule of law that makes investment safe. The rule of law that will make sure that there is no corruption, that will make sure there is justice in a nation that is trying to develop."

Because I really believe in this, and he only said it yesterday, but I somehow knew it 10 years ago, this is what has motivated me to work on these issues since 1991.

So today, I want to speak about three topics. First a brief overview of the status, not so much of the relevant laws because nothing much has changed in the Czech Republic, but of the Czech Government's policy, how it is being implemented and how it shows that there is no rule of law in the Czech Republic.

Second, I want to describe two specific cases that illustrate my general points. Finally, I also have an action plan, some suggestions of what the U.S. Government should do going forward to accelerate justice.

First, the general situation: Since 1990, property has been at the center of changes in the Czech Republic, but only half-hearted attempts were made to allow some of the victims of Nazi and Communist-era confiscations to apply for the return of some of their properties. Czech legislation governing private property is fraught with restrictions and limitations whose effect has been to unreasonably reduce the amount of property being returned.

Nazi and Communist-era confiscations are legitimized by the new government, where former Communists still occupy key positions both in the executive and in the judicial branches. Over time, and I mean the last 10 years, it has become clear that the Czech Government's policy on the return of confiscated properties has one and only one purpose—I am very sad I have to say this: It is to directly benefit Communist and former Communist functionaries who have acquired these properties or who hope to acquire them in privatization.

All other reasons that Czech officials have offered to western observers to explain their hesitations in restituting property can be shown to be false. For instance, 10 years ago, Vaclav Klaus and other Communist-trained economists claimed that returning properties would slow privatization.

This was a false claim to start with. In privatization, the authorities had to invent mechanisms to identify new owners. These mechanisms turned out to be protracted and highly corrupt. The Czech economy still has not recovered from the asset stripping and other wild East practices.

With restitution, this step could have been largely skipped, and to the extent that there has been restitution, it has resulted in functioning enterprises and much better conditions. Clearly with restitution, there is an owner, and this owner has the advantage of being the legitimate owner.

This is especially true because of the effect of the Czech law on rehabilitation that was adopted in 1990. As you know, this law annulled Communist verdicts *ex tunc*; that is, as of the date they were pronounced. Through this law, the annulment of *ex tunc* means that the victims have never ceased to be the legitimate owners, not even for one day.

That is the law in the Czech Republic. They were legally denied use and enjoyment of their property, and for this, they should receive compensation in addition to the unconditional restoration of registration of their property in the property books.

It is also important to note that the Czech Constitutional Court has issued several rulings to this effect, that the rehabilitated persons never stopped being the legitimate owners, though the *de facto* owner was somebody else—first the state and then typically a high *nomenklatura* servant.

However, the lower courts, at the behest of the present government, systematically prevent the implementation of these rulings, refusing to restore possession to the rightful owners. So this is another example of the sad fact that the Czech Republic is not yet a state under rule of law.

Among all the restrictions, the most serious are the following: disallowing the return of property to all persons who are not considered Czech citizens by the Czech Government, to legal persons and to those victims whose Nazi-confiscated assets were to be returned by the 1945 restitution laws but the return was not actually carried out in time before the Communist take over.

The policy of the Czech Government that denies U.S. citizens the right to apply for return of confiscated property has been deemed to violate the non-discrimination requirement of Article 26 of the International Covenant on Civil and Political Rights in 1995 and again in 1996. These rulings have the force of constitutional law in the Czech Republic.

The Czech Government disregards these rulings as it disregards also repeated requests by the U.S. Government and by the U.S. Helsinki Commission to stop discriminating against U.S. citizens. So to this day, the Czech Republic discriminates in the area of fundamental human rights and freedoms and the right of everyone to own property is abused. Now the European Court will consider several cases of U.S. citizens in this regard.

We hope that the Czech Government will pay attention. The restoration of the rule of law is not important only for the victims. It is also clear, as Secretary Powell said, that a market economy simply cannot flourish on the basis of property rights that are illegitimate and uncertain, because all of us hope that justice will eventually prevail even against the wishes of the present Czech Government.

Just last week, the forum of European businessmen appealed to the Czech Government to improve the investment climate by reducing corruption and improving functioning of the courts. We hope that the Czech Government will take on board this advice.

Now let me tell you about one case, one certainly among hundreds if not thousands. There were two brothers, Jan and Jaroslav. They inherited their family home in 1946 after their father died. This is a nice villa corresponding to the family's upper middle class status with three apartments and a garden, in a good location near the center of Prague. It is not worth millions though.

In 1953, the Czechoslovak Government had Action B against the bourgeoisie. In a couple of hours, Jan and Jaroslav and their mother were evicted, put on a truck and shipped to a remote village to a house without indoor plumbing. Their mother was not allowed to return to Prague until 1960. This was all solely because of her class status. This was class cleansing implemented by the Communist authorities.

The house was taken over by the government housing enterprise, rented out for a pittance, about $50 per month and allowed to deteriorate over the years. When the restitution law was passed in 1991, Jaroslav applied for the return of the house both on his behalf and on behalf of his brother Jan, who had escaped to the United States and became a U.S. citizen.

The court did return Jaroslav's half, but it did not return Jan's half, giving as reason that Jan is a U.S. citizen and so is not eligible. So, Jaroslav immediately applied for the return of Jan's half to himself but the court refused again, giving as reason that Jan is still alive. This was back in 1992. So Jan then pursued the case in the Czech courts and even appealed, exhausted all the available remedies and appealed to the European Commission of Human Rights. That was back in 1995.

I want to quote from the observations of the Government of the Czech Republic on Application Number 23063, submitted to the European Commission of Human Rights and signed by the Director for Human Rights from the Czech Foreign Ministry, Mr. Rudolf Hejc: "The different treatment of the applicant and his brother may be justified by their different legal status based on different citizenship." So this is the reason for the discrimination.

To this day, the government refuses to give up Jan's half of the house. It is still rented out for a pittance, still falling apart, and without doubt, there are a number of local operators who are waiting to buy Jan's half from the government as soon as the case is dead, as soon as Jan is dead.

This is an especially unattractive aspect of the Czech Government's approach, the barely concealed wish for the victims to die. Well, Jan, who was my father, did die 4 months ago. My mother inherited everything. She wants to pursue the case in the Czech Republic where she inherited nothing but this claim. So but there his will has to go through probate. This will take some time, certainly months, maybe years, maybe decades.

Another case, very similar, was that of George Hartman. George, many of whose relatives perished in the Holocaust, came to the United States after the Communist putsch in 1948. He tirelessly lectured about the misdeeds of the Communists. After 1990, the house that he owned with his brother was also only half-returned. His brother, who lived in France all these years and whom the Czechs recognized as a citizen, got his half.

George never got his half only because the Czech Government declared him ineligible because of his U.S. citizenship, and George also died this spring.

Parenthetically, I would like to note that over the years, the Governments of Czechoslovakia and later the Czech Republic have abused the 1928 Bancroft Treaty with the sole objective of depriving U.S. citizens of their property rights.

So what can be done now going forward? First, we hope that this Commission will continue and indeed deepen its activities on property rights in post-Communist countries. Only Western pressure will help.

The victims have been protesting—and I would like to introduce for the record some protests that we have issued over the years, but nobody seems to pay attention or nobody seemed to pay attention.

Now that the Czech Republic is in NATO, officials there feel that there is not so much U.S. Government interest in how the country is run.

It is important for the U.S. Government to impress on the Czech Government that it has obligations to conduct itself in line with international agreements on human rights in a nondiscriminatory way.

The U.S. Government should object when high government officials, like Mr. Rychetsky, the Deputy Prime Minister in the most recent government and the author of the discriminatory restitution laws, claim that everything that U.S. citizens should have received has already been returned to their Czech relatives.

The two examples I just described show that this is just not true. The U.S. Government has been largely silent as far as the Czech Republic is concerned. Not one press release has been issued by the U.S. Embassy in Prague in the last 10 years.

Ending of the arbitrary discrimination should be at the top of the administration's agenda for the planned visit to Washington of the Czech President Vaclav Havel on September 18 this year. The U.S. authorities should demand that the Czech Government respond to the two binding decisions of the U.N. Committee on Human Rights.

We are members of that committee. The United States is a member. The Czech Government is obliged to respond. It has not responded for 7 years. They should respond by a deadline.

Nobody seems to care so the Czech Government is content. The U.S. Government should impress upon the Czech authorities that those being denied property are not simple beggars who can be put through countless bureaucratic hoops to prove that the property that is theirs should be returned.

Instead, it is the obligation of the Czech Government to speed up this process, to make it easy for the claimants, to return property as soon as possible and to pay compensation, first, for the delays that the present government has caused and, second, for the period when the predecessor regime denied the victims the use and enjoyment of their assets.

The Czech state did not just take over the assets of the predecessor Communist state; it also took over all its obligations. It should matter to U.S.-Czech relations whether the Czech Government treats the victims of the Nazi and Communist regimes with respect and civility.

Second, I would like to encourage this Commission to hold hearings with responsible Czech officials in the Czech Republic, with the Czech press and public having access. As Senator Clinton mentioned, public education is a very important aspect of this process.

As you may know, Czech officials, notably Vaclav Klaus, have openly dismissed the appeal of the Helsinki Commission. This was reported in the Czech press. It would be harder to do so if the hearings were held in the Czech Republic. Besides, it is a lovely country to visit and the people are really very kind, that is people other than the officials.

[Laughter.]

Even some of the officials who may have been former dissidents but they seem to have forgotten about human rights now that they are in power.

Finally my third suggestion is to begin to hold accountable the specific officials who have been active in denying the basic rights of U.S. citizens for the last decade. They should not be eligible to receive visas to visit the United States. They are engaging in arbitrary and discriminatory persecution of U.S. citizens and their families. Maybe this proposal could be taken into consideration in the ongoing review of U.S. visa policy.

Before I stop, I want to acknowledge on behalf of all the Czech exiles the very helpful work that Erika Schlager and Maureen Walsh have been doing on these matters over the last years. There are many people on both sides of the Atlantic, Mr. Chairman, who are very grateful that this Commission exists and continues its work for human rights.

[Applause.]

Mr. SMITH. Thank you Ms. Jonas for your testimony and for signaling out two of our—and we do have many, many staffers who are walking institutional memories who care deeply about these issues. Maureen Walsh and Erika Schlager do an outstanding job on this, and thank you for making note of that at this hearing.

I do want to ask just a few questions and I yield to Mr. Cardin for any questions he might have. As we all know, President Kwasniewski last year vetoed that bill, claiming that it had a residency, a citizenship requirement and a 50 percent or it did include a 50 percent restitution model. But he has raised—and I think Mr. Evron, you did point out in your testimony—the idea of using the court system.

We anticipated that in our letter to President Bush, that this is a surface appeal argument that will be used probably tomorrow when he meets with the Polish President to say, "Oh the courts, use the courts, avail yourself with the courts."

I hope, especially with the press that are here and any way we can amplify it, that our President not buy into that subterfuge. It has not worked. You pointed out, not one return of property has occurred under that, and again, I want to use whatever means we have.

There will be a meeting with the House leadership with President Kwasniewski. There is no Foreign Affairs Committee or International Relations Committee meeting contemplated. If I—attempting to get myself invited to that, to raise that very question—I am invited I am just told—to raise that very question at least within our own leadership in our meeting with the President. My conclusion is that the courts are not the means, certainly the competence of the courts, the justices, what kind of sympathy or empathy for the rule of law in this regard do they have, what kind of training, and it has not worked, bottom line. There needs to be a new and a comprehensive law and then swift and comprehensive implementation.

So, basically, that is more of a statement than a question, but I did want to respond further on that.

Mr. Meyer, you mentioned the astonishing number of 188,297 claims that the Romanian Government reports as of February 14, 2,268 claims have been resolved. I wonder if you might be able to tell us or inform us how many of those remaining claims are truly active, perhaps even close to resolution, what is the cost? I mean, is it an exorbitant cost? What kind of competency do those justices and judges have in dealing with those cases as well?

Mr. MEYER. Sadly, I cannot answer you other than to say that, of those 188,297 claims, 113,543 involve in-kind restitution. That is as of July 2002. Those are the only statistics I have, and those are the only statistics that the Romanian Government has supplied.

Mr. SMITH. OK. I appreciate that.

I again want to thank you, Mr. Singer, Mr. Evron. If there is something else we ought to be doing—you've made a number of recommendations—over and above what you have already suggested, please feel free to tell us because we really want—Poland needs to move on this. It needs to move quickly.

I know that you met with Prime Minister Miller or at least was there, Mr. Singer, and sent a letter to him. Have you gotten a response back? Is it the same deal that the President suggested, "Use the courts," or is there a different response?

Mr. SINGER. I think that most of the suggestions that we made, Mr. Chairman, are really almost as effective as one can make them, and I think the most effective thing that can happen is that, tomorrow, when you speak to President Kwasniewski, you tell him that you heard Yehuda Evron pour his heart out. You heard from Yehuda Evron that, frankly, the record is poor.

I know President Kwasniewski. He is a very fine man. He didn't just not sign that law. I think he wants to do the right thing. I even think Prime Minister Leszek Miller wants to do the right thing. The question is, how can they be encouraged? You can encourage them. They are waiting to be helped. Help them. If I can put it that clearly.

Mr. EVRON. I would like to mention just one thing, as I mentioned already. The fact that we have to look into the new draft of the law, which seems to be the same as the previous one that was vetoed. Just to give some lip service to show the world that we have a law does not mean anything.

People are now, as I mentioned, in their 80s, and to find that in 2003, they get the same piece of useless legislation will be outrageous. I want really to thank you, Maureen, the Commission and Bill Van Horne for organizing this hearing. I hope that it will have really positive results after waiting so many years.

Mr. SMITH. Thank you. Is that about . . . yield to Mr. Cardin because that may be a vote.

Mr. CARDIN. Thank you Mr. Chairman. First, let me tell you how important I think all of your testimonies have been to what we are all trying to do. It is important that we get beyond just the numbers. The numbers are shocking, but it is the individual cases that get the attention. So, I want to thank you for being here pursuing justice for each of the individuals that you have mentioned.

I must tell you that I was involved in these issues for a long time, but it was the case that I mentioned in my opening statement, the Waldman case, which patterns some issues that you mentioned, Mr. Meyer, and that was mentioned by others, where she had a clear claim to the prop-

erty. It was a nice villa on the sea. It was being used by the Romanian Government for governmental purposes. They liked using the facility, and they did not want to give it back.

So, originally, the courts ruled that it was not appropriate to give it back, so the government agreed with the courts. Then the courts said it was appropriate to give it back, and then the government disagreed with the courts.

We were bounced around for a long time. Nevertheless, it was not until the spotlight got on it, it was not until the Romanian Government realized that, just as you have mentioned, Mr. Evron, we were going to continue to raise these issues, that they decided they would get rid of us and give back the property.

Again, we should not have to do that with every single case, but I think, as we raise the individual cases, we achieve the overall objectives of getting the laws on the books that we need.

So, I think it is so important to work with us. As I talked to Mr. Bell, I want the government to pursue on a bilateral basis the proper laws. I want us to work on the international organizations for these standards. I personally believe that there are uniform objectives that should be included in restitution laws.

I do not think it is that complicated that you have to go to every state and develop a different law. I think there are principles that need to be achieved, and the states need to achieve those as principles.

Nevertheless, I do think that we will achieve that by working together and we need your help in doing that. So, I just want to encourage you to keep up your efforts. I can assure you that we will do that here in this Commission. We are determined that there be progress made and justice received by all.

Mr. Meyer, I think you are absolutely correct. Restitution in-kind is the easiest way to solve the problem. It should be the preferred course, unless there is a good reason why it cannot be done, rather than trying to have to establish a good reason why it should be done. It is less expensive, and it is better justice, and then you do not have to argue about all the facts, a value or etcetera.

So I think that clearly should be the preference in how you deal with these property restitution cases. I also agree that it is broader than just the real estate, and we have to look at that. But we need to make progress on establishing the principle that each of these countries must have an effective way to deal with restitution.

So I can assure you that this is a continued interest for this Commission. I hope that, in 3 or 4 or 5 years, we will not have to have these hearings any more, Mr. Chairman. I really hope this issue will be behind us.

I think, however, it is going to be a long effort. I regret that but I think, by our work, we can make it a shorter period of time. We can give more justice to more people, so let us continue our work. Thank you all.

Mr. SMITH. Mr. Cardin, thank you very much.

I have one final question, Ms. Jonas. If the filing deadline for claims were to be reopened now, in your opinion, would that be sufficient? Did, in your opinion, the Czech-Americans fully understand in 1999 that an opportunity to file property claims might depend on using the one-year window of opportunity to regain their Czech citizenship?

Ms. JONAS. No. I think …

Mr. SMITH. We have three votes pending on the floor. That is what that is all about.

Ms. JONAS. Basically, the Czech Government offered an opportunity for people to get citizenship restored but not retroactively. The citizenship would be restored as of 1998. The filing deadlines for citizens were in 1993/94. Right.

So I mean the whole point was the keep the properties away from these people. So, it is just a charade with the citizenship laws. I know that the new law has been offered to you as a big advance, but really, it is not.

Mr. SMITH. I want to thank our very distinguished witnesses for your outstanding input. It helps us. It obviously helps those who have been victimized, and we will do everything humanly possible to follow up aggressively.

The hearing is adjourned.

[Whereupon, at 4:36 p.m., the hearing was adjourned.]

APPENDICES

PREPARED STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

For more than a decade many countries which suffered through foreign occupations and Communist domination have attempted to solve the difficult problems of returning or compensating the rightful owners of property plundered by the Nazis and the Communists.

Many Americans are affected by this issue, either because they fled the Nazis or the Communists themselves, or because close family members did. In many cases, people were fortunate just to get out with their lives, and had to leave behind all of their possessions. The Helsinki Commission has received messages from hundreds of individuals with unresolved property claims. This issue matters to thousands of people who came to the United States because they faced religious, ethnic or political persecution.

Over the past several decades, the United States has negotiated settlements with many governments covering American citizens' losses from nationalization of property. Many people from those countries are now American citizens but who could not share in settlements between the United States and their former countries because they were not American citizens at the time when their property was taken. The only option for these claimants is to seek redress in their former countries.

There is no international requirement that countries must make property restitution or provide compensation for confiscated properties. However, if a legal process for property restitution or compensation is established, international law requires that it be nondiscriminatory and be implemented under the rule of law. The processes in many countries do not meet these standards.

The distinguished panels of witnesses before the Commission today will document the situation faced by American claimants seeking return of their homes and land in several Central and East European OSCE participating States and we will also touch on the status of communal property restitution for religious groups.

The Commission last held a hearing on property restitution in Central and Eastern Europe 3 years ago. Witnesses at that hearing described governments lacking the political will to return property confiscated by previous undemocratic regimes. They also described inefficient or corrupt judicial systems or government administrations for property restitution that rarely returned property to rightful owners. I'm sorry to say that in most of the cases highlighted at the last hearing, no progress has been made—the Czech-Americans still cannot claim restitution or compensation due to their American citizenship. Slovenia continues to make very slow progress in implementing its restitution law despite deadlines for decisions in property cases that passed years ago. The Greek Catholics in Romania still face a blunt refusal for assistance from the government with their efforts to recover their property from the Orthodox Church despite the fact that the Greek Catholic property was given to the Orthodox Church by the government in 1948.

Property restitution and compensation are important steps forward in the economic and political development of post-Communist states. Successfully responding to property claims means establishing the rule of law in these societies. Settlement of these claims will enhance foreign investors' confidence that property they rehabilitate or build from scratch will be treated fairly and legally. This is a key part of a successful transition to a market economy.

PREPARED STATEMENT OF
HON. HILLARY RODHAM CLINTON, COMMISSIONER,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. Chairman, I commend you for holding a hearing on "Property Restitution in Central and Eastern Europe: The State of Affairs for American Claimants." I would like to welcome our distinguished witnesses for today's hearing and in particular, the witnesses from New York: Israel Singer, Yehuda Evron, and Mark Meyer.

Property restitution for American claimants continues to be an issue that must be taken seriously by governments and citizens of Eastern and Central Europe. Hundreds of thousands of New Yorkers and other Americans who fled oppressive forces during or after World War II are still awaiting the rightful return of property and justice for the persecution that they and their families suffered. The rapid restitution of assets that were stolen during that horrible period is a critical step towards achieving some measure of fairness.

Today's hearing is especially timely as the President of Poland (Aleksander Kwasniewski) will meet with President Bush this week. Last year, before President Bush's June 2001 visit to Poland, I signed a letter to President Bush—along with several members of the Helsinki Commission—calling on him to urge the Polish Government to fairly provide for restitution of property confiscated by the Nazi or communist regimes in Poland.

Unfortunately, since that letter was sent, the Polish Government has still not passed a property restitution law. I urge President Bush and the rest of the Administration to raise the property restitution issue with Polish Government officials who are visiting Washington, DC this week.

As this hearing will demonstrate, property restitution issues are not limited to just Poland but remain an outstanding, unresolved problem in other nations in Eastern and Central Europe. As we will hear today, progress on this front still needs to be made in Romania, the Czech Republic and Hungary. I urge the Administration to make property restitution issue a top priority with each of those governments. As the countries of Eastern and Central Europe consider reforming their property restitution laws, they can look to the United States as a leader in considering the restitution of World War II era property. The United States has provided leadership in this area ever since American troops liberated the death camps in World War II. Most recently, the U.S. has been the driving force behind international settlements with foreign governments, the Swiss banks, the European insurance companies, German corporations that benefited from slave labor.

During the Clinton Administration, I took a strong interest in restitution issues and worked closely with World Jewish Congress President Edgar Bronfman in support of restitution for Holocaust victims. In 1998, Congress created the Presidential Advisory Commission on Holocaust Assets (PCHA), to study and report to the President any recommendations for appropriate legislative or administrative actions.

In December of 2000, the 21-member PCHA, chaired by Edgar Bronfman, issued a comprehensive report "Plunder and Restitution: the U.S. and Holocaust Victims' Assets." The Commission worked with museums to identify the original owners of missing artworks and with banking institutions to trace the trail of hidden bank deposits and to develop banking practices to uncover additional assets. The Advisory

Commission emphasized the need for the United States to continue to highlight the importance of addressing asset restitution issues and preserving Holocaust-era archives.

Based on the central recommendation of the Advisory Commission's recommendations, in December 2001, I introduced S. 1876, the Holocaust Victims' Assets, Restitution Policy, and Remembrance Act. This bill would establish the National Foundation for the Study of Holocaust Assets, an independent entity of the Federal government dedicated to completing research and disseminating information on Holocaust-era assets, as well as developing policy and promoting innovative solutions to outstanding and future restitution issues.

The Foundation will coordinate the efforts of the federal government, state governments, the private sector and individuals here, and abroad, to help people locate and identify assets who would otherwise have no ability to do so. It will encourage policy makers to deal with contemporary restitution issues, including how best to treat unclaimed assets. The Foundation will be the single most effective facilitator of the identification and return of Holocaust-era asserts to their rightful owners and heirs ever supported by the U.S. Government.

I am pleased that Congressman Brad Sherman introduced the House version of this legislation. I look forward to working with my colleagues in the House and Senate to pass this important legislation.

As we continue our work to resolve outstanding restitution issues, I would like to remember Rabbi Israel Miller, a champion and tireless advocate for Holocaust survivors in the United States and around the world. As the President of the Conference of Jewish Material Claims Against Germany, Rabbi Miller demonstrated his peerless sensitivity, leadership and precise moral compass in stewarding the aging community of Holocaust survivors toward a more just destination. I was pleased to speak with Rabbi Miller in February of 2002 when I visited Jerusalem with his son, Rabbi Michael Miller, the Executive Director of the Jewish Community Relations Council of New York. We all owe a great debt of gratitude to Rabbi Israel Miller for his hard work and commitment to the survivor community.

Mr. Chairman, thank you again for calling this important hearing and I look forward to hearing from each of the witnesses. Thank you.

PREPARED STATEMENT OF
HON. STENY H. HOYER, RANKING MEMBER,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. Chairman, thank you for holding this important hearing on property restitution.

Since the Commission's last hearing on this subject, in 1999, considerable progress has been made in a number of countries in an effort to return properties to those from whom it was wrongly stolen by fascist or communist regimes. Those achievements have often not come easily, and countries that have made progress deserve credit for doing so.

At the same time, however, there has not been nearly as much progress as there should have been, which is one of the reasons this hearing is so important. Progress in one area does not mean that we should overlook those areas where no progress has been made at all.

I realize there are those who argue that, as time wears on, there needs to be closure and finality with respect to property rights and that more harm than good is achieved by dragging out the restitution process and revisiting these issues. I disagree. The way for governments to achieve closure is to move more expeditiously on property restitution or compensation, instead of dragging their feet.

There are those who seem to believe that if you wait long enough, these issues will just go away. I disagree. In reality, many of the complaints we receive are cases where property restitution is perfectly possible, but has been blocked by government bodies or courts simply acting in bad faith and ill will. The stain from such actions will never go away.

And there are those who argue that property restitution might be even dangerous, opening the way for border changes or other unintended consequences. Again, I disagree. Such voices must not be allowed to conflate the reasonable claims of people who only wish to have what was stolen from them returned with a host of other unreasonable political agendas.

Finally, there are those who argue that property restitution is so complex, so difficult, it should not be undertaken. I disagree. I believe that returning properties seized by the Nazis and stolen by the communists is so morally compelling that it *must* be done, and the sooner the better.

PREPARED STATEMENT OF
HON. BENJAMIN L. CARDIN, COMMISSIONER
COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. Chairman, I want to begin by thanking you for calling this hearing on property restitution in Central and Eastern Europe, with a particular focus on the state of affairs for American claimants. During this hearing I hope we will examine the restitution and compensation programs established by OSCE participating states, with a particular focus on whether these programs are being implemented according to the rule of law.

After World War II, Mr. Chairman, many Eastern European countries fell under communist control, which led to the denial of basic civil rights and civil liberties for many citizens. Many Holocaust survivors faced a second injustice when communist regimes pursued forced collectivization and mass confiscations of property.

After 1990 many of us in Congress were hopeful that the new democracies would redress some of the wrongs committed many decades ago, including the wrongful seizure of private and communal property. Unfortunately, we have not seen much progress on these issues since the Helsinki Commission last held hearings on this subject in 1996 and 1999. Efforts to return property to former owners have been uneven and often unsuccessful, with practices varying from country to country. No country to date has adopted a "model" law, and the laws that have been adopted are subject to legitimate criticism on a number of grounds. For example, many property restitution laws discriminate on the basis of: residence, citizenship, temporal restrictions, or geographic restrictions. In other countries, Mr. Chairman, the law is not being implemented by the state or being respected by the courts, or cases are unduly prolonged in the judicial system. Furthermore, many countries treat religious communities differently, and give preference to one religion over another. In some countries, such as the former Soviet Republics, no legal framework at all exists for restitution.

In December 2000, Mr. Chairman, I was pleased to assist a constituent of mine, Jacqueline Waldman, in reclaiming her family home that was confiscated during World War II under laws used to deprive Jews of property. During World War II, Aryan Laws were used to seize property and other valuables from Jews and other minority groups. In 1940, using the Aryan Laws, the Romanian Government confiscated the property from Mrs. Waldman's father. Since that time, the home has been used by the Romanian Government.

In her effort to regain the home, four Romanian courts declared her the "rightful heir" and ordered the home returned to her. Each time, Romanian officials refused to return the home and appealed the case, once even arguing that the Fascist-era laws used to seize the home were valid when the property was seized, and, therefore, were still valid. In July 1999, Mr. Chairman, I traveled with a Helsinki Commission delegation to Romania and presented Romanian President Emil Constantinescu with a personal letter urging the Romanian Government to accept the decisions of Romanian courts returning the home to Mrs. Waldman. The Romanian Government subsequently agreed to stop appealing the case and return the property to Mrs. Waldman.

Jacqueline Waldman is a strong woman who would not let an injustice stand. I admire her greatly and I am delighted that the Romanian Government decided to do the right thing. Unfortunately, we all know,

there are too many situations similar to Mrs. Waldman's. My hope is that Mrs. Waldman's case will encourage them to keep up the fight for what is rightfully theirs. Mr. Chairman, the Helsinki Commission must also speak out on behalf of these victims and the terrible injustices that occurred over a half a century ago.

Mr. Speaker, I look forward to hearing from our panel of distinguished witnesses today, including the Special Envoy for Holocaust Issues from the U.S. State Department, as well as representatives who work on property restitution issues in Poland, the Czech Republic, Romania, and Germany.

PREPARED STATEMENT OF HON. GARY L. ACKERMAN, MEMBER OF CONGRESS

THE STATE OF AFFAIRS FOR AMERICAN CLAIMANTS

It is a privilege for me to share with the Commission my views on the failure of the Government of Poland to adopt a just law concerning the restitution of Holocaust-era assets. Like the Members of the Commission, I am deeply concerned about this issue, which affects so many of my own constituents, as well as survivors throughout New York and the entire United States.

The issue before the Commission is simple: What can our government do to promote the timely adoption by Poland of a property restitution and reprivatization law, that allows Holocaust survivors and their decedents to either receive fair compensation or the prompt return of their rightful assets–especially for those assets held by the Republic of Poland itself?

At the heart of this question, one principle that must be borne in mind: restitution of illegally seized assets is a fundamental human right. Justice is not a unique desire of Jews, or of Holocaust survivors. Poland has an indisputable moral obligation to either compensate, or to return property, not because the owners are Jews, or were victims of persecution and genocide, but because the protection of property rights is a basic obligation for all civilized governments.

Poland especially, as nation seeking to join its fate to that of the democracies of Europe, should be sensitive to the importance of substantive due process and respect for fundamental human rights. If governments do not protect property, if they do not conscientiously and assiduously provide restitution when assets are unjustly seized, then they become accomplices to those historic wrongs.

The Polish Government has, unfortunately, completely failed in its efforts to resolve this issue. The most serious attempt, in 2001, proposed a law that would provide no restitution at all for many claimants. Whether this was done out of avarice, ignorance, or stinginess, I can't say. What is clear, however, is that the legislation approved by both the Sejm (the lower house) and the Senate (the upper house) would have effectively precluded thousands of wronged families and individuals from recovering property first stripped from them by the Nazis, then seized by the Communists, and now held by a recalcitrant Polish state.

The question of reprivatization is not of concern only to the community of Polish Holocaust survivors. Current estimates suggest as many as 170,000 former property owners, and their heirs, are waiting for proper restitution legislation. But in the campaign for justice for all of these wronged parties, it is imperative that the rights and interests of Poland's Holocaust survivors, and their families, not be in anyway disadvantaged–which, unfortunately, appears to be exactly what has taken place up to the present.

Difficulty making repayments is understandable, and can typically be resolved through reasonable negotiations. Outright rejection of obligations, however, is not understandable, and is an assault on the spirit of compromise. Worse, the inexplicable delays in working through this issue call into question the Polish Government's good faith. Many of those seeking restitution are survivors of the Holocaust, and are now

advancing in years. As time passes, Warsaw's incessant slowness begins to look less like the slow motions of democracy in action and more like a calculated effort to "run out the clock."

Poland's continued integration into the West and its entry into the European Union have been unnecessarily jeopardized by Warsaw's failure to appropriately address the issue of property restitution. Nearly every other post-Communist state in Europe has taken measurable steps to provide restitution. As a leading post-Communist state, Poland's example is critical for similarly situated countries in Europe. Warsaw's failure to adopt legislation providing fair compensation of legitimate claims will hurt the Polish Government's standing with the Polish people, who overwhelmingly favor a robust reprivatization law, and with the community of nations, who expect Warsaw to pay its historic moral debts.

The United States, as the preeminent international leader, has an unmistakable obligation to aggressively raise this issue with Poland, a nation with which we hope to have a warm and close relationship. The question of restitution, however, is not one of concern only to Poland. The United States, and my own state of New York in particular, have become the home for thousands of former Poles, many of them Jews who fled the nightmare of genocide in the 1940s. Protecting their rights and their interests is our clear obligation.

Many of these individuals are aging, adding additional urgency to our efforts. I want to commend the Commission for tackling this important issue. Too often restitution advocates have been told the time wasn't right; that the Polish Government was taking steps to resolve the issue fairly; that public attention would hurt the interests of survivors. It is now clear that public attention is the only the thing that will protect the interest of survivors.

As a new member of NATO, Poland's health and prosperity is of considerable concern to the United States. But before interests come obligations. Poland's obligation is to meet the legitimate claims of Holocaust survivors and their heirs, regardless of nationality, in a fair and thorough manner. Our obligation is to continue to work for the interests of our constituents and their quest for justice.

PREPARED STATEMENT OF RANDOLPH M. BELL, SPECIAL ENVOY FOR HOLOCAUST ISSUES, U.S. DEPARTMENT OF STATE

Mr. Chairman, and members of the Commission:

I want to thank you for this opportunity to address this Commission on the important issue of property restitution, one in which the Department of State has been involved for many years. I am pleased to play a part in the work of this esteemed Commission and I want to thank Congressman Smith in particular for his long-term commitment to the issue of property restitution and for hosting us on Capitol Hill.

It is a great honor and privilege to represent the United States of America as the Special Envoy for Holocaust Issues. I would like to open my participation in this hearing by stressing my dedication to continuing the work of my predecessors. The mission of the Office of Holocaust Issues remains to bring justice, however belated, to Holocaust survivors and other victims of World War II, and to ensure that the rights of all victims of Communism and Fascism are respected.

In order to achieve progress on the complicated issues of property restitution, we need cooperation–cooperation between Congress and the Department of State, between our government and the governments of the former Eastern bloc countries, and between European institutions and aspirant nations. The Helsinki Commission and congressional actions have been powerful assets as we work together to further the process of the restitution of property wrongfully seized by fascist and communist regimes. I hope to see this cooperation grow stronger in the coming years.

At this exciting time in history, a time when former communist nations are yearning to belong more fully to the West, a time when they are open to ideas of reconciliation with their pasts and fuller cooperation with democratic nations–at this pivotal time in history, we have an opportunity to help these countries achieve their full potential. As states in Central and Eastern Europe undertake the reforms they must complete in order to qualify for NATO and EU membership, they are examining the issue of property restitution and are looking to the United States for guidance. The U.S. Government has continually and specifically stressed to them that uniform, fair and complete restitution is a prerequisite both to adequate establishment of the rule of law and to the safeguarding of religious and minority rights and freedoms. We have stressed that, in joining the Euro-Atlantic mainstream and applying for membership in multilateral organizations, these countries are seeking to join a community of values. Membership involves continued and pervasive scrutiny of laws and practices for all of us. Consequently, we stress that the process a country creates for achieving restitution will be expected to continue and to achieve results. For countries invited to join the Alliance, this will be true after their accession to NATO as much as it has been in advance of their joining.

Mr. Chairman, property restitution in these countries arises as an issue because of actions taken by Nazi occupation regimes and the actions of the communist governments that acceded to power under the aegis of the then Soviet Union. In the countries they occupied, the Nazis relentlessly seized property that had any connection to Jews–communal property owned by the various Jewish communities, and private property owned by individual Jews, Roma and other victims. Valuable movable property such as artworks soon found its way into the hands of

Nazi leaders or was converted into cash to fund the Nazi war effort; occupation regime officials took up residence in confiscated homes, and other properties, including synagogues, were used for commercial or other purposes.

When the war ended, there was some effort in several countries to return properties to their original owners, but the newly established communist governments soon reversed that process, preferring to use the confiscated property for their own purposes. For victims, the change in leadership did not alter the availability of their property -- they still did not enjoy its use or have access to it. With minor exceptions, the essentials of this situation remained unchanged for the ensuing four decades.

The collapse of the Soviet Union and of its satellites presented an opportunity to reverse confiscations and to return property, real and movable, to rightful owners. We have supported that process for the past decade. There has been considerable progress in some areas, less in others. But the trend has been in the right direction.

In this connection, I want to pay special tribute to the efforts of Stuart Eizenstat, who started work on this matter while serving as the U.S. Ambassador to the European Union from 1994 to 1996 and continued his work on this subject while holding sub-cabinet positions at Commerce, State and Treasury. He sensitized the leaderships of the newly established democratic governments to the need to correct the injustices of the past as a pre-requisite to becoming participants in the free market world trading system and the community of democracies. His presentation to the 1998 Washington Conference on Holocaust Era assets established a framework for dealing with this issue.

The Bush Administration has continued to pursue restitution vigorously, engaging the countries of central and Eastern Europe, and particularly NATO aspirants. The Department takes this issue very seriously and is committed to monitoring and reporting on property restitution in the annual Country Reports on Human Rights Practices. Our embassies report regularly and actively on this subject.

In this effort we are working cooperatively with NGOs, including the American Jewish Committee, the American Joint Distribution Committee, the Polish American Congress, the Conference on Jewish Material Claims Against Germany and other NGOs. I am in frequent contact with ranking NGO representatives.

Property restitution is complicated and controversial. Changing the ownership and use of buildings and land from one party or purpose to another can cause major disruptions that already economically challenged countries can ill afford. In encouraging restitution, we try to keep in mind the following considerations:

- Restitution laws should govern both communal property owned by religious and community organizations, and private property owned by individuals and corporate entities.
- To document claims, access to archival records, frequently requiring government facilitation, is necessary. Reasonable alternative evidence must be permitted if archives have been destroyed.
- Uniform enforcement of laws is necessary throughout a country.
- The restitution process must be non-discriminatory. There should be no residence or citizenship requirement.
- Legal procedures should be clear and simple.

- Privatization programs should include protections for claimants.
- Governments need to make provisions for current occupants of restituted property.
- When restitution of property is not possible, adequate compensation should be paid.
- Restitution should result in clear title to the property, not merely the right to use the property.
- Communal property should be eligible for restitution or compensation without regard to whether it had a religious or secular use. Some limits on large forest or agricultural holdings may be needed.
- Foundations managed jointly by local communities and international groups may be appropriate to aid in the preparation of claims and to administer restituted property.
- Cemeteries and other religious sites should be protected from desecration or misuse before and during the restitution process.

Since I assumed the duties of Special Envoy on May 1, I have visited Slovenia, Slovakia, Bulgaria and Romania to talk specifically about property restitution issues. I have also participated in Washington reviews of the reform process with visiting delegations from other NATO aspirant states and closely reviewed the actual state of restitution in all these countries. I hope to visit several other countries as the summer and autumn progress. Ranking colleagues in the State and Defense Departments and at the National Security Council also have traveled to NATO-aspirant capitals and engaged delegations and Embassies here in Washington. They, too, have stressed the urgency of uniform and effective restitution procedures.

There are of course limitations on what the United States can properly do. Under accepted international law and practice, we can formally espouse individual claims–that is present a claim to a government–only under very specific circumstances. We therefore concentrate our efforts on urging countries to put in place fair, transparent, nondiscriminatory restitution processes that will cover broad categories of cases.

While we have neither the authority nor the resources to advocate individual claims, our Embassies and consulates abroad are able to help American citizen claimants understand what the legal requirements are in a specific country and to provide a list of attorneys who can assist in the preparation of an individual claim. One good example of this kind of assistance is the material on the website of our embassy in Bucharest. The site includes a description of the Romanian law and the process through which a claimant must go in order to qualify. It also provides a list of attorneys. As I noted above, we divide property restitution into two broad categories, communal and private. Communal property is that which belonged to religious communities and included places of worship, schools and health facilities, community halls. Such properties provided the physical facilities used by the Jewish communities in the shtetels of pre-War central and Eastern Europe. Christian organizations of most denominations also possessed properties, some of which was nationalized or otherwise confiscated by the communist regimes or earlier by the Nazis. These communal properties represent significant assets. The U.S. Government strongly supports the restitution of both private and communal property. Private claims directly affect U.S. citizens. Communal claims provide the economic wherewithal for small and struggling religious communities.

As indicated in the appended country-by-country summary, most countries have made substantial progress in the restitution of communal property. I would note that, of the NATO aspirants, Romania is the only country that does not have a law governing communal property restitution. During my visit to Bucharest in late June I was assured that a law was close to enactment. On June 25, the Romanian Parliament passed a bill providing for the restitution of communal property, excluding "places of worship", to the country's various religious groups. This bill is currently awaiting the President's signature. We have not yet obtained a text of this law.

I know that the Commission has had a particular interest in the fate of the property that the Romanian Government took from the Greek Catholic or Uniate Church in the late 1940's and which is now held by the Romanian Orthodox Church. During my visit, Romanian officials assured me that the communal property law now under consideration would treat this property fairly. The Department and our Embassy will monitor this issue carefully.

Poland's work in the communal property area is also worth special mention. In the 1990's Poland passed and successfully implemented separate laws dealing with property restitution for the major religious communities represented in that country. The Government of Poland has publicly stated that it intends to introduce new legislation providing all religious communities additional time to apply for properties. This generous offer will be of considerable benefit to Poland's religious communities.

Private property presents a more diversified picture. Poland does not yet have a law governing private property restitution, although in some cases claimants have been able to regain property through court action. Poland has attempted to enact private property restitution legislation on several occasions, most recently in early 2001, but the subject is complex and politically controversial. The government has publicly announced that it intends to introduce such legislation in early 2003. We have been assured that the legislation will not contain citizenship or residence requirements.

Romania enacted private property legislation in February 2001. At our suggestion, the original application deadline of August 2001 was extended to February of this year. The adjudication process is now well under way. We have urged Romania to implement this law in a fair and nondiscriminatory manner.

The country-by-country summary that we are submitting to you today includes a great deal more detail about the property restitution situation in Eastern and Central Europe. The situation varies considerably from country to country and I do not believe that trying to deal with the detail here would be particularly enlightening. I know that many of you have been engaged in this issue for many years and no doubt have specific questions to pose. I will be pleased to answer them as best I can or will endeavor to obtain answers for you.

MATERIALS SUBMITTED BY RANDOLPH M. BELL, SPECIAL ENVOY FOR HOLOCAUST ISSUES, U.S. DEPARTMENT OF STATE

SUMMARY OF PROPERTY RESTITUTION IN CENTRAL AND EASTERN EUROPE JULY 16, 2002

BULGARIA

- Numerous properties have been returned.
- Important communal properties remain under litigation.

Bulgaria was one of the first Eastern European countries to pass property restitution legislation. The current law stipulates that both Bulgarian citizens and non-Bulgarian citizens are eligible to receive property confiscated during the fascist and communist periods. A successful non-citizen of Bulgaria must, however, sell the property. Only Bulgarian citizens can receive restituted forest and farmland.

NGO's and certain denominations claimed that a number of properties confiscated under the communist government were not returned. For example, the Muslim community claims prior ownership of at least 17 properties around the country. The Catholic Church claims three monasteries, six buildings in Sofia, three in Plovdiv and several buildings in other towns. In addition, the government reportedly retains properties of several Protestant groups.

Most property that belonged to the Bulgarian Jewish Community has been restituted, although two cases remain unresolved: the Rila Hotel and the property at 9 Suborna Street in Sofia. In the pre-war period, the Suborna Street property and approximately half of the land on which the Rila Hotel was later built belonged to the Jewish Consistory. A recent court decision held that the Bulgarian Jewish organization "Shalom" is the successor to the Jewish Consistory. An additional complication arose when the Bulgarian Government, which owned the other half of the Rila Hotel, privatized its share of the company that operates the hotel. Since the privatization there has been little movement on either property, although government officials and Jewish community leaders have stated that they hope to settle these issues soon.

A central problem facing all claimants is the need to demonstrate that the organization seeking restitution is the organization, or legitimate successor, that owned the property prior to September 9, 1944. This is difficult because communist hostility to religion led some groups to hide assets or ownership, and because documents have been destroyed or lost over the years.

CROATIA

- Coalition parties agree to eliminate citizenship requirement.
- Several communal properties remain unrestituted.

Due to Croatia's turbulent past, there is a large amount of disputed property throughout the country. In an attempt to resolve property title disputes and to restitute property seized during the communist period, Croatia passed its first property restitution law in 1993. Since the passage of the law, the restitution process has proceeded very slowly.

The 1993 restitution law mandated the return of property seized during the communist-era. Although the Croatian Government has insisted that this law covers property restituted after the war but then again seized soon afterward by the communists, others have agitated for a new law specifically covering the pre-communist years. The current restitution law prohibits non-Croatian citizens from making claims. Legislation to permit non-citizen claims is currently before the Parliament. A number of persons of Croatian descent, who were not U.S. citizens when their claims against Croatia arose but have become American citizens, currently have outstanding property claims. United States citizens also have claims arising from the early 1990s war following the break-up of Yugoslavia.

There are two complicating factors in Croatia's current restitution program. The first is the practice of local governments issuing permits for construction on land with disputed titles. This practice was especially prevalent in the years immediately following the collapse of communism. Another factor is heirless property, which under the current law devolves to the state, instead of being transferred to an organization representing the community to which the former owner of the property belonged.

In 1998, the government signed a concordat with the Vatican that provided for the return of all Catholic Church property confiscated by the Communist regime after 1945. This agreement stipulates that the government would return seized properties or compensate the Church where return is impossible. Some progress has been made with some returnable properties being restituted, but there has been no compensation to date for non-returnable properties.

The Orthodox community filed several requests for the return of seized properties, and some cases have been resolved successfully, particularly cases involving buildings in urban centers. However, several buildings in downtown Zagreb have not been returned, nor have properties that belonged to monasteries, such as arable land and forest.

Jewish groups in Croatia have received some of their claimed property in Zagreb, but no properties have been returned to the Jewish Community since March 2000. An estimated 20 additional Jewish property claims are still pending throughout the country. The Jewish Community identifies property return as one of its top priorities.

In 1999, the Constitutional Court struck down six clauses of the Law on Compensation for Property Taken During Yugoslav Communist Rule deemed to be discriminatory against foreigners. The Croatian Government failed to meet the March 31, 2001 deadline to amend the unconstitutional legislation and obtained an extension until July 15, 2001.

On July 5, 2002, Parliament adopted a revised Law on the Return of Property Confiscated during Communist Rule that grants foreign nationals the right to compensation for confiscated property, in accordance with existing bilateral agreements. The amended law does not cover property confiscated between 1941 and 1945.

CZECH REPUBLIC

- Rychetsky Commission resolved several issues including transfer of some 200 Jewish properties, return of 7,500 art works, and creation of a $7.5 million Holocaust Fund.
- Catholic property claims remain outstanding.

The Czech Republic passed and implemented property restitution laws shortly after the fall of the communist government. The first laws covered confiscations during the period 1948-1989 and were primarily concerned with private property, farmland, artworks and property of religious orders and sports associations. A 1994 amendment provided for the restitution of property taken by the Nazis from Holocaust victims between 1938 and 1945. The amended law still required that private property claimants be Czech citizens.

Beginning in November 1998, a national commission headed by Deputy Prime Minister Rychetsky reviewed property restitution claims arising from the Holocaust. Following the commission's recommendations, in June 2000, Parliament enacted legislation that authorized the government to transfer approximately 200 additional properties to the Jewish Community and allowed individual claims for formerly Jewish agricultural property. The law also restituted 70 works of art housed in the National Gallery to the Jewish Community and provided for the return of an estimated 7,500 works of art in Czech Government museums and galleries to Holocaust victims and their heirs. Unlike previous Czech restitution laws, the claimants of looted art held by state institutions are not subject to a citizenship requirement. The Czech Government has created an internet site with information and photographs of the works. In 2002, Parliament extended the deadline for filing artwork from the end of 2002 to the end of 2006.

In 2001, the Rychetsky Commission also helped to establish a Holocaust fund with approximately $7.5 million in state money. A third of the fund will be dedicated to providing compensation to non-citizens and others previously unable to regain real property seized by the Nazis. The rest of the fund will be dedicated to the restoration of Jewish sacred sites and to Jewish Community life in the Czech Republic.

Progress in resolving outstanding communal property restitution claims by churches remains slow. In addition, verifying the title of hundreds of claimed properties further complicates the process. Since 1998, the Social Democratic government created two national commissions to address church-state related issues and to develop legislation on the return of income-generating property claimed by the Catholic Church and other property claimed by Protestant churches. The Catholic Church seeks around 700 buildings and 175,000 hectares of land, most of which are held by local authorities. These claims are currently unresolved.

The Czech Republic's decentralized property restitution system does not require municipalities to return communal property in accordance with national policies. Thus the Jewish Community has received most of the communal property once held by the Czech national government and the city of Prague, but properties held by local authorities remain unrestituted.

ESTONIA

- Communal property returned.
- Private property claims resolved.

The restitution of property in Estonia has been exemplary and there are no pending property claims or disputes. Estonia has returned communal property to religious communities. Private property owners who filed their claims before the appropriate deadline have also been able to reclaim their property, irrespective of present citizenship. Title to heir-

less property passes to the local municipal administration of the area in which the property is located. The administration is free to sell the property or retain it for its own use.

HUNGARY

- Private and communal property laws being implemented.
- No law governing heirless property. Hungary was an early leader in private and communal property restitution. The restitution process began in 1991 with the enactment of a law enabling religious organizations to apply for compensation for real estate nationalized after January 1, 1946. Since 1991, twelve major religious groups have submitted 8026 property restitution claims. Out of the total claims submitted: 1383 claims received property, 2670 were denied, 1731 received cash payments (totaling $271.3 million or HUF [Hungarian Forint] 67.843 billion) and 968 cases were settled without government intervention. As of December 31, 2001, there were 1274 claims, valued at $187 million (HUF 46.770 billion), awaiting adjudication. The final adjudication deadline is in 2011.

The 1991 law also allowed for partial compensation for private property. Successful claimants could receive a voucher for up to $21,000 as compensation for their confiscated property. The vouchers, which were issued in lieu of cash payments, could be used to buy shares in privatized companies or to buy land at state land auctions.

In 1997, the Hungarian property restitution law was amended to allow churches to apply for a government-funded annuity as compensation for unrestituted properties. Between 1997 and 1998, the Hungarian Government signed compensation agreements with several religious organizations (Catholic, Jewish, Protestant and Orthodox) in order to fully implement the 1991 law and the 1997 amendment. The compensation agreements determined the monetary amount of unrestituted properties and specified the amount of the government-funded annuity to be given to each organization. The specific amounts are in the chart below.

Organization	Amount of Annuity		Properties Waived	Amount of Waived Properties	
	US $	Hungarian HUF		US $	Hungarian HUF
Catholic Church	9.2 million	2.3 billion	1150	168 million	42 billion
Jewish Community	2.4 million	608 million	152	54 million	13.5 billion
Calvinist Church	5.2 million	1.3 billion	392	26.6 million	6.65 billion
Lutheran Church	2.8 million	700 million	74	17 million	4.27 billion
Budai Serb Orthodox Church	179,000	44.9 million	2	3.4 million	848 million
Hungarian Baptist Church	80,000	20 million	2	484,000	121 million

A major problem for Hungary's restitution program is the lack of a law covering the property of Holocaust victims without heirs. Under the current law, heirless properties devolve to the state. Another problem plaguing Hungary's restitution efforts is the legally mandated strict data protection and limited archival access. These laws effectively block access to Holocaust-related records and documents, making further national and international claims difficult.

LATVIA

- Both private and communal property restitution nearing completion.
- Restitution of communal property unresolved pending agreement among Jewish representatives.

Latvian law provides for the restitution of confiscated property, both private and communal, to former owners or heirs. The law does not discriminate on the basis of citizenship or residency. In most cases, municipal authorities make the final decision on property restitution; if they deem a property non-returnable, they may offer alternative property or compensation in the form of vouchers. Claimants, however, may be reluctant to accept alternative property because of the difficulty in establishing comparative values.

Claims for private property occupied by economically productive facilities have been particularly difficult to resolve. A World Bank program is assisting Latvia in the development of a comprehensive land title registration and verification system to support the development of a real estate market based on improved market valuation.

The current property restitution arrangement provides for the return of communal religious properties to the observant Jewish community, but does not cover the return of communal property to the significantly larger non-observant community. Thus religious property in Riga, Daugavpils, Liepaja and other cities has been restituted to the observant Jewish community, but approximately 200 communal properties remain to be restituted to the non-observant community. The Government of Latvia is prepared to proceed with the remaining restitutions pending an agreement between the Jewish observant and non-observant communities, which we expect to be concluded soon.

With this notable exception, most Jewish and Christian property cases have been resolved and the restitution process is nearing completion. Since the beginning of the restitution process, the Latvian observant Jewish Community has received 16 properties and compensation for two others.

LITHUANIA

- Government developing communal property law.
- Lack of alternative property delays private property restitution.

The government has restituted to private claimants most of the property that can be returned. Resolution of the remaining private property claims will require the identification of alternative property or the payment of compensation, estimated at approximately $500 million. No official timetable for settling private property restitution claims has been established, except for paying out compensation by 2009 for land, forest, and bodies of water, and by 2011 for dwelling houses and flats.

Under the current program the Lithuanian Finance Ministry may pay compensation only to Lithuanian citizens, but citizens qualify regardless of their place of domicile. The deadline to submit applications for property restitution passed in December 2001; the deadline to prove kinship to the original owner is December 31, 2002.

From 1991 to 1996, the observant and non-observant Jewish communities claimed and received 28 buildings, mostly synagogues (three in Vilnius, five in Kaunas and the balance in small towns.) A 1995 law permits only the observant part of a religious group (as opposed to the non-observant) to apply for the restitution of communal property. The practical effect of this has been that only the orthodox Jewish community, comprising five percent of Lithuania's current Jewish population of approximately 4,000, is able to apply for property owned and used by Lithuania's pre-war Jewish population of over 200,000. The non-observant community has not been able to obtain additional property, whereas the observant community has received a number of properties.

In June 2002, a government commission, comprised of cabinet ministers, commenced a review of Jewish communal property issues. The commission is expected to study a list of approximately 1100 unrestituted Jewish communal properties prepared by a committee made up of representatives of the American Jewish Committee, the World Jewish Restitution Organization, B'nai B'rith and the Lithuanian Jewish Commu-

nity. These organizations plan to form a foundation to assist in pursuing claims and managing restituted property. The government has proposed to amend the existing property restitution legislation to open the way for restitution of communal property to the new foundation. The Parliament is expected to vote on the amendment in the autumn.

MACEDONIA

- Almost all property used for religious purposes has been restituted.
- Communal religious property faces legislative hurdles.

The Macedonian Government, preoccupied with the Kosovo crisis and the 2001 insurgency, has not had the political will or finances to implement fully its property restitution program. The government passed property restitution legislation in 1998, but implementation of the program has been slow and many property claims by religious communities have yet to be resolved under ongoing negotiations. Macedonia's property restitution program focuses on communal property, as there is no private property restitution law.

After the 1998 property de-nationalization law was passed, the government failed to enact implementation legislation. The law was challenged before the Macedonian Supreme Court in 1999, which ruled that a number of the law's provisions must be altered. The Jewish community has regained some communal and religious property. In late 1997, the Jewish community proposed a settlement under which the community would receive facilities in Skopje as compensation for unrestituted communal property. In late 2001, the Macedonian Government accepted the proposal in principle but it has not yet been implemented.

In May 2000, the Macedonian Parliament passed a law mandating that heirless property of Jewish Holocaust victims be given to a special-purpose fund for the construction of a Holocaust memorial museum. The government established a four-person steering committee, comprised of two government and two Jewish community representatives, for the project. The steering committee recently began its work, identifying some heirless properties eligible for this program.

A major success of Macedonia's restitution program is that virtually all churches and mosques have been returned to the appropriate religious community. Most non-religious properties have yet to be adjudicated. Claims for unrestituted properties are complicated by the fact that the seized properties have changed hands many times and have been developed since the time of their seizure. Due to limited government resources, it is unlikely that the religious communities will regain most of these additional claimed properties.

POLAND

- Communal property restitution well-advanced and religious groups will have new opportunity to file additional claims.

- Government drafting private property legislation. During the 1990's, Poland passed legislation to provide for the restitution of property held before the war by Poland's major religious organizations. The legislation established five separate commissions, comprised of representatives of the government and the affected communities, to process the restitution claims. The Catholic Church acquired approximately 2000 properties, the Lutheran Church 210 and the Orthodox Church eight. In some instances, the churches received compensation instead of the actual property.

Thousands of Jewish communal properties served Poland's 3.5 million Jews before the Holocaust. The law governing the restitution of Jewish communal property went into effect in May 1997 and provided a May 2002 deadline for restitution applications. Because of the large number of properties and the small size of the current Polish Jewish community, the Community sought the assistance of the World Jewish Restitution Organization (WJRO). A joint foundation between the Polish Jewish Community and the WJRO was established in late 2001. The joint foundation, known as the Foundation for the Preservation of Jewish Heritage in Poland (FPJHP), was registered in early 2002. The founding agreement provided that the Polish Jewish Community would file claims in certain geographic areas, and the FPJHP would do so in areas not reserved for the Polish Community. The Polish Community filed nearly 2000 applications by the deadline, and the FPJHP filed nearly 3,500 claims.

The Government of Poland has indicated that it is drafting and will soon introduce legislation to enable all religious communities to file additional applications. This would enable the Polish Jewish Community to claim remaining properties identified as having been held by the Jewish Community before the Nazi invasion not already claimed prior to the May, 2002 deadline.

Many of the properties to be restituted are "heritage properties," primarily cemeteries. The maintenance of these properties represents a potential cost of considerable magnitude. The Foundation and the Community may sell properties not needed by the Community in order to meet these expenses.

There is no legislation governing the restitution of private property. Parliament has made several attempts to enact such legislation and did pass a law in early 2001, but President Kwasniewski vetoed it because of its budgetary implications. The legislation imposed a citizenship requirement that would have prevented most American citizens from filing a claim. The government has said that it is preparing new draft legislation for submission to the Parliament in 2003, presumably without citizenship restrictions. Some claimants for the restitution of private properties have successfully acquired their property in Polish courts.

In June 2002, a federal district court judge ruled that the Government of Poland could not be sued in the U.S. to recover property seized by the communist Polish Government following World War II. The suit alleged that the Polish Government had profited by refusing to return property. Plaintiffs are considering an appeal.

ROMANIA

- Communal property law completed.

- Implementation of Law 10 continues. Greek Catholic Church claims largely unresolved.

Romania was the last of the former communist countries to pass formal property restitution legislation. For the first decade following the fall of the Ceausescu regime, a series of court decisions, laws and decrees governed the return of property seized during the war and under communist rule. These decisions, laws and decrees were frequently contradictory and led to considerable confusion.

In February 2001, Romania enacted Law 10 to govern private property restitution. While this law provides a systematic approach to private property restitution, it is complex and places a considerable burden on claimants. Initially, the law provided an application period of just six months. There was no notification program outside of Romania so that potential claimants had no way of learning about the possibility of filing applications. At the suggestion of the United States, the Romanian Government extended the deadline, first to November 2001 and then to February 2002. But the overseas notification program was not implemented until late 2001, making it difficult for claimants to meet the deadline. Law 10 does not cover agricultural or communal property.

Law 10 required that applicants submit claims to municipal authorities through a court having jurisdiction over the property in question. This made it difficult for applicants who left Romania at an early age or for heirs to know where to submit applications. Despite these difficulties, several thousand claimants filed applications. How long it will take to adjudicate claims, and how transparent that process will be, is not clear.

In late June, Parliament approved legislation governing the restitution of non-religious communal property. The law covers schools and hospitals but not houses of worship. The law will replace the ordinances under which communal property has been returned to religious organizations. A June 1999 ordinance restored 36 buildings to ethnic communities (12 to the Jewish community, 15 to the Hungarian, four to the German, two to the Greek, one to the Slovak and one each to the Ukrainian and Serbian communities.) An earlier ordinance returned six properties to the Jewish community. Romanian officials have also discussed a prospective additional law on ethnic community properties under which not only Hungarian, German and Slovak communities might benefit but also the Jewish community.

Jewish property claims include approximately 800 hospitals, schools, retirement homes and other properties confiscated by the communist government. A foundation established by the Federation of Jewish communities in Romania and the World Jewish Restitution Organization has received approximately 40 of these properties. Documenting ownership has been difficult for the foundation because of the lack of access to archives. Finding new premises for current occupants has slowed the restitution of both private and communal property in Romania.

In a development that may have far reaching consequences for Romanian property restitution, the European Court of Human Rights ruled in May 2002, on three Romanian property restitution cases (Vasiliu v. Romania; Hodos and others v. Romania; and Surpaceanu v. Romania). The cases considered the right of the state (under law 92/1950) to confiscate civil servants' property, the confiscation of émigrés' property and jurisdictional issues. In two of the cases the Court ordered Romania to pay substantial damages to the petitioners unless the property was returned within three months. In the third case, the court also resti-

tuted the property, but the monetary award was for a smaller sum. The Court noted that two of the applicants were deprived of their property for 50 years and that, even if the deprivation served a public interest, the balance between community interest and fundamental individual rights had been upset.

RUSSIA

- 4000 communal property buildings returned.

Despite considerable progress made in this area since 1991, a number of religious communities remain concerned about unrestituted religious property confiscated during the Soviet era. According to the Presidential Administration, the Russian Government's Restitution Commission returned approximately 4,000 buildings between the time the decree on communal property restitution went into effect in 1993 and March 15, 2001 when Prime Minister Kasyanov ordered the commission to cease its activities.

Approximately 3,500 of the restituted buildings were returned to the Russian Orthodox Church. Smaller numbers of buildings and houses of worship were returned to non-Orthodox Christian, Jewish, and Muslim communities. One example of the latter is the synagogue in Omsk, the largest in Siberia, which was rededicated in May 1996. Even with this modest success, the Jewish Community faces the same obstacles as other religious communities in restituting properties seized during the Communist regime. Some Jewish communities assert that they have recovered only a small portion of the total properties confiscated under Soviet rule, and are seeking additional restitution.

The Russian Government has returned approximately 15,000 religious articles, including icons, torahs and other items, to religious groups. For example, in May 2000, the government turned over 61 Torah scrolls to the Jewish community. However, many other religious artifacts remain in state museum collections.

SLOVAKIA

- Majority of religious property returned.
- High-level Commission making recommendations on heirless and communal Jewish property. Slovakia, as a part of Czechoslovakia, was an early leader in property restitution, passing laws in 1990 and 1991 for the restitution of Jewish and non-Jewish properties confiscated by the communist regime. A 1993 law covered communal religious property, so that both private and communal property became eligible for restitution. The implementation of these laws led to the restitution of a majority of eligible property throughout Slovakia, with a few important exceptions.

The Orthodox Church received 6 of its 7 claimed properties. The Catholic Church received about 60% of its claimed properties, the remaining claims were denied since the properties were undeveloped at the time of their confiscation but have since been developed. The major obstacles facing Slovakia's outstanding restitution claims are the government's lack of financial resources to pay compensation, current tenants living in restituted property and bureaucratic resistance to specific claims.

One unresolved problem in Slovakia's program is the property of heirless Jewish Holocaust victims. In April 2000, the government and the Slovak Jewish Community established a Joint Commission to discuss heirless property, among other restitution issues. The commission convened in December 2001. It consists of Slovak Government representatives and ten Jewish representatives: seven from the Slovak Jewish Community, including the Union of Jewish Religious Communities in the Slovak Republic (UZZNO), and three representing the American Jewish Committee(AJC), B'nai B'rith International, the World Jewish Congress and the World Jewish Restitution Organization.

Following an agreement reached in the December 2001 inaugural meeting, experts reported that heirless Jewish moveable property and real estate, excluding agricultural lands, was valued at approximately 8.5 billion Slovak Crowns ($185 million). The Slovak Jewish Community agreed to accept ten percent of this amount, equal to 850 Slovak crowns ($18.5 million), as payment for the unrestituted property. The representatives of international Jewish groups have not accepted this figure as a fair settlement. Negotiations continue on completion of an acceptable outcome even as Slovakia moves towards parliamentary elections in September 2002.

A previously outstanding restitution issue, which has now been resolved, was the reimbursement to the Slovak Jewish Community of the Slovak Jewish deposit, the forced deposit of Slovak Jewish money and gold into the national bank in 1940. In 1998, UZZNO won a ruling for the reimbursement of the deposit ($600,000). The money is being used for a retirement home in Bratislava and a day care center in Kosice, both of which serve Holocaust survivors.

A remaining matter of concern is the lawsuit filed by the Slovak Jewish Community in Germany in relation to the money paid by the Slovak Government for each Slovak Jew deported during the war. During the wartime occupation, the Slovak Government was forced to pay 500 Reichsmarks to the Nazis for the deportation of each Jew in 1942. The Slovak Government paid this amount through the looted assets of the Jewish Community. The lawsuit calls for a payment to the Slovak Jewish Community of an amount equal to the total money paid for the deportations. The German courts dismissed the case in March 2001, and a ruling on the February 2002 appeal hearing has not yet been released.

SLOVENIA

- Bulk of communal property returned.
- Heirless property remains an issue.

Slovenia passed and began implementing a law on the restitution of property (the Denationalization Act) in 1991, soon after independence. As of June 2002, 66 percent of the 35,858 property restitution claims filed had been resolved (approximately one-fourth of the resolutions were for only partial restitution or were completely denied). Unresolved cases include both those in which no final decision has been reached and those in which court decisions are being appealed. Over the past decade, settlement of claims has been slowed by such factors as court backlogs, insufficient numbers of trained judicial and administrative personnel, amendments to the Denationalization Act, and inadequate records of land ownership. There have been complaints from some claimants of a

general lack of transparency and administrative compliance with the law. Heirless property currently devolves to the state, although no group has registered any grievance with this law.

Almost all Jewish private property claims are resolved and Jewish communal property claims are complete. Other claims which remain to be adjudicated include claims by private Slovene citizens, claims by non-citizens, and substantial claims by the Catholic Church. The Government of Slovenia has stated that it is working to accelerate the restitution process. The goal of finalizing restitution cases has been extended from the end of 2002 to the end of 2004.

The unresolved communal property claims of the Catholic Church are currently being litigated in the Slovenian courts. Under current regulations, Church claims are treated the same as individual claims, with the same rights to appeal and compensation. In July 2001, the Ministry of Agriculture returned over 8,000 hectares of land in the Triglav forest to the Catholic Church. The Ljubljana Administrative Court annulled this decree in May 2002, ruling that roads built on the land were public goods and therefore cannot be restituted. Following the annulment, the Minister of Agriculture stated that he still expects to return to the Church all but about one percent of the land in question.

In addition to the Catholic Church claims, other outstanding claims involve the property of private individuals and property without a clear title sold after the breakup of the former SFR Yugoslavia. Out of the 469 property restitution claims filed by American citizens (all of whom were Yugoslav citizens at the time their property was seized and who naturalized subsequently), around 220 cases remain unresolved.

The Jewish community in Slovenia has never been very numerous and remains small today, numbering around 150. The limited population led to only a small number of Jewish private and communal property restitution claims. Restitution of Jewish communal property in Slovenia has been completed. Neither the Slovene Government nor the Jewish Community has defined any approach to dealing with heirless property of Holocaust victims, which could provide a source of income for the Jewish Community.

UKRAINE

- The majority of places of worship have been restituted.
- No legislation governing the restitution of private property.

Ukraine has no state religion, although the Ukrainian Orthodox Church and the Ukrainian Greek Catholic Church predominate in the east and the west, respectively. These churches can exert significant political influence at both the local and regional levels and many smaller religious groups allege governmental discrimination in favor of these churches with regard to restitution issues.

A 1992 decree commenced Ukraine's restitution program for religious buildings. Registered religious organizations are the only entities permitted to seek restitution of property confiscated by the Soviet regime, and these organizations are limited to receiving only those buildings and objects necessary for religious worship.

The State Committee for Religious Affairs has stated that the transfer of the majority of places of worship to their original owners is nearing completion. As of July 2002, 8,589 buildings and over 10,000 reli-

gious objects have been returned to Ukraine's religious communities. Although the program has made progress, restitution is not complete, and all of the major religions have outstanding claims. An estimated 268 former houses of worship which are currently being used for non-religious purposes have not been returned; however, 215 of these are not claimed by any religious group. Many other outstanding claims are for properties identified as historical landmarks or for occupied buildings, with the relocation of current residents of claimed property being prohibitively expensive.

Ukraine has no laws or decrees governing the restitution of private property, nor has the government made any proposals in this regard. The government has attempted other proposals, for example, in May 2001, three amendments were offered to the current "Law of Religion and Freedoms of Conscience", but failed to pass the Rada (Parliament). Following the failure, the Cabinet of Ministers revised and resubmitted the amendments, although voting has been delayed due to the March 2002 parliamentary elections. The amendments would change the registration procedures, codify presidential decrees on property restitution and expand the types of religious property eligible for restitution to include religious schools and administrative buildings. On March 21, 2002, Ukrainian President Kuchma signed a decree calling for the creation of an inter-departmental commission, organized by the State Committee for Religious Affairs, to resolve outstanding restitution issues. The decree called for the commission's plan to be in place by September 1, 2002. Although most religious groups support the decree, others warn that there should be measures to guard against corruption and procedures to determine ownership of property claimed by multiple groups.

Throughout the country and across religious groups, there have been claims of discrimination and of deliberate delays in the restitution process at the local level. For example, the Kiev Patriarchate of the Orthodox Church and the Greek Catholic Church have complained of harassment by local authorities in the predominantly Russian-speaking eastern region, while the Moscow Patriarchate of the Orthodox Church complained that local governments ignored the appropriation of its churches by Greek Catholics in the western region. In addition to the disagreement among the Orthodox churches, the Roman Catholic Church has unrealized restitution claims in various cities including Kiev and has claimed that local authorities have blocked a land claim in Chernihiv. According to Jewish community representatives, some progress has been made, although restitution goes slowly and there are occasionally competing claims by different Jewish groups over who is entitled to receive the property.

The U.S. Embassy in Kiev actively monitors restitution of religious property, and regularly meets with representatives of Ukraine's religious communities in Kiev. These representatives also frequently visit Washington for discussion.

QUESTIONS SUBMITTED FOR THE RECORD TO RANDOLPH M. BELL AND HIS RESPONSES

Question: The Democratic Opposition in Serbia, the current coalition government in Serbia, had expressed its intention early on to restore nationalized property to original owners. Nonetheless, the Helsinki Commission recently received two communications expressing concern about alleged inaction by the Serbian Government to resolve the issue of restitution and compensation for property expropriated by the previous communist regime. Both communications to the Commission expressed concerns that the Serbian Government has launched a privatization program which is selling at auction properties that came into the government's possession through Communist-era nationalizations and upon which there is likely to be a restitution claim if a property restitution law is passed.

What is the current situation in Serbia with regard to restitution of property seized by the Communists? What steps is the U.S. Government taking to protect the interest of American citizens whose properties were wrongfully expropriated in Serbia and who will have claims for restitution or compensation if a law on these matters is enacted there? Is the situation similar in Montenegro?

Answer: Both Serbia and Montenegro, the two constituent republics of the Federal Republic of Yugoslavia, are considering draft legislation governing the restitution of, or compensation for, nationalized and confiscated properties. The draft restitution legislation does not discriminate against non-Yugoslav citizens, respects the rights of current owners and occupants, and makes alternative property or compensation available when the original property cannot be returned. Both Serbia and Montenegro have active claimants' organizations, which favor restitution in kind and closely monitor and consult with the government on restitution issues.

Serbia has begun a privatization program focusing on large industrial enterprises, which sets aside five percent of the proceeds from each privatization transaction to fund compensation for valid nationalized-property claims. As part of the privatization process, Serbia has transferred much nationalized urban real estate to the municipalities.

The draft restitution legislation in Montenegro is very similar to that in Serbia. Last year the Montenegrin Government announced a freeze on the privatization of real property, but the relevant legislation was overturned by Montenegro's supreme court. Following the supreme court's decision, there has been little additional selling of real property.

The U.S. Embassy in Belgrade has been closely following developments in the restitution of nationalized property in both Serbia and Montenegro. As of July 2002, six American citizens have contacted the U.S. Embassy in Belgrade seeking information on the restitution of their nationalized property. None of these claimants was a U.S. citizen at the time of the nationalizations, and some are heirs to original owners. We are advising U.S. citizen claimants to begin building a documentary case linking them to the claimed properties and to make contact with the claimants associations. The U.S. Government will continue to stress the need for the respect of property ownership rights and fair principles of restitution to the governments of both Serbia and Montenegro.

Question: In 1996, the Czech Republic's Constitutional Court struck down the one-year deadline for making property restitution claims and instructed the Parliament to establish a new deadline. Is it correct that the Parliament failed to do so? Is it also correct that, notwithstanding the Constitutional Court's decision striking down the existing deadline, efforts to claim property by those who were able to have their citizenship restored after 1999 continued to be blocked?

Given that the Parliament failed to establish a new deadline for filing property restitution claims when it changed the citizenship law in 1999 to allow dual citizenship by Czech Americans, wouldn't the best way to resolve the discrimination against Czech Americans in the property restitution law be an amendment to the 1991 property restitution law that simultaneously removes the citizenship restriction and establishes a new deadline for claims by those previously barred because of the citizenship restriction?

Answer: The first Czechoslovak restitution law, passed in 1990 (403/1990 CoIl.), included neither a citizenship nor a permanent residency requirement. The subsequent Czechoslovak restitution laws of 1991 (87/1991 Coll. and 229/1991 Coll.) covering confiscations in the 1948-1989 period, contained the residency and citizenship requirements, as did the 1994 Czech Republic amendment, which extended the coverage to the 1938–1945 period.

The 1991 restitution laws required all property claims and legal challenges to be filed within a one-year time period. The rulings of the Czech Constitutional Court, issued in 1994 (164/1995 Coll.), 1995 (29/1996) and 1998 (153/1998 Coll.), did not abolish the one-year deadline per se, but opened a new one-year claims period for people who became eligible after the respective Constitutional Court rulings eliminated the permanent residence requirement. The Constitutional Court ruling issued in 1996 (2/1997 Coll.) concerned solely the deadline for claimants who desired to go to court over property which had been restituted to one of their relatives. Unlike the other rulings above, the 1996 ruling did not establish a new deadline but called on the Czech Parliament to do so. As of July 2002, the Czech Parliament has not passed a law reopening the filing period for this specific group of claimants.

Czechs who became American citizens between 1928 and 1999 were subject to the Bancroft Agreement, the 1928 treaty between the United States and Czechoslovakia that prohibited dual citizenship. A U.S. Supreme Court decision declared the prohibition unconstitutional and applied citizenship retroactively. The restitution claims period, however, has not been reopened. Since gaining their right to reclaim Czech citizenship in 1999, Czech-Americans have had to pursue their claims through lengthy proceedings in the Czech justice system.

The U.S. Government is urging the Czech Government to set a new filing deadline to allow Czech-Americans to regain their property through the restitution process. We continue to advocate a non-discriminatory system, without a citizenship requirement.

Question: The Czech Government has moved to return some communal properties, but not those held by municipalities. In turn, municipalities appear unwilling, as a rule, to return communal properties. What other governments in the region have been able to get municipalities to return stolen properties?

Answer. In the Czech Republic communal property restitution remains incomplete. While most religious buildings (churches, monasteries, parishes) were returned in the early 1990s the new government needs to address the restitution of other property. The former government had researched the creation of a restitution fund, financed by unrestituted property, which would distribute revenues from the fund to churches with property claims. The plan did not materialize by the end of the government's term in June 2002

The Rycheteky Commission dealt separately with Jewish communal property. Under the guidance of the Commission, several properties were returned to the Jewish Community, and a new fund, totaling ten million U.S. dollars, was created to aid the Jewish community. Czech municipalities, in general, remain unwilling to return communal property. No legal instrument exists to force compliance with national law.

The unique situation of each Eastern and Central European country has led to great variation in the extent to which municipalities return communal property. The Government of Latvia has generally succeeded in ensuring that municipalities return property through a decentralized restitution system. Latvian municipal authorities make the final restitution decision, subject to appeal to a court of law. If local authorities deem a property non-returnable, the same authorities decide whether to offer another property or approve compensation in lieu of the claimed property.

Estonia's central government plays a comparatively larger role in the restitution process and Estonian municipalities have returned mast claimed communal property. Bulgaria has also generally succeeded in getting municipal governments to return claimed communal property.

Hungary has a very centralized restitution system under which the Hungarian Government signed agreements with the country's major religions pledging to return certain properties or provide compensation Although restitution and compensation under the agreements are just beginning, Hungarian municipalities are returning the designated properties in line with national policies.

Question: In pursuing the goal of obtaining restitution and/or alternative compensation for wrongfully expropriated properties, would it be useful for the U.S. Government to establish an independent entity to address these issues?

Answer: The key incentives in most of the restitution agreements and other arrangements the United States has helped to negotiate or otherwise achieve have arisen from countries' foreign policy interests and from companies' legal and economic interests. For example, the aspiration many countries in Central and Eastern Europe have to join NATO and the European Union has made them receptive to recommendations on restitution. Similarly, companies across Europe have faced the prospect of class action litigation in U.S. courts, and in some specific instances restitution agreements have made it possible for the United States States Government to help them achieve dismissal of suits. Ac-

tive restitution programs are an important deterrent to any legal actions. For these reasons, it is important to reserve the roles of the Departments of State and Justice in achieving and promoting restitution and in negotiating and implementing agreements for that purpose. The State Department has supported the establishment of a National Foundation for the Study of Holocaust Assets, but would not support any weakening of the abilities of the Departments of State and Justice to implement policies and agreements or to perform their essential functions in restitution matters.

PREPARED STATEMENT OF ISRAEL SINGER, PRESIDENT, CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, AND CO-CHAIRMAN, WORLD JEWISH RESTITUTION ORGANIZATION

Thank you very much for the invitation to testify before this Commission on this important issue. The Conference on Jewish Material Claims Against Germany, of which I currently serve as President, has been negotiating with Germany and Austria on behalf of the Jewish world for compensation and restitution for Holocaust survivors since its establishment in 1951. During that time, and as a result of its efforts, over DM 100 Billion has been distributed to Holocaust survivors pursuant to agreements and legislation of the German Government.[1] The World Jewish Restitution Organization was established in 1992 to seek compensation and restitution from countries other than Germany and Austria. It has played a central role in securing Holocaust restitution and compensation from numerous countries in Europe and in particular was pivotal to the agreement with Swiss Banks in 1998. Nevertheless, although much has been achieved in recent years, there is much yet to be done.

We are standing at a critical stage in history. A new Europe is being formed. The post war division of Europe into two groups formally disintegrated over 10 years ago but the building of a united Europe is, only now, finally taking shape. Three countries from the former Eastern Bloc have already entered NATO, nine countries would like to be invited to enter NATO in November of this year and ten countries from Eastern Europe would like to join the European Union–and I am certain that in the future many more countries will undoubtedly also apply to join to this economic partnership.

Yet integration into the united Europe is, and must be, more than fulfilling certain economic agreements and military pacts. A country must take its place in sharing and implementing certain basic values concerning human rights, democracy and the rule of law. In fact one of the considerations of the U.S. Government is to establish not only the military and financial/economic requirements of potential NATO members but also to deal with and evaluate the accomplishment of social, democratic and societal milestones of NATO aspirant countries.

Clearly all countries that seek to participate in the "new world order" are obligated to pursue a course of action that will result in a measure of justice for the victims of persecution by the Nazi regime and its allies. However that cannot be sufficient–each country must also commit it itself to take action to ensure that the anti-Semitism of 60 years ago is never allowed to take hold again.

It has been recognized that the method in which a country establishes and implements a law or mechanism for the restitution of private and communal Jewish property seized by the Nazi regime (or its allies) is indicative of that country's commitment to securing for itself a place in Western world.

Deputy Secretary Eizenstat stated before the Helsinki Commission in 1999:

> "the basic principle that wrongly expropriated property should be restituted (or compensation paid) applies to them all [countries in Central and Eastern Europe] and

> their implementation of this principle is a measure of the extent to which they have successfully adopted democratic institutions, the rule of law with respect to property rights and market economy practices. As these governments seek to join Western economic and political organizations and to integrate their economies more closely with ours, we do expect them to adopt the highest international standards in their treatment of property…"[2]

Moreover, Holocaust restitution and compensation has not been achieved without a historical context. It is dependent upon countries opening archives and investigating the realities of the expropriation of the property of millions of Jews. The many commissions that have been established throughout Europe that have examined the loss of Jewish property during the Nazi regime became integral elements in the way in which countries dealt with Holocaust memory. As former Secretary of State, Madeline Albright stated during the Washington Conference on Holocaust Era Assets:

> "our imperative must be openness. Because the sands of time have obscured so much, we must dig to find the truth. This means that researchers must have access to old archives and by that, I don't mean partial, sporadic or eventual access–I mean access in full, everywhere … the obligation to seek truth and act on it is not the burden of some but of all, it is universal, … every nation, every business, every organization … is obliged to do so. In this arena, none or us are spectators, none are neutral; for better or worse, we are all actors on history's stage."[3]

Most recently Deputy Secretary Armitage has declared that "following the fall of the Berlin Wall, possibilities opened for the U.S. Government and others to resume work on securing justice for Holocaust victims.… we are convinced that the greatest effort we can make is to try to make a measure of justice to the survivors of the Holocaust. The U.S. Government remains committed to work for the human dignity that is the hallmark of our country."[4]

1. INTERNATIONAL STANDARDS

The adoption of international standards for the restitution and compensation of private, communal and heirless Jewish property need not be established anew. A precedent, that was developed over the course of 50 years, already exists.

The principle of the restitution of Jewish property taken during the Nazi regime was recognized in the immediate war period by the U.S. Military Government in Germany that enacted Military Law No 59 The Return of Identifiable Property in the U.S. Military Zone of Germany. This law established the legal basis for the return of Jewish property and was followed by legislation in the French and British zones of Germany. The allied legislation on the restitution of property was only the first stage in German compensation and restitution measures. In accordance with Protocol 1 of the Agreement between the Conference

on Jewish Material Claims Against Germany and the Federal Republic of Germany in 1952, the newly created German Government implemented comprehensive legislation in the period between 1953–1965.

The restitution of property of Jews and Jewish communities of the former East Germany only commenced after the fall of Communism. Prior to that date, restitution was not possible as the communist Government did not recognize the concept of private property, nor did it permit religious communities to freely function nor return communal property to them. The first major legislation in East Germany and in fact in any former communist country was enacted in 1990. The Vermögensgesetz 1990 covered the return of property that was taken or lost or forcibly sold under the Nazi regime. This legislation covers three aspects of restitution, namely,

(a) restitution and compensation of private property;
(b) restitution and compensation of communal property;
(c) designation of a successor organization for heirless property.

Although the situation in Germany is morally different to that in other countries, since Germany was the perpetrator of the Holocaust, the greatest crime known to humanity, the comprehensiveness of the legislative program can be used as a model for property restitution.

2. INTERNATIONAL STANDARDS SPECIFICALLY RELATING TO EASTERN EUROPE

The problems relating to Eastern Europe are in many ways unique. Firstly, the Jewish communities in Eastern Europe suffered under both the Nazi regime and the Communist regime. Consequently, no private property restitution occurred for over 50 years. In many countries the current Jewish communities are small in number (as a result of decimation of Eastern European Jewry during the Holocaust) and yet the needs for communal institutions for the existing communities—in particular for the young and the aged are substantial. In addition, many holocaust survivors and their heirs currently live abroad, primarily in Israel and the United States.

Although, arguably the former Communist countries have fewer financial resources to undertake a program of property restitution, the limited attempts made to enact property restitution are often more indicative of a lack of political will than economic constraints. Importantly, "while [property restitution] may be initially expensive and politically sensitive, sound property restitution systems are clearly in the interest of all the Central and Eastern European countries."[5]

In contrast, the U.S. Government, both through the U.S. administration and the U.S. Congress, has consistently set the benchmark for restitution in Central and Eastern European countries. For example, in April 19, 1995 a letter signed by Newt Gingrich (Speaker of the House), Richard Gephardt (House Minority Leader), Benjamin Gilman (Chairman, House Committee on Foreign Relations), Lee Hamilton (Ranking Member, House Committee on Foreign Relations), Robert Dole (Senate Majority Leader), Thomas Daschle (Senate Minority Leader), Jesse Helms (Chairman Senate Committee on Foreign Relations), and Claiborne Pell (Ranking Member, Senate Committee on Foreign Relations) stated:

> "It is the clear policy of the United States that each [Belarus, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Russia, Slovakia and the Ukraine] should expeditiously enact appropriate legislation providing for the prompt restitution and/or compensation for property assets seized by the former Nazi and/or Communist regimes. We believe it is a matter of both law and justice."

In 1998 Congress resolved that "countries in transition in Central and Eastern Europe should remove certain citizenship or residency requirements for individual survivors of the Holocaust seeking restitution of confiscated property and noted that former Communist countries which seek to become members of the North Atlantic Alliance and other international organizations must recognize that a part of the process of international integration involves the enactment of laws which safeguard and protect property rights that are similar to those in democratic countries…"[6]

Importantly, the U.S. Government established a set of principles for the restitution of private and communal property that were promulgated by Deputy Secretary Stuart Eizenstat in 1999. These principles are as follows:

- We encourage governments to establish equitable, transparent and non-discriminatory procedures to evaluate specific claims. In most countries this requires national legislation;
- Access to archival records needed for the process should be facilitated by the government whenever necessary. Where archives have been destroyed, reasonable alternative forms of evidence should be permitted;
- National governments should take the necessary steps to ensure that their restitution polices are implemented at regional and municipal levels of government, which often control the bulk of the property.
- Owners or their heirs should be eligible to claim personal property on a non-discriminatory basis, without citizenship or residence requirements;
- Legal procedures should be clear and simple;
- Governments at all levels should respect and implement the decisions of the courts when these are final. (In some countries, government agencies continue to occupy properties for years after they have been awarded to the original owner, without making any plans to move.)
- Restitution claims should be honored before privatization takes place. Governments should be very cautious about privatizing property, confiscated by the Nazis or Communists, whose ownership is in dispute. If this is not done, original owners should have a right to fair compensation.
- Governments should make provisions for the present occupants of restituted property. In most cases, those using the property now had no hand in the expropriation. If no compensation or alternative accommodations are found for the occupants, the restitution tends to be delayed, sometimes indefinitely.

- Restitution of the property should result in a clear title to the property, generally including the right to resale, not simply the right to use property, which could be revoked at a later time.
- Generally, communal property should be eligible for restitution or compensation without regard to whether it had a religious or secular use. Too many countries restrict restitution to only narrowly defined religious properties, excluding the return of parochial schools, community centers, and other communally owned facilities.
- Where local religious communities are very small, as is often the case with Jewish communities, we encourage the establishment of foundations, managed jointly by local Jewish communities and international Jewish groups, to aid in the preparation of claims and to administer restituted property. Such foundations enable international groups to share the burdens, and potentially some of the benefits of the restituted property.

These principles should set the framework for the future property restitution.

However, the issues of artwork and cultural property also require a comprehensive restitution process. In particular, countries must implement the principles contained in the declaration of the Vilnius International Forum on Holocaust Era Looted Cultural Assets which stated, inter alia, that "all governments should undertake all reasonable efforts to achieve the restitution of cultural assets looted during the Holocaust era to the original owners or their heirs."[7]

It is also important that when dealing with Holocaust restitution countries make provision for heirless Jewish property.

Finally, agreements should be concluded with local municipalities whereby such municipalities assume responsibilities for the maintenance of cemeteries.

3. CURRENT STATUS IN EASTERN EUROPE

The question to be addressed is the extent to which countries in Central and Eastern Europe have met their obligations. The status of property restitution in Central and Eastern Europe is far from consistent. The situation in each country therefore must be outlined separately:

(A) POLAND

PRIVATE PROPERTY

In March 2001, the Polish Parliament approved a law for the restitution of private property. However, the right to file a claim was limited to those persons who had Polish citizenship as of 31 December 1999. The law was subsequently vetoed by the President of Poland.

The current government has indicated that it intends to propose a new law establishing a mechanism for private property restitution. On behalf of the World Jewish Restitution Organization, I recently sent a letter to the Prime Minister of Poland urging him to engage in serious discussions concerning the legislation for the return of private property with the relevant parties without delay. A copy of my letter is attached to this statement.

COMMUNAL PROPERTY

In February 1997, the Polish Parliament enacted a law to deal with the restitution of communal property. The Foundation for the Preservation of Jewish Heritage in Poland was formed as a partnership between WJRO and the Union of Jewish Religious Communities in Poland (JRCP). The Foundation is researching, preparing and filing claims to the Polish Government for the restitution of Jewish communal property. The Foundation will also own and manage properties that are returned in 27 of the 49 Polish districts. Income from such properties will be used to support Jewish projects inside and outside of Poland. Properties in the other 22 districts are being reclaimed and owned by JRCP or the eight individuals Jewish communities in Poland (Gminas).

Under the 1997 law the filing deadline for communal property was May 11, 2002. A total of 5,200 claims (inlcuding about 1,000 cemeteries) were filed—3,500 in the Foundation areas and 1,700 in the JRCP areas. Claims are submitted to a Regulatory Commission consisting of three government appointees and three JRCP representatives. Claims are either resolved as a result of negotiations between the local Jewish communities and the Polish Government and municipalities or through a Commission tribunal. As of April 2002 about 200 claims have been resolved, with most being either returned to Jewish ownership or resulting in Jewish communities receiving compensation or alternate properties.

In order to expedite the process, the Foundation and JRCP are seeking creation of a second Commission to review Jewish claims. The Polish Government is proposing legislation to give all religious communities an additional two years to file claims. The Foundation and JRCP estimate they could file hundreds more claims in such time.

(B) ROMANIA

PRIVATE PROPERTY

A law on the restitution of private property was passed in 2001 . The deadline for the filing of claims expired on February 2002. This law is extremely complex and contained burdensome procedural provisions that may have resulted in applicants facing difficulties in filing claims. Moreover, it is vital that there is access to archival records in order that claimants can substantiate their claims. In addition, the standards of proof that are used in the adjudication of claims must take into consideration the fact that over 60 years have elapsed since the loss of the property. It is, at present unclear as to whether the implementation of the legislation will lead to a just and equitable process.

COMMUNAL PROPERTY

Unfortunately, there is no law on communal property restitution. A Foundation has been established (the Caritatea (Charity) Foundation) which is researching and submitting claims to the Romanian Government. The Caritatae Foundation has information on 850 properties and has submitted 180 claims. The national government has approved 42 properties for restitution (to the Caritatea Foundation) via administrative and extraordinary procedures, but only 18 have actually been trans-

ferred to date. The Foundation now owns 35 properties, with 17 others having been reclaimed through direct negotiations with local governments.

A February 2000 law bans the return of any property, private or community, to any individual or religion, if that property is now being used as a "public institution." Theoretically, compensation can be paid in such cases, but no mechanism to do so has been established.

(C) CZECH REPUBLIC

PRIVATE PROPERTY

A law was adopted in June, 1994 that allowed for the return of some, but not all, real estate lost by individuals from 1938 to 1945. This law was deficient in numerous areas. In particular, non-Czech citizens and former owners of agricultural property did not benefit from this legislation. In addition, the measure did not, provide for restitution of property that had already been privatized or passed on to municipalities. The law also required evidence that claimants had attempted to reclaim property in the postwar, pre-Communist period of 1945–1948 which could not be done by many Jewish refugees who were trying to rebuild shattered lives outside of Europe.

In January 1999 the Czech Government decided to establish a joint commission to deal with all property claims. Headed by Deputy Prime Minister Pavel Rychetsky, it consisted of Czech officials and Jewish community representatives; the Federation invited the international Jewish organizations to participate. The commission proposed to the Czech Government several steps—legislation, government actions and decrees, etc.—leading to redress of the injustice caused to the Czech Jewish population during the Second World War and the communist period. A law was subsequently passed that allowed individual claims for agricultural property and removed the Czech citizenship requirement for claimants of looted art being held by state institutions.

The equivalent of $7.5 million in U.S. currency was transferred to a Holocaust victims' fund that would, in part, compensate non-citizens, heirs, and others who for various reasons had been unable to regain real estate lost during the World War II era. The Foundation conducted a "claims process" in order to be able to make symbolic payments to property claimants who are Holocaust victims or their heirs and approximately 1250 "claims" were submitted.

COMMUNAL PROPERTY

While there is no general communal property restitution law in the Czech Republic, dozens of properties have been returned to Jewish communities through administrative and legal proceedings. There was legislation enacted 2001 that permits the government in the future to return property by further special decree. Though there may be over 800 communal properties, an initial 1994 list of 202 properties was the basis of negotiations for several years. This target list is continually expanding and contracting as properties are reclaimed and others are identified.

(D) HUNGARY

PRIVATE PROPERTY

A law on the restitution of private property was enacted during the early 1990s but the compensation received by the owners was minimal (only 5–10% of its market value). In addition, the legislation was not comprehensive—it did not provide for compensation for assets such as securities, insurance policies, bank accounts or looted artwork. Archives must be opened in order that claimants are able to pursue their claims for restitution.

COMMUNAL PROPERTY

A 1991 law on restitution of church property allows only for use of property for current needs and does not permit sale or rental of property to provide the community with income. A 1997 law created the Jewish Heritage of Hungary Public Endowment and granted it 4 billion Forint bond ($15 million) as well as seven properties and some art works. The Endowment uses the sum to pay monthly pensions to 18,000 Holocaust survivors and the income from property to fund projects in Hungary. A 1998 law was enacted which gave the Hungarian Jewish Community a 13.511 billion Forint bond annuity ($52 million) in lieu of claims to 152 properties. This annuity provides the community with about 700 million Forints annually ($2.7 million) to meet community needs. According to the WJRO database there are 3,000 communal properties in Hungary, including over 400 cemeteries. It is importtant that further communal properties be restituted.

During my most recent visit to Hungary, I discuss the fact that there are open restitution issues with both the Prime Minister and the President and found a willingness in the Government to deal with some of the open issues. I will report to this Commission the results of my future discussions.

(E) SLOVAKIA

PRIVATE PROPERTY

Recently the Slovak Government has established a property commission, which consists of both government officials and Jewish representatives. The goal of the commission is to identify the unrestituted properties of former Slovak Jews and to find a solution to the problem of ownership.

The commission first convened on December 4, 2001 and subsequently hired a panel of independent experts and historians from the Slovak Academy of Sciences to prepare a report on property issues arising out of the World War II era; their findings will form the basis for a proposal to the government. The commission recently issued a report that estimates the value of looted Holocaust era assets—primarily movable assets, excluding real estate—at $200 million (about 8.5 Billion Slovak crowns).

Ten Jewish representatives sit on the commission, seven of them from the Slovak community; the other three represent four different international Jewish organizations.

It is hoped that in the near future there will be an agreement between the representatives of the Slovak Community/International Jewish Organizations and the Slovak Government on this issue.

COMMUNAL PROPERTY

A 1993 law on return of property to all religions was enacted. The Jewish community and other faiths had one year (1994) in which to file all claims. Each of the existing 10 Slovak Jewish communities filed the claims in their city and area. UZZNO (Central Union of Jewish Religious Communities) is the heir and claimant only for property in areas with no living community and for no longer existing organizations. According to UZZNO they and the communities filed several hundred claims.

Each claim was submitted to the current user and if the property was not returned then the Jewish community or UZZNO could go to court to seek restitution. UZZNO has reclaimed about 35 properties with much left to be done.

(F) BULGARIA

PRIVATE PROPERTY

In 1993 the Government of Bulgaria passed a private property restitution law and the progress on the implementation of this legislation has been encouraging.

COMMUNAL PROPERTY

The Jewish community has received back about 100 properties throughout Bulgaria, which covers almost all their claims. However, two notable buildings in the center of Sofia remain in government hands, despite repeated court rulings that they should be returned to the Jewish community. The properties, a building at 9 Suborna Street and a 49% share of the Rila Hotel, would provide enough income to make the Jewish community self-sufficient. Repeated commitments by high government officials to return these two properties have gone unfulfilled for several years.

(G) LITHUANIA

PRIVATE PROPERTY

Legislation was enacted by the Parliament for restitution or compensation of private property but it contained citizenship and residency requirements that excluded all persons residing outside of Lithuania. In addition, due to financial difficulties the government had not been in a position to make compensatory payments to those persons that reside in Lithuania and are entitled to make a claim under the legislation.

COMMUNAL PROPERTY

A March 1995 law provided for a one-year period to file claims for restitution of "religious" property to "religious communities." This narrow definition did not permit the return of all communal property and did not permit the return of any property to the main Jewish Community of Lithuania (JCL), which is seen under law as a "secular" organization. The Jewish religious community supposedly filed 250 claims

but the whereabouts of the list are still unclear. A total of 28 buildings, mostly synagogues, have been returned prior to and under the 1995 law—3 in Vilnius, 5 in Kaunas and the rest in small towns (and in poor condition). The WJRO lists over 1,100 communal properties.

As of the end of 2001 there is combined leadership of the religious and secular (JCL) communities. In the Spring of 2002 the International Committee to Represent Jewish Property Claims in Lithuania was formed. At the request of the Prime Minister, on June 17 the Cabinet of Ministers formed a governmental commission on restitution of Jewish communal property, chaired by the Minister of Justice, that will review all aspects this issue and possibly propose new legislation and processes. The International Committee is working with this commission to create a list of properties, react to government proposals and to create a foundation between JCL and WJRO.

(H) LATVIA

PRIVATE PROPERTY

The issue of private property restitution is progressing in Latvia in a steady manner.

COMMUNAL PROPERTY

An April 1992 Law on Return of Property to Religious Organizations, applies to all faiths and provides for return of "religious" property to "religious" organizations. The small religious community (now 136 members) applied for 24 properties and has received 16 and compensation for two others. Under the 1992 law there was an administrative claims procedure ending 1995 and now any religious community must go to court to file claims.

There is now new leadership in the religious community and a much closer relationship with the much larger "secular" community, the Jewish Community of Latvia (with 4000 members). The united community is now interested in pursuing remaining claims for all communal properties, which may total 200-300. However, many of these properties are in small towns and in poor condition. Some legislative changes may be needed in order to cover all communal property and to allow restitution to the JCL.

(I) UKRAINE, BELARUS, RUSSIA, MOLDOVA

Little has been achieved concerning the restitution of private and communal property in those countries.

CONCLUSION

The Organization for Security and Cooperation in Europe has consistently advocated for all member states to deal with this issue in a comprehensive and non-discriminatory way. In fact in July 2001 at the Paris Meeting of the OCSE, it urged:

"The OSCE participating States to ensure that they have implemented appropriate legislation to secure the restitution and/or compensation for property loss by victims of Nazi persecution and property loss by communal organizations and institutions during the National Socialist era to Nazi victims or their heirs(s), irrespective of the current citizenship or place or residence of victims or their heir(s) or the relevant successor of communal property."

This Commission, formed to monitor and encourage compliance of the Helsinki Final Act and subsequent documents, has consistently addressed the issue of property restitution–holding hearings and sponsoring the resolution by the House of Representatives that called on formerly totalitarian countries to return property to rightful owners or if that is impossible to pay prompt, just and effective compensation. This Commission should be congratulated for its work.

However, as you are aware our struggle is far from over and we call upon this Commission to remind both those OSCE participant countries that are not fulfilling their obligations as to the necessity for comprehensive private and communal property restitution and in addition, to contact NATO aspirant countries to outline the centrality of this issue.

Importantly, we all recognize that Holocaust restitution is not about money—it is about truth, a measure of justice, and above all about, as Elie Wiesel states, "it is about conscience, morality and memory." It is about achieving a measure of justice in the lifetime of survivors and heirs.[8]

Moreover we must fight anti-Semitism in all forms, wherever it appears, and in all countries. We cannot and must not let the search for truth and justice for Holocaust survivors be used as an excuse for anti-Semitism. We will have lost everything if we permit others to use our struggle as an excuse for bigotry and hatred.

ENDNOTES

[1] Speech of Deputy Secretary Armitage to the Board Meeting of the Claims Conference in July 2001 at <<http://www.claimscon.org>>.

[2] Written Testimony of Under Secretary of State, Stuart Eizenstat at the Helsinki Commission on 25 March 1999.

[3] Proceedings of the Washington Conference on Holocaust Era Assets November 30 to December 3, 1998.

[4] Speech of Deputy Secretary Armitage at the Board Meeting of the Claims Conference on July 2001.

[5] Testimony of Deputy Secretary Stuart Eizenstat to Senate Foreign Relations Committee 20 April 2000.

[6] House Resolution 557 Expressing support for U.S. Government efforts to identify holocaust era assets, urging the restitution of individual and communal property (House of Representatives October 8, 1998).

[7] Vilnius International Forum on Holocaust Era Looted Cultural Assets Paragraph 1 at <<http://www.vilniusforum.lt>>.

[8] Opening Ceremony Remarks of the Washington Conference on Holocaust Era Assets at the United States Holocaust Memorial Museum. November 30–December 3, 1998.

LETTER TO SECRETARY OF STATE WARREN M. CHRISTOPHER, FROM MEMBERS OF CONGRESS, APRIL 10, 1995

CONGRESS OF THE UNITED STATES

April 10, 1995

The Honorable WARREN M. CHRISTOPHER
Secretary of State, Department of State,
2201 C Street NW Washington, DC 20520

DEAR MR. SECRETARY: The collapse of Communist rule in Central and East Europe presented the Jewish people with the opportunity to reactivate efforts to reclaim lost property. For the most part, Jewish properties, communal and individual, plundered by the German occupation authorities, satellite governments and local populations, were later seized by Communist regimes before they could be returned to the survivors and other heirs.

In 1992, the World Jewish Restitution Organization (WJRO) was created in order to coordinate Jewish claims on behalf of world Jewry and the local Jewish communities in the respective countries, and to negotiate with the appropriate authorities. Although the particulars vary in every country, governments have enacted restitution legislation with cut-off dates that have the effect—whether intended or not—of restricting the rights of Jewish communities and others with legitimate claims to reclaim their property. Moreover, laws are being passed that prevent foreign citizens and those not domiciled locally from making claims.

It should be made clear to the countries involved—Belarus, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Russia, Slovakia and Ukraine—that their response on this matter will be seen as a test of their respect for basic human rights and the rule of law, and could have practical consequences on their relations with our country in is the clear policy of the United States that each should expeditiously enact appropriate legislation providing for the prompt restitution and/or compensation for property and assets seized by the former Nazi and/or Communist regimes. We believe it is a matter of both law and justice.

Time is crucial. For those aging survivors who suffered such grievous loss, righting this historic wrong is the very least that can be done.

SINCERELY,

(signed) Newt Gingrich, Speaker of the House; (signed) Robert Dole, Senate Majority Leader; (signed) Richard A. Gephardt, House Minority Leader; (signed) Thomas A. Daschle, Senate Minority Leader; (signed) Benjamin A. Gilman, Chairman, House Committee on International Relations; (signed) Jesse Helms, Chairman, Senate Committee on Foreign Relations; (signed) Lee H. Hamilton, Ranking Member, House Committee on Jnternational Relations; (signed) Claiborne Pell, Ranking Member, Senate Committee on Foreign Relations.

WORLD JEWISH CONGRESS POLICY DISPATCHES NO. 72
OCTOBER 2001

MORAL AND MATERIAL RESTITUTION: A SUMMARY REPORT—MORE HISTORICAL COMMISSIONS AND NATIONAL SOUL SEARCHING

AT ISSUE

More than five decades after the Shoah, collective memory is being refreshed and revised. A quest for moral restitution has been part and parcel of the quest for material restitution. More than 50 historical commissions have been established to deal with various aspects of the property question. In addition to investigating the truth about the fate of Jewish assets (with varying degrees of transparency), the commissions laid the groundwork for the more significant process of moral settlement.

BACKGROUND

The Holocaust was the greatest act of genocide in recorded history. It was also the most sinister case of mass theft. The campaign to secure the restitution of Holocaust-era assets triggered an unprecedented confrontation with history. For the first time, many societies were forced to confront the fact that much of what they had accepted as truth was actually myth and that the wartime behavior of their forebears was far less honorable than they would have liked to believe. Historical commissions have been charged with investigating the question of Jewish property seized or laundered in the Holocaust and many other aspects of national history during the Nazi period. This moral "soul searching" has been and continues to be reflected in the media and in academia. As a result, entire chapters of history have been revised and re-written—often revealing a dark side of the past that has brought shame and embarrassment.

The following list represents a summary, a "scorecard" if you will, of the work of various historical commissions and records significant restitution legislation and settlements. In several countries progress is painfully slow and a genuine confrontation with history has yet to take place.

ARGENTINA

The 1992 Investigation—In 1992 President Carlos Menem appointed a three-person investigation team. After 4 years of poring over 22,000 documents in the archives of the Foreign Ministry, the chief investigator Beatriz Gurevitch spoke of a "web of cooperation" between the pro-fascist regime of Juan Peron and Nazis trying to flee Germany. A secret American document from April 1945 estimated that Nazis secretly sent more than $1 billion to be invested in Argentina.

In December 1996 the Argentine Central Bank handed vital information on bank accounts to Jewish researchers, detailing funds transferred from banks in Switzerland, Spain and Portugal between 1939 and 1949. In March 1997 President Carlos Menem ordered the Central Bank archives to be opened for investigation of Nazi funds.

The Commission of Inquiry into Nazi Activity in Argentina—On 21 May 1997, President Menem issued an executive order creating the "Commission of Inquiry into Nazi Activity in Argentina." The commission is composed of three separate bodies: an international panel, including local and foreign historians, an advisory committee, including local and foreign representatives and an academic committee. A coordinating committee of various Argentinean Government agencies is in charge of obtaining the material and provides technical support leading to a final report. Ten research units are investigating different aspects such as: quantification of war criminals, routes of escape (Italy, Spain), German naval activities in Argentinean waters and collaboration with its military, Central Bank transactions with the Nazis and their investments etc. To date, the research of the commission has resulted in the opening of a number of archival repositories in Argentina, notably those of the Federal Police, the three branches of the armed forces and the military industries. Among the main findings of the commission is the identification of 150 Nazi and collaborationist war criminals who settled in Argentina; that Nazi gold was deposited in the Argentine Central Bank; that the father of the country's first military jet aircraft was a French war criminal; and that after a meeting with then president Juan Peron certain war criminals and collaborators were encouraged to establish a "Reception Society for Europeans" with consultative status with the immigration authorities.

Official Statement—In June 2000 Argentinean President Fernando de la Rua expressed contrition for the role of his country in harboring Nazi fugitives. "I want to ask for pardon, in the name of the country, for the Nazis who hid among us. In today's world, I think one must examine the past so it cannot be repeated ever again." He also expressed regrets that Argentina shut its doors to Jews fleeing Nazi-dominated Europe.

AUSTRIA

The Commission on Art Objects—This body, established under the auspices of Ministry of Education and Culture, began its work in March 1998 and includes all relevant federal museums.

The Commission of Inquiry—In October 1998, the government and the Jewish community agreed to form a commission of inquiry with broad terms of reference to examine the fate of Jewish property and to discuss restitution. In March 1999, the International Steering Committee on Restitution presented Federal Chancellor Viktor Klima with a set of principles concerning Austrian Jewish survivors and their heirs. The steering committee is made up of the Committee for Jewish Claims on Austria (Claims Conference), the Federation of Jewish Communities in Austria, the Council for Jews from Austria in Israel and the World Jewish Congress.

The National Fund for Victims of Nazi Persecution—In 1995 the Austrian Government established the National Fund for Victims of Nazi Persecution, which has paid survivors from Austria a lump sum of 70,000 schillings (about $5,000) and supplementary support to those in special need.

However, despite these activities the ratio of restitution is very low and many survivors have died before their claims could be processed. Their heirs are disqualified from receiving any payment. Moreover, the issue of plundered Austrian-Jewish property has yet to be adequately addressed.

Official Statements—In October 1996, before the Mauerbach Auction, Federal Chancellor Franz Vranitzky speaking in Vienna declared to an assembly of cabinet ministers, the mayor of Vienna and Jewish community leaders: "We know that we Austrians were members of the SS, the Sturmband, of the Wehrmacht, that we were Nazi party members. We know that their crimes were possible because we supported the system that made the Holocaust possible. I, and many Austrians, do not want to cover this up and be silent. There are to many people trying to put the Holocaust into perspective, to fade it into the background. We have factions in this country who are trying … to shuffle off collective responsibility."

In March 1998, during a visit to Israel, in an address at the Hebrew University in Jerusalem Federal Chancellor Viktor Klima declared: "The new basis for our relationship is the acceptance on our part, of the responsibility for the darkest chapter in Austria's history—the expulsion and extermination of my country's Jewish citizens … This generation, my generation, and that of my children, do not want to forget. We will continue to remember and we will not be afraid to confront the events that have occurred. To confront the fact that Austria was not just a victim; that there were many Austrians who welcomed Hitler and a considerable number of Austrians actively involved in the atrocities that occurred. We cannot undo what has been done. But it is our moral duty not to forget, to pass our knowledge to future generations, to work for reconciliation and thereby ensure that what happened, will never happen again. Remembering means paying tribute to the victims in the form of a gesture of restitution. Because, whatever we do cannot be anything but symbolic, a token of respect."

BELGIUM

The Commission to Study the Fate of Jewish Property—In October 1997, the Government of Belgium appointed an official commission to study the fate of property stolen from Jews during the Holocaust. Baron Jean Godeaux, former governor of the Belgian Central Bank, chaired the commission. The Godeaux Commission is to study the fate of any form of assets looted during the war, and property, and in particular the fate of gold and diamonds. It includes members from government agencies and the Jewish community. In April 1998 Godeaux resigned and was replaced by Lucien Buysse.

BRAZIL

The Special Commission to Investigate Nazi Assets—In April 1997 Brazilian President Fernando Enrique Cardoso signed a decree establishing a commission to deal with the issue of Nazi assets. The commission includes government officials, historians and representatives of the Jewish community. The commission was asked to investigate the entry into Brazil of assets illicitly confiscated from victims of the Nazi regime.

BULGARIA

Legislation for the Restitution of Property—Shortly after the collapse of Communist rule, the Bulgarian Government enacted comprehensive legislation to effect the restitution of property sequestered during the period of Fascist rule. It is expected that this legislation will be

upheld in a dispute between the Jewish community and a private firm over ownership of a hotel and casino erected on the site of a Jewish school destroyed in an Allied air raid.

CROATIA

The Commission for Investigation of Historical Facts on the fate of Property of the Victims of the Nazis was established in November 1997. It includes officials from various ministries.

CZECH REPUBLIC

The Commission on Restitution started its work in March 1999 and is chaired by Deputy Prime Minister Pavel Rychetsky and the World Jewish Restitution Organization/World Jewish Congress (WJRO/WJC) is represented on the body. The Czech Government has also established a compensation fund administered by the Federation of Jewish Communities for lost Jewish assets. In March 2000 the Czech Government created the Holocaust Victims' Foundation, and allocated an initial 300 million kroner (about US$8 million) to the foundation for the represented, restitution of confiscated Holocaust-era Jewish communal and private property.

New Legislation—In May 2000 the Czech Parliament enacted legislation to restitute to original owners (or their heirs) Jewish property plundered during the Holocaust. That legislation was ratified by the Czech senate in July and approved by the President. Owners (or heirs) have until the end of 2002 to file claims for property seized between 29 September 1938 and 8 May 1945. The new legislation also provides for the transfer to the Jewish Museum in Prague of 63 paintings now in the National Gallery.

ESTONIA

The International Research Commission of Estonia, Latvia and Lithuania has been formed. Its task is to research crimes against humanity perpetrated in the Baltic States by the Nazi and Soviet occupation authorities in the years 1939—1941. The fact that the commission is examining both Nazi and Soviet crimes implies symmetry between the fate of ethnic Estonians under the Soviet regime and Jews under Nazi rule.

FRANCE

The Matteoli Commission—In February 1997 the French Prime Minister, Alain Juppe, appointed Jean Matteoli as head of the French commission charged with probing the fate of Jewish property stolen in France during the Holocaust. Matteoli, a member of a Resistance group during the war, is the head of France's Economic and Social Council. Prime Minister Lionel Jospin reconfirmed the mandate of the commission after the elections. The main task of the Matteoli Commission was to determine the fate of missing valuables, the identity of those who benefited from them, and whether any public authorities still possessed property seized during the war (either by the occupying authorities or by the Vichy regime). The scope of the study included the disposition of plundered Jewish property, including objets d'art. About 2,000 works of art seized from Jews were still in the custody of French museums, more than 50 years after the end of the war. French banks will also be investigated to trace the fate of cash and valuables seized from the Jews who

were arrested and deported. Certain prominent members of the Jewish community in France were appointed to the commission including Jean Kahn, Professor Ady Steg and Serge Klarsfeld. It employed 21 historians and archivists and was assisted by two additional committees, one on banks and the other on insurance companies. In April 2000 the commission published its 3,000-page report, which claimed that the German occupation authorities and French collaborators had stolen far more than had been previously assumed. The commission estimated that at least $1.3 billion in Jewish assets had been plundered. That figure included 80,000 bank accounts and the contents of 38,000 flats that had been seized and ransacked. The report states that the Jewish assets were systematically plundered by both the Vichy regime and the German authorities and that this theft was part and parcel of a process intended to weaken the Jews and to eventually eliminate them—and that many people besides the civil servants participated in the looting. However, the report found that 90% of plundered assets had been restituted after the war. The Drai Commission was called into being to determine the scope and process by which assets would be returned to their original owners or their heirs.

Decree on Jewish Orphans—On 13 July 2000 Prime Minister Jospin issued a decree to compensate French Holocaust orphans (including those who have left France) who do not receive pensions from either Germany of Austria. Beneficiaries can either receive a lump-sum indemnity of 180,000 francs or monthly pension of 3,000 francs.

The Paris Commission—A special commission was established by the Mayor of Paris to evaluate whether Jewish properties in Paris were confiscated and not returned to their rightful owners. The Paris Commission is presided over by Noel Chahid Nourai, a senior civil servant.

The Lyon Commission—A committee was established by the city of Lyon to investigate the fate of seized property and valuables in the Lyon municipality.

Art Commission—A government body determined early in 1997 that 1,995 works of art, possibly seized from Jews, were still "provisionally" in the custody of French museums. The Minister of Culture, Philippe Dosute-Blazy and the director of the French museums system said that the works would be returned to their rightful owners. Later in 1998 Michael Laclotte, former director of the Louvre, was asked to coordinate the research of art objects.

Official Statements—In March 1997, President Jacques Chirac, speaking at the Elysee Palace declared: "We must throw all the light on the role played by Vichy and its representatives. We must make the necessary inquiries in order to know what happened to Jewish assets confiscated by the occupation forces and their accomplices. Now 50 years after the war France is an adult country and must assume all its history. To build the future we cannot ignore the past—all the past. There was Gen. Charles de Gaulle … There was the resistance itself and its extraordinary heroism. There were thousands of Frenchmen that saved Jews. But there was also indifference, cowardice, active collaboration and the wrongdoing of all those who were in charge of the State and had a mission to defend the values of France, of the Republic."

GERMANY

In February 1999, following considerable international pressure, Germany's leading industrial enterprises announced that they would set up a fund to compensate surviving forced and slave laborers. The total contribution pledged by German industry amounts to DM 5 billion. At the end of May 2001 the Bundestag (by vote of 640-20) approved the release of DM 10 billion to be assigned to the fund. Slave laborers will receive up to a maximum of DM 15,000, while forced laborers will receive up to DM 5,000. The majority of the recipients of the new fund are non-Jews living in Central and Eastern Europe, and it is expected that up to 1 million people will directly benefit.

HUNGARY

The Hungarian Jewish Heritage Foundation—In 1995 the Hungarian Government agreed to establish a foundation with the participation of the local Jewish Community together with the WJRO to administer restituted Jewish property. In October 1998 the Hungarian Government and the Federation of Jewish Communities signed an agreement for the foundation to receive restitution of 152 tracts of communal property in the form of an annuity. The Hungarian Government also paid an initial sum of $24 million to be paid in annuities to needy Holocaust survivors.

Official Statement—Speaking before the World Jewish Congress in 1994 Hungarian Foreign Minister Laszlo Kovacs declared "It is self-deception if anyone shifts responsibility for the genocide in Hungary solely and exclusively to Nazi Germany."

ISRAEL

Knesset Sub-committee—This body established in 1999, and presently chaired by MK Colette Avital, is investigating the whereabouts of Jewish property owned by citizens of Axis countries (or countries under Axis occupation) and declared "enemy assets" by the British authorities in Palestine during the war. Part of this property was allegedly transferred to Israeli financial institutions after the departure of the British and has not been restituted to the original owners or their heirs.

ITALY

The Commission on Holocaust Assets—The Italian commission was appointed in December 1998 and held its first working session in March 1999. The president of the commission is Tina Anselni, a former minister and member of the anti-Fascist resistance in World War II. Among its members are senior government officials from various ministries and archives, directors of the associations of bankers and insurance companies, as well as historians and representatives of the Jewish community. In 1999 the commission issued an interim report. There are some 7,500 files to inspect and these do not include material representing seizures of property in territories, which are not presently under Italian jurisdiction (such as Slovenia, Croatia or former Italian colonies in Africa). The commission also has appointed a local historian to deal with the question of South Tyrol, which was annexed to the Reich during the war.

In August 1997 the Minister of the Treasury, Carlo Ciampi, turned over to the Jewish community of Trieste several metal lockers that had been held in a Rome vault since 1962 containing personal objects (such

as pocket watches and cosmetic compacts) confiscated from Jews deported from the port city. Ciampi said that the collection "doesn't consist of a treasure in the strict sense of the word" but added that the objects "belonged to families destroyed, families deported" and constituted a "treasure of memory and suffering which belongs to our history."

LATVIA

The International Research Commission of Estonia, Lithuania and Latvia has been formed. Its task will be to research crimes against humanity perpetrated in the Baltic countries by the Nazi and Soviet occupation authorities in the years 1939-1941. The fact that the same committee is investigating Nazi and Soviet crimes suggests that there is symmetry between the fate of Jews under the Nazi regime and that of ethnic Letts under the Soviet regime—which has been the approach of the Latvian Government all along.

Official Statement—At the Stockholm International Forum on the Holocaust, in January 2000, the country's President, Dr. Vaira Vike-Freiberga, disavowed her nation's responsibility for the destruction of the Latvian Jewish community: "Latvia as a country having ceased to exist at the time, the Nazi German occupying powers bear the ultimate responsibility for the crimes they committed or instigated in Latvian soil." The remarks of President Vike-Freiberga were greeted with opprobrium by many of the delegates who saw them as a transparent attempt to whitewash the role of Letts in the destruction of Latvian Jewry.

LITHUANIA

The International Research Commission of Estonia, Lithuania and Latvia has been formed. Its task will be to research crimes against humanity perpetrated in the Baltic countries by the Nazi and Soviet occupation authorities in the years 1939-1941. The fact that the same committee is investigating Nazi and Soviet crimes suggests that there is symmetry between the fate of Jews under the Nazi regime and that of ethnic Lithuanians under the Soviet regime. The Lithuanian Government has steadfastly maintained this position ever since the country regained its independence.

Official statement—At the Stockholm International Forum on the Holocaust, in January 2000, the country's Prime Minister, Andrew Kubilius, declared: "I am hurt and ashamed to hear that sometimes Lithuania is mentioned in the foreign press in relation to the tragedy of the Jewish people during World War II. At that time Lithuania was nothing more than a geographical notion." These remarks were roundly condemned by many of the delegates who understood them as an attempt to distort the unequivocal role of local Lithuanians in the destruction of Lithuanian Jewry.

THE NETHERLANDS

The Dutch Gold Commission—In March 1997, the Dutch Government established a commission headed by regional governor Dr. J. A. Van Kemenade. The commission is chaired with the task of reviewing information on gold stolen by the Germans from Dutch reserves and

from private Dutch citizens. The Finance Ministry turned to the commission to advise the government on possible claims for restitution of stolen gold, particularly against Switzerland.

The Jewish Property Commission—Following a request by the Jewish community of the Netherlands, the government extended the mandate of the Kemenade Commission to include the investigation of confiscated Jewish property. Dr. W. Scholten, former chairman of the Dutch Government's highest advisory board, headed this new commission. The commission examined financial losses suffered by victims of war (including bank accounts, insurance policies, shares, fees and receivables). In December 1999 the Scholten commission published its final report of its investigation into the theft of Jewish property

Agreements and Official Statements—In the Spring of 2000 the Dutch Government awarded the Jewish community 400 million guilders (about US$160 million)—of which 50 million is earmarked for international projects—"as a away of finally acknowledging the criticism leveled at the treatment of persecutees in the restitution process and the effect this had on their lives" (Frank Major, Secretary General of the Dutch Foreign Ministry).

In July 2000 the Dutch banks and the Amsterdam Stock Exchange (bourse) signed an agreement with representatives of Dutch Jewry in the Netherlands (The Central Jewish Board) and in Israel (The Platform Israel). The banks and the bourse agreed to pay Dutch survivors and their heirs 314 million guilders (about US$130 million). The banks and the bourse also agreed to publish announcements in leading newspapers condemning their war-time behavior and apologizing to Dutch Jewry; to undertake the publication of a book about the activities of the bourse during the war; and the installation of a memorial tablet to commemorate the plunder of the assets of Dutch Jewry. The process of compenstion began in the Spring of 2001, and reached thousands of Durch Holocaust survivors in the Netherlands, Israel and many other countries.

The Jewish Valuables (LIRO) Commission—This commission, chaired by F.G. Kordes, traced information from Lippmann, Rosenthal & Co. (LIRO) on the sale in 1968 of Jewish assets to employees of the Ministry of Finance.

The Committee on Paintings—In July 1997 the Dutch Government announced the establishment of another commission (Ekkart) on Jewish (and non-Jewish) art plundered by the Germans. The investigation, under the Ministry of Culture, will focus on 3,700 paintings that were looted by the Germans during the war. These paintings include works by Monet, van Gogh, Rembrandt and Rubens, and were returned to the Netherlands after the war.

Nazi Persecutees Relief Fund—The Dutch Government allocated 20 million guilders (about US$8.3 million) to a Nazi persecutee relief fund. That money has been divided in to two equal parts earmarked for social welfare work among survivors in Eastern Europe and for aid to Dutch Jewish survivors in the Netherlands and abroad (mainly Israel).

NORWAY

The Skarpness Committee—The Committee of Inquiry on the Confiscation of Jewish property in Norway during World War II was appointed by the Ministry of Justice in March 1996. County Governor Olaf Skarpness chaired the seven-member committee and it included two

members appointed by the Jewish community. The committee's mandate was to establish the value and fate of Jewish property seized by the Quisling regime, and the process by which it was stolen. The committee was also charged with determining the extent two which theses assets were restituted after the war.

The members of the committee did not reach an agreement and decided to submit two separate reports (June 1997). The majority including the chairman took the view that their task was limited to settling estate and accounts for assets. The minority group believed that the issue could not be addressed without placing it in an "historical perspective and in a moral framework." The minority report explains that: "In order to understand the economic losses incurred by the Jewish minority during World War II, the physical and economic liquidation of the Jews must be regarded as two aspects of the same crime."

The government decided to accept the minority report and in June 1998 submitted to Parliament a "white paper" granting a $60 million package of economic compensation to Holocaust survivors in Norway, to the Jewish community and to projects aimed at promoting racial tolerance and Jewish heritage.

In 1999 the process of compensating Holocaust survivors was completed. In the years 2000 and 2001 the two other foundations were established: A center for tolerance and Holocaust education in Oslo and a fund to support Jewish heritage projects outside Norway.

Norway has provided a shining example to the rest of Europe in its moral approach to the issue of Holocaust-era property and its restitution.

POLAND

The restitution of Jewish communal property is subject to legislation enacted in 1997 that regulated the relations between the Polish State and the Jewish community. In June 2000, the WJRO and the local Jewish community signed an agreement to establish a joint foundation, recognized by the Polish authorities, to manage restituted Jewish assets.

Polish Jews living abroad and their descendents protested proposed legislation that would restrict the rights of persons living outside Poland to claim property depredated by the Nazis or Communists. On a visit to Israel in June 2000, President Aleksander Kwasniewski declared that Jews living in Poland prior to 1939 would be included in any eventual privatization legislation. In April 2001 he himself vetoed the proposal that would have discriminated against Jews and the legislation was not enacted. A solution to the problem of private property plundered during the Shoah has yet to be resolved and the great majority remains un-restituted.

Official statement—In July 2001, at a "mourning ceremony" to commemorate the 60th anniversary of the massacre at Jedwabne in which Polish townsmen murdered their Jewish neighbors President Aleksander Kwasniewski apologized on his own behalf and "on behalf of those Poles whose conscience is moved by this crime. On behalf of those who think that one cannot take pride in the greatness of Polish history without feeling pain and shame at the same time because of the evil that Poles perpetrated against others."

PORTUGAL

Special Commission—In June 1997 the Central Bank of Portugal, in cooperation of the Portuguese Government, appointed a special commission to investigate the treatment of gold that Portugal received from Nazi Germany during World War II. The chairman of the commission was former president Maria Soares, and the body also included a Portuguese academic, Professor James Resi of the European Institute in Florence. The Bank of Portugal announced its commitment to make its archives accessible to public consultations in order to make clear "its transactions relating to the sale and purchase of gold during the period 1936 to 1946." In August 1999 the commission released its report which stated that "The commission's view is that there were no moral, political or judicial reasons to justify any obligation on the party of the Portuguese Government to revise previously signed agreements regarding the so-called gold question." The WJC protested Portugal's stance and declared that it will initiate its own independent investigation.

SLOVAKIA

Commission on Holocaust-Era Property—After meetings between WJC and Slovak officials it was agreed in February 2001 with Deputy Prime Minister Dr. Pal Csaky to establish a commission on Holocaust-era Jewish property in Slovakia. The commission includes government representatives, Jewish community officials and representatives of the WJC/WJRO. In August 2001 the Slovak Government approved the establishment of the Commission.

ROMANIA

The Romanian Government has provided for the restitution of a small number of communal properties seized from the Jewish community. The local Jewish community together with the WJRO has established a foundation, recognized by the Romanian authorities, to manage restituted property. A comprehensive solution of the issue of nationalized private property has yet to be elaborated.

SPAIN

The Commission on Nazi Gold—In October 1997 a royal decree was issued creating a special commission to study the issue of Nazi gold secreted to Spain and Enrique Mugica-Herzog, a former minister of justice and Member of Parliament, was named its president. The commission also included a number of historians who examined documents from various Spanish archives. The commission has also investigated non-monetary gold sent to Spain from Germany.

In June 1998 the commission issued its report and its president wrote: "From the information and findings, based on a thorough historic study—open to possible revision in light of later investigations—the commission concluded that the Spanish state, with regard to gold transaction, did not incur any responsibility for illicit trade and that is why the conclusions refer to strictly judicial impeccability. I can understand that this wording may have been unfortunate and that we could have chosen another, since, although Spain did not illegally use the gold looted by the Nazi, nonetheless the commercial relations of my country—as well as those of any other with the Nazis, including those that later vanquished them—suppose a crisis of moral conscience that will re-

main indelible for all … While focusing on the study of those years, it relived, with the international community, the horror of once again becoming conscious of the Jewish Holocaust. That is why, moved by deep solidarity, it recommended to the current democratic Spanish government to grant support to the Sephardi victims."

Sephardic Heritage Holocaust Fund—The Government of Spain has established a $1.5 million fund within the framework of the Nazi Persecutee Relief Fund, for the benefit of Sephardic victims of the Holocaust both in Israel and the Diaspora.

SWEDEN

The Commission on Jewish Assets in Sweden at the Time of Second World War—This government appointed commission commenced its work in March 1997. Rolf Wirteb, a former county governor, was named chairman. Among its other members are representatives from the foreign and finance ministries, state archives and the Jewish community. The mandate of the commission covers Jewish deposits, Nazi gold, art and other assets. The final report, submitted in March 1999, deplored actions of the Swedish Government and various private banks (notably the Enskilda Bank) that dealt with Nazi Germany and condemned their absence of moral scruples in conducting such transactions. The commission left it to the government to make decisions on compensation.

The Central Bank Inquiry—In 1997 an investigative team was convened to examine the bank's acquisition of gold from Nazi Germany.

The Swedish Prime Minister Goran Persson leads the Living History Project launched in June 1997. Together with several other governments (USA, United Kingdom, Israel and Germany) the Swedes established an international project on Holocaust education. The project produced an internationally acclaimed textbook "Tell Ye Your Children" (that has been translated into all the languages of Sweden's minorities) as well as many other languages. This initiative may be seen as an integral component of Sweden's policy of confronting the Holocaust. The Swedish endeavor was discussed at the Washington Conference on Holocaust-Era Assets in December 1998, which was followed by the Stockholm International Forum on the Holocaust.

The Forum, held in Stockholm in January 2000, was to date the largest inter-governmental conference held on the Holocaust. Formal delegations from 43 countries, including 1000 delegates, and including seventeen presidents and prime minister took part. Together with members of European royal houses, distinguished academics, educators and Holocaust survivors, they pledged to commit themselves to incorporating Holocaust education in their national school curriculum.

Official statement—In January 2000,Prime Minister Persson declared "Holocaust education is important since the Holocaust was no accident of history. The systematic murder of the Jews did not happen by chance … It occurred because people willed it, planned it and carried it through. It occurred because people made choices that allowed it to happen. It occurred, not least, because people remained silent … Historical research and various commissions have contributed pieces of the puzzle. Today, we know that Swedish authorities failed in the performance of their duty during the Second World War. The Swedish Government deeply regrets that we have to make such an observation. The moral and political responsibility for what Swedish society did—or failed to do—during the war will always be with us."

SWITZERLAND

The Swiss Government, through its "Task Force for the Assets of Nazi Victims" in October 1996, commissioned the Foreign Ministry Inquiry. Two historians, Peter Hug and Marc Perrenoud, were asked to clarify "questions arising in Switzerland from any possible links between assets of victims of war and the Holocaust and compensation agreement with Eastern European states. Their report, submitted in January 1997, explains how reluctant were the Swiss to respect property claims after the war and how "Switzerland was able to make use of international developments (the Cold War) and adapt its situation accordingly. The 142-page study also reveals the antisemitic trends in Swiss society and in the Swiss social elite before, during and after the war.

The Volcker Committee was established by formal agreement between the Swiss Bankers' Association, the WJC and the WJRO in May 1996. This "Independent Committee of Eminent Persons" was composed of three Jewish representatives and three representatives of the Swiss banking establishment, chaired by Paul Volcker, former chairman of the US Federal Reserve. The committee's mandate was to carry out a thorough audit of Swiss banks in order to identify and recover dormant accounts and investigates deposits of Holocaust victims. An integral part of this project was a study made by economist Helen Junz to assess the magnitude of pre-war European Jewish wealth. A large staff from international accounting firms was employed by the committee to achieve the objectives of the Commission. In October 1997 the Volcker Committee appointed two separate subcommittees: the Claims Resolution Tribunal (chaired by Professor Hans Michael Riemer) and the Panel of Experts on Interest Fees and Other Charges (chaired by Henry Kaufman).

The Volcker Committee released its report at the beginning of 2000 and it concluded that there is "evidence of questionable and deceitful actions by some individual banks in the handling of accounts of victims, including withholding of information from Holocaust victims or their heirs about their accounts, inappropriate closing of accounts, failure to keep adequate records, many cases of insensitivity to the efforts of victims or heirs of victims to claim dormant or closed accounts, and general lack of diligence—even active resistance—in response to earlier private and official inquiries about dormant accounts." The committee's recommendations covered the publication and adjudication of claims; follow-up on the identification of potentially looted assets and possible accounts of intermediaries acting for victims of Nazi persecution and recommendations for the Swiss Government to develop legislation on unclaimed accounts together with a clarification of the law on records retention.

The Historic and Legal Research Commission was appointed in December 1996 and is chaired by Professor Jean Francosis Bergier. The mandate of this commission is "to study the part played by Switzerland and its financial role within the context of World War II. The commission mandate covers all kinds of looted property: bank deposits, objects d'art, gold, and trade and currency transactions during the war and their later disposition. It also deals with Switzerland's treatment of refugees fleeing from racial persecution. The commission has issued several interim reports. The first study of the commission (on gold and banking activity) issued in May 1998 concluded: "There is no longer

any doubt. The governing board of the National Bank was informed at an early point in time that gold from the central bank of the occupied nations was being held by the Reichsbank and that the SNB was also aware of other methods used by the Germans to confiscate gold from private individuals before and after the outbreak of the war … Although it was plain for all to see that Germany was acquiring gold by illegal means, the SNB authorities appear to have remained wedded to 'business as usual'." In an interim report on refugees, issued in December 1999, the commission declared: "Swiss officials became involved in the crimes of the Nazi regime by abandoning the refugees to their persecutors … antisemitism represents a particularly significant reason [for this] … Switzerland declined to help people in mortal danger."

The Swiss Fund—In July 2000 Judge Edward Korman of the U.S. District Court approved the $1.25 billion settlement offered by the banks to compensate survivors.

Official statements—In 1995 Federal President Kaspar Villigier declared: "We bear a considerable burden of guilt for the treatment of Jews by our own country."

In July 1997 the President of the Swiss Bankers' Association Georg Krayer claimed: "I have found no fig leaf big enough to cover the negligence of my colleagues in the postwar era. With a bit of effort we could have achieved more results."

In May 1998 Federal President Flavio Cotti in an address to the WJC's Israel Council on Foreign Relations "We have to confess that Switzerland too made many mistakes, we acknowledge shameful actions such as the notorious 'J' that Swiss authorities encouraged the German authorities to stamp in the passports of German Jews. We also turned back about 30,000 refugees, a very large number of whom were Jewish, with the pretext that 'the boat is full'."

The Swiss Federal Council issued the following declaration in December 1999: "Switzerland's asylum policy was marred by errors, omissions and compromises … nothing can make good the consequences of decisions taken at the time."

TURKEY

In 1998 Turkey established the Commission on World War II properties. The commission is under the direction of State Minister Professor Sukm Sina Gurel with the assistance of a secretariat composed of historians, economists and academics.

THE UNITED KINGDOM

The Foreign Office Report—The British Foreign Office released a report in September 1996 entitled "Nazi Gold: Information from the British Archives 1996. The official study started earlier that same year, following pressure from the media and the Parliament. The report highlights the refusal of Switzerland to return more than a fraction of the booty hidden in its banks. It also provided the first official confirmation by a government on the estimates of gold that were sent from Germany to Switzerland.

The Report on Ex-Enemy Assets—In September 1997 and in April 1998 the government published reports of recent research into British bank accounts, including those, which had belonged to Holocaust victims. The president of the Board of Trade, Margaret Bucketed, publicly

apologized in April 1998 for the "insensitive handling of the issue after the war. A special body for repayment was established in June 1998, chaired by Lord Archer of Sandwell.

The International Conference on Nazi Gold—The British Government convened an international conference on Nazi gold which was held in London on 2-4 December 1997. Forty governments, three banks and a Jewish delegation were invited to discuss the historical facts and review steps taken for compensation

THE UNITED STATES

The First Eizenstat Report coordinated by Stuart E. Eizenstat, Under-Secretary of Commerce for International Trade and prepared by the State Department historian William Slany. This study was released in May 1997. Eleven federal agencies participated in the study based on millions of declassified secret documents. The title of the 210-page study is "U.S. and Allied Efforts to Recover and Restore Gold and Other Assets Stolen or Hidden by Germany During World War II."

The First Eizenstat Report assails Switzerland for its role as the bankers of the Nazis, and, who together with other parties in neutral states, prolonged the war. It shows how the neutral states profited from their cooperation with Nazi Germany and it also includes a condemnation of American policies toward war refugees and the failure to pressure the neutrals after the war on property restitution.

The Second Eizenstat Report was released in June 1998. This study focused on the activities of other neutral states (Argentina, Portugal, Spain, Sweden, Turkey and the Holy See) and included hundreds of pages of documents and analysis.

The Presidential Commission on Holocaust Assets—Following a decision by the Congress in December 1998, President Bill Clinton appointed Edgar M. Bronfman, President of the World Jewish Congress, to chair a 23-member commission. The commission has conducted original research on the collection and disposition of Nazi victims' assets that came under U.S. military and government control from 1933. It has released several studies including one dealing with the disposition of the assets of the infamous Hungarian gold train; and also the wartime dealings of the Chase Manhattan Bank.

In December 2000, the Commission submitted its report to President Clinton. That document provides a comprehensive examination of the way in which the American Government handled the assets of Holocaust victims during and after the war. It recommends several policy initiatives to help achieve justice for Holocaust survivors and maintain America's moral leadership in honestly confronting the past.

In December 1998 the State Department hosted the International Washington Conference on Holocaust-era Assets. Representatives of more than forty states and Jewish organizations attended the conference, which devoted special attention to the issues of looted art and Holocaust-era insurance claims.

The Museums Task Force—In light of reports on looted art in American museums, the American Association of Art Museums Directors established a task force. In June 1998 that task force released its "Statement of Principles" and guidelines to coordinate information and created database in order to assists efforts to identify looted art.

The International Commission on Insurance—The Commission was established in October 1998 in order to resolve all unpaid insurance claims of Holocaust victims. Lawrence S. Eagleburger, former U.S. Sec-

retary of State, was named chairman. Among its 13 members are U.S. and European insurance commissioners, representatives of the State of Israel and the WJRO, and six European insurance companies: Allianz, Axa-UAP, Basler Leben, Generali, Winterthur Leben and Zurich.

In August 1998 the Italian insurer General agreed to establish a $100 million to compensate heirs to hundreds of thousands of Holocaust-era policies.

MULTI-NATIONAL CORPORATIONS

Corporate Commissions of Historians—Facing a mounting wave of Holocaust-related lawsuits, several big corporations hired historians and specialists to examine their records. Among these companies are Ford Motors, General Motors, Deutsche Bank, the German publishing concern Bertelsmann and the German smelting company Degussa. The Nazi Persecutee Relief Funds was established in December 1997 as part of the Nazi Gold Conference in London and was based on an agreement between the Gold Tripartite Commission (France, Great Britain and the United States) and countries whose gold reserves were seized by the Germans. More than 10 countries donated to the fund. These donations totaled US$40 million—and another $20 million more in matching government pledges is expected. The Fund's purpose is to provide relief to needy victims of Nazi persecution and to related projects.

PREPARED STATEMENT OF
YEHUDA EVRON, U.S. PRESIDENT,
HOLOCAUST RESTITUTION COMMITTEE

Thank you, Mr. Chairman.

I sincerely appreciate the opportunity that you have afforded me to testify on the important issue of Polish restitution. I also salute your tremendous leadership in this area.

I am the President of the Holocaust Restitution Committee, an umbrella organization in the forefront of fighting for the cause of Polish restitution for holocaust survivors and their heirs.

The process of holocaust property restitution has been critically important to my family for the past twenty years. My wife lost every member of her family in the carnage of Poland during World War II.

All that is left from my wife's family are some memories and her home.

The individuals our organizations represent are well into their 80's. Even their heirs are in their sixties. They seek the return of their homes in an environment of fairness and equity.

These homes were seized by the nazis during World War II during what has come to be known as the holocaust or the shoah. This property has been expropriated by successive communist regimes pursuant to a series of decrees. All of these decrees are still in effect today in Poland. Indeed, Poland is still using these laws to seize property in 2002. A list of these decrees is part of my written statement.

We expected that a nation like Poland that suffered so much during the Nazi and Communist eras, would understand the suffering of other people. There are no words to describe the suffering of the Jewish people during the Holocaust. We don't understand why Poland is creating additional suffering by denying us our right to our homes?

I have reviewed the transcript of your hearing on March 25, 1999 where Congressman Smith indicated that: "the Helsinki Commission has monitored the property restitution and compensation efforts being made by post-communist countries, and I have had to conclude that the efforts to return property to former owners have been uneven and often unsuccessful or, worse, discriminatory."

I am here today, over three years later to tell you that Polish restitution is indeed uneven, has been unsuccessful and is discriminatory.

Members of our organization drew the same conclusion as chairman Smith did and decided to file a class action in Federal District Court only three months after your last hearing, on June 25, 1999. As you know, that case is now on appeal to the Second Circuit. But even a favorable resolution of that case may take years to achieve.

Ladies and gentlemen, time is something holocaust survivors do not have very much of. We need closure now.

POLISH EFFORTS ON PROPERTY RESTITUTION

The Polish effort to provide property restitution has so far failed. Every single year brings with it news reports that Poland is preparing comprehensive legislation to deal with the property restitution issue. However, no legislation has been passed to date. Furthermore, Poland has failed and refused to negotiate a resolution of the property restitution issues with any survivor group. The passage of 13 years since Poland has achieved democracy without addressing the basic human right of (private property) ownership is inexcusable.

These legislative initiatives have failed to garner any support either inside or outside of Poland. Our analysis of the statute that failed in 2001 was, at best, a useless piece of legislation and at worst, a virtual sham. Let me explain why—the reasons are many.

(i) Poland offered to issue bonds which would be useless as currency for at least the next ten years—a lifetime for the survivors and their heirs.
(ii) Only 50% of the value of the property would be restituted in the form of bonds.
(iii) The inheritance process that is currently unworkable would be imported into this legislative process.
(iv) Most importantly, any restitution was conditioned upon citizenship and a two year residency requirement. This automatically rendered the statute discriminatory against U.S. citizens.

For all the above reasons and many more, it is critical that the HRC and its constituent survivor organizations involved in restitution be included in the dialogue with Poland to resolve the restitution crisis.

BUREAUCRATIC AND LEGAL OBSTACLES FACING CLAIMANTS WHO SEEK RESTITUTION

Let me give you several case studies relating to current obstacles in Poland in recovering property.

Arran: One of our members had owned three properties in the town of Suvalk, Poland. They were small commercial/residential properties the downtown. Mr. Arran had his citizenship papers, proof of ownership, and ancestral lineage organized in a systematic fashion. The paperwork was so good that even a Polish court had to agree with him. Therefore, on July 4, 2001, Mr. Arran received a decision permitting the return of on of his properties to him. The Government of Poland appealed the decision and lost. The Government of Poland didn't give up. On December 15, 2001 they continued to pursue Mr. Arran and filed a new action against him. This new lawsuit was brought by the Polish locality and it attempts to re-confiscate the property in 2002.

This is not 1939, this is not 1948, this is not 1956. This is 2002. This is democratic Poland re-seizing properties that its own court system refuses to allow it to keep. This is a violation of the Helsinki accords. The Commission must not allow such confiscation to continue.

Pictures of these properties appear throughout the Commission Hearing room. Copies of the title reports evidencing the title ownership are part of your written package as well. Such cases cry out for justice.

Ratner: Marc and Cesia Ratner are among the original members of the Holocaust Restitution Committee. They are attempting to secure the return of their property for over twenty years. Poland has succeeded in fending off every attempt of theirs to secure the return of their property. The Ratners have expended an enormous amount of time, energy and money over the past twenty years in a fruitless search to recover property from the Republic of Poland.

Koppenheim: Peter Koppenheim was one of the lead plaintiffs in the class action. He had property in the town square of Breslau. After the fall of communism and over his numerous written objections, the Pol-

ish Government sold the property to Thyssen-Krup. Poland sold this property even though it had prior notice of the actual, direct Jewish ownership of the property.

These three cases are only a few of the hundreds, if not thousands, of cases where Poland continues to sell property on the world market that should be restituted.

Poland continues to sell, manage and rent thousands upon thousands of properties that it knows belong to Holocaust survivors and their heirs. When the claims are made by the rightful heirs the claimants are stonewalled until they either die or give up. That is undemocratic. That is unacceptable. That's why the chief judge of the Eastern District of New York of the United States District Court, Judge Edward Korman, said that "the dismissal places on the Republic of Poland the obligation to resolve equitably the claims raised here."

Once again, the only way to craft a fair and equitable program is for Poland to join with the Holocaust Survivor organizations to negotiate a fair solution to the restitution crises. The resolution, to quote Mr. Eisenstat from the 1999 hearing, should provide for "the establishment of equitable, transparent and non-discriminatory procedures to evaluate all specific claims."

Poland claims that if the survivors and their heirs would simply go into the Polish court system they would be able to secure a return of their property. That is simply untrue. Out of thousands of active members, not a single one has yet been able to secure a return of the property.

Our gentile friends with property claims in Poland have faced the same difficulty in the return of their property. We have many members of the Holocaust Restitution Committee who are not Jewish, who have suffered the same fate at the hands of Poland over the past fifty years.

We are joined here today by Antoni Feldon, Chairman of the Polish Union of Former Property Owners and by Dr. Edward Walata, a leading Polish intellectual from Boston, Massachusetts. These people represent the non-Jewish universe of property claimants. How Can the United States Government, The Helsinki Commission and Congress Assist the Cause of Property Restitution in Poland

I would like now to quote a section of President Bush statement in his State of the Union Address from January 29, 2002: "America will lead by defending liberty and justice because they are right and true and unchanging for all people everywhere. No nation owns these aspirations and no nation is exempt from them. We have no intention of imposing our culture, but America will always stand firm for the non-negotiable demands of human dignity, the rule of law, limits of power of the state, respect for women, private property, free speech, equal justice and religious tolerance."

What can the Commission On Security and Cooperation in Europe do for the survivor population and their heirs in the field of property restitution!

First and foremost the Commission should request the Republic of Poland to enter into discussions with the Holocaust Restitution Committee and its world wide coalition of survivor groups. The time has come to finally resolve this intractable problem. The Helsinki Commission is the most appropriate body to request the powers that be in Po-

land to resolve this problem once and for all. This should be done immediately due to the age of the survivor population, both Jew and Gentile. "Justice delayed is justice denied."

The U.S. Government as represented by the Executive Branch and the State Department, can and should raise the issue of property restitution with Poland at every opportunity. President Bush is meeting with the Polish president tomorrow and Thursday. Senator Charles Schumer has sent a letter to both the President and the State Department asking that restitution be raised at the highest level. Similar letters should be sent by each of the members of this Commission and other interested Senators and Representatives. Copies of this letter are available in this hearing room.

Congressional representatives must raise the issue with its Polish equals at every opportunity. Whenever there are joint meetings held with members of the Eastern European delegation, restitution should be on the agenda and must be addressed.

I hope that these measured steps will result in an appropriate solution to the problem of property restitution. I have also called this a crises because it is indeed a crises for Poland. As long as Poland refuses to write the wrongs of the past era, there will always be a cloud on Polish property. Indeed, Polish democracy will continue to suffer.

One final note. The Holocaust Restitution Committee respectfully suggests that the Helsinki Commission conduct another hearing one year from today to evaluate the success of these various initiatives.

In conclusion, Mr. Chairman, and Ladies and Gentlemen of the Commission, the restitution of property in Poland and elsewhere is an integral part of the need to obtain a measure of justice for the victims of Europe's major twin disasters in World War II–fascism and communism, as Mr. Eisenstat so eloquently concluded in this chair three years ago.

Thank you very much.

PREPARED STATEMENT OF
MARK MEYER, ESQ., CHAIRMAN,
ROMANIAN-AMERICAN CHAMBER OF COMMERCE

Mr. Chairman, and members of the Commission:

Thank you for affording me the opportunity to testify before you today concerning the status of the claims by American citizens for restitution of properties that were abusively seized by the Communist Party of Romania, or by the Romanian Government, during the period between 1945 and 1989, when the Communist Party controlled the country.

I am Chairman of the Romanian-American Chamber of Commerce based in Washington, D.C. I am also an attorney admitted to practice before the New York and Bucharest Bars, and a member of the law firms of Herzfeld & Rubin, P.C., located at 40 Wall Street in Manhattan, and Rubin Meyer Doru & Trandafir, sca, having its offices at 7, Strada Putul cu Plopi in Bucharest. Since February 1990, I have represented many of the largest foreign investors in Romania, and both of my firms currently represent American claimants with some of the most significant claims for restitution in Romania. I have also been Special Advisor for legal and economic issues to the Presidents of Romania and the Republic of Moldova; Associate Professor of Law at the Faculty of Law, Universitatea Cre°tinã Dimitrie Cantemir in Romania; Vice President of the Congress of Romanian-Americans, (although I am not a Romanian-American); and the author of numerous articles in international publications on Romanian legal, economic and political issues.

My testimony is offered on behalf of the victims of abusive state-sponsored confiscations in Romania, which violated their basic human rights, and in support of the Romanian people in their desire to continue the development of their democracy. A nation of law and justice cannot be built upon the stolen property of its citizens. No matter how difficult or costly the task may be, Romania must fully and fairly restore all property seized by the State for which no fair and just compensation was paid. Unlike some former communist nations in the region, Romania has at least begun to address the issue of restitution. However, before it can take any pride in its efforts to provide restitution to the victims of communism, Romania will have to amend its current restitution law in ways that I will describe though my testimony. Restitution is a difficult problem for Romania both financially and in the determination of the validity of claims made for abusively confiscated properties. Since corporate shareholder records were mostly destroyed by the communists, identification of shareholding interests is very difficult, if not impossible; and few records exist for personal property seized from citizens during the communist era.

Currently, charitable institutions, government offices, foreign embassies and ambassadors, political leaders, former high-ranking members of the communist elite, and ordinary citizens occupy the homes of people who were literally forced out of them often at gun point in the middle of the night by the communists. The museums and government houses are filled with confiscated art works, and the government openly offers for sale corporate entities whose former owners' identities are well-known. Indeed, most Ministry offices and the Parliament sit upon land stolen from people by the Ceau°escu regime when it destroyed one-fifth of old Bucharest, creating a title nightmare that makes it very difficult to proceed with the private redevelopment of the area.

Until 1995, Romania had no law concerning restitution. Some owners of real property sought judicial intervention for the return of their real property in instances where the seizure of their property had not been recorded and title therefore remained in their name or in the name of those persons from whom they inherited rights to such property. In such instances, which were quite common, owners simply were thrown out onto the street without resort to any legal niceties. Ownership never actually changed, so a few former owners were restored to their residences without upsetting newer titles.

Where legal action was taken and resulted in a favourable ruling, these cases were invariably appealed, including a final appeal to the Supreme Court of Justice of Romania. When the State is involved, even after the appellate process has been exhausted, past governments often resorted to further litigation to seek compensation from the restored owner for "real estate management fees" for the State's unlawful occupation. This was akin to a thief asking the victim of his larceny to pay him for taking care of the victim's property during the period of the theft.

It is important to note that to this day, Romania has made no effort to restore any personal property abusively taken from its people. Art, furnishings and cash were confiscated pursuant to communist era laws that permitted such actions. Currently, no claim is available for recovery of such property because it was confiscated pursuant to the Constitution of 1948. It may have been immoral and contrary to the human right of property as accepted by Romania in 1994 when it signed Protocol 1 of the European Convention on Human Rights, but it had legal and constitutional support in Romania when it occurred. Manifestly, the personal property claims need separate attention. However, at this time, my testimony concerns restitution in Romania only in regard to real property and buildings.

LAW NO. 112/1995

In 1995, the Romanian Parliament enacted Law No. 112/1995 regarding resolution of the legal status of residential property appropriated by the State during the communist period. This law applied only to former owners of residential property appropriated by the State or other legal entities after March 6, 1945 with valid title, or of such property held by the State, or other legal entities, as owners as of December 22, 1989. It applied to all real properties used as residential quarters and confiscated by the State in compliance with the laws and decrees in force at the date of seizure, such as Decree No. 92/1950, regarding the nationalization of certain properties, Decrees Nos. 111/1951, 142/1952, and 223/1974, and Law No. 4/1974. The residential properties seized by the State in violation of the legal provisions then in force or appropriated by the State in the absence of a legal text entitling it to do so were deemed as possession without title and, therefore, were not regulated by the law. Any claims regarding such properties were subject to common law. Former owners of residential properties seized by the State and assigned to a different use (such as educational or medical establishments, commercial or office space) were entitled only to monetary compensation.

The most dubious aspect of Law 112/1995 was the right that it provided to tenants of formerly seized properties to buy those properties from the State. Homes that were stolen from the victims of commu-

nism, where sold for next to nothing to the very people who had benefited from those thefts. Far from rectifying the injustice of 112/1995, the Romanian Parliament in Law 10/2001, provided that those sales to tenants have precedence over the rights of the real owners of those properties. This was done in the name of the social protection of the tenants. Ordinarily, social protection for tenants would entail a grace period in which to move or renegotiate a lease. But, is there any justice in permitting tenants to buy villas that they never owned for a tiny fraction of their value while the real owners of those houses receive nothing or next to nothing?

The law provided that such houses could not be resold for ten years after the purchase, but many such houses have been illegally sold for large profits. Surely those illegal sales can and should be reversed with no social impact to the wrongly enriched former tenants. One might question why such properties were sold to the tenants six years before the former owners were given the right to make their restitution claims.

LAW 10/2001

It took Romania eleven years after the fall of communism to produce a restitution law, albeit covering only real property, which is more than some former communist nations in the region have done. Indeed, Romania has not restricted restitution to only its current citizens, as have some of those nations, but since the Romanian Constitution provides that only Romanian citizens can own land, in kind restitutions are effectively limited to Romanian citizens. Law 10/2001, effective as of February 14, 2001, is not much more than a series of declarative statements shrouded in exceptions and procedures that, unfortunately, thwart genuine restitution and prolong communist misappropriations. The first article of the Law misleadingly proclaims restitution in kind of abusively confiscated real property (meaning the return of actual confiscated realty) as the paramount goal of the Law and equivalent remedies as an alternative to be used only when restitution in kind is not possible. However, there are so many exceptions to the right of restitution in kind, that the remedy by equivalent virtually prevails throughout–a remedy burdened in the Law by a lack of substance and the need for further regulations. Among those yet to be issued regulations—one and a half years after promulgation of the law—are those with regard to the method of valuation for cash and cash equivalent payments.

A most unwarranted aspect of the Restitution Law makes it virtually impossible for victims to recover real estate presently occupied by health, educational, cultural or public interest institutions, headquarters of political parties, diplomatic missions, consular offices, offices of international organizations accredited in Romania and residences of diplomatic staff. While it is somewhat arguable that real estate occupied by hospitals and schools should not be restored in kind to the former owners, the decision not to return property occupied by political parties, diplomats, et al., protects no social interests, and flaunts the inalienable right of ownership.

For inexplicable reasons, property which belonged to legal entities, in almost all cases, except if the property was a residence owned by a family-owned entity, will not be returned to a claimant. Restitution by equivalent is also the exclusive remedy if the building no longer exists,

except for buildings destroyed by natural calamities; if the building was transformed into a new one, or if the building was disposed of in favor of the former tenant under Law 112/1995.

Claimants are entitled to cash payments only for residences that are not returned in kind. The Law refers to regulations not yet enacted. The government must appoint an inter-ministerial commission within 6 months from the effective date of the Law. Within one year from the expiration of such 6-month term (i.e. within 18 months from the date when the Law became effective), the Parliament must adopt a "special law" which will regulate the procedure to be followed for obtaining cash compensation, as well as the amount of compensation to be granted. The Law further provides, with no other details, that cash compensation "may be limited", i.e. the "special law" to be adopted may provide that cash compensation cannot exceed a certain amount of ROL. (This would be similar to the provisions of Law 18 regarding land restitution that initially provided that no matter how much agricultural land a claimant once owned, the maximum a claimant could get back was 10 hectares. Law 18 was later amended to allow for more substantial restitution.)

All other restitution is to be made in vouchers or shares of yet to be privatized companies. Although the Law required that within 30 days of February 14, 2001, the Ministry of Finance must present regulations regarding the issuance of a new form of voucher to be used as compensation for claimants, no such regulations have yet been issued. The Law stipulates that the vouchers may circulate on the market and may be used exclusively in the privatization process by the claimant in lieu of cash. State agencies involved in privatization must accept them as currency for the purchase of shares and assets of companies undergoing privatization. But the reality is that with only very few worthwhile companies still to be privatized, these vouchers may be of little real value.

PROCEDURAL EXPERIENCES OF AMERICAN CITIZENS UNDER LAW 10/2002

The original filing deadline of August 14, 2001 for all restitution claims was extended until February 14, 2002. I would not quarrel with this one year statute of limitations, although others have said that the filing period was too short and the notice thereof was inadequate. Quite rightly, Prime Minister Adrian Nastase felt that some outside date was required to put an end to all future claims for confiscated real property in order to create some semblance of order in the Romanian property market. His government was most cooperative in agreeing to two extensions—a cooperation that this Commission should seek in regard to revising Law 10/2001 in the other aspects suggested by my testimony.

Instead of providing the smooth administration of justice through the rapid return of most confiscated properties, Law 10/2001 creates a morass of procedures that are costly and utterly frustrating to the claimants. Law 10/2001 procedural requirements are labyrinthine and time consuming, which makes them costly for claimants to pursue and, consequently, unfair in the circumstances. The process to obtain restitution under Law 10/2001 started with an application by the former owner (or the heirs) for restitution for each separate parcel of real property claimed. The Law rightly requires a great deal of evidentiary proof. But most claimants do not have written proof of ownership since those pa-

pers were either confiscated by the communists or were never in the possession of the claimants. Indeed, the communists destroyed most corporate shareholder records as a matter of course and few people kept stock certificates in companies that had been confiscated from them. In any event, no one was permitted to leave Romania with such documents in their possession. Moreover, it is not unusual for claimants to be only vaguely aware of the full scope of real properties once owned by their progenitors.

Although, the Law allows claimants a total of two years from the date when the Law became effective (February 14, 2001) to submit evidence of title to their properties (as well as evidence of their inheritance rights where applicable), obtaining such evidence can be quite difficult. Claimants without proper documentation must seek to obtain documents from the State Archives in the appropriate jurisdictions where the land is located and, wherever possible, extracts from the land rolls. Although the right of freedom of information is enshrined as a constitutional right in Romania (Article 31), the ability of claimants to obtain documentation in support of their claims from the State Archives is severely impaired by bureaucratic inefficiency, lack of manpower and lack of interest. Romania cannot expect claimants to file within prescribed deadlines, and then not provide them with the means to obtain the proof of their claims from the government's own records. As with the claims, such evidence, once prepared, must be filed with the authorities at the site of each claimed parcel when the property involved was a residence or non-commercial parcel, and also with the Ministry of Privatization (APAPs), when the property claimed was real estate owned by a business. This is an exasperating task when dealing with claims for multiple real properties, such as those owned by a corporate entity formerly owned by a claimant. An actual example may help clarify the problem: a U.S. citizen with a claim for real properties of a company owned by his father, filed one notice with the Ministry of Privatization and one notice with a Transylvanian city where the company had its headquarters. Thereafter, information obtained from the State Archives indicated that the land holdings of the former company were actually divided into over two hundred separate parcels of land. Consequently, the claimant had to file one notice for each of the separate parcels that made up the original claim. That generated over two hundred notices for just this one claim. The notices were addressed to each of the city/town/village halls at the sites of the properties in three Prefectures.

If restitution in kind is "denied or not available" (Art. 24), the legal entity holding the property must make a counter-offer for compensation by equivalent within 60 days from the registration of the former owner's claim. These counter-offers are made in separate filings for each parcel claimed. However, city/town/village halls have rarely responded or have made requests for more details, documents, and specifications, or raised collateral issues. My firm has filed over 400 claims for restitution, most for American citizens, but we have had only a few responses and those were all requests for additional documentation. In the case of the American citizen that I just mentioned, on one such claim, the State insisted upon evidence that the claimant did not receive compensation from France in one of the various treaties signed by Romania in the late 1940's and early 1950's with Western nations in regard to Romanian properties confiscated by those countries in response to the Romanian

confiscations of foreign nationals' properties in Romania. Proving a negative has its challenges, but it can be done if the assertion is made in regard to the claimant's country of nationality.

However, in the case of this American citizen, the Romanian authorities requested verification that the claimant did not obtain restitution from France, a country to which the claimant had no association whatsoever. The French Government refused to issue an official document attesting to the fact that it did not pay anything to an American citizen back in the 1950's. Since the Romanian Government has a complete list of all such former restitution awards, one might wonder why its subdivisions are asserting unfounded challenges to claims, the legitimacy of which it knows or at least should know. As for the Ministry of Privatization, we have not received a single response from it to any claims filed with it.

When the claimant responds, he must do so with new documents, many of which must again be obtained from the State Archives–but this time, within a very short time frame of sixty days–or forfeit the claim. Non-compliance with the time limitations might entail a loss of the right to compensation. In the event that restitution in kind is not approved or is impossible, the holder of the property must make a counter offer for compensation equivalent to the real estate's value. The Law provides for a 60-day term from receipt of the compensation offer for the claimant to accept or refuse it; failure to express an option is deemed a refusal. Should the offer be refused, the claimant can appeal the decision in court within 30 days from notification. Although the right to acceptance or refusal can be theoretically exercised within 60 days, in fact the right to sue is barred after the first 30 days.

In March 2001, the Minister of Justice, Mrs. Rodica Stanoiu, issued a directive asking judges to pay special attention to the "social consequences" in cases concerning the restitution in kind of nationalized homes in those very few cases that do not fall within the exceptions of Law 10/2001. Was this a communication to the nation's judges of the Ministry's less than sympathetic view of the rights of the victims of abusive confiscations? It has heralded the start of a process that will force claimants through the three-tiered Romanian court system at no minor expense to them for each claim of what could well be many separate claims for each claimant. Hence, of the 188, 297 claims that the Romanian Government reports were filed through February 14, 2002 (113,543 involving in kind restitution), only 2,268 claims have been resolved as of July 2002. The self-imposed burden on the claimants—and on Romania—of resolving so many claims through the current process must be lifted.

WHAT CAN THE UNITED STATES CONGRESS DO?

Fortunately, Romania can fix the negative aspects of Law 10/2001 without harming the interests of the current occupiers of confiscated properties or seriously depleting its national treasury at this time. The U.S. Congress can assist the Romanian Government in redesigning its restitution law and the regulations promulgated under it in the following ways:

1) BROADEN IN KIND RESTITUTION

The express purpose of Law 10/2001, according to Article 1 (1) of the Law, is to make restitution in kind of nationalized real property and, whenever such in kind restitution is not possible, to make restitution

in an equivalent consisting of cash for residential properties and vouchers to be used in exchange for shares of state-owned companies or "services" (without specifying what that actually means). This faultless principle is then shattered by so many exceptions to it that it becomes virtually inapplicable. Those exceptions should be drastically curtailed and the espoused principal underlying Law 10/2001 should be respected.

Obviously, there are legitimate circumstances where in-kind restitution is impossible, not practical or not in the best interests of the nation. One can argue that returning a hospital building to a claimant might result in great hardship for the citizens of a municipality. On the other hand, there is no earthly reason why a diplomatic residence or the offices of a political party should be immune from restitution in kind.

What are the consequences of such unwarranted social protection? Here is an example: an actual claim has been filed by an American citizen for the return of a residence in Bucharest now occupied by an ambassador from a Latin American nation. The building is worth US$8 million on today's market. Under the Law, however, the claimant cannot have his former residence returned to him. Instead, he is entitled to a cash payment. Why can't he have his home returned to him? Why can't the law provide for a five year period after restitution in which the Ambassador rents the building from the claimant—instead of the State—before the Ambassador finds a new residence to lease or leases the current residence for fair value? Can the Romanian State reasonably be expected to pay the American claimant the fair and valid sum of US$8 million as a cash equivalent so that the Ambassador can remain in the claimant's residence? Instead, Romania will likely woefully under-compensate the claimant who in turn will sue in the Romanian courts. There he may well lose. While this claimant's house is worth the expense of even further litigation before the European Court of Human Rights for the violation of his property right by gross under-compensation, how many claimants will have claims sufficiently high enough to warrant such protracted litigation? The answer, of course, is very few, and that translates to very few claimants receiving justice in Romania under the current law.

Law 10/2001 should be amended to substantially eliminate the exceptions which make in kind restitution impossible. The Law should establish an obligation to maintain the formerly protected use for some of the properties listed in Article 16 (1) for a number of years. In the meantime, it would be the owners rather than the State who would receive the rent for those properties. The cost to Romania is the loss of rental income from stolen properties that it has no business holding. The benefits are in the pride of justice done in a new democracy, as well as the financial benefits of putting more private real estate onto the tax rolls.

2) IN KIND RESTITUTION FOR ALL SHAREHOLDERS

Article 18 (a) of the Restitution Law contains a provision which states that in kind restitution is not available if the claimant is a former shareholder of a company which used to own the property, unless the claimant was a sole shareholder or if the shareholders were members of the same family. Why can't properties be restituted in-kind to shareholders, whether or not they are members of the same family or were sole

shareholders? Indeed, the clear and manifest result of this provision is to make it virtually impossible for there to be any significant restitution of industrial properties.

Many pre-communist Romanian companies reached a high degree of development and sophistication and most of them were owned by more than one shareholder and they were unlikely to be members of the same family. Some of the companies were quoted on the stock exchange. The companies had immense wealth but their shareholders are now unable to obtain in kind compensation simply because of Article 18 (1). Instead, can the Romanian State afford to pay the fair cash equivalent of all such properties? Because the answer is no, the Law should be amended to provide that shareholders are entitled to pro-rata in-kind restitution when it is physically possible. Nothing should prevent, for example, the in kind and pro-rata restitution to the former shareholders of the huge areas of land which used to be owned by pre-communist companies.

3) PROCEDURAL CHANGES

The entire restitution process needs to be streamlined and provision made to consolidate multiple claims by the same claimants into a single proceeding.

The Law requires claimants to provide evidence of title attesting to their ownership rights. The language of the Law may lead to the conclusion that failure to provide such documents within the deadline set by the Law results in the loss of the right to claim compensation. The State Archives is truly understaffed and is suffocated by many thousands of applications. Instead, the Law should provide that claims are properly made within the deadline fixed by the Law as long as an application has been made to the State Archives. The Law should also stipulate penalties for the State Archives if it fails to respond in due time.

4) SETTLEMENTS

Recognizing that in-kind restitution may not be available in a number of legitimate situations, the government should be empowered to swap comparable land or buildings that it holds for the land or buildings that are the subject of the claim. So, for example, if the old family homestead now has a chemical plant on it, the State could cede a comparable parcel of land somewhere nearby. This entails no cost to the State and would be eminently fair under the circumstances.

Claimants with multiple claims should be able to negotiate a comprehensive resolution with a single government agency and that settlement could then be confirmed in a government decree. If a settlement is not possible, then all of the claims should be consolidated into one action before one court.

The concept of settlement of multiple claims, noted above, could be enshrined in the administrative norms that have yet to be published in full. Indeed, much of the recommendations set forth in this article could be accomplished through a liberal tweaking of the methodological norms and thereby avoid the delay entailed in amending the Law outright in Parliament.

5) FAIR VALUATIONS

In attempting to deal with wholesale destruction of property as in the case of the one-fifth of Bucharest that was demolished by the Ceausescu regime in the 1980's, Article 10 (6) of the Law provides that the value of

a demolished building is to be established according to the legislation in force on the date when they were demolished plus a sum increased by the inflation index. This may seem fair at first blush but, in fact, the legislation valued the properties at a pittance of what they were worth even at that time. These low communist-era valuations were confiscations disguised as an exercise in eminent domain. Why should the victims of these abusive acts be deprived once again of their property rights by offering them an amount calculated under communist-era laws? The fair thing to do, and by far the easiest, is to provide them with compensation based upon a fair calculation of the value of the property on today's market.

6) FAIR CASH EQUIVALENTS

Art. 40 of the Law provides that a special law, not yet enacted, will provide for the procedure required to grant cash compensation and states that such cash compensation "may be limited." This suggests that Romania may enact legislation which puts a ceiling on the amounts given to claimants regardless of the value of the confiscated property. In other words, the American claimant with a legitimate and proven claim for the cash equivalent of the value of that US$8 million residence in our earlier example, could be given no more than a fraction of that amount. Indeed, any reduction in value of the legitimate sum due is tantamount to another taking of property in violation of the human rights of the victims of communism.

It surely was not the intent of Parliament to engage in mock restitution. Rather, Article 40 may be a hapless attempt at dealing with the problem of cash flow. Romania does not have even US$100 million to allocate to restitution, let alone the billions of dollars that Law 10/2001 would, presumably, require in order to be fair. That is one reason why in kind restitution should become broadly obtainable and land swaps utilized where that is not possible. That is also the reason why some form of fairly valued long-term bonds should be considered for compensation in lieu of any cash payments by the State when in kind restitution or land swaps is not possible. Such long-term bonds should be indexed to inflation and immediately tradeable. In other words, pay today with a promise to pay in the future when Romania would be financially capable of doing so.

7) RESCIND LAW 112/1995

Law 112/1995, which allowed tenants of stolen properties to buy those properties instead of returning them to their original owners, should be rescinded in respect of any properties to which claims have been filed, and the monies paid should be returned to the tenants. These properties should then be restituted to the rightful owners, subject to provisions safeguarding the tenants for a reasonable period of time to allow for relocation.

8) RESTITUTION FOR PERSONAL PROPERTY

Romania must provide restitution for stolen art works, furnishings and cash that were confiscated pursuant to communist-era laws.

CONCLUSION

The express purpose of Law 10/2001 is to make restitution in kind. Its provisions, however, do not accomplish this just goal. Because of that, Law 10/2001 neither satisfies the moral obligation of a democratic society to return property it wrongfully received, nor satisfies the demands of claimants for justice. Romania can change this and, in the process, enhance its reputation as a just and democratic state. Romania can fulfill the unfulfilled promise of restitution to the victims of communism without harming the current occupants of the properties and without further impoverishing the treasury. It can create a long-term plan for restitution in kind wherever possible and a structure of payments through long-term bonds in cases where in kind restitution is truly not feasible. It can most certainly streamline and centralize the system of filing and resolving claims.

Indeed, Romania can satisfy the demands of justice for wholly practical reasons—if it fails to amend Law 10/2001 or implement the recommended changes through a liberal interpretation of the Law in the underlying regulations, the country will be overwhelmed by the financial costs of compliance. Romania does not need to embarrass itself, exasperate its friends, demean the victims of the past or impoverish its treasury by maintaining Law 10/2001 in its current form.

NATO ENLARGEMENT

If I may be permitted one final comment. The Senate may be asked after the Prague Summit in November 2002 to advise and consent to the enlargement of NATO to include Romania. NATO membership has become—rightly or wrongly—a statement of unity and acceptance. The people of Romania through their history, their culture and their political institutions are as European as any other nationality. They have proven themselves worthy of NATO membership through their adherence to the democratic principles which NATO safeguards. The alliance would benefit strategically from Romania's accession, and the reforms sought by the United States would occur more rapidly if Romania were part of the western pact. Firmly embracing Romania in the arms of NATO will facilitate more immediate and positive change.

PREPARED STATEMENT OF
OLGA JONAS, SECRETARY,
FREE CZECHOSLOVAKIA FUND

Thank you very much for inviting me to speak to you today about the problems U.S. citizens have in receiving equal treatment in the Czech Republic. This is not just a problem for the U.S. citizens concerned–most of them aging widows–but also for residents of the Czech Republic and for establishment of the rule of law in the Czech Republic. Let me start by quoting Secretary of State Colin Powell–this is what he said yesterday: "The hidden architecture of sustainable development is the law. The law. The law. The rule of law that permits wonderful things to happen. The rule of law that permits people to be free and to pursue their God-given destiny, and to reach and to search and to try harder for their country, for their family. The rule of law that attracts investment. The rule of law that makes investment safe. The rule of law that will make sure there is no corruption, that will make sure there is justice in a nation that is trying to develop." I believe that this is absolutely key, and that is why since 1991 I have been engaged on the issue of restitution to the victims of the Nazi and Communist regimes.

Today I want to speak about three topics. First, a brief overview of the status–not so much of the relevant laws (because these have not changed) but of the Czech Government's policy, how it's being implemented and how it shows that there is not rule of law in the Czech Republic. Second, I want to describe two specific cases that illustrate my general points. And, finally, I will have some suggestions about what the U.S. Government could do, going forward, to accelerate justice. As Stuart Eizenstat told this Commission six years ago, "Justice delayed is justice denied." Today many people on both sides of the Atlantic are still waiting. First, the overall status. Since 1990 the Czech authorities have sought to establish a democratic state based on the rule of law as well as a market economy. Property has been at the center of these changes. But only half-hearted attempts were made to allow some of the victims of Nazi and Communist era confiscations to apply for return of some of their properties. Czech legislation governing private property is fraught with restrictions and limitations whose effect has been to unreasonably reduce the amount of property being returned. Nazi and Communist era confiscations are often legitimized by the new government, in which former Communists still occupy key positions, both in the executive and in the judicial branches.

Over time, it has become clear that the Czech Government's policy on return of confiscated properties has one–and only one–purpose: to directly benefit Communist and former Communist functionaries who have acquired these properties, or hope to acquire them in privatization. All other reasons that Czech officials have offered to Western observers can be shown to be false. For instance, ten years ago, Vaclav Klaus and other Communist-trained economists claimed that returning properties would slow down privatization. This was a false claim to start with–in privatization the authorities had to invent mechanisms to identify the new owners. These mechanisms turned out to be protracted and highly corrupt. The Czech economy still has not recovered from the asset stripping and other "wild East" practices. With restitution, this step could have been largely skipped–clearly there is an owner, and there is the advantage that this owner has a legitimate claim. This is so because of the effect of Act 119/1990 which annulled the illegitimate

Communist verdicts ex tunc–as of the date they were pronounced. It is important to note that by annulment ex tunc the victims never ceased to be the owners, not even for a day. They were illegally denied use and enjoyment of their property–and for this they should receive compensation, in addition to the unconditional restoration of registration of their property in the property books. The Czech Constitutional Court issued several rulings to this effect–that the rehabilitated persons never stopped being the legitimate owners (though the de facto "owner" was someone else- first the state and then typically its high nomenclatura servants). But the lower courts, at the behest of the government, systematically prevent the implementation of these rulings, refusing to restore possession to the rightful owners. This is one more example of the sad fact that the Czech Republic is not yet a state under the rule of law.

The most serious are the clauses disallowing return of property to all persons who are not now considered Czech citizens, to legal persons, and to those victims whose Nazi-confiscated assets were to be returned by the 1945 restitution laws but the return was not actually carried out in time before the Communist takeover in 1948. The victims live both in the Czech Republic and abroad. Their unreturned properties are being steered into the hands of well-connected former Communists and state security agents who are thereby paradoxically rewarded for their support of Communism under the previous regime. The policy of the Czech Government is to deny U.S. citizens the right to apply for return of their confiscated property. This was deemed to violate the non-discrimination requirement of article 26 of the International Covenant on Civil and Political Rights in July 1995 and again in July 1996. These rulings are being ignored by the Czech Government, although they have the force of constitutional law in the Czech Republic. The Czech Government also disregards repeated requests by the U.S. Government and by the U.S. Helsinki Commission to stop discriminating against U.S. citizens. So, to this day, the Czech Republic discriminates in the area of fundamental rights and freedoms; and the right of everyone to own property is abused. Now the European Court will consider the case of several U.S. citizens in this regard. We hope that the Czech Government will pay attention. The restoration of the rule of law is not important only for the victims. It is also clear that a market economy simply cannot flourish on the basis of property rights that are illegitimate–and uncertain. Property rights remain uncertain because, fortunately, many people still expect that eventually justice will prevail, even against the wishes of the present Czech Government. Just last week the Forum of European Businessmen appealed to the Czech Government to improve the investment climate by reducing corruption and improving functioning of the courts. Given the record of the Czech Government in taking on board such advice, they may yet have to wait.

Now let me tell you about one case, one among certainly hundreds, if not thousands. Two brothers, Jan and Jaroslav, inherited their family home in 1946, after their father died. This is a nice villa, corresponding to the family's upper-middle class status, with three apartments and a garden, in a good location near the center of Prague. In 1953, the government had Action "B" Against the Bourgeoisie, to implement its policy of "class cleansing." In a matter of hours, Jan and Jaroslav and their mother were evicted, their belongings were put on a truck and shipped to a remote village, to a house without indoor plumbing. Their mother was not allowed to return to Prague till 1960. The house was taken over

by the government housing enterprise, rented for a pittance–about $50 per month, and allowed to deteriorate over the years. When the restitution law (Act 87/1991) was passed in 1991, Jaroslav applied for return of the house, both on his behalf and on behalf of his brother Jan, who had escaped to the USA and became a U.S. citizen in 1974. The court did return Jaroslav's half but it did not return Jan's half, giving as reason that Jan is a U.S. citizen and so is not eligible. So Jaroslav immediately applied for the return of Jan's half to himself (as the only family member deemed to be eligible)–but the court refused again, giving as reason that Jan was still alive. This was back in 1992.

So Jan then pursued the case in Czech courts and even appealed to the European Commission of Human Rights. That was in 1995. I want to quote from the "Observations of the Government of the Czech Republic" on Application No. 23063/93 submitted to the European Commission of Human Rights and signed on September 27, 1995, by the Director for Human Rights from the Czech Foreign Ministry, Mr. Rudolf Hejc: "Different treatment of the applicant and his brother may be justified by their different legal status, based on different citizenship." This is the reason for the discrimination. Jan re-acquired Czech citizenship in 1999, when this became possible. But this did not help because the deadlines had long since passed. So to this day, many legal petitions later, the government still refuses to surrender Jan's half of the house; it is still deteriorating, and without doubt there are a number of local operators who are waiting to buy Jan's half from the government, as soon as Jan is dead. This is an especially unattractive aspect of the Czech Government's approach–the barely concealed wish for the victims to die. Well, Jan–who was my father–did die four months ago. My mother inherited everything. She wants to pursue the case but in the Czech Republic (where she inherited nothing but this claim), my father's will has to go through probate. This will take some time–certainly months, maybe years. Another case, very similar, was that of George Hartman. George–many of whose relatives perished in the Holocaust–came to the U.S. after the Communist putsch in 1948. He tirelessly lectured about the misdeeds of the Communists. After 1990, the house that he owned with his brother was also only "half-returned." His brother, who lived in France since 1948, and whom the Czechs recognized as a citizen, got his half. George never got his own half only because the Czech Government declared him ineligible on account of his U.S. citizenship–and George also died this spring. As for the 1928 Treaty on citizenship, I want to note that over the years the Czech Governments abused the Treaty, with the sole objective of depriving U.S. citizens of their property rights.

So what can be done now? First of all, we hope that this Commission will continue and, indeed, deepen, its activities on property rights in post-Communist countries. Only Western pressure will help. The protests of the victims have not had any effect. For instance, thirty organizations submitted a Proclamation to the Czech President and other officials several years ago; these officials took no notice. We would like this Proclamation be made part of the record of this hearing. Now that the Czech Republic is in NATO, Czech officials feel that there is not so much U.S. Government interest in how the country is run. It is important for the U.S. Government to impress on the Czech Government that it has obligations–to conduct itself in line with international agreements on human rights, in a nondiscriminatory way. The U.S. Govern-

ment should object when high government officials claim that everything that U.S. citizens should have received has already been returned to their Czech relatives. The two examples I just described show that this is just not true. Yet this claim is repeatedly made in the Czech press by Mr. Rychetsky, the Deputy Prime Minister, a former Communist, and the author of the discriminatory and defective restitution laws. Ending of the arbitrary discrimination should be at the top of the Administration's agenda for the planned visit to Washington of the Czech President Vaclav Havel on September 18, 2002.

The U.S. authorities should demand that the Czech Government respond to the two binding decisions of the UN Committee of Human Rights. The United States is a member of this committee. There should be a deadline–the one for responding to the UN Committee under its rules has long since passed. Nobody seems to care, so the Czech Government is content. The U.S. Government should impress upon the Czech authorities that those being denied property are not simple beggars who can be put through countless bureaucratic hoops in order to prove that the property that is theirs should be returned–instead it is the obligation of the Czech Governments to speed up this process, to make it easy for the claimants, to return property as soon as possible, and to pay compensation: first, for the delays that the present government has caused and second, for the period when the predecessor regime denied the victims the use and enjoyment of their assets. The Czech state did not just take over the assets of the predecessor Communist state–it also took over all its obligations. It should matter to US-Czech relations whether the Czech Government treats the victims of the Nazi and Communist regimes with due respect and civility.

Second, we would like to encourage the Helsinki Commission to hold hearings with the responsible Czech officials, in the Czech Republic, with the Czech press and public having access. As you may know, Czech officials, notably Vaclav Klaus, have openly dismissed the appeals from the Helsinki Commission. It would be harder for them to do so if the hearings were held in the Czech Republic. It's a lovely country to visit, the people are really kind–that is, people other than the officials, among whom are some former dissidents who seem to have forgotten about human rights now that they are in power. I hope that the members of this Commission will seriously consider this proposal. Finally, it would help to begin to hold accountable the specific officials who have been active in denying the basic rights of U.S. citizens for the last decade. They should not be eligible to receive visas to visit the US. They are engaging in arbitrary and discriminatory persecution of U.S. citizens and their families. We have compiled a list from the voluminous correspondence between the victims and Czech officials. Maybe this proposal could be taken into consideration in the ongoing review of U.S. visa policy.

In closing, I would like to acknowledge on behalf of all the Czech exiles the very helpful work that Erika Schlager and Maureen Walsh have been doing on these matters over the last several years. There are many people on both sides of the Atlantic who are very grateful that this Commission exists and continues its work for human rights. Thank you.

PROCLAMATION
ADDRESSED TO THE PRESIDENT OF THE CZECH REPUBLIC, TO THE MINISTERS OF THE GOVERNMENT OF THE CZECH REPUBLIC, TO THE SENATE AND TO THE HOUSE OF DEPUTIES, TO THE POLITICAL PARTIES AND TO ALL CZECHS AT HOME AND ABROAD.

SEPTEMBER 21, 1998

Six years of Nazi occupation and 40 years of the reign of communism left wounds in the social fabric of our country that have proved difficult to heal. Their results are clearly evident in current low levels of trust, economic performance and integrity of institutions. The main reason for this chronic and unfavorable state of affairs is, in our view, the aversion of the government to settling past accounts in the way expected from a lawful, Western-oriented and democratically elected government. The signatories of this Proclamation inside and outside the Republic deem these attitudes to the following problems to be unacceptable:

None of the crimes perpetrated by the Communist regime and those who actively supported it (Act 198 dated July 9, 1993, On Illegality of the Communist Regime and the Resistance Against It) have been punished. Many of those crimes are in reality persisting to this day; specifically, unlawfully confiscated properties are still in the hands of those who actively supported the Communist regime and who obtained these properties as a result of their support.

For the last eight years and up to this day, an obsolete 1928 agreement between the United States of America and Czechoslovakia, signed in a different time and for different reasons, was indiscriminately applied by Czech courts. The agreement is used to deny Czech expatriates their Czech citizenship. This practice continues despite the fact that in 1967 the agreement was found to be unconstitutional by the United States Supreme Court, was never used there and was rescinded by both countries in 1997. The Czech Republic continues to misuse this agreement for the sole purpose of stripping tens of thousands of its citizens abroad of their citizenship rights.

These facts are very well known to all officials in the Czech Republic but have been persistently suppressed because there is no will to punish or redress crimes of the communist era.

It is common knowledge that properties confiscated in the course of the Communist regime's criminal activities of politically motivated jailings, executions and forced collectivization of farmland are often left in the hands of criminals and collaborators of the former regime. Even the so called Restitution laws, which enable restitution just in part and only to some, are used and applied by the courts in a way unfavorable to the victims. Not a single case exists in which a former high ranking Communist official was forced to return an unlawfully confiscated home or farm that he purchased with preference and below the fair price. This problem is common to the victims living abroad and in the Republic regardless of their present citizenship status.

Today, the Czech Republic is applying for accession to NATO and to the European Union.

It would therefore appear that its first priority should be to adhere to the principles of the Western world and its basic legal concepts and to distance itself from its unsavory past. Instead, it is turning away from its citizens abroad in order to protect the new owners of the confiscated

properties. Moreover, under the guise of privatization, it continues to sell stolen properties, often into the hands of those who strip their assets and run them to ground. It is important to realize that more than material values are compromised. After all, one does not take those to the grave. What is at stake is the way of thinking, acting and applying justice which continues very much along the same lines as under the totalitarian regime.

Through the speeches of its representatives, the Czech Republic makes an effort to impress the world and to convince it that it is striving to become a real democracy. It wishes the world to believe that it does everything it can to become a state under the rule of law through the legislation it adopts and implements. Instead, it knowingly acts in contradiction with international, legally binding agreements, thus violating its own Constitution. Since July 19, 1995, it continues to ignore a request and three reminders of the Committee for Human Rights for a correction of Czech discriminatory and confiscatory laws. It ignores the Resolution of the European Parliament from December 14, 1995. Resorting to lame excuses and untruths, it tries to neutralize repeated appeals from the United States Commission on Cooperation and Security in Europe. It acts contrary to the commonly accepted legal principle which deems selling of stolen property to be a criminal act.

Such immoral and illegal conduct is damaging to the reputation of the Czech Republic abroad and is the cause of the low state of moral standards at home. This is evident in the fraudulent manipulations, wholesale stealing and "tunneling" (a practice through which the assets of a company, newly acquired from the state in privatization, are sold or embezzled, leaving just the name of the company and its debt). These attitudes and practices are giving rise to doubts and questions by Western organizations. One should build a house on rock, not on sand.

Full and unqualified implementation of Act 119/90, which annulled all Communist verdicts of imprisonment and property confiscation is necessary to establish a favorable climate for investments. Who would invest in property that, even according to Czech laws, has been unlawfully confiscated and whose legal and original owners and their heirs will claim title in the future?

Should Czechs abroad accepts the risk that their sons and daughters, one day NATO soldiers, may be called to defend the Czech Republic, the blatant discrimination of Czechs abroad has to be struck from Czech laws.

The undersigned organizations and individuals are calling for the renewal of a state under the rule of law and for cooperation of all Czechs at home and abroad. Our country must not shine just in the speeches of its politicians but rather by settling the accounts of its painful and oppressive past and by adopting the ways of human rights and justice.

****

The following Czech organizations have signed this Proclamation:

Alliance for the Citizens' Selfdefense, Prague, Czech Republic,
Alliance of Czechoslovak Democratic Associations in Australia and New Zealand,
Alliance of Czechoslovak Exiles, Berwyn, USA
All Things Czech, Los Angeles, USA

Association for the Defense of Exiles, Bad Kreuznach, Germany
Association of Czechoslovak OREL in Chicago, USA
Canadian H-21, Toronto, Canada
Committee of Czechs and Slovaks in Holland
Czech Christian Exile Community in Astoria, USA
Czechoslovak Culture Club, Los Angeles, USA
Czechoslovak Ex-Servicemen's Independent Association, NSW, Australia,
Czech Human Rights Monitoring Society, Australia,
Czechoslovak Scouts in Switzerland, Zurich, Switzerland,
Czechoslovak Society for Arts and Sciences, Alberta, Canada,
Czech Society for the Preservation of Human Rights, Los Angeles, USA
Czechoslovak Association "Beseda", Zurich, Switzerland
Czechs Abroad Memorial, Pilsen, Czech Republic
Friends of Czechoslovak Music, San Diego, USA
Gymnastic Association SOKOL San Francisco, USA
International Association of Czechs for Dual Citizenship, Restitutions and Voting Rights, Los Angeles, USA
International Movement for Free Czechoslovakia, West Chicago, USA
The Free Czechoslovakia Fund, Washington, USA
The World Association of Former Czechoslovak Political Prisoners in Exile, Switzerland
Westeuropean Confederation of Czech Political Prisoners, Switzerland
Alliance of Czechs and Slovaks in Houston, USA,
Conservative Contract Party, Prague, Czech Republic,
Christian Democratic Movement in Exile, Avon, USA,
New Homeland, Vienna, Austria.
Freedom Union, Local organization in the City of Blansko, Czech Republic,
Alliance of Auxiliary Technical Battalions -Army Forced Labour Camps,CR.

Proclamation is also signed by hundreds of individuals.
You may send your signed approval of the Proclamation to:

Czech Coordonating Office, att. Jan Sammer,
1103-100 Antibes Drive, Willowdale,
Ontario, Canada, M2R 3N1.
Tel. 416-665-7324, Fax 416-665-4664.

MATERIALS SUBMITTED FOR THE RECORD

COMMISSION ON
SECURITY AND COOPERATION
IN EUROPE

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July 18, 2002

H.E. ALEKSANDR KWASNIEWSKI
President, Republic of Poland
Warsaw, Poland.

DEAR MR. PRESIDENT: As Members of the Commission on Security and Cooperation in Europe, we are honored by your visit to our nation's Capitol. We are deeply grateful for the solidarity you and your countrymen and women have shown the United States since the September 11 attacks on our country.

We understand that, in the decade since Poland has emerged from the yoke of communism, your country has successfully met many challenges. We urge to tackle one more, a matter of great importance and urgency: the need for a non-discriminatory law governing restitution or compensation of private property confiscated from individuals by the Nazi or communist regimes in Poland.

The Commission has held a series of hearings on the issue of property restitution in Central and Eastern Europe. Property restitution in Poland is an important matter for thousands of people who fled to the United States because of religious, ethnic or political persecution in Poland during or after the Second World War.

On behalf of these individuals, we urge your government to carry through with its previously stated commitment to enact a fair, non-discriminatory property restitution law. Such a law is necessary to enable the return of private property confiscated or, when the actual return of property is not possible, to provide alternative compensation to rightful owners. In particular, any law which excludes from restitution or compensation persons who no longer have Polish citizenship or residence is discriminatory.

We appreciate that a small number of property claimants have pursued restitution claims in Polish courts, but this is simply not an adequate alternative. First, the legal basis by which property can currently be reclaimed is so limited as to exclude the vast majority of rightful owners. Second, while some Polish officials have urged claimants to rely on the judiciary, governmental entities which stand to lose possession of claimed properties in a legal proceeding have unreasonably delayed such proceedings and challenged decisions made in favor of claimants, many of whom are elderly and hampered by limited resources with which to battle government bureaucracies. Finally, as in many other countries in the region, Polish courts have often allowed proceedings to drag on for years and ultimately failed to resolve cases in a manner that results in the restitution. Under such circumstances, the need for a property restitution law is both clear and compelling.

Since 1989, the Republic of Poland has established itself as a model for free and democratic societies in Eastern Europe. While we are disappointed that Poland has delayed so long in addressing property restitu-

tion, we hope that, when a law is passed, it will not be marred by the problems seen in other countries–problems such as discriminatory citizenship or residency requirements and the failure to faithfully implement the laws according to their terms and in a timely fashion.

For individuals with ties to Central and Eastern Europe, the restitution of property is not ultimately about land or money, but about obtaining a measure of justice for the oppression and persecution they and their families suffered under previous regimes and an acknowledgment of the wrong done to them through the expropriation of property. We urge you to support the non-discriminatory restitution or compensation of property to individuals, as well as ethnic and religious groups.

Sincerely,

Benjamin L. Cardin, M.C.
Commissioner

Christopher H. Smith, M.C.
Co-Chairman

Steny H. Hoyer, M.C.
Ranking Member

Frank R. Wolf, M.C.
Commissioner

Hillary Rodham Clinton, U.S.S.
Commissioner

Sam Brownback, U.S.S.
Commissioner

Louise McIntosh Slaughter, M.C.
Commissioner

Joseph R. Pitts, M.C.
Commissioner

Alcee L. Hastings, M.C.
Commissioner

Zach Wamp, M.C.
Commissioner

Joseph Crowley, M.C.

MATERIALS SUBMITTED FOR THE RECORD BY GAILA E. KLIMAS, PRESIDENT, INTERNATIONAL DEMOCRACY ACTION COUNCIL

REPUBLIC OF LITHUANIA'S PROPERTY RESTITUTION, 2002

Mr.Chairman, Mr. Co-Chairman, Members of the Commission on Security and Cooperation in Europe:

The problems in the restitution of property to the original owners, first reported to the CSCE/Helsinki Commission in 1999, are continuing in Lithuania. Though there were around 18 changes and corrections since the inception of the law of property restitution in 1991, the arbitrary confiscation of property in Lithuania from American owners remains, along with discrimination against them. Mention or discussion about the rights of property, whether in newspapers, or the Parliament, and so on, applies, usually, to the owners residing in Lithuania. This means the proprietors of the so called "returnable" property. Houses expropriated by local authority from American owners, and then sold to others, are considered non-remaining. These properties of American owners are marked as legally taken by the State, then privatized, and "non-returnable."

Thus United States citizens who are the original property owners, or their legal heirs, have been pushed aside, are no longer held important and equal to the owners of the "returnable" properties. They are offered—actually instructed—to accept compensation based on market value according to the Republic of Lithuania's regulations of the evaluation for property and business, as decided by the Government.

On July 4th, 2002, the new, updated, property restitution law—proposal No.IXP-1719(3SP) of the Republic of Lithuania was passed by the Parliament. It has newly revised rules for property claims and compensation payments. The deadline for claims and requests is December 31, 2002. Claimants can state their choice of the form of compensation by January 1, 2003. Proof of citizenship, and relationship (inheritance rights) to the owner must be included. Citizens who miss this date, lose their rights for property restitution.

Compensations to victims of Soviet political deportations and imprisonment, and anti-Soviet resistance activists, will be paid by Jan.1, 2007. The date is changed from up to Jan.1, 2003, because the Government does not have enough in its budget. Only Group I invalids, and the volunteer fighters of 1918-1920 for Lithuania's independence, will get payments up to 2003.

Public Domain buy-outs for land, forests, water areas, to be paid by Jan. 1, 2009.

The compensation payment date for houses, apartments, and their parts, is up to Jan.1, 2011.

We should assume all the owners will be strong, and live long lives to their 90s and 100s.

According to this new law (IXP-1719 (3SP)), homes, which were returned as is ("natura"), or are in the process of being returned to their original owners, will now be registered as property of the State or the local Municipal authority, if tenants are residing in such homes. The tenants then will have the right to privatize the premises, or pay a specified rent to the State or the Municipal authority. The owners are offered compensation in the form of money-payment, or a land-plot to

build another house, or shares in a Lithuanian company. The choice of houses or apartments of equal value to the ones taken is being offered, also, though such an offer is not realistic. Compensation decided by the Government, paid out, some day, in small amounts, is more likely. And there may never be any payment. Explanation: low budget.

Thus, one may say, the issue of property return, in the year of 2002, has been turned back to the Soviet leninist-marxist precept of provision "according to one's need," the "need" being decided at the Center, by the friends of the ones chosen to get their need.

In this law there are several categories of properties to be taken as "Public Domain" based on whether occupied by tenants, or wanted by State cultural, educational institutions, etc.

This change in law was brought on with the pressure, the continuous protests and demands since 1991, by the tenants' organization, calling itself, at first, "The Future Homeless." These tenants were angry for having missed their chance to privatize their residences before, or at the beginning of, the claims presented by original owners.

The owners' outcry protesting against the second nationalization of property (the first having been during the Soviet occupation) has been strong. Lithuania's opposition parties and their members of Parliament have referred this law to the Constitutional Court for review and analysis. There is talk that President Adamkus may veto this law amendment.

The arguments presented, on July 3, 2002 (IXP-1763), to the Constitutional Court state that

This new law amendment is an infringement on the balance of interest by elevating the rights of property tenants above those of the property owners. The property expropriation, and afterwards the proposal of compensation for it, instead of returning it "natura" (as it is standing), violates Article 29 of the Constitution—the principle of equal rights.

Article 23 is breached, because the presence of tenants on the premises cannot be the basis for the forced take-over of one's property, with the purpose to sell it to someone else. This is not the case for public domain. It is a gross violation of the rights of real property owners.

Also, the State civil code Article 4.100 specifies, that when the State takes real property for public domain, it must first pay the owner the market value, and only after the payment is made, can sell such property to others.

Question: Does the Constitution of Lithuania, and its Constitutional Court, support division of Lithuanian citizens into separate groups, some more exclusive than others, some more privileged, and some pushed to the bottom or excluded altogether? Is discrimination against people, especially U.S. citizens, who own, or are heirs to, property in Lithuania —property built and earned by the work of their parents—the rightful law of the land soon to be reinstated as the member of Western community?

The forced occupation of the Republic of Lithuania by the Soviet Union was not recognized as legal by the United States. On March 11, 1990, when Lithuania declared the reestablishment of independence, the continuity of Lithuania's 1938 Constitution was announced, with resumption, and continuation, of the rights of its citizens. This 1938 Constitution was then changed to transitional period laws up to the new 1992 Constitution. The properties held before the Soviet and Nazi occupations were "returnable" in 1990 and 1991. The Property Restitution

Law No. 11454 of June 18, 1991, was passed, and, the properties were classified, mostly in 1992, as "returnable" and "non-returnable." The real property owned by U.S.citizens, especially houses in the cities such as Kaunas, was "privatized" beginning in 1992, without notification to the owners (see report in "The Long Road Home," CSCE Hearing, March 25, 1999, p.82). Thus, United States citizens' property was confiscated by the Republic of Lithuania.

In the city of Kaunas, the number of claims by American owners to get back their houses as is—"natura "—is around 10. Three American owners of property in Kaunas are now living in Cleveland, Ohio: Jonas Gudenas, real property on Zemuogiu g. 3, 3A, 5; Vida Bucmys—Vaizganto g. 46; Gaila E. Klimas—Vaizganto 45 (though the house is actually standing in Perkuno al.).

They want to have their free choice of either keeping or selling their property. Other owners may choose a quick and just free market value compensation.

The land, including the plots the houses are standing on, may still be held by the Municipal authority, but is not returned to the original American owners, if their houses had been taken.

In Kaunas, Mrs. Aldona Leliugiene is struggling to get back a part of her parents' house on Perkuno aleja (Perkunas Blvd), Kaunas' most prestigious street. She placed her claim after coming back from deportation in Siberia. She was informed by local officials, that houses on this street were meant only for "our own people." "My parents built this house, and I want it back" she said to "Kauno diena" ("Kaunas Day," July 13, 2002).

Mrs. Leliugiene can hope to get her house back, if the Constitutional Court restores the rights of the owners' "returnable" homes. Will the Constitutional Court of Lithuania honor equal property rights of all, including Lithuanian and United States citizens?

Or will Lithuania's Municipal local authority, and Government, officials continue to exclaim, as they did to me in 1998, that "Oh, Gaila Klimas wants us to give property to Americans!" And will some officials state again, as they did regarding California residents Ramute Vailokaitis Backer and her sister Birute Vailokaitis McClain, that they do not deserve to get back their parents' Paezeriai estate, what with their families and last names being non-Lithuanian!

We, American owners of real property in Lithuania ask the Helsinki Commission to look closely into the situation, including individual cases, of U. S. citizens' real property expropriated—stolen, nationalized, plundered—by the Republic of Lithuania.

Only with equal rights, rule of law, and international human rights adhered to, Lithuania will be able to become an exemplary contributing member of economic global community, NATO, and the European Union.

We, United States citizens of Lithuanian background, want to participate in Lithuania's development and success. We want our property, our rightful heritage, returned to us.

We believe the CSCE/Helsinki Commission can be helpful in starting this process.

GAILA E. KLIMAS
Fulbright Fellow 1997/1998, Lithuania
President, International Democracy Action Council, Cleveland, OH
Director, Adolfas Klimas Free Speech Forum, Kaunas, Lithuania

MATERIALS SUBMITTED FOR THE RECORD BY THE ASSOCIATION FOR RESTITUTION OF PRIVATE PROPERTY IN MACEDONIA

THE PROPERTY RESTITUTION PROCESS IN MACEDONIA

All the land and most businesses in Macedonia were private until 1945. One of the first acts of the Communist government in Macedonia was a series of "Kangaroo court" trials of the leaders of the business community. Confiscation of all the property was a routine part of the sentence following a summary trial.

Within few months the government had control of all major businesses and larger parcels of land in Macedonia. This was the implementation of the Doctrine of Revolutionary terror; forceful acquisition of all the economic means in the country by the perpetrators of the revolution. The passing and implementation of a series of Nationalization Laws in the late forties and early fifties that effectively gave the state control over nearly all business enterprises and real estate in Macedonia completed the process.

After the fall of communism in Eastern Europe the wrongs of the totalitarian governments started being righted. Laws for restitution of the property confiscated by the Communist Governments in Europe in the forties and the late thirties were passed and implemented in many East European countries soon after the nominal fall of communism.

Macedonia managed to stay out of this process for a long time. The work on drafting a property restitution law was started soon after the opposition IMRO won the largest number of deputies in Macedonia's first Parliament and coordinated the formation of an expert nonpolitical government was in 1990. The progress of the restitution process in Macedonia over the next 12 years depended solely on whether the anti-communist nationalist party or the successors to the former communist party prevailed in Parliament.

The Social Democratic Alliance of Macedonia, the successor to the former Communist Party, managed to bring down the expert government in 1991and formed a partisan government, which promptly stalled the work on drafting and diluted the already drafted provisions of the draft of the restitution law. Instead of restitution to the rightful owners the state property was privatized by the upper echelons of management close to the ruling party without any real compensation to the state.

The effect of the international community has had practically no effect on the restitution process in Macedonia. The restitution of the properties seized by the Communist Government was initially made a condition for World, Bank, IMF, and EU loans and grants. However, these restitution requirements kept being waved and delayed for years. There were even credible claims by the government that the monetary policies mandated by the international aid and granting agencies were making the restitution impossible. Finally, in 1998, the international ranting agencies made it clear to the government that there would be no more extensions without some kind of a restitution law. They also made it clear that they were only interested in the formality of passing a law with the word restitution in the name, not in real restitution, and thus that the law itself would not be closely scrutinized.

The result was an outright parody of a restitution law passed by the government in 1998 in spite of the loud protests of the property owners and the media. The law had so many restrictions and exclusions that it seemed that its main purpose was to make sure nothing was returned to

anyone. Essentially all the property was to be compensated in bonds but there was an upper limit of $45,000 per family to be paid over 30 years without interest, bringing the market value of such upper limit of the compensation to a few thousand dollars at best. The international community, including our government that was in a position to dictate the World Bank and IMF policies, looked the other way and pretended not to see the farce. The granting agencies promptly certified the law as bona fide fulfillment of the restitution requirement for the loans although it was readily apparent that there would be none. The property owners took the law to Macedonian Constitutional Court which had it promptly nullified.

The restitution process did not move anywhere until the opposition IMRO won the 1998 elections and formed a government and the first Finance Minister, who opposed the restitution, was replaced in 1999. The new Finance Minister, Nikola Gruevski, appointed in 1999 took the job seriously and proceeded in an efficient manner to prepare an entirely different restitution law that was titled the Law of Changes and Amendments to the 1998 Restitution Law for political purposes. The law was passed by Parliament in May of 2000.

While the law is far from being perfect it still may be one of the better ones in Eastern Europe. It professed to give a strong preference to restitution as opposed to compensation but its implementation ended up with so many exclusions and restrictions that the majority of property settlements are being resolved with compensation rather than restitution. Since the Government does not have the cash for the compensation it is to be given in bonds which just started being issued. The compensation is determined based on essentially the same appraisal tables that were used for the privatization process and are used if an adequate description of the property is available. If such a description is not available, the appraisal may be made based on the value of the property in hard currency at the time of nationalization. There is no provision for adjustment for inflation or purchasing power of the hard currency although the value of the U.S. dollar is lower by a factor of nine compared to its value in 1945. The valuations based on using these appraisal tables yield typically about half of the market value of the property, possibly slightly more in some cases, since in many cases the land values are depressed. Many owners find that acceptable.

About the worst provision of the law and the associated guidelines is the treatment of urban land. Urban and is being returned to the owners only in cases when the land is vacant and still owned by the state, which is rarely the case. The land appraisal tables lead to gross undervaluation of urban land in comparison with market values, especially in the case of the most valuable properties. The largest possible urban land valuation is about $3/sq. foot, which is well over an order of magnitude off from real market values. The law has a provision of providing government owned land of similar value, but the government agencies that control that lucrative land made it clear that they have no intention of giving it up.

The other major problem is the compensation in bonds. While it was originally envisioned (or at least claimed) that most of the properties will be restituted or compensated by similar Government-owned properties and the bond issue was left somewhat fuzzy that idea largely failed. Actual physical restitution the restitution has materialized only for a small fraction of the resolved cases. That fraction is likely to get even smaller as the issues of the larger and more valuable properties are being resolved. The idea was that the bonds could be used to buy any government property, but the exclusions are creeping up. The mar-

ket value of other previously issued bonds held at 70-80% of their nominal value but the fist small issue of restitution bonds has driven the price down to about 50%. Considering that the appraisals typically yield about half of the market value in the fist place that does not look good, and the price is likely go further down as more bonds are issued.

The implementation of the law is proceeding at a reasonable pace but it is far from complete. The latest monthly report of the Restitution Council stated that up to the end of June 4,540 requests for restitution have been submitted, 3,359 or 74% of those have been resolved, 2,068 or 61.5% of which were granted and 129 or 12.5% were denied. A little over 20% of the granted request have resulted in physical restitution. Including 8000 acres of land and 130 buildings with 180,000 square feet of interior space. About $5 million of monetary compensation in the form of bonds but only a small fraction of those bonds have been issued.

While the numbers and the percentage of resolved restitution requests may look impressive, the value of the resolved cases is probably a small fraction of the total value of the requests. The requests for most of the larger properties have not been resolved, partly because they are being handled more carefully and partly because the State Attorney routinely files appeals against all larger verdicts. While the restitution of a fairly large amount of agricultural land has been granted by the Finance Ministry and its agencies, the owners complain that they have had little luck in wrestling away physical control of the land from the Agriculture Ministry and its agencies.

The most serious threat for the restitution process is that the Social Democratic Alliance of Macedonia (SASM) may win the forthcoming September 15 parliamentary elections. If that happens, and there is no meaningful international pressure to honor the restitution process, the SDAM is likely to try to slow down or reverse the process, make the bonds worthless, or even rescind the Restitution Law itself.

International pressure and pressure from the CSCE to keep the restitution process on track can work but it needs to be applied as firmly as monetary and public employment restrictions are. The importance of the principle of reversing the results of looting the private property by the communist governments need to be sated clearly and repeated often by the CSCE Commissioners, the State Department Spokesmen, and the U.S. Ambassador. Finally, it must be understood that a meaningful restitution would affect the balance sheet and the monetary policy and that the ranting agency should not back away from it as soon as it starts interfering with other goals. Earlier attempts to influence property restitution in Macedonia have been shown to be a farce before; it will take real effort to make them work now.

There seems to have been no action taken or statements made by the State Department and the CSCE on the restitution in Macedonia to date. It is imperative that the views of the U.S. Congress and the State Department, as expressed by the statements made at the CSCE hearings on the issue to date, be communicated to the present and any future Macedonian governments in a clear and well publicized manner. The Association for Restitution of Private Property in Macedonia is ready and willing to assist the State Department and the CSCE in that in any manner possible.

DR. VASIL BABAMOV, President,
Association for Restitution of Private Property in Macedonia

MATERIALS SUBMITTED FOR THE RECORD BY THE HUNGARIAN HUMAN RIGHTS FOUNDATION

RESTITUTION OF CHURCH AND COMMUNAL PROPERTIES OF THE HUNGARIAN MINORITY IN ROMANIA: NOT COMPLETED YET!

BACKGROUND

While neighboring countries long ago addressed and resolved the matter of property restitution, the decade-long delay by Romania constitutes an ongoing, major blow to religious freedom, civil society and the 2 million strong Hungarian minority's ability to maintain community and church life. The four historic Hungarian religious denominations (Roman Catholic, Protestant, Lutheran and Unitarian) have extensive documentation of at least 2,140 church properties illegally confiscated from them between 1945-1989 under communism (the government is in possession of a full register that it has not made available). None of these properties—save six—have been returned to their rightful owners in the 12 years since the overthrow of communism. 11 years after the fall of communism, a Law on Restitution of Private Property was adopted on January 17, 2001 hailed by the Romanian Government as having "settled" the restitution issue. But in fact, this law explicitly excluded minority communal and church properties on the promise that these would be covered under a separate law. Finally, on June 25th of this year, a "Law on the Adoption of Government Decree 94/2000 on the Restitution of Certain Properties Formerly Belonging to Religious Denominations in Romania" was passed by the Romanian Parliament. Two points are noteworthy: this law has to date not been sig ned into effect by President Ion Iliescu and, the law *does not* address the issue of minority *communal* properties also confiscated under communism thereby leaving this as a still unresolved issue.

GOVERNMENT DECREES: THE FAILED ROUTE

Considered as a goodwill gesture before the May 15, 2002 meeting of the Council of Europe's Monitoring Committee in Bucharest, on May 14 Octav Cosmanca, Minister for Public Administration, signed a document restituting 13 properties (nine of which once belonged to the Hungarian historical churches), initially covered under Government Decree No. 1334/2000. However, even the restitution of these select nine properties has been obstructed at the local level, as is the case of a former cultural center in Sovata/Szováta, Mures/Maros County claimed by the Roman Catholic Archdiocese of Alba Iulia/Gyulafehérvár. The Sighishoara/Segesvár Land Registry Office continues to refuse to deed title back to the church thereby denying restitution and consequently occupancy as well.

During the Democratic Alliance of Hungarians in Romania's (DAHR) 1996-2000 membership in the ruling coalition, a total of five government decrees were issued identifying a few select church and communal properties with the intent to swiftly return these to their rightful owners as a symbolic goodwill gesture and preliminary step to enacting the promised comprehensive legislation. In the near four years since the first government decree was issued, only in six cases have the origi-

nal owners actually regained use of their buildings. Moreover, as the annex indicates, throughout the years, regaining actual occupancy even in these six cases and the others identified in the decrees, has been stymied, hindered and opposed alternately by the local and appellate public administration courts, local councils, the constitutional court and even the government's very own Ministry of Culture.

One of the most compelling cases is the return of a building located at No. 15 Avram Iancu Square in the Transylvanian capital of Cluj/Kolozsvár, restituted on paper by Government Decree 112/1998 to the Hungarian Reformed Church. Even though its restitution was one of the few requirements made by DAHR to sign a bilateral agreement with the governing Social Democratic Party, the current occupant, the Interior Ministry, refuses to move out of the building. Furthermore, in a March 22 press release, Cluj Mayor Gheorghe Funar stated that should the institutions currently operating in the building renounce their claims over the property or be forced to leave, he would not provide office space for them anywhere in the city.

LEGISLATION ON THE RESTITUTION OF CHURCH PROPERTIES: BESET WITH DEFICIENCIES

While adoption of the above-mentioned June 25th law on restitution of church properties is a significant, long-overdue step towards instituting the rule of law in Romania, resolving the minority church restitution issue, and the Romanian Government fulfilling its promise, *by no means has restitution actually occurred and therefore the matter cannot be considered resolved*. The law, which in fact is an amended version of Government Decree 94/2000 never adopted by the Romanian Parliament and not a new piece of legislation, was widely criticized by Hungarian Churches already in its draft form. Among others, László Tÿkés, Bishop of the Királyhágómellék Bishopric of the Hungarian Reformed Church, voiced concern several times over the fact that (1) the text of the law did not correspond completely to the draft jointly prepared by the Democratic Alliance of Hungarians in Romania and representatives of the four historic Hungarian Churches (2) one of effected parties—the Hungarian Churches themselves whom the law is ostensibly meant to serve—were not included in the process every step of the way, and (3) the law itself leaves many opportunities for occupants and state institutions to obstruct its implementation.

The law raises two serious questions at this time: deficiencies of the legislation itself and the lack of the necessary implementing provisions which still need to be adopted by the government.

Some of the key failings in the legislation are:

The law fails to establish the principle of "restitutio in integrum" as the first order of restitution (as indicated in Council of Europe Parliamentary Assembly Resolution 1123/1997) which would restore ownership and all rights emanating from ownership across the board. The law provides "simple ownership" without bestowing the attendant rights (such as the right by the legitimate owners to retroactive compensation once restitution has occurred) in cases of buildings currently occupied by public institutions, which is the situation in 90 percent of the properties. (Art.1/6. a.)

In these cases, namely properties currently occupied by educational, research, health and socio-cultural institutions, political party headquarters, international organizations and foreign missions, occupancy

by the rightful owners can be delayed for up to five years! (While this time period was reduced from 10 years as a concession to the Churches, it is still long considering the fact that 12 years have already passed.) During the five year period, the restored owners can either enter into a lease agreement (the amount of which is to be determined unilaterally by the state); or accept compensation according to the guidelines established by another law (No. 10/2001), namely in the form of state company stock certificates. Both options are potentially financially detrimental to the Churches. (Art. 1/6.)

Instead of applying the "restitutio in integrum" principal, the law holds that a Committee will be established to review and decide all claims submitted on a *case-by-case basis*. (Art. 1/5.) This Committee will exclusively be made up of government officials. (Art. 2/1.) Only one representative from the Church in the given case being presented and decided will be permitted to observe the proceedings with no right to participate in the decision-making process. (Art. 2/2.)

There is no deadline imposed by the law on the Committee to review and decide all submitted property claims thereby potentially drawing out the process interminably.

The law does, however, specify a deadline of six months from the date it becomes effective to submit claims, a rather short period considering that the type of documentation claimants have to submit have not been disclosed. (Art. 1/5.) Moreover, the Committee itself will determine what substantiating documents are acceptable and the deadline for their submission once an individual claim has been submitted. (Art. 3/1.) As in the past, state institutions in question can easily hinder procurement by the Churches of the necessary documents in time.

The Committee's word is not final! Current occupants and owners can initiate legal action against decisions made by the Committee, paving the way for endless legal quagmires as witnessed in the case of the majority of the buildings never *de facto* restituted via government decrees. (Art. 2/6.)

There is no provision to compensate for confiscated properties no longer existing. (Art. 1/1.) The historic Hungarian Churches and therefore the entire Hungarian community is deprived of much-needed assets to maintain its social and civic institutions.

The law does not exclude financial "compensation" by the rightful owners to the Romanian state to cover costs for maintenance and improvement of the buildings since their confiscation in the late 1940's. Precedence exists for this in the cases of the Zsuzsanna Lorántffy High School restored to the Hungarian Reformed Church via a governmental decree but not occupied in full by it, and the Roman Catholic Bishop's Palace, both in Oradea/Nagyvárad.

LACK OF IMPLEMENTING PROVISIONS

As mentioned, the law does not contain these but they will be adopted within 60 days of the law going into effect. Presumably, the implementing provisions will address the deficiencies in the law noted above, as well as establish specific and comprehensive procedures for the Committee's work which are currently lacking. It is troubling, however, that nowhere does the law stipulate that these provisions will be drafted in consultation with the effected Churches themselves. Even presuming the good intentions of the government to conclude this restitution process swiftly and justly, difficulties similar to those encoun-

tered in implementing the relevant government decrees can also be reasonably expected in the case of the law. Most notable is the probability of legal action by effected current occupants and title holders resulting in an interminable delay of justice.

After more than a decade of obfuscation, delays and reneging the historic Hungarian churches are understandably wary and have been eager to have this matter settled in short order, but not without their inclusion in the process every step of the way and not at the expense of legally sound, thorough, considered, consensus-based legislation. This, unfortunately, has not happened. Prior to the adoption of the law, in May 2002, the Churches called on Prime Minister Adrian Nastase to honor his promises and as confidence-building measure (1) implement the mentioned four government decrees immediately (2) guarantee in legislation the continuous restitution of all properties within a five year period and (3) guarantee in legislation the immediate and unqualified return of ten percent of the total properties confiscated. Only the second point was met.

At this point, the Hungarian Human Rights Foundation finds it critical to receive answers from the Romanian authorities to the following pertinent questions before a definitive conclusion can be made regarding the nature and extent of minority church property restitution in Romania:

- How does the Romanian Government intend to rectify the noted deficiencies in the law?
- Will the government ensure that representatives from the historic Hungarian Churches are closely involved in drafting the implementation provisions?
- What reasonable period of time will the implementing provisions establish for the Committee to finalize its work?
- What steps will the Romanian Government take to prevent obstruction of the law's implementation at the local level including public administration courts, local and county councils and government institutions, as, for example, has been the case with Cluj Mayor Gheorghe Funar?
- When will restitution of minority *communal* properties be resolved in a comprehensive legal framework, including the case of the Hungarian House in Timisoara/Temesvár?

ANNEX: CHURCH AND COMMUNAL PROPERTIES COVERED BY VARIOUS GOVERNMENT DECREES

Note: *A more detailed list of the following properties is available on the Hungarian Human Rights Foundation website: <<http://www.hhrf.org/natoexpansion/helsinki.htm>>.*

No actual occupancy has been established except in cases of buildings marked with an asterisk ("*").

Church properties restituted on paper by Minister for Public Administration, Octav Cosmanca, on May 14, 2002 initially covered by Government Decree No. 1334/2000 (the original decree's implementation dependent on Government Decree No. 94/2000):

- church and parish house in Oradea/Nagyvárad *(original owner: Roman Catholic Church)*
- high school in Oradea *(Reformed Church)*
- teachers' house in Cluj/Kolozsvár *(Roman Catholic Church)*

- property in Sovata/Szováta *(Roman Catholic Church. Restitution still obstructed at the local level)*
- school in Lupeni/Lupény *(Roman Catholic Church)*
- apartment building in Cluj *(Reformed Church)*
- high school in Sfantu-Gheorghe/Sepsiszentgyörgy *(Reformed Church)*
- college in Targu-Mures/Marosvásárhely *(Reformed Church)*
- teachers' house in Cristuru Secuiesc/Székelykeresztúr *(Unitarian Church)*

Other properties restituted by Government Decree No. 1334/2000:

- church and monastery in Simleu Silvaniei/Szilágysomlyó *(Roman Catholic Church)*
- monastery and school in Oradea *(Roman Catholic Church)*
- teachers' house in Cristuru Secuiesc *(Roman Catholic Church)*

Partial list of Church properties covered by Government Decree No. 94/2000 (not adopted by the Parliament, therefore subject to further amendment or annulment):

- girls' school in Brasov/Brassó *(Roman Catholic Church)*
- boys' school in Brasov *(Roman Catholic Church)*
- school in Cluj *(Roman Catholic Church)*
- nursing home in Cluj *(Roman Catholic Church)*
- property in Odorheiu Secuiesc/Székelyudvarhely *(Roman Catholic Church)*
- school in Sfantu Gheorghe *(Roman Catholic Church)*
- girls' school in Sfantu Gheorghe *(Roman Catholic Church)*
- Franciscan monastery in Targu Mures *(Roman Catholic Church)*

property in Targu Mures *(Roman Catholic Church)*

Church properties covered by Government Decree No. 83/1999 (not adopted by the Parliament, therefore subject to further amendment or annulment):

- school in Miercurea Ciuc/Csíkszereda *(Roman Catholic Church)*
- seminary in Alba Iulia/Gyulafehérvár *(Roman Catholic Church. On-going lawsuit with the Fine Art Society)*
- monastery in Deva/Déva *(Roman Catholic Church. Occupancy preceded the decree)**
- property in Sancraieni/Csíkszentkirály *(Roman Catholic Church)*
- boarding school in Carei/Nagykároly *(Roman Catholic Church. Uninhabitable)**
- boarding school in Satu Mare/Szatmár *(Roman Catholic Church)*
- St. Joseph Hospital in Oradea *(Roman Catholic Church. Uninhabitable. Current occupant denied the transfer of property)*
- Misericordian Hospital in Oradea *(Roman Catholic Church)*
- high school in Timisoara/Temesvár *(Roman Catholic Church. On-going lawsuit with the university of Timisoara)*
- monastery in Timisoara *(Roman Catholic Church)*
- cultural center in Zalau/Zilah *(Reformed Church. The current occupant filed a lawsuit; the Constitutional Court has recently ruled for the church)*

- offices in Bratca/Barátka *(Reformed Church)*
- college in Cluj *(Reformed Church. Current occupant filed lawsuit)*
- girls' school in Targu Mures *(Reformed Church. The mayor's office is ready to transfer the property only partially)*
- bishopric headquarters in Cluj *(Unitarian Church. 70% of the buildin g is used by a state high school)**
- library in Oradea *(Lutheran Church)**
- Church and communal properties covered by Government Decree No. 13/1998
- community center in Bucharest/Bukarest*
- community center in Timisoara *(Constitutional Court decision to remove property from list)*
- organizational headquarters in Cluj *(Transylvanian Museum Association. On-going lawsuit with Cluj mayor)*
- library in Alba Iulia *(Roman Catholic Church. Proof of original title not yet submitted)*
- bishop's residence in Oradea *(Roman Catholic Church. On-going lawsuit with Ministry of Culture)*
- bishopric's headquarters in Oradea *(Reformed Church. Property returned via separate lawsuit)**
- property in Sacele/Szecseleváros *(Lutheran Church. Property privatized)*
- property in Cluj *(Lutheran Church. Original owner refused partial restitution)*
- Church property covered by Government Decree No. 112/1998
- property in Cluj *(Reformed Church)*

MATERIALS SUBMITTED FOR THE RECORD BY THE COMMITTEE FOR PRIVATE PROPERTY

July 15, 2002

THE HONORABLE SEN. BEN NIGHTHORSE CAMPBELL, *Chairman*
THE HONORABLE REP. CHRISTOPHER H. SMITH, *Co-Chairman, United States Commission on Security and Cooperation in Europe, 234 Ford House Office Building, Washington, D.C. 20515-6460*

STATE OF PROPERTY RESTITUTION FOR AMERICAN CLAIMANTS IN ROMANIA

The Committee for Private Property, Inc. a New Jersey non-profit organization, with more than 2,250 members, including over 1,000 American citizens of Romanian origin in its membership. For the past 5 years we have documented and informed through letters and our web site <<http://www.romhome.org>> the abuses perpetrated by the Romanian Government and Parliament against American Citizens of Romanian origin who are attempting to regain confiscated property in Romania.

U.S. House Resolution 562 of October 1, 1998 "urges countries which have not already done so to return wrongfully expropriated properties to their rightful owners or, when actual return is not possible, to pay prompt, just and effective compensation, in accordance with principles of justice and in a manner that is just, transparent and fair".

Resolution 1123 (1997) of the Parliamentary Assembly of the Council of Europe and Resolution A4-0428 (1998) of the European Parliament, in essence are asking Romania to amend the legislation relating to the return of confiscated and expropriated property, particularly Act. No. 18/1991 and Act. No. 112/1995, so as to provide for the restitution of such property in integrum or fair compensation in lieu".

We estimate that there are around 10,000 American Citizens of Romanian origin that were deprived of their property rights in Romania. Most of them are giving up after years of struggle and considerable expenses seeing no chance of recovering their property.

The Bucharest City Hall on its web site <<http://www.pmb.ro>> acknowledges today that there are 27,553 registered requests for the return of property among which 303 have been resolved favorably so far. Law No. 10 was enacted on February 14, 2001. At the present rate it will take 100 years to process all the requests, because in a year and a half only about 1% of requests were honored. It is important to add that most if not all such properties are occupied by tenants who must continue to occupy the premises nearly rent-free for the next 5 years.

We estimate the total number of requests to be in the neighborhood of 250.000 country-wide (Romania), not counting expropriated land and forests, presented by Dr. Paltineanu.

We must note that under the present law (No. 10/2001) properties sold under Law No. 112/1995 will not be returned to the rightful owners, even though Law No. 10/2001 admits that such properties were confiscated abusively and as such the state did not have a valid title. A "new law" is being considered to award "limited monetary compensation" for the properties illegally sold.

This is a very flawed concept since it will require the taxpayer to foot the bill for such compensations.

A typical case: an apartment worth $40,000 was "sold " for $1,000 (payable in installments). The state proposes that the taxpayer pay $20,000 "limited compensation" to the rightful owner. In the above scenario the rightful owner looses $20,000 and the former tenant receives an apartment worth $40,000 at the taxpayer and rightful owner's expenses.

This is rewarding a corrupt group of people that represents in more than 85% of cases the Ceausescu protégés.

We appeal to the United States Commission on Security and Cooperation in Europe to help the American Citizens as well as all other property owners to recover their properties "in integrum" and a fair and timely compensation should be considered only for properties that have been destroyed.

Some of the most obvious obstacles employed by the Romania authorities against rightful property owners are:

- In some cases, rightful owners that left Romania even after 1970 are required to present proof that they were not compensated by the United States for properties confiscated in Romania, under an Agreement dated March 30, 1960 between U.S. and the People's Republic of Romania
- Authorities are requesting documents that they themselves hold.
- Original documents are not being released in a timely manner from the archives office. The office is understaffed and does not perform complete searches for documents. One cannot obtain legalized copies from a document issued by the archives office (since this document is a copy itself!)
- Requesting original documents in support of claims, rather than copies, as the law requires. Most of the Romanians that escaped or left Romania could not take any documents with them.
- The legal term of six months for issuance of a solution to the application for return of property is being ignored.

Sincerely,

Mihai A Vinatoru
President,
Committee for Private Property

MATERIALS SUBMITTED FOR THE RECORD BY IOAN CATON PALTINEANU, PRESIDENT, PALTIN INTERNATIONAL INC.

July 12, 2002

THE HONORABLE SEN. BEN NIGHTHORSE CAMPBELL, *Chairman*
THE HONORABLE REP. CHRISTOPHER H. SMITH, *Co-Chairman, United States Commission on Security and Cooperation in Europe, 234 Ford House Office Building, Washington, D.C. 20515-6460*

REF: HELSINKI COMMISSION HEARING ON STATE OF PROPERTY RESTITUTION FOR AMERICAN CLAIMANTS – RESTITUTION OF PRIVATE FOREST LANDS STOLEN BY COMMUNIST REGIME IN ROMANIA

DEAR SIRS,

I would like to thank you for your continuous support of the American Citizens of Romanian origin who legally and rightfully claim restitution of their private properties confiscated by the communist regime in Romania. Since the last hearing of March 1999, the situation of restitution of private properties, including forestlands, deteriorated continuously in Romania.

The current Romanian Government continues to illegally hold and use 4.7 million hectares (11.6 million acres) of forestlands stolen from the rightful private owners and communal ownership by the former communist regime.

Official Romanian statistical data for the years before and after World War II, found at the U.S. Department of Agriculture-National Agricultural Library, Beltsville, Maryland, show that in 1945, 75 percent of Romanian forests were privately owned by individuals and different organizations and 25 percent were owned by the Romanian state.

The last land law (Law 1/2000), which represented a shameful political compromise between historical and neo-communist parties by limiting the total restitution of individual forest lands to maximum 10 hectares, resulted in a re-nationalization of millions of acres from the private owners to the benefit of the Romanian state enterprises. Under the new Romanian democracy, the proportion of the state-owned forests increased from 25 percent to 60 percent of the total forests, and the proportion of private owned lands decreased from 75 percent to 40 percent.

Even though the new land law was approved by both chambers of Parliament and by the president of Romania in January 11, 2000, insignificant areas of forests have been returned to the rightful owners, because of the opposition of the new government. The current leaders of Romania are the same vehement opponents of the Land and Forest Restitution Law 1/2000.

According to a Romanian-World Bank Project Study (December 1999) the explanation is simple: Romania exported only forestry products of about $860 million in 1997. And an annual $3.1 billion of total products and services in forestry (excluding the value added by the wood industry) was estimated in 1999. It is obvious that in a true democratic society and market economy, 75 percent of the above-mentioned annual values must be returned to the rightful private owners, but this is not possible under current Romanian political, economic and social conditions.

The Romanian Committee for Private Property, Pompton Plains, N.J., (http://www.romhome.org) has presented the real situation of restitution of private properties, stolen by the communist regime and still exploited by the current Romanian Government, to both the American and Romanian authorities since 1997, asking for help in solving this important human rights violation. Members of the U.S. Congress from both political parties, and the Commission for Security and Cooperation in Europe, have asked the Romanian Government to take serious measures in order to correct this problem.

Yet the Romanian Government, Parliament and presidency have taken very little action. Moreover, leaders of the neo-communist parties have openly blamed American intervention for the internal problems of Romania.

American Citizens of Romanian origin, and Romanians living in their country, need U.S. congressional and administration support for the integral restitution of private properties stolen by the communist regime that are still under the Romanian Government's abuse. Special attention should be given to the approval and accountability measures of using international funds in Romania. Using international funds to directly support the restitution of private property to the rightful owners and to the development of their private enterprises must be the norm, as opposed to approval of funds to encourage the state industries and corrupted officials in Romania.

The new U.S. Congress and administration should reconsider Romania's request to join NATO based on significant and real positive steps taken by the current Romanian Government regarding integral restitution of private properties to the rightful owners.

Sincerely,

IOAN CATON PALTINEANU, Ph. D.
President,Paltin International Inc.

The claimant is former state secretary (1991-1992) of the Land Reclamation Department, Ministry of Agriculture, Romania.

WRITTEN STATEMENT OF AMERICAN OWNERS OF PROPERTY IN SLOVENIA SUBMITTED FOR THE RECORD

Mr. Chairman and Members of the Commission:

In 1997 Secretary of State Madeleine Albright asked Slovenia's Prime Minister Janez Drnovsek that Slovenia return the property confiscated by the communists to the original owners. She asked that the process be swift, transparent, fair and equitable. In 1998, members of CSCE, The Honorable Steny H. Hoyer and The Honorable John Edward Porter, wrote to the Slovenian Premier making the same request. House Resolution 562 of October 13, 1998 called on the former communist governments to return unjustly seized properties to the original owners. The Department of State advises that it raises the point of property restitution with visiting Slovenian Government official at every opportunity.

It is now nine years after the deadline by which property restitution claims in Slovenia had to be resolved according to the Slovenian law. Nevertheless, 53 percent of American citizen claims have not been settled.

As of June 2002, only 66 percent of all restitution claims had been resolved. Out of a total 34,526 filed claims 8,728 or 26 percent were resolved by denying them. This percentage is increasing as the processing units have been instructed to reach for any possible technicality to deny a claim. Only 47 percent of 481 American citizens' claims were resolved, many of them unfavorably to the claimants. the rest are still pending. The official valuation of outstanding American citizens' claims is $31 million.

Comparison of the resolution rate of American citizens' claims and all other claims show that the rate is significantly lower for American claims (47% vs 66%). Also, more American claims are being denied. This is an indication of discriminatory treatment.

We believe that it would be appropriate for the U.S. Embassy in Ljubljana to inquire why are American claims treated in a discriminatory manner and what is holding up each specific case.

In 1999, American Ambassador Nancy Halliday Ely Raphel called twice on the Slovenian Minister of Justice Tomaz Marusic. The minister told her that there was no political will in Slovenia to return the confiscated property but that efforts were being made to streamline the process. The streamlining turned out to be instructions to the claim processing units directing them to look for any possible technicality on which a claim can be denied so that the dockets can be cleared.

These instructions and the practices of the Slovenian Government are the exact opposite of what Secretary of State Albright recommended.

Although the law specifically prohibits evaluation of claimant's loyalty to the former communist regime the processing units are instructed to look for any possibility according to which the claimant could be considered as having been stripped of citizenship at the time of confiscation.

Ethnic Germans and inhabitants of the territory ceded toYugoslavia by Italy in 1955 are automatically barred from claiming restitution.

FOLLOWING SLOVENIAN GOVERNMENT INSTITUTIONS ARE SYSTEMATICALLY OBSTRUCTING RESTITUTION:

The *Slovenian Indemnity Company* [*Slovenska odskodninska druzba d.d.*], a disbursing agency established by law for the purpose of settling the government's obligations arising from the property restitution is assuming the role of a privileged party in the restitution proceedings where it exerts its influence by reducing the already low official appraisals and delays the issuing of bonds due to claimants.

The *Fund of Agricultural Lands and Forests* [*Sklad kmetijskih zemljisc in gozdov*] has been so effective in obstructing the process that agricultural lands and forests represent the smallest amount of the returned property. Instead of returning the confiscated properties the fund leases them.

The *Ministry of the Interior of the Republic of Slovenia* [*Ministrstvo za notranje zadeve* RS] has for ten years been conducting in-depth investigations of the citizenship status of the claimants at the time of confiscation which is a prerequisite for the claim to qualify. These protracted "investigations" are taking an enormous amount of time.

The *State Defender* [*Drzavno pravobranilstvo*] as protector of government property, represents one of the greatest obstacles in the property restitution as it interferes with automatic and incessant appeals even in cases where the decision is not controversial. The State Defender is not held to any lawfully prescribed time limits and deadlines for filing the appeals.

In August of 2001, American Ambassador Johnny Young stated to the Slovenian press that Slovenia should return the property claimed by American citizens if it wanted to become a member of North Atlantic Treaty Organization. The reaction of the Slovenian press and information media was extraordinary hostile and went so far as to include racist remarks. There is every reason to believe that the Slovenian media reaction to Ambassador Young's statement was a true reflection of Slovenian Government's attitude and policy toward property restitution.

Recently, Congress voted an appropriation of $4.5 million for Slovenia to prepare itself for its future membership in the NATO. Perhaps the Congress might consider appropriating an additional $31 million so that Slovenia could comply with its own law and settle the outstanding American citizen claims. In the alternative, Title 22, Section 2370 could be invoked to suspend payments of this aid to Slovenia until it settles the claims of American citizens.

The problem of property restitution is not trivial. It is estimated that the value of officially recognized property claims in Central and Eastern Europe is $150 billion. If land involved in these claims were appraised at the market value this figure would increase to about $500 billion. This represents a massive violation of the human right to own and enjoy property which is one of the fundamental human rights providing a foundation of all other rights.

Respectfully submitted

VLADISLAV BEVC,
Executive Officer
American Owners of Property in Slovenia,
P.O. BOX 561
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American Owners of Property in Slovenia is a group of United States citizens with property interests in the Republic of Slovenia who are trying to obtain restitution of or compensation for their property under the restitution legislation enacted in Slovenia in 1991. Its executive officers are Dr. Vladislav Bevc (Danville, California), Dr. Edi Gobetz, Slovenian Research Center of America (Willoughby Hills, Ohio), Mr. Borut Prah (Oakland, California) and Mrs. Vida Ribnikar (San Francisco, California).

American Owners of Property in Slovenia is affiliated with the *Association of Owners of Expropriated Property* with headquarters in Ljubljana, Slovenia (*Zdruzenje Lastnikov Razlašcenega Premozenja*, at Adamic Lundrovo Nabreñje 2, P.O.Box 584, 1101 Ljubljana, Slovenia). The Association represents the interests of approximately 10 percent of the Slovenian population or about 200,000 people. Its President and Chief Executive Officers are: Professor Inka Stritar, President, Zdenka Goriup and Peter Logar, Vice Presidents. The Association's objective is to secure the restitution of or compensation for expropriated properties. It also seeks recognition of property rights as a basic human right under Article 17 of the Universal Declaration of Human Rights (adopted by the General Assembly of the United Nations on December 10, 1948) and the Resolution of the Council of Europe No. 1096, "On Measures to Dismantle the Heritage of Former Communist Totalitarian Systems," approved June 27, 1996.

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