



CRS Report for Congress

Opening of the International Tracing Service's Holocaust-Era Archives in Bad Arolsen, Germany

Paul Belkin
Analyst in European Affairs
Foreign Affairs, Defense, and Trade Division

Summary

For over 60 years, the International Tracing Service (ITS) has limited access to information in its vast archives of documents relating to victims of Germany's National-Socialist (Nazi) regime to survivors of Nazi crimes and their descendants. As recently as 2006, ITS had a recorded backlog of over 400,000 requests for information. The archives remain off-limits to historical research. In May 2006, responding largely to pressure from Holocaust survivors and their advocates, the International Commission overseeing ITS agreed to open the archives for historical research and to make a digital copy of its collections available to Commission member states. Four Commission members have yet to approve the 2006 agreement. The House and Senate have passed resolutions urging these states to expedite approval of the Commission's decision to open the archives. On May 15, 2007, the International Commission voted in favor of a U.S. proposal to allow immediate transfer of a digital copy of archived materials to member states that have adopted the May 2006 amendments. The United States has designated the U.S. Holocaust Memorial Museum as its national repository for the digitized records. Museum officials hope that the first transferred materials will be publicly accessible by fall 2007. This report will be updated as events warrant.

Background

Following the end of the Second World War, the allied powers established the International Tracing Service (ITS) in 1947 "for the purpose of tracing missing persons and collecting, classifying, preserving and rendering accessible to Governments and interested individuals the documents relating to Germans and non-Germans who were interned in National-Socialist concentration camps or to non-Germans who were displaced as a result of the Second World War."¹ Since its inception, ITS has assembled archives of an estimated 30 million to 50 million Holocaust- and post-war-era documents

¹ "Agreement Constituting an International Commission for the International Tracing Service," 1955. *U.S. Treaties and Other International Agreements*; TIAS 3471, pp. 18-37.

in Bad Arolsen, Germany relating to approximately 17.5 million civilian victims of Germany's National Socialist (Nazi) regime. Experts estimate that roughly one quarter of the materials relate to Jews persecuted by the regime.²

After the 1954 repeal of the Occupation Statute in Germany, an international commission of nine member states (Belgium, the Federal Republic of Germany, France, Israel, Italy, Luxembourg, the Netherlands, the United Kingdom, and the United States)³ charged the ITS with continuing its mission as a missing persons tracing service and caretaker of the archives in Bad Arolsen under the neutral auspices of the International Committee of the Red Cross (ICRC). In the so-called Bonn Accords of 1955, the International Commission established the oversight and administrative structure under which ITS continues to function today: a Swiss delegate of the ICRC, accountable both to the ICRC and the eleven-member International Commission, oversees ITS's day-to-day operations and reports to the Commission at its annual meetings; Germany has provided and continues to provide ITS's operating budget.

ITS officials have traditionally administered the service based on an understanding that ITS was established to act primarily as a tracing service for victims of Nazi war crimes. To this end, access to information in the Bad Arolsen archives has been limited almost exclusively to civilian victims of such crimes and their descendants. Although they have not been granted direct access to the archives, victims and their descendants have the right to request information pertaining to their individual cases. Materials in the archives have not been made available for historical research.⁴

Contents of the Bad Arolsen Archives

Records pertaining to an estimated 17.5 million people are archived in three broad collections:

Incarceration/Concentration Camp Collection

Nazi records documenting the capture, deportation, and transfer of individuals to and between concentration and death camps.

At least 10 million pages

Wartime / Forced-Labor Collection

Nazi records relating to individuals sent to forced and slave labor camps.

At least 6 million pages

Post-War / Migration Collection

Records from the aftermath of the war — primarily interviews of displaced persons and lists and information on survivors and missing persons.

At least 14 million pages

Source: Information provided by International Tracing Service, March 2007.

ITS claims it has provided approximately 11 million written responses to individual requests for information since its inception. However, the tracing service has been consistently criticized by survivors, their families, and others who allege that ITS has left hundreds of thousands of requests unanswered and that it has often provided inadequate or incomplete information to survivors and their descendants. Criticism of ITS

² Interview of U.S. Holocaust Memorial Museum official, March 2007.

³ Greece and Poland were later added to the International Commission.

⁴ Opinion differs on the extent to which the 1955 Bonn Accords themselves limit access to the ITS archives. In what some experts cite as evidence that the Accords do not explicitly limit access, Belgian and Israeli officials reportedly copied and transported records from the archives in the 1950s and 1960s. Interview of U.S. Holocaust Memorial Museum official, March 2007.

heightened in 2000 and 2001 as the service struggled to handle a dramatic increase in requests from people seeking documentation for compensation from funds made available by the German government to survivors of Nazi slave and forced labor camps. Much of the criticism focused on perceived mismanagement and neglect on the part of ITS's long-time former director Charles-Claude Biedermann. Biedermann's detractors contend that his resistance represented the primary obstacle to improving the tracing service's responsiveness and providing greater access to archived materials.⁵ When, under strong public and International Commission pressure, the ICRC agreed to replace Biedermann in 2006, ITS had a recorded backlog of 425,000 requests for information. ICRC officials acknowledge that this represented an unacceptable breach of the organization's mission.⁶

Beginning in the late 1990s, the U.S. Holocaust Memorial Museum (Holocaust Museum), Holocaust survivor organizations, and others began to pressure International Commission members to open the ITS archives to historical research. According to the State Department, the United States and several other Commission member states advocated opening the archives as early as 1998. However, then-ITS director Biedermann and a number of member states reportedly blocked passage of the proposal, arguing that the release of such sensitive personal information represented a violation of individual privacy rights.

Recent Developments and Outstanding Issues

In May 2006, after more than five years of debate, and in response to increasing public and political pressure, the International Commission of the ITS unanimously agreed to amend the 1955 Bonn Accords to open the ITS archives to researchers and make digital copies of archived materials available to designated repository institutions in Commission member states. To address continuing concerns regarding individual privacy rights, the Commission agreed that access to files would be guided by the respective privacy laws of those states.

Each Commission member state has signed the 2006 amendments allowing full access to the ITS archives. However, to enter into effect, the amendments must be officially adopted according to internal procedures determined by each member state. Despite tacit member state commitments to complete the approval process by May 2007, 4 of the 11 International Commission members (France, Greece, Italy, and Luxembourg) have yet to officially adopt the amendments. National elections appear to have delayed the required parliamentary approval process in at least two of these countries, and observers expect the process to be complete by October 2007.

Digitization, File Transfer, and Access Issues. In light of the delays in implementing the 2006 agreement to open the archives, the United States has sought authorization to begin the transfer of digitized materials from Bad Arolsen to the Holocaust Museum in June 2007, before the 2006 amendments have been adopted by all Commission member states. At its May 2007 plenary, the International Commission unanimously approved the U.S. proposal, clearing the way for the immediate transfer of

⁵ Interviews of U.S. Holocaust Memorial Museum representative and U.S. State Department official, March 2007.

⁶ Interviews of ICRC and ITS officials, March 2007.

digitized records to those member states that have both officially adopted the 2006 amendments to the Bonn Accords and that have requested a copy of the materials. According to the May 2007 agreement, the transferred documents cannot be made publicly available until all Commission member states have approved the 2006 amendments. However, Holocaust Museum and State Department officials estimate that the time needed by the Museum to classify and prepare the digitized files for public access after receiving them from ITS corresponds with the expected time-line for completion of the necessary approval processes in each Commission member state.

According to ITS, the archives' collection of incarceration documents is completely digitized; the forced labor collection will be digitized by the end of 2007 or early 2008; and the post-war collection, by the end of 2008 or beginning of 2009.⁷ State Department, ITS, and Holocaust Museum officials previously estimated that, given International Commission approval, a digital copy of the incarceration collection could be transferred to the United States in June 2007. However, uncertainty as to how long it will take ITS to develop the software necessary to begin the recently approved data transfer has led officials to push back their initial estimates, and they now indicate that the first transfer could take place anywhere from July to early September 2007.⁸

Some Holocaust survivors and other observers doubt the Holocaust Museum's ability and intention to make digitized materials from Bad Arolsen as accessible as possible to survivors and their heirs. In particular, these critics question a reported decision not to make the Bad Arolsen records available on the Internet, arguing that many survivors who are unable to travel to Washington, DC deserve the opportunity to search the digitized records online.⁹ State Department officials contend that the digitized collections will be made available under the same guidelines that govern public access to national archives, and that trained archivists will be available to assist survivors and historians in searching the vast records. The State Department disputes claims that individuals will need to travel to the Holocaust Museum to access information, stating that Museum officials will respond to inquiries from across the country.¹⁰

Although State Department and Holocaust Museum officials express confidence in ITS's file digitization process, they emphasize that expedited digitization and transfer has required additional funding. The German government has reportedly committed to covering additional costs beginning in 2008, but ITS anticipates a budget shortfall of just over \$450,000 (300,000 euros) in 2007. ITS expects to fill this shortfall through private donations solicited by the Holocaust Museum and contributions from Commission member governments. The Holocaust Museum, which receives the bulk of its funding from the U.S. government, hopes to cover increasing costs associated with organizing and making the files available to researchers through private donations.¹¹

⁷ Interview of ITS director Reto Meister, March 20, 2007.

⁸ Arthur Max, "Sealed Archives to be Released," *MiamiHerald.com*, May 15, 2007; interview of State Department official, May 2007.

⁹ Edwin Black, "Survivors blast museum over archive," JTA Wire Service, May 15, 2007.

¹⁰ Interview of State Department official, May 2007.

¹¹ J. Christian Kennedy, op. cit.; interview of U.S. Holocaust Memorial Museum representative, (continued...)

ICHEIC and Outstanding Insurance Claims.¹² ITS representatives perceive the service's mission as having evolved over time from tracing victims and their families to providing information for a wide variety of purposes including documentation for claims on World War II-era insurance policies. In 1998, following a series of high-profile class-action lawsuits against insurance companies alleged never to have honored millions of such policies, an international commission, the International Commission on Holocaust Era Insurance Claims (ICHEIC), was established to facilitate the pay-out of unpaid Holocaust-era insurance policies. ICHEIC ended its claims process in March 2007, having facilitated the payment of \$306.25 million to approximately 48,000 of what it had determined to be about 90,000 eligible claimants.¹³ Throughout its existence, ICHEIC was criticized, including by some Members of Congress, for long delays in its claims process, for honoring only a small portion of legitimate claims, and for conducting its activities with a general lack of transparency and accountability.¹⁴ ICHEIC supporters and members of the Administration contend that the ICHEIC process, which included publication of a total of about 450,000 policyholder names, was fair and comprehensive, especially given the unprecedented legal and historical complexities of the task.¹⁵

ICHEIC reports that its work was the result of extensive research and collaboration with a number of insurance companies and with a wide variety of national and Holocaust archives. ICHEIC did not seek access to materials in Bad Arolsen. ICHEIC representatives and current ITS director Reto Meister report that cursory searches of the ITS archives indicate that the records provide little definitive information that could help resolve outstanding claims or lead to new insurance claims.¹⁶ Meister also iterates that the archives have been and remain open to requests for documentation from Holocaust victims and their families.

The February 2007 settlement of a lawsuit brought by Holocaust survivors against Italian insurance company Assicurazioni Generali (Generali) highlights disagreement with

¹¹ (...continued)
March 2007.

¹² This section discusses Holocaust-era insurance issues only insofar as they relate to the opening of the ITS archives. For more information on ICHEIC and general insurance issues see Stuart Eizenstat, "Imperfect Justice: Looted Assets, Slave Labor, and the Unfinished Business of World War II." New York: Public Affairs. 2003; Proceedings of the 1998 Washington Conference on Holocaust-era Assets, available at [<http://www.state.gov/www/regions/eur/holocaust/heac.html>]; ICHEIC Timeline, available at [<http://www.icheic.org/pop-timeline.html>].

¹³ "Holocaust Victims Get Compensation From Insurance Companies," *Deutsche Welle*, March 21, 2007.

¹⁴ For example, some Members of Congress and expert witnesses criticized ICHEIC during a series of congressional hearings on ICHEIC and Holocaust-era insurance issues held by the House Committee on Government Reform from 2001-2003. For more information, see [<http://oversight.house.gov/investigations>].

¹⁵ Interviews of ICHEIC and State Department representatives, March 2007. Estimates of the total number of insurance policies sold to eventual victims of the Holocaust vary greatly. The Association of Jewish Refugees reports an estimate of some 800,000. See [<http://www.ajr.org.uk/insurance>].

¹⁶ Interviews of ICHEIC representative and ITS director Reto Meister, March 2007.

ICHEIC and ITS's statements regarding the potential usefulness of ITS records to new or existing insurance claims. In the settlement, Generali agreed to continue to accept claims from individuals providing documentation from the ITS archives until August 2008. The primary reason cited for the extension is to allow potential claimants to take advantage of the expected opening of the archives.¹⁷ How much information the archives contain relating to insurance policies remains unclear. However, all but a small number of insurance-related lawsuits have been settled, and ICHEIC is no longer accepting claims.

ITS Request Backlog. In 2006, the ICRC replaced long-time ITS director Biedermann and initiated efforts to significantly reduce the 425,000 request backlog. ITS claims that the backlog has already been reduced to 145,000 requests and will be eliminated by early 2008. Although most observers commend current ITS director Meister for his efforts, some question the methods by which the backlog has been so substantially reduced. Specifically, they contend that many of the requests have been discarded, a significant portion likely due to the deaths of requesters.¹⁸ ITS has committed to responding to new requests within an eight-week period and, by most accounts, appears to be complying with its policy.

Issues for Congress

Many Members of Congress have demonstrated a strong interest in ensuring the timely opening of the ITS archives to historical research, and Administration officials and Holocaust survivors have singled out the efforts of individual Members as instrumental in drawing international attention to the issue. Both the House and Senate have passed resolutions urging International Commission member states who have yet to officially adopt the agreement to open the archives to expedite the approval process.¹⁹ In addition, several Members have expressed particular interest in ensuring the timely digitization and transfer of ITS collections, and exploring the possibility that opening the archives could reveal documentation to substantiate additional claims on World-War II era insurance policies.

On March 28, 2007, Representative Ileana Ros-Lehtinen introduced H.R. 1746 requiring the disclosure of Holocaust-era policies by insurers and establishing a federal cause of action for claims arising out of a covered policy. Similar bills were introduced in the 107th, 108th, and 109th Congresses. Although H.R. 1746 would have no direct effect on the opening of the Bad Arolsen archives, some observers and Holocaust survivors assert that improved access to the archives may reveal documentation relating to unpaid Holocaust-era insurance policies. On the other hand, while the evidence is by no means conclusive, ITS officials and some historians indicate it is unlikely that the Bad Arolsen archives contain definitive evidence of such policies.²⁰

¹⁷ Joseph B. Treaster, "Settlement Approved in Holocaust Victims' Suit Against Italian Insurer," *New York Times*, February 28, 2007.

¹⁸ Interview of U.S. Holocaust Memorial Museum representative, March 2007.

¹⁹ H.Res. 240 was approved in the House on April 25, 2007; the Senate approved S.Res. 141 on May 1, 2007.

²⁰ Interviews of ITS and U.S. Holocaust Memorial Museum representatives, March 2007.