



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

On November 28, 2007, the International Tracing Service (ITS) opened its vast archives of materials on victims of Germany's National-Socialist (Nazi) regime to the public, granting direct access to the archives for the first time since their establishment shortly after World War II. Access to information in the archives was previously limited to victims of Nazi crimes and their descendants, and as recently as 2006, ITS had a recorded backlog of over 400,000 requests for information. As part of its May 2006 agreement to open the archives, the 11-nation International Commission overseeing ITS agreed to provide a digital copy of the collections to designated research institutions in Commission member states. To date, digital copies of the archives' Central Name Index of about 17.5 million names, and of some 13 million records documenting deportations to Nazi concentration camps, have been transferred to the U.S. Holocaust Memorial Museum. Museum officials expect these documents to be accessible to the public by early 2008, and hope that all the ITS archives will be digitized and transferred to the museum by late 2010. Access to the archives has been an issue of ongoing interest to many Members of Congress. 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 some 50 million Holocaust- and post-war-era documents in Bad Arolsen, Germany relating to approximately 17.5 million civilian victims of Germany's National

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

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 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 had been limited almost exclusively to civilian victims of such crimes and their descendants. Although they were not granted direct access to the archives, victims and their descendants have had the right to request information pertaining to their individual cases. Before November 2007, materials in the archives were not 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 17 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 to have provided approximately 11 million written responses to individual requests for information since its inception. However, before 2006, the tracing service was often criticized by survivors, their families, and others who alleged that the service left hundreds of thousands of requests unanswered and that it often provided inadequate or incomplete information to survivors and their descendants. Criticism of ITS heightened in 2000 and 2001 as the service struggled to handle a dramatic increase

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.

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 institutions in Commission member states. To address continuing concerns regarding individual privacy rights, the Commission agreed that access to digital files would be guided by the respective privacy laws of those states. In November 2007, France and Greece became the final two Commission member states to ratify the May 2006 agreement to open the archives, paving the way both for the digitization and transfer of archived materials, and for historians and members of the public to visit the archives.

Observers and officials from ITS, the State Department, and the U.S. Holocaust Memorial Museum highlight several priorities and concerns relating to the future of the archives, including ensuring prompt digitization and transfer of the files to research institutions in Commission member states; designing and implementing a classification system to allow for more efficient searches of archived and digitized documents; continuing to reduce the backlog of requests for information from the archives, and training and hiring staff to better assist researchers in navigating the archives; and, in the long term, contemplating reform of what many consider a cumbersome administrative and oversight structure.

Digitization, File Transfer, and Access Issues. ITS management considers the digitization and transfer, and effective classification of archived materials to be top

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 and November 2007.

priorities for the coming years. Some 17.9 million digital images making up the archives' Incarceration/Concentration Camp Collection and a so-called Central Names Index of about 17.5 million names which appear in the archives have been transferred to the Holocaust Museum thus far. Members of the public will be able to access these files with the assistance of museum staff beginning in January 2008. ITS officials expect their so-called Wartime or Forced Labor Collection to be digitized, transferred and accessible at the Holocaust Museum by mid-2008, and the Post-war or Migration Collection by late 2009. A collection of correspondence between ITS and survivors and others requesting information is expected to be available in digitized form by early 2011.

Some Holocaust survivors and observers have raised concerns about 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, critics have questioned a decision not to make the Bad Arolsen records directly available on the Internet, arguing that many survivors who are unable to travel to Washington, DC, or Bad Arolsen deserve the opportunity to search the digitized records online.⁷ ITS, Holocaust Museum and State Department officials contend that navigating the millions of documents in the collection requires the assistance of trained archivists, and note that an index of the 20,000 individual collections making up the transferred materials is available on the Museum's website. Members of the public will be able to browse this list online and contact the Museum for help in finding individual records.⁸

Although State Department and Holocaust Museum officials express confidence in ITS's file digitization process, they emphasize that digitizing, transferring, and organizing the records in a searchable manner has required and will continue to require additional resources. In particular, they note that as the focus of inquiries shifts from tracing individual victims of the Holocaust to conducting historical research, ITS and the museum will need to employ trained archivists and information specialists both to reclassify and to help search the collection. While the German government has agreed to cover costs relating to file digitization, the Holocaust Museum is seeking funds to pay for file transfer and to cover staffing, software, and hardware costs associated with organizing and making the millions of records as accessible to the public as possible. In all, the Museum estimates that these costs will total about \$6.5 million over the coming five years.

ITS Request Backlog. In 2006, the ICRC replaced long-time ITS director Biedermann and initiated efforts to significantly reduce a 425,000 request backlog. ITS aims to eliminate the backlog by mid-2008. Although most observers commend current ITS director Reto Meister for his efforts both to reduce the backlog, and make the archives more accessible, 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.⁹ ITS has said it is committed to responding to new requests within an eight-week period and appears to be complying with its policy.

⁷ Edwin Black, "Survivors blast museum over archive," JTA Wire Service, May 15, 2007.

⁸ Interview of Holocaust Museum representative, October 2007.

⁹ Interview of U.S. Holocaust Memorial Museum representative, March 2007.

ITS Leadership. As ITS's mission shifts from tracing individuals to facilitating historical research, experts could increasingly question the archives' unique and oft-criticized administrative and oversight structure. Specifically, some have argued that the ICRC — an organization dedicated to providing humanitarian assistance — may not be the most appropriate entity to administer a historical archive. Others contend that requiring the unanimous consent of an 11-member Commission for most significant management decisions has impeded and could continue to impede effective day-to-day management of the archives. Nonetheless, both the ICRC and the U.S. State Department appear committed to supporting ITS's current oversight structure, at least through 2012, when the contents of the archives are expected to have been digitized and transferred to the Holocaust Memorial Museum. ICRC officials have signaled a desire to discuss the organization's continuing role in managing the archives after the file transfer, but also acknowledge that difficult questions as to the ownership of the archives and their location in Germany could complicate any decisions regarding a change in leadership.¹⁰

ICHEIC and Outstanding Insurance Claims.¹¹ 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 honor 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.¹² 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.¹³ ICHEIC supporters and members of the Administration contend that the ICHEIC process, which included publication of a total of about 520,000 policyholder names, was fair and comprehensive, especially given the unprecedented legal and historical complexities of the task.¹⁴

¹⁰ Conversations with ICRC officials, November 2007.

¹¹ 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 the ICHEIC website at [<http://www.icheic.org/>]; Michael Bazylar, "Holocaust Justice: The Battle for Restitution in America's Courts." New York: NYU Press. 2003; and Proceedings of the 1998 Washington Conference on Holocaust-era Assets, available at [<http://www.state.gov/www/regions/eur/holocaust/heac.html>].

¹² See ICHEIC's final report, "Finding Claimants and Paying Them: The Creation and Workings of the International Commission on Holocaust Era Insurance Claims." Available at [<http://www.icheic.org/>].

¹³ For example, some Members of Congress and expert witnesses criticized ICHEIC during several 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.asp?id=237>].

¹⁴ Experts estimate that between 800,000 and 900,000 insurance policies were sold to Jews from
(continued...)

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 and ITS representatives contend that searches of the archives indicate that the records contain little if any definitive information that could help resolve outstanding claims or lead to new insurance claims. ITS 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 giant *Assicurazioni Generali* (Generali) highlights disagreement with 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.¹⁵ 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.

Issues for Congress

According to Holocaust survivors, their advocates and Administration and ITS officials, congressional action was instrumental in drawing international attention to the archives' closure, and to opening them to historical research. After the May 2006 agreement to open the archives, both the House and Senate passed resolutions urging International Commission member states to expedite approval of the agreement.¹⁶ Several Members have also expressed an interest in ensuring the timely digitization and transfer of ITS collections, and in 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 Bad Arolsen archives, some 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 archives contain definitive evidence of such policies.¹⁷

¹⁴ (...continued)
1920-1945. See [<http://www.ajr.org.uk/insurance>].

¹⁵ On October 2, 2007, a federal appeals court reopened the February 2007 settlement, ruling that the attorneys for the policyholders had failed to notify other Holocaust-era policyholders adequately. See Joseph B. Treaster, "Appeals Court Extends Time for Suit on Holocaust Insurance Payouts," *New York Times*, October 3, 2007.

¹⁶ H.Res. 240 was approved in the House on April 25, 2007; the Senate approved S.Res. 141 on May 1, 2007.

¹⁷ Interviews of ITS and Holocaust Museum representatives, March and November 2007.