

# The Holocaust-Era Assets Conference in Prague and Its Outcome

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## Origins of the Holocaust-Era Assets Conference in Prague

The Jewish world is constantly aware of the danger that restitution and compensation issues may become dormant, although the human and economic consequences of the Holocaust can never be remedied. Large international conferences have generally been useful for moving toward the further restitution of property plundered by Nazi Germans and their allies from Holocaust victims, and a trio of conferences at the end of the 1990s—the London Conference on Nazi Gold in December 1997, the Washington Conference on Holocaust-Era Assets in December 1998, and the Vilnius International Forum on Holocaust-Era Looted Cultural Assets in October 2000—not only resulted in direct agreements and guidelines, but also helped move forward a variety of parallel negotiations and actions by individual governments. This was particularly true of the Washington Conference on Holocaust-Era Assets, led by Stuart Eizenstat and co-hosted by the US Department of State and the United States Holocaust Memorial Museum, which brought together representatives of forty-four governments and thirteen non-governmental organizations to address the issue of assets confiscated by the Nazis during the Holocaust (1933–45).

While “The Washington Conference Principles on Nazi-Confiscated Art” was the primary document that emerged from the conference itself, the preparations and discussions leading up to the conference were such that, as of the beginning of 1999, much had been put in motion toward resolving the “unfinished business of the twentieth century”—the Swiss Banks Settlement; the German Forced and Slave Labor Compensation Program; the International Commission on Holocaust-Era Insurance Claims; the return of much communal property; the establishment of national historical commissions in a number of countries; the adoption of new practices and new laws by individual states, etc.<sup>1</sup>

As the years passed after the Washington Conference, it became clear that some progress was being made on many issues and in many countries, but that major problems remained. However, no follow-up mechanism had been established by the Washington Conference to report on, much less monitor, restitution issues throughout the world. The one ongoing intergovernmental institution that had developed in part out of the property discussions of the 1990s was the Task Force for International Cooperation on Holocaust Education, Remembrance and Research (ITF). In the course of the disputes surrounding the Swiss Banks Settlement and related matters, it had become clear that a key problem was that the populations involved simply did not know the history of the Holocaust. Begun at the initiative of Sweden's Prime Minister Goran Persson, the ITF held its second meeting in conjunction with the Washington Conference and had since grown greatly in the number of its member countries and activities, but it focused on the Holocaust as mass murder, not as theft.<sup>2</sup>

At the end of 2007, in consultation with a number of countries and with the Claims Conference and the World Jewish Restitution Organization (WJRO), Ambassador J. Christian Kennedy, Special Envoy for Holocaust Issues at the US Department of State, began to lobby for the convening of another large international conference a decade after the Washington Conference, to review what had been achieved and examine what remained to be done. It was considered inappropriate for the United Kingdom or the United States to host such a conference in view of the fact that London and Washington had already been venues for conferences. The most obvious countries were Germany and Austria. Austria had already undertaken to chair the ITF during 2008, and after considering hosting such a conference, Germany opted instead to hold a symposium more narrowly focused on looted art. The Czech Republic, which was preparing to assume the rotating presidency of the European Union during the first half of 2009, graciously offered to host the large and much-needed intergovernmental meeting in June 2009.

There were a number of reasons for the Czech offer. First, for some time the Documentation Centre of Property Transfers of Cultural Assets of World War II Victims, the principal Czech organization dealing with looted art, had been holding international academic symposia at regular two-year intervals. When, at the symposium it held in Liberec in October 2007, there was talk of a meeting to be held in 2009, it was pointed out that discussions were being held concerning a possible major intergovernmental conference, and the leadership of the Documentation Centre started to discuss with the Czech government the idea of combining the two meetings. Second, although the Czech record in regard to restitution was imperfect, the Czech Republic had done quite a bit in this area. Third, given the fact that many of the remaining issues involve Eastern Europe

and the countries of the former Soviet Union, the Czech Republic saw itself as able to understand and deal with the East–West aspects of the matter. Fourth, under the leadership of Ambassador Milos Pojar, the Czech Republic had successfully chaired the ITF in 2007, and hosting such a conference could prove helpful to the development of Terezin (the site of the Theresienstadt concentration camp) as a center for Holocaust education, remembrance, and research. Last but not least, the sense was that this very pan-European problem was something that could appropriately be addressed in the context of the Czech presidency of the European Union.

### Planning for the Prague Conference

With Ambassador Pojar as chair of the organizing committee, the government of the Czech Republic, in cooperation with the Documentation Centre of Property Transfers of Cultural Assets of World War II Victims, the Federation of Jewish Communities in the Czech Republic, the Jewish Museum in Prague, the Institute of Jewish Studies at the Hussite Theological Faculty of the Charles University in Prague, and the Forum 2000 Foundation, announced that it would host a “Holocaust-Era Assets Conference” in Prague on June 26–30, 2009. The stated objectives of the conference were:

- to assess the progress made since the 1998 Washington Conference on Holocaust-Era Assets in the areas of the recovery of looted art and objects of cultural, historical, and religious value (according to the Washington Conference Principles on Nazi-Confiscated Art and the Vilnius Forum Declaration 2000), and in the areas of property restitution and financial compensation schemes;
- to review current practices regarding provenance research and restitution and, where needed, define new effective instruments to improve these efforts;
- to review the impact of the *Stockholm Declaration of 2000* on Holocaust education, remembrance and research;
- to strengthen the work of the Task Force on International Cooperation on Holocaust Education, Remembrance and Research, a twenty-six-nation body chaired by the Czech Republic in 2007–08; and
- to discuss new, innovative approaches in education, social programs, and cultural initiatives related to the Holocaust and other National Socialist wrongs, and to advance religious and ethnic tolerance in our societies and the world.

Ultimately, the governments of forty-seven countries participated (plus the Holy See as an observer), along with twenty-four non-governmental organizations.<sup>5</sup>

In anticipation of the conference, there was quite a bit of activity within individual countries and internationally. This was particularly true in regard to looted art,

concerning which there were a large number of discussions, the most prominent taking place during a colloquium organized by the Musée d'art et d'histoire de Judaïsme in September 2008 in Paris, on "Spoliations, restitutions, indemnisations et recherché de provenance: le sort des oeuvres d'art retrouvées après la Seconde Guerre mondiale"; a symposium organized by the Stiftung Preussischer Kulturbesitz Koordinierungsstelle für Kulturgutverluste in December 2008 in Berlin; and a conference organized by the Jewish Museum in Berlin on "Jewish Cultural Treasures in Europe after the Holocaust: Restitution and Relocation" in January 2009. In order to preempt criticism at the conference, a number of countries took specific steps—for example, Finland moved to place information on the provenance of its art collections on the internet and Greece began a survey of its museums.

Much of the planning by the Czech organizing committee was done in consultation with the US, in view of the American experience of hosting the Washington Conference; however, other countries—Austria, France, Germany, Israel, Netherlands, Poland, Sweden, and the United Kingdom—were also consulted, which, together with the Czech Republic and the US, formed a group that was called the "Friends of the Chair." Planning was also carried out in consultation with the principal non-governmental organizations in the field, primarily the Claims Conference and the WJRO.<sup>4</sup> At the urging of the Claims Conference and the WJRO, for the first time the subject of the welfare of Holocaust survivors was made an explicit theme of such an international conference; Judaica and Jewish cultural property were made a separate subject from looted art; and questions of private immovable property (real estate) were scheduled to be addressed in addition to communal immovable property. The Claims Conference and WJRO also urged that the conference not be seen as a one-time event but that a follow-up mechanism be constructed that would ensure the ongoing implementation of agreements reached.

The Czechs decided to hold working group meetings of experts on five specific topics in advance of the conference that would be co-chaired by individual countries—Holocaust education, remembrance, and research (Germany); immovable property (UK); looted art (France); Judaica and Jewish cultural property (Austria); and caring for victims of Nazism and their legacy (Israel). Since the experts in these fields mostly work for non-governmental organizations or for institutions that are not associated with ministries of foreign affairs, this decision led to a series of preparatory meetings in Berlin, London, Paris, Vienna, and Prague, in which only a few diplomats participated. This resulted in a set of written "expert conclusions" that were then presented to the diplomats from the forty-seven participating countries.

In Prague and Vienna, Ambassador Eizenstat of the United States chaired a series of meetings of representatives of governments, the purpose of which was to review the expert recommendations and to reach agreement in advance on the text of a declaration that could be adopted by participants at the upcoming conference. Many of the expert conclusions were problematic from the standpoint of specific countries' laws and policies, and in addition to general disclaimers that the overall declaration was non-binding, it became necessary to repeat such disclaimers at numerous points in the eventual text. In addition to addressing the question of how to treat the expert conclusions, Ambassador Eizenstat skillfully handled issues such as:

- Russia initially wanted, but Germany opposed, the inclusion of language that would reaffirm the post-war settlement principles and the provisions of the post-war peace treaties and other international agreements concluded in connection with the end of World War II. Russia wanted to make sure that if restitution to Holocaust victims or their heirs should involve any of the trophy art or other property it considers to have been compensation for its wartime losses, Russia would receive equal value in return. Eventually it was considered sufficient to include language to the effect that the declaration was “without prejudice to applicable international law and obligations.”
- There was a problem as to how to refer to Jewish property that had not been specifically taken by Nazi Germans but that as a result of the Holocaust was abandoned or taken by others after the war ended in 1945. The decision was made to refer to property taken during the “Holocaust era between 1933–1945 and as an immediate consequence.”
- Ambassador Reuven Merhav of Israel (in consultation with the Claims Conference and the WJRO), and based on the experience of the Claims Conference in Germany, wanted specific mention of heirless property and its use for the welfare of survivors and for Holocaust education, remembrance, and research. However, the representative of Poland claimed that legally there was no such thing as heirless property in Poland, and that ownerless property automatically escheats to the Polish state. References to heirless property were left in, since all agreed that property has to at least be identified as heirless before it can escheat to the state, and in any event the declaration was non-binding.

### **Holding of the Prague Conference and the Terezin Declaration**

The Prague Conference was the last major event in the Czech presidency of the European Union. Whatever difficulties the Czech Republic may have experienced during its presidency, the convening of the conference was a major triumph. Noteworthy artistic events were part of the program and a great many dignitaries spoke at various points, including Vaclav Havel (in a video message), Simone

Veil, Elie Wiesel, Madeleine K. Albright, and Czech Prime Minister Jan Fischer. Delegations from the forty-seven countries (plus the Holy See) and the twenty-four non-governmental organizations gathered with representatives of the Czech government and the European Commission in the Zofin Palace in Prague on Friday afternoon, June 26, for the opening ceremony of the conference, which included a performance by Naftali Herstik, Cantor Emeritus of the Great Synagogue of Jerusalem. A reception hosted by the embassies of Austria, France, Germany, Israel, the Netherlands, Poland, Russia, Sweden, the United Kingdom, and the US was held at the US ambassador's residence the following evening. But in observance of Shabbat, formal substantive meetings at the Prague Congress Centre began only on Sunday, June 28.

On June 29, at the *Narodni divadlo* [National Theater], participants attended the world premiere of "Golem 13," an opera by Noam Sheriff. The closing ceremony held on June 30 at Terezin, in which the Terezin Declaration was adopted, was followed by a striking performance of "Defiant Requiem" by Murry Sidlin that recreated the performances by the prisoners in Terezin of Verdi's "Requiem." A large number of important papers were presented, with the Claims Conference providing the major worldwide overviews of survivor welfare, immovable property, looted art, and Judaica and Jewish cultural property.<sup>5</sup>

Although not a treaty or legally binding international agreement, the Terezin Declaration that resulted from the Prague Conference is a remarkable document.<sup>6</sup> It is by far the most comprehensive statement by governments to date, with sections on "Welfare of Holocaust (Shoah) Survivors and other Victims of Nazi Persecution," "Immovable Property," "Jewish Cemeteries and Burial Sites," "Nazi-Confiscated and Looted Art," "Judaica and Jewish Cultural Property," "Archival Materials," and "Education, Remembrance, Research and Memorial Sites." Although it does not incorporate the expert conclusions that were reached in the working groups leading up to the Prague Conference, it does make note of them and in many cases includes them.

The welfare of survivors was purposely and appropriately placed first, in recognition of the urgent medical and other needs of this aging population. The declaration also called upon states to use a variety of creative mechanisms to address these needs, including heirless property. The next section, which deals with immovable (real) property, also notes that in some states, heirless property could serve as a basis for addressing the material necessities of needy Holocaust survivors.

In the meetings of diplomats prior to the Prague Conference, the US had presented a draft set of principles regarding immovable property with the aim of emerging

from the conference with something similar to “The Washington Principles on Nazi-Confiscated Art,” but with regard to real estate. The representatives of Poland, Latvia, Russia, and a number of other countries were not prepared to go forward with this. However, they did agree that the matter should be handled in the course of the following year. Accordingly, the issue was entrusted to the European Shoah Legacy Institute (see below) to “facilitate an intergovernmental effort to develop non-binding guidelines and best practices for restitution and compensation of wrongfully seized immovable property to be issued by the one-year anniversary of the Prague Conference, and no later than June 30, 2010, with due regard for relevant national laws and regulations as well as international agreements, and noting other positive legislation in this area.”<sup>7</sup> A separate section was added urging the identification, protection, and preservation of Jewish cemeteries.

The section on “Nazi-Confiscated and Looted Art” improved on the Washington Principles by specifically going beyond confiscations by the Nazis to include art and cultural property of victims of the Holocaust and other victims of Nazi persecution that “was confiscated, sequestered and spoliated by the Nazis, the Fascists and their collaborators through various means, including theft, coercion and confiscation, and on grounds of relinquishment as well as forced sales and sales under duress, during the Holocaust era between 1933–45 and as an immediate consequence...”<sup>8</sup> It also strengthened the arguments against using technical legal defenses in looted art cases.

The importance of the identification and restitution of Judaica and Jewish cultural property found in archives, libraries, museums, and other government and non-government repositories was noted, and mechanisms for the international registration of Torah scrolls and the circulation and display of Judaica internationally were encouraged.

The opening of archives was encouraged. Although the governments would not countenance an exception to privacy- and data-protection rules, they were willing to accept the need for “taking into account the special circumstances created by the Holocaust era and the needs of the survivors and their families, especially in cases concerning documents that have their origin in Nazi rules and laws.”<sup>9</sup>

The section on Holocaust education, remembrance, research, and memorial sites essentially reinforced the efforts of the Task Force for International Cooperation on Holocaust Education, Remembrance and Research; called for public opinion leaders to stand up against denial, trivialization or diminishment of the Holocaust; urged the preservation of historical sites; and called for human rights education.

It notes that “states may wish to consider using a variety of additional means to support such education, including heirless property where appropriate.”<sup>10</sup>

But perhaps most important of all is the section at the end of the Terezin Declaration dealing with “Future Action.” The forty-seven countries affirming the Terezin Declaration (the forty-six countries as of June 30, 2009 have since been joined by Serbia) welcome the

Czech Government’s initiative to establish the European Shoah Legacy Institute in Terezin (Terezin Institute) to follow up on the work of the Prague Conference and the Terezin Declaration. The Institute will serve as a voluntary forum for countries, organizations representing Holocaust (Shoah) survivors and other Nazi victims, and NGOs to note and promote developments in the areas covered by the Conference and this Declaration, and to develop and share best practices and guidelines in these areas ... To facilitate the dissemination of information, the Institute will publish regular reports on activities related to the Terezin Declaration. The Institute will develop websites to facilitate sharing of information, particularly in the fields of art provenance, immovable property, social welfare needs of survivors, Judaica, and Holocaust education. As a useful service for all users, the Institute will maintain and post lists of websites that Participating States, organizations representing Holocaust (Shoah) survivors and other Nazi victims and NGOs sponsor as well as a website of websites on Holocaust issues.<sup>11</sup>

### **The European Shoah Legacy Institute**

This planned future action is potentially a major sea change in the methods in which the restitution of Holocaust-era assets and improvements in the welfare of survivors are sought. Up until now, the pattern has been for Jewish organizations, supported from time to time by the governments of the US and Israel, to approach specific countries on these issues. Other governments have generally only been involved at sporadic conferences. But the establishment of the European Shoah Legacy Institute holds out the promise of ongoing involvement by all forty-seven countries, as well as by non-governmental organizations. This is important not only in relation to those countries of Eastern Europe and the former Soviet Union that have not yet, or not yet fully, dealt with restitution issues generally, but also in relation to the large number of countries of Western Europe, North and South America, and elsewhere that have not yet fully dealt with the restitution of art and Judaica.

Since the Prague Conference in June 2009, the Czech government has moved to create the European Shoah Legacy Institute and to provide it with a budget for



three years. Legally, the institute has been founded by the Czech Ministry of Foreign Affairs, and its administrative board has three members from the ministry and one member each from the Federation of Jewish Communities in the Czech Republic, the Jewish Museum in Prague, and the Terezin Initiative. Tomas Kosta is chairman and Jiri Cistecky vice-chairman. Other parts of the governing structure consist of a supervisory board, an honorary board, and in particular an international advisory board that is expected to have up to seventy-five members from a variety of governmental and non-governmental organizations, who will be responsible for much of the work of the institute. Lukas Pribyl, an award-winning film director educated in the US and Europe, whose films entitled “Forgotten Transports” were shown in connection with the Prague Conference and who has experience working with survivors, has been appointed director of the institute. He has a small staff, but the institute is expected to be in many respects an umbrella organization.

Currently, the European Shoah Legacy Institute is housed in a building in Prague belonging to the Ministry of Foreign Affairs, but it is expected to move in several years to a building in Terezin to be renovated with the assistance of the European Commission. In addition to the Terezin Declaration, a Joint Declaration between the European Commission and the Czech EU presidency was signed at the Prague Conference in support of cooperation among the participants and the European Shoah Legacy Institute,<sup>12</sup> and funding for at least the renovation of the building in Terezin is expected to come from the European Union.

Further details regarding the European Shoah Legacy Institute will become available in May–June 2010. Under the leadership of Ambassador Kennedy, work has been proceeding toward agreement on non-binding guidelines and best practices for restitution and compensation of wrongfully seized immovable property, to be issued by the one-year anniversary of the Prague Conference at the end of June 2010. It can be expected that work in other areas will proceed shortly. Assurances have been given to the Task Force for International Cooperation on Holocaust Education, Remembrance and Research—chaired in 2010 by Israel—that the European Shoah Legacy Institute will not duplicate its work, and it seems likely that the institute will concern itself with the funding of memorial sites and other matters involving property issues that have not to date been the direct concern of the Task Force.

The Czech Republic is to be commended for its efforts. There have been significant developments in the past ten to fifteen years regarding research on the plunder of property by the Nazis and their allies and about the continuing needs of Holocaust survivors. The Holocaust-Era Assets Conference in Prague and the affirmation of the Terezin Declaration make it clear that those subjects are now recognized as

integral parts of the Shoah and its aftermath. But the Terezin Declaration is only a blueprint for the difficult work we face. The true measure of the declaration's success is not that it was affirmed by forty-seven governments, but how effectively—and how many of—its principles and practices will be implemented. Regrettably, sixty-five years after the end of World War II, there remains much crucial unfinished business. Fortunately, we have another—probably the last—chance to significantly aid the aging survivors still with us.

## Notes

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<sup>1</sup> *Washington Conference on Holocaust-Era Assets, November 30–December 3, 1998: Proceedings*, J.D. Bindenagel (ed.) (Washington, DC, 1999), [www.ushmm.org/assets/](http://www.ushmm.org/assets/). A list of government-appointed historical commissions concerning the Holocaust may be found at [www.holocausttaskforce.org/about-the-itf/historical-commissions.html](http://www.holocausttaskforce.org/about-the-itf/historical-commissions.html). Other relevant links may be found at [www.claimscon.org](http://www.claimscon.org). See also Stuart Eizenstat, *Imperfect Justice: Looted Assets, Slave Labor, and the Unfinished Business of World War II* (New York, 2004).

<sup>2</sup> Information on the Task Force for International Cooperation on Holocaust Education, Remembrance and Research can be found at [www.holocausttaskforce.org](http://www.holocausttaskforce.org).

<sup>3</sup> The program and proceedings of the Holocaust-Era Assets Conference in Prague, as well as the resulting declarations, may be seen at [www.holocausteraassets.eu](http://www.holocausteraassets.eu).

<sup>4</sup> The member organizations of the WJRO are: Agudath Israel World Organization; the American Gathering of Jewish Holocaust Survivors; the American Jewish Committee; the American Jewish Joint Distribution Committee; B'nai B'rith International; the Centre of Organizations of Holocaust Survivors in Israel; the Conference on European Rabbis; the Conference on Jewish Material Claims Against Germany; the European Jewish Congress/European Council of Jewish Communities–Joint Delegation; the Jewish Agency for Israel; the National Council on Soviet Jewry; the World Jewish Congress; and the World Zionist Organization.

<sup>5</sup> These are available at [www.holocausteraassets.eu](http://www.holocausteraassets.eu) and at <http://www.claimscon.org/?url=artworks/conferences>.

<sup>6</sup> The text of the Terezin Declaration may be seen at [www.holocausteraassets.eu/program/conference-proceedings/declarations/](http://www.holocausteraassets.eu/program/conference-proceedings/declarations/).

<sup>7</sup> *Ibid.*, p.3.

<sup>8</sup> *Ibid.*, p.4.

<sup>9</sup> *Ibid.*, p.5.

<sup>10</sup> *Ibid.*, p.6.

<sup>11</sup> *Ibid.*, p.7.

<sup>12</sup> The text of this declaration may also be seen at [www.holocausteraassets.eu/program/conference-proceedings/declarations/](http://www.holocausteraassets.eu/program/conference-proceedings/declarations/).