



United States Department of State

Washington, D.C. 20520

October 23, 2009

Mr. Tony West
Assistant Attorney General, Civil Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Re: *In Re: Holocaust Victim Assets Litigation*, Case No. 09-160 (E.D.N.Y.)

Dear Mr. West:

We are writing in our respective capacities as Special Envoy for Holocaust Issues and as Special Adviser to the Secretary for Holocaust Issues. In the above referenced litigation, Judge Korman is currently considering a Special Master's recommendation that would affect the distribution of money that was paid by Swiss institutions to settle claims against them. Because the manner in which this money is distributed could have a significant effect on an important United States foreign policy interest, we write to request that your office inform Judge Korman, on our behalf, of a new diplomatic effort undertaken by 46 states, including the United States, all of which participated in the Holocaust Era Assets Conference held in Prague this past June. In coordination with the Czech Republic, we organized this conference to address unresolved Holocaust issues extant since the 1998 Washington Conference, and negotiated several commitments, including a commitment to address the social welfare needs of Holocaust survivors.

This moral commitment by the Participating States to address the social welfare needs of Holocaust survivors, including "hunger relief, medicine and homecare," was one of the major achievements at the Prague Conference. We have enclosed a copy of the Terezin Declaration, issued at the conclusion of the Conference. This Statement calls on Participating States to address compensation

and restitution issues and, for the first time, calls for action to meet the special social and medical needs of Holocaust survivors.

We are committed to exploring every possible option to ensure that the United States continues to lead in fulfilling these important commitments. Indeed, we believe U.S. leadership is essential if the goals of the Prague Conference are to be achieved. These include the establishment of the Terezin Institute, without which we believe it would be virtually impossible to take two key follow up actions specified in the Declaration:

“... to develop non-binding guidelines and best practices for restitution and compensation of wrongfully seized immovable property to be issued ... no later than June 30, 2010”

“ ... to facilitate sharing of information, particularly in the fields of art provenance, immovable property, social welfare needs of survivors, Judaica, and Holocaust education.”

A visible display of leadership by the United States is extremely important to generate the necessary momentum to establish the Terezin Institute. The failure to launch the Terezin Institute would undermine, and possibly undo, the overwhelmingly positive results of the Prague Conference. The United States has long been at the forefront of efforts to obtain a measure of justice for Holocaust victims and their families, and in supporting the goals of the Prague Conference, we hope to ensure continued progress for this essential cause.

The needs of the U.S. survivor community are pressing and well-documented. For example, “[v]ictims are five times more likely to be living below the poverty line than non-victims. A quarter of all Victims (25%) fall under the federal poverty threshold, compared to 5% of non-victims.”¹ Unfortunately, the current financial crisis has made financing new programs more difficult, even as the plight of needy survivors worsens in the United States. Indeed, since the onset of the current financial crisis, many U.S. states and localities, as well as charitable

¹ NAZI VICTIMS NOW RESIDING IN THE UNITED STATES: FINDINGS FROM THE NATIONAL JEWISH POPULATION SURVEY 2000-01, 9 (2003) *available at*: http://www.claimscon.org/forms/allocations/Nazi_victims_report.pdf; *see generally* Jacob B. Ukeles, David A. Grossman, Metropolitan Council on Jewish Poverty and UJA-Federation of New York, REPORT ON JEWISH POVERTY (2004), *available at*: http://www.ujafedny.org/atf/cf/%7Bad848866-09c4-482c-927751a5d9cd6246%7D/POVERTY_REPORT2004_UPDATED%20.PDF.

organizations, have faced dramatic declines in their traditional funding sources and have cut back on the provision of social services. As a result, the plight of elderly survivors in the United States today is very likely worse than that described in earlier studies.² It is therefore critical that we identify sources of funding to prevent further suffering.

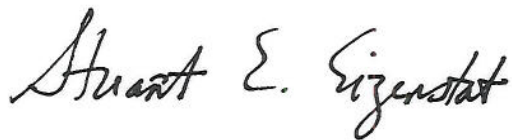
Although the Participating States at the Prague Conference committed themselves to addressing the social welfare needs of survivors, we are deeply concerned that many Participating States may have difficulty finding the resources to support new compensation programs for elderly and needy survivors. Given the importance of making rapid progress in establishing the Terezin Institute and the challenging budgetary situations in the United States and around the world, we believe that utilization of the *cy pres* component of the Swiss Bank settlement, i.e., funds in the Looted Assets Class, could be an important mechanism for ensuring that social welfare programs are funded in accordance with the goals of the Declaration. The State Department is now exploring sources of funds that could be used to develop pilot projects in the United States, which would then be matched by local Jewish charities and other contributors, where there are major concentrations of need for Holocaust survivors. These projects would help provide homecare to needy elderly survivors, particularly in states with weak Medicaid programs. However, we fear that there will be inadequate funds available for such pilot projects even in the United States, where there unfortunately remains a great deal of need.

As the court evaluates the proper distribution of the remaining Deposited Assets Class funds, we hope it will give serious consideration to significant social welfare needs of those survivors in the Looted Assets Class. We believe the fair distribution of settlement funds can be part of the solution to meeting the goals of the Terezin Declaration. These funds could help provide sorely needed additional resources to support the health and social welfare of the neediest survivors, both in the United States and around the world.

² See, e.g., *States in Distress*, N.Y. TIMES, Aug. 4, 2009, at A22; Jan M Rosen, *In Uncertain Times, Donors Hold Back*, N.Y. TIMES, Feb. 26, 2009, at SPG4; Erik Eckholm, *States Slashing Social Programs for Vulnerable*, N.Y. TIMES, April 12, 2009, at A1.

Thank you for your consideration of this matter.

Sincerely,



Stuart E. Eizenstat, Ambassador
Special Adviser to the Secretary
of State For Holocaust Issues



J. Christian Kennedy, Ambassador
Special Envoy for Holocaust Issues

Enclosure: Terezin Declaration