

## EXPERTS CONCLUSIONS

### Special Session on Caring for Victims of Nazism and Their Legacy

Paying respect to and showing solidarity with the surviving victims of the unique and incomparable crime of the Nazi premeditated Shoah (Holocaust) against the Jews, the genocide against Roma and Sinti, and mass murderous acts against Slavic and other peoples and all other Nazi atrocities.

Recognizing that Shoah (Holocaust) survivors and other Nazi victims suffered unprecedented physical and emotional trauma during their ordeal and ever since, and that all Shoah (Holocaust) and other Nazi victims suffer from a heightened level of health deterioration, particularly in old age.

Recalling that the creation of the "Remembrance, Responsibility and Future" foundation was also a sign of solidarity with the victims living in the Central and Eastern European states and also a means of providing funds for victims from – among other places – Central and Eastern Europe, most of whom benefited little from prior German compensation and restitution programs.

Mindful of the suffering that all Shoah (Holocaust) and other Nazi victims experienced, regardless of nationality, creed or ethnicity, and of studies which document that, due to this persecution – especially resulting from concentration camp, ghetto and labor battalion internment – even now, more than sixty years after the end of the Shoah (Holocaust), such victims frequently continue to experience significant after-effects of trauma and increased damage to their health, particularly in old age.

Declaring the need for further medical and social programs for Shoah (Holocaust) and other Nazi victims in Central and Eastern Europe and all other relevant places around the world.

Taking note of the special medical needs of elderly Shoah (Holocaust) and other Nazi victims, the

improvement of the social situation of the elderly victims must be addressed through coordinated efforts by local, national, international and all other relevant authorities and social policy makers. Living conditions and social recognition can be effectively improved effectively, in particular by the social system in the victims' home countries – old and new.

In order for the international community to fulfil this responsibility, the Special Session on Caring for Victims of Nazism and Their Legacy agrees upon the following two principles:

1. The suffering and dramatic fate that all Shoah (Holocaust) and other Nazi victims experienced should be acknowledged and respected, regardless of the nationality, creed, ethnicity, or current country of residence; no matter whether or not they have been included in the disbursement programs for Shoah (Holocaust) and other Nazi victims. We are committed to enabling all Shoah (Holocaust) and other Nazi victims to live their lives with dignity. Those victims in need must be granted access to the medical and social support through the social systems in their home countries and through other organizations. The Shoah (Holocaust) and other Nazi victims generally receive lower pensions than those individuals who committed the crimes against them.
2. All around the world and especially in Central and Eastern Europe, there are many former Shoah (Holocaust) and other Nazi victims in need of assistance. Essential social services should be made available to all of them in the cities or villages where they now reside, in order to overcome their social isolation, to encourage intergenerational contact, to improve their medical situation and to provide hunger relief. For these programs, we agree upon the "responsibility in partnership" approach: we will strengthen local civil society initiatives and provide them with public funding. As caring for Shoah (Holocaust) and other Nazi victims is both a national and international responsibility, we encourage additional program funding by the international community. With this approach, we seek to facilitate the cooperation and mutual reinforcement of local projects by civil society initiatives, government social policies, EU programs and international programs.

Within this context it is suggested to make use of heirless Jewish property in Eastern Europe wherever applicable. Proceeds of that property, after dealing with existing Jewish Communities, should be directed towards survivors' welfare needs and towards education. If we do not take this action now – it will be too late, much too late.

Due to the special circumstances of the Jewish people-survivors and victims alike, who did not have or do not have a directly elected government to represent them-it is for their needs and in their memory respectively, that a strong Jewish voice must be recognized to fill the vacuum. An organization such as the WJRO (World Jewish Restitution Organization) and other relevant organizations, supported by understanding and by involvement of governments, would be the proper expression of that voice.

Taking into account the special role of the EU and other international communities and the continuing responsibility of national countries, the Special Session on Caring for Victims of Nazism and Their Legacy recommends the following steps to be taken:

1. To found a Center for Research, Social Welfare, Education and Advocacy that will also facilitate the exchange of experiences and international cooperation, monitor achievements in all relevant spheres of activity and provide Shoah (Holocaust) and other Nazi victims a much-needed lobbying organization.
2. To establish a system of permanent financial support to the former concentration camps, sites of mass murder and cemeteries and memorials at the EU level.
3. To strengthen financial support to all kinds of organizations caring for Shoah (Holocaust) and other Nazi victims and their legacy at the national level.
4. To strengthen financial support to associations and societies of Shoah (Holocaust) and other Nazi victims at the national level.
5. To improve the legislative framework covering the social and legal status of Shoah (Holocaust) and other Nazi victims with a special focus on assuring equality with the status of war veterans at the national level.
6. To enable Shoah (Holocaust) and other Nazi victims to live the remaining years of their lives with dignity through an increase in their financial benefits at the same rate as that of average wages at the national level and enact legislation which exempts from taxes or needs-based benefits any such assistance received by Shoah (Holocaust) and other Nazi victims or their heirs. The Shoah (Holocaust) and other Nazi victims generally receive lower pensions than those individuals who committed the crimes against them.
7. To address the Ghetto-Rente issues in a timely and unbureaucratic manner – specifically, the German Government in cooperation with the German Courts.

Further, noting the importance and urgency of such assistance for Shoah (Holocaust) and other Nazi

victims, we express our readiness to establish an agency/mechanism which will monitor the efforts of the participating states relating to their commitment to deal effectively with the social welfare needs of Shoah (Holocaust) and other Nazi victims and will prepare and publish an annual report on the progress made.

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## Holocaust Education, Remembrance and Research

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The participating states wish to recognise the accomplishments that have been achieved in Holocaust Education, Remembrance and Research in the decade since the Washington Conference. Specifically, we reaffirm that the Holocaust has a universal significance, which each generation has to explore anew and transmit to the following generation. We recall the initiative of the government of Sweden in hosting the January 2000 Stockholm Forum, which resulted in the Stockholm Declaration signed by 44 participating states. We also reiterate the commitments made by the Stockholm Declaration. We recognise the groundbreaking work of the Task Force on International Cooperation on Holocaust Education, Research and Remembrance (ITF) since the Stockholm Forum. In particular, we acknowledge the fact that more and more archives have become accessible to researchers and the general public, as witnessed by the agreement reached on the ITS Bad Arolsen archives.

### **The participating states are committed to:**

1. Promoting awareness and knowledge of the Holocaust in schools and universities as well as other educational and civic institutions; taking appropriate steps to make it a mandatory part of educational curricula.
2. Promoting the study of the historical context behind the terror regime of the Nazis and their allies and collaborators, and of the Holocaust in all its dimensions.
3. Fostering the study of Jewish history as an integral part of European and world history.
4. Repudiating any denial of the Holocaust and combating its trivialisation/diminishment whilst encouraging leaders of public opinion to stand up against this.

5. Ensuring awareness of the suffering of all groups of Nazi victims, including Sinti and Roma.
6. Identifying, marking for posterity and preserving authentic Holocaust-related sites, such as former concentration camps, mass graves and other locations important to Holocaust history.
7. Opening and facilitating access to all relevant archives dealing with the Holocaust period so that documents concerning the Nazi era are available to researchers and the general public (including Holocaust survivors) whilst respecting laws on the protection of personal data, but taking cognisance of possible difficulties in applying such laws when studying the history.
8. Encouraging appropriate forms of remembrance, which includes marking a National Day of Remembrance according to national tradition and observing the annual UN Holocaust Remembrance Day on January 27.
9. Continuing or establishing close cooperation with the ITF or taking the steps necessary for joining it; ensuring the long-term continuity of our efforts by strengthening the ITF as a central body for gathering information and monitoring the implementation of our commitments to Holocaust Education, Remembrance and Research.
10. Reflecting deeply on the evils of genocide, ethnic cleansing, racism, anti-Semitism and xenophobia.
11. Making appropriate funding available for Education, Remembrance and Research activities.

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## Immovable Property

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Protecting and respecting property rights is a basic principle of democratic governments who operate according to the rule of law. During the Holocaust, wrongful confiscations, enforced property sales and sales of property under duress were part of the persecution of innocent people and groups because of their religion, nationality or political position. Jewish families and communities were systematically targeted and sustained immeasurable damage due to illegal seizures and destruction. After the defeat of the Nazis, confiscated private property was not restored to its former owners in Central and Eastern European countries, but typically nationalised during the period of communist control. Moreover, neither communal nor religious property – critical to reviving Jewish life, supporting the social welfare needs of

Holocaust survivors and promoting the preservation of Jewish cultural heritage – was returned to what remained of the devastated Jewish communities or their successors.

While a number of countries have enacted legislation or taken other actions which address the restitution of, or compensation for, immovable property illegally seized during the Nazi and communist eras, many governments have failed to take adequate steps to return such confiscated properties to their rightful owners.

As a result, the Working Group on Immovable Property makes the following recommendations:

1. Where it has not been done, states should make every effort to return confiscated private property to former owners, as well as their heirs or successors, in an expeditious manner and through a process that takes account of the many obstacles facing claimants seven decades after the property was taken.
  - (a) In accordance with the principles of justice and equal treatment, states should provide restitution in rem whenever possible, particularly in circumstances where the confiscated property is still held by the government, and;
  - (b) Whenever the confiscated property cannot be returned, states should provide alternative property of equal value or provide equitable compensation;
2. If it has not already been done, states should establish a claims process which is simple, accessible, transparent and expeditious in a manner consistent with national law. This should include the following procedures:
  - (a) Applications should be processed by special tribunals or claims agencies, not by the courts of the state's judicial system;
  - (b) Relaxed standards of proof should apply, including the acceptance of alternative forms of evidence, e.g. for establishing property ownership, the death of a former owner or one's status as an heir;
  - (c) Claimants should not be impeded by burdensome financial requirements;
  - (d) Claimants should be able to submit claims easily, which includes being able to send them over the internet or lodging them with local embassies;
  - (e) A decision should be issued within a reasonable time after a claim is submitted;

- (f) The reason(s) for a decision should be clearly stated;
  - (g) Property should be returned or compensation paid promptly, especially for elderly claimants. It should not be done over a protracted period;
  - (h) Claimants should be able to lodge appeals against negative decisions with an independent appeals authority;
3. Current citizenship and residency requirements should not be used to prevent the restitution of, or compensation for, confiscated property.
  4. Where it has not been done, states should make every effort to return – and transfer the ownership rights for – confiscated Jewish communal and religious property to Jewish communities, organisations, or their successors, or they should provide fair compensation in lieu of restitution.
  5. Where appropriate, states should encourage the establishment of foundations (to be administered jointly by representatives of the local Jewish community and pertinent international Jewish groups) to assist in the preparation of restitution claims regarding communal and religious property and to manage such recovered property or related compensation.
  6. As part of the effort to restitute communal and religious property, when a property of historic value – such as a synagogue – is returned in disrepair or in an otherwise ruined condition (while in the government's possession), states should help either by modifying laws which impose penalties for not maintaining properties in a reasonable condition, or by providing financial and material assistance to undertake necessary repairs and restoration.
  7. In ways consistent with national legislation, states should modify privacy protection laws which interfere with access to documentation related to property ownership and personal records, such as birth, death and marriage certificates.
  8. Access to archives and documentation dealing with the Holocaust period should not be hindered for researchers and the public. States should encourage government institutions to provide easy access to their records in accordance with the guidelines of the International Council on Archives.
  9. While every effort should be made to return confiscated, immovable property to its rightful former owners, states should also safeguard the current occupants of such property.
10. The mass destruction perpetrated during the Holocaust put an end to centuries of Jewish life and included the decimation of thousands of Jewish communities in much of Europe. As a result the graves and cemeteries of generations of Jewish families and communities were left unattended. These cemeteries are sacred sites and governments should insure that they are demarcated, preserved and permanently protected from private development or other forms of desecration.  
  
The Nazi murder of European Jewry resulted in thousands of mass graves throughout Eastern Europe. Today many of them are still unmarked and exposed to the elements. They are targeted by grave robbers and defiled by wild animals. Governments and civil society should support efforts to see that all these places of martyrdom are identified and properly commemorated and that mass graves are protected and permanently sealed.
  11. States should establish a special standing committee which will do the following:
    - (a) Monitor and otherwise follow-up on the implementation of the final Terezín Declaration;
    - (b) Prepare and distribute periodic reports among participating states which summarise the relevant restitution-related activities that have been undertaken by governments subsequent to the Prague Conference;
    - (c) Convene another international conference, at an appropriate time following the Prague Conference, to review the progress made and difficulties confronted in implementing the commitments reflected in the Terezín Declaration;

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## Looted Art

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The Working Group on Looted Art recognises the progress that has been made in the research, identification, and restitution of cultural property by governmental and non-governmental institutions in some countries since the 1998 Washington Conference on Holocaust-Era Assets and the adoption of the Washington Principles on Nazi Confiscated Art. Nevertheless, it also affirms the urgent need to broaden, deepen, and sustain these efforts in order to ensure just and fair solutions regarding cultural property looted during the Holocaust era and its aftermath. We acknowledge that the plundering of cultural property was an integral part of the genocide perpetrated against

the Jewish people and of the persecution of others, and that it was a war crime and a crime against humanity.

The Working Group on Looted Art makes the following recommendations to the participating states:

1. Where they have not done so, institutions and states should be encouraged to undertake provenance research. Adequate funding for provenance research is needed, including grants to institutions and independent researchers. States should ensure the ongoing internet publication of provenance information, including full details of looted objects and those of unclear provenance.
2. Access to archives and documentation should be unhindered for all parties. States should encourage private institutions and individuals (e.g. auction houses, art-dealers, galleries and banks) to also provide access to their records. Funding should be given to private entities to support the accessibility of archives.
3. States should enact or modify restitution legislation to facilitate the identification and recovery of looted cultural assets by the original owners or their legal successors.
4. If states have not done so already and where consistent with national law, they should establish national claims procedures for fair and just solutions encompassing decisions on their merits, i.e. on a moral basis and not on technical defences such as the passage of time.

#### **Procedures should include:**

- The sharing of evidence by both the current possessor and the claimant;
  - The presumption of confiscation;
  - Relaxed standards of evidence for the original owner;
  - The burden of proof should not rest solely on the claimant; the present possessor also has to prove the rightfulness of his/her possession;
  - Claimants should not be burdened by financial requirements.
5. Export, citizenship, inheritance and cultural heritage laws should not be used to prevent the restitution of cultural property to claimants.
  6. States should support and encourage the establishment of public or private organisations which advise, support and assist claimants in provenance research, legal concerns, restitution and other matters.

7. States should actively support the establishment and operation of an international association of all provenance researchers. This association should encourage cooperation between researchers, the exchange of information, the setting of standards, and education.

8. Institutions should be encouraged to provide provenance information in all exhibitions or other public presentations that include looted cultural property.

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## **Judaica and Jewish Cultural Property**

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The Working Group on Judaica and Jewish Cultural Property (further referred to as the “Working Group”) recognises the progress that has been made in the research, identification and restitution of cultural property by governmental and non-governmental institutions in some countries since the 1998 Washington Conference on Holocaust-Era Assets and the adoption of the Washington Principles on Nazi Confiscated Art. Nevertheless, it also affirms the urgent need to broaden, deepen and sustain these efforts in order to ensure just and fair solutions regarding cultural property looted and displaced during the Holocaust era and as a result of the Holocaust.

The Working Group acknowledges that the plundering of cultural property was an integral part of the genocide perpetrated against the Jewish people and of the persecution of others, and that it was a war crime and a crime against humanity.

In developing a consensus on principles to assist in resolving issues relating to Nazi-confiscated works of art, works of applied art, Judaica, books, manuscripts, ephemera, and everyday items (further referred to as “objects in the above specified categories”), the Working Group recognises that there are differing legal systems depending on the nations they are located in and that countries act within the context of their own laws.

The subject matter of the recommendations is the identification and discovery of:

- Wrongfully appropriated objects for restitution to their former owners or their respective heirs;
- Objects that have been acquired without knowing their true provenance;
- Inherited holdings of unidentified provenance, including long-term loans and donations.

The Working Group acknowledges that during World War II and the years following the end of the War, much of the information needed to establish provenance and prove ownership was scattered or lost. Based on the Washington Principles, the Working Group recommends that the participating states:

1. Identify all objects in the above specified categories in state, public and private museums, archives and libraries which were issued/created before or during the period referred to above. The Working Group recommends that this should be done regardless of the monetary value of these items.
2. Reasonably consider gaps or ambiguities in provenance in view of the passage of time and the circumstances of the Holocaust era.
3. Make information on objects and their provenance available to potential rightful owners or their heirs.
4. Publicise, especially through the internet, objects in the above specified categories that are found to have been confiscated by the Nazis and not subsequently restituted in order to locate the pre-War owners or their heirs.
5. Take steps to achieve a just and fair solution if the pre-War owners of objects in the above specified categories (which are found to have been confiscated by the Nazis and not subsequently restituted) or their heirs can be identified, whilst recognising that this may vary according to the facts and circumstances surrounding a specific case.
6. Take steps to achieve an appropriate solution if the pre-War owners of objects in the above specified categories (which are found to have been confiscated by the Nazis) or their heirs cannot be identified.
7. Ensure the appropriate levels of funding needed for provenance research, including grants to institutions and independent researchers.
8. Acknowledging that access to certain kinds of movable communal property is in the public interest in the case of disputed ownership and with due regard to national legislation and without prejudice to the resolution of ownership claims, to circulate Judaica internationally with appropriate guarantees protecting it from judicial seizure.
9. Set no time limits for claims or for provenance research.
10. Actively support the establishment and operation of an international association of all provenance researchers and create a special section for provenance research on Judaica.
11. Encourage Jewish communities and organisations as well as private institutions and individuals (e.g. auction houses, dealers, galleries, collectors and banks) to provide access to their records.
12. Support efforts to identify and catalogue items which may be found in archives, libraries, museums and other depositories and to consider the international registration of Torah scrolls and other Judaica objects.