

**CLAIMS RESOLUTION TRIBUNAL**  
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**FIRST PERIODIC REPORT ON THE CRT-II PROCESS**

Introduction

This is the first report submitted by the Claims Resolution Tribunal ("CRT" or the "Tribunal") to the Swiss Federal Office of Justice pursuant to the Office's decision of 19 January 2001. The report covers the period from 5 February 2001 through the end of June 2002.

The Tribunal's current mandate is to process claims brought by Victims or Targets of Nazi persecution to Swiss bank accounts under the Settlement Agreement reached in the Holocaust Victim Assets Litigation in the United States District Court for the Eastern District of New York (Korman, C.J., presiding).<sup>1</sup> The lawsuits were settled in January 1999, when the banks agreed to create a US\$ 1.25 billion Settlement Fund.

Pursuant to a distribution plan proposed by Special Master Judah Gribetz and approved by the Court, the amount of US\$ 800 million was set aside to satisfy the bank claims.<sup>2</sup> As proposed

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<sup>1</sup>A "Victim or Target of Nazi Persecution" is defined in the Settlement Agreement as "any individual, corporation, partnership, sole proprietorship, unincorporated association, community, congregation, group, organization or other entity persecuted or targeted for persecution by the Nazi Regime because they were or were believed to be Jewish, Romani, Jehovah's Witness, homosexual, or physically or mentally disabled or handicapped."

<sup>2</sup>The Settlement Agreement defined following five Settlement Classes: Deposited Assets Class; Looted Assets Class; Slave Labor Class I; Slave Labor Class II; and the Refugee Class. Apart from the Deposited Assets Class, a claims program was set up for the two Slave Labor Classes and the Refugee Class. No claims program was created for the Looted Assets Class; instead, US\$ 100 million was allocated for social and humanitarian purposes.

by Special Master Gribetz, the CRT was designated as the organization responsible for processing the claims.<sup>3</sup>

### Background

The Tribunal was established in October 1997 in connection with the investigation of Swiss banks conducted by the Independent Committee of Eminent Persons ("ICEP"). The Tribunal's initial task, which became known as the "CRT-I process," was to adjudicate claims to accounts in Swiss banks that had lain dormant since the end of Second World War and that had been identified by Swiss banks or that would be identified in the course of the ICEP investigation. The purpose of the ICEP investigation was to conduct a forensic audit of Swiss banks (1) to identify accounts in Swiss banks of Victims of Nazi persecution that had been dormant since the Second World War or had otherwise not been made available to the Victims or their heirs; and (2) to assess the Swiss banks' treatment of the accounts of Victims of Nazi persecution.

The ICEP investigation was concluded in December 1999, when the Committee published its final report.<sup>4</sup> The Committee identified some 54,000 accounts that had a "probable or possible" relationship with Victims of Nazi persecution.<sup>5</sup> The Committee also made recommendations relating to (1) the creation of, and access to, a database of Victim accounts identified during the audit; (2) notice to potential claimants; (3) procedures for a claims resolution process; and (4) rules for valuing the accounts. The Committee recommended that the CRT be given the responsibility for processing claims by Victims of Nazi persecution or their heirs to accounts identified during the investigation.

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<sup>3</sup>The Settlement Agreement was subsequently amended to cover claims against two Swiss insurance carriers, Swiss Re and Swiss Life. Pursuant to the amendments, the CRT is also responsible for processing claims to insurance policies issued by the participating insurance carriers. The Settlement Fund and the insurance carriers were each responsible for up to US\$ 50 million to cover the amounts awarded on the policy claims.

<sup>4</sup>Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks, Independent Committee of Eminent Persons (December 1999), <http://www.icep-iaep.org>.

<sup>5</sup>The number of probable or possible Victim accounts was subsequently adjusted downwards to approximately 36,000. The Tribunal's "Account History Database" comprises these 36,000 accounts. See infra.

In accordance with the ICEP recommendations and pursuant to Special Master Gribetz's distribution plan, the Court by its Order of 22 November 2000 designated the CRT as the organization responsible for processing the deposited assets claims. A total of US\$ 800 million was allocated by the Court from the Settlement Fund to satisfy these "CRT-II" claims.

By Order of 8 December 2000, the Court appointed Messrs. Paul Volcker and Michael Bradfield as Special Masters to establish, organize and supervise the claims resolution process.

### Structure and Procedures

The CRT-II process inherited the institutional structure and personnel of the CRT-I process. The arbitrators who served in the CRT-I process continued to serve as Senior Claims Judges of the Tribunal under the CRT-II process. In addition, a number of senior staff of the Tribunal were appointed as Resident Claims Judges, with the authority to make determinations on the admissibility of the claims and to adjudicate claims to low-value accounts, i.e., accounts with an unadjusted book value of up to SFr 5,000.<sup>6</sup> The Tribunal, which has the status of an association under the Swiss law, has its own Secretariat and premises.

The Tribunal's procedures are defined in the Rules Governing the Claims Resolution Process (the "Rules"), which were proposed by Special Masters Volcker and Bradfield and approved by the Court. Under the Rules, the Tribunal has access to the data resources compiled during the ICEP investigation. These include both electronic and hard copy information about the accounts identified by the ICEP auditors as "probably or possibly" belonging to Holocaust Victims. The electronic data is consolidated into an Account History Database ("AHD"), which is maintained in the offices of the Tribunal. The Rules also foresee that the Tribunal will be given access to data relating to the approximately 4.1 million accounts that were open or opened during the relevant period and for which records still exist in Swiss banks. Electronic data relating to these accounts, as created by the audit firms during the ICEP investigation, may be consolidated into a Total Accounts Database.

Unlike the CRT-I process, which involved arbitration between individual claimants and banks, the CRT-II process is largely an administrative process. In the CRT-II process the banks are not parties, but may be requested by the Tribunal to provide voluntary assistance in the process. The procedures used to process the claims are similar to those employed by the ICEP auditors. Claims are matched through a computerized process against the data contained in the AHD. Computer-generated matches are reviewed to determine whether the claimed account owner is the same as the owner of the account according to the bank records collected by the ICEP auditors. If the Tribunal determines that there is an identity match and that the claimant is entitled to an award from the Settlement Fund, it certifies its decision through the Special Masters to the Court for its approval. Claimants whose claims are denied have the right to appeal the decision to a Senior Claims Judge.

Awards approved by the Court are paid out of the Settlement Fund, which is also used to cover the administrative expenses of the process.

### The Claims

A total of over 32,000 claims were filed with the Tribunal by the filing deadline 31 August 2001. Prior to the expiration of the deadline, the Court decided that the 560,000 Initial Questionnaires returned by potential claimants during the class action notification program should also be treated as timely deposited asset claims under the CRT-II program. The Court order contemplates that the Initial Questionnaires will be analyzed to identify those that can be processed as CRT-II claim forms.

In addition to the bank claims, approximately 800 insurance policy claims were filed with the CRT pursuant to the amended Settlement Agreement. A fair number of additional insurance claims are expected to be received by way of referral from the International Commission for Holocaust-Era Insurance Claims.

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<sup>6</sup> These rules were modified as part of the restructuring of the CRT-II process in May-June 2002. See below section "Status of Claims Processing."

### Status of Claims Processing

As noted above, the ICEP audit identified approximately 36,000 Swiss bank accounts as "probably or possibly" belonging to Holocaust Victims. To launch the CRT-II program, on 11 February 2001 the names of the owners of approximately 21,000 accounts of these accounts were published on the Internet and elsewhere, pursuant to an authorization of the Swiss Federal Banking Commission. The deadline for filing claims was initially set to expire on 11 August 2001, but was subsequently extended until 31 August 2001.<sup>7</sup>

The award process began on 5 November 2001, when the Court approved an initial group of 24 awards, covering 39 claims, certified by the Tribunal. The amount awarded by these 24 awards totaled US\$ 3,476,289.25.

In May and June 2002, certain modifications were made to the claims resolution process. These changes include the termination of the mandates of Senior and Resident Claims Judges and the corresponding delegation of claims resolution functions to the Secretariat staff.<sup>8</sup> The purpose of these changes is to simplify and expedite the process.

The Special Masters have indicated that the processing of the 32,000 claims filed with the CRT will be completed in two years, by the end of August 2003.

### Statistical Information

By 1 July 2002, the Tribunal has submitted 168 awards, covering 229 claims, to the Court for its approval. The total amount awarded stands at US\$ 19,139,622.31.

Further statistical information regarding the process as at 30 June 2002 is presented in the table below.

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<sup>7</sup> The filing deadline for insurance claims expired on 31 December 2001.

<sup>8</sup> Under the new Article 21 of the Rules ("Certification of Decisions by the Tribunal"), "Notwithstanding any provisions of these Rules, the CRT may certify draft claims decisions, prepared by Staff Attorneys, for approval by the Court. These decisions shall be in writing and shall contain the relevant facts and the reasons for the decision."

Total Number of Claims Filed	31,119
Total Number of Claims that Filed that Match the Accounts in the Account History Database	11,827
Total Number of Accounts that have Matching Claims	13,731
Number of Awards Certified by the CRT and Approved by the Court	168
Number of Claims Resolved	229
Total Amount Awarded (US\$)	19,139,622.31