

Lawmakers Angry Over Slow Track of 'Gold Train' Case Congress Members Appeal to Ashcroft Over Concern About Court Delays to Compensate Hungarian Jews

By Jonathan E. Kaplan - The Hill

Nov. 12, 2003

Several lawmakers have voiced concerns that the Justice Department's (DoJ) legal tactics in a lawsuit over Hungarian Jews' World War II-era valuables are delaying justice and sending a hypocritical message to nations that have compensated Holocaust survivors.

If a settlement were reached, it would mark the first time the United States has compensated Holocaust survivors.

"At the same time the U.S. has urged the rest of the world to cooperate with and provide restitution to Holocaust victims, I am troubled by the judge's warning in this case to the government about 'dragging its feet,'" Sen. Carl Levin (D-Mich.) wrote Nov. 3 to Attorney General John Ashcroft about the two-and-a-half-year-old lawsuit.

Rep. Jan Schakowsky (D-Ill.) wrote Ashcroft Nov. 7, "It is unconscionable that . [the United States] may be refusing to operate in a manner consistent with that which it has demanded from the international community."

Democratic Reps. Adam Schiff (Calif.), Jerrold Nadler (N.Y.), Robert Wexler (Fla.), Howard Berman (Calif.) and Anthony Weiner (N.Y.) also wrote Ashcroft last month about the issue.

The lawsuits stem from near the end of World War II, when Nazi forces ordered a train carrying the valuables of Hungarian Jews out of Hungary to escape the advancing Soviet army.

In May 1945, the U.S. Army captured the so-called "Gold Train" in Austria and shipped its contents, worth between \$50 million and \$120 million at the time, to Salzburg.

Under agreements worked out among the Allied powers, the U.S. government's policy was to return such non-monetary gold assets to the country of origin.

But according to official documents compiled by the attorneys representing Hungarian Jews and their descendants in a class-action lawsuit, U.S. Army officials looted rugs, silverware, gold and silver, jewelry, watches, money, art and diamonds - and used some of them to furnish their households in Austria.

Last week, U.S. District Court Judge Patricia Seitz allowed the plaintiffs to file an updated complaint based on new evidence culled from more government records discovered earlier this year.

Seitz has expressed concern about the slow pace of litigation. She told DoJ lead attorney Caroline Wolverton earlier this year, "Your superiors are dragging their feet."

Mark Talisman, a consultant for the plaintiffs, said: "It's mystifying that our government [has] asked other governments to behave and then we come along and do this. "

He added that Hungarian Jews were one of the last communities to go to Auschwitz "so there are a lot more living, but they are dying at a rapid rate."

In the late 1990s, the Clinton administration, led by Stuart Eizenstat, who held high-ranking positions at Commerce, State and Treasury, applied political pressure on the Swiss government and foreign companies that profited from the Holocaust to promptly settle compensation claims with survivors.

"[The United States has] an excellent record. Having led the charge . we cannot be seen to do less. It's one thing to give a legal argument; it is another thing to ignore the basic claim," Eizenstat said.

The plaintiffs have alleged that the U.S. Army mishandled and looted 29 boxcars of valuable goods.

The policy was to return cultural artifacts to their owners regardless of whether they were an enemy, a military ally or neutral. In fact, the pre-communist Hungarian government asked that the property be returned.

Documents provided by the plaintiffs' attorneys show that the United States had promised to return the property to the Hungarian government under the Paris Reparations Agreement's Article 8, which determined what type of goods would be returned.

A telegram from Secretary of State Dean Acheson sent March 21, 1947, said the assets aboard "the Hungarian Gold Train" fit that definition.

As defined, the Army was supposed to inventory the train's contents. However, the plaintiffs allege that the Army never complied.

Jonathan Petropoulos, the former research director for art and cultural property for the Presidential Commission on Holocaust Assets, wrote in an affidavit that "the military

misappropriated some of the property with certain high level officials taking valuable . items for their own personal use. The military also sold other Jewish property through the Army Exchange in Salzburg."

A postwar document issued by the U.S. forces in Austria shows that the military had planned to use the goods in "family billets" on the understanding that the goods would be returned for "future restitution."

An Army general, William McMahon, scribbled on the document: "There is evidence this belongs to Hungarian Jews. It will not be used. Must be carefully protected."

A DoJ spokesman declined to comment on ongoing litigation, but he stood by a letter sent to Sen. Rick Santorum (R-Pa.).

Peter Keisler, an assistant attorney general in the DoJ's civil division, wrote Santorum on Sept. 17 that "[DoJ] is committed to working with the plaintiffs on these sensitive matters in order to reach a full and fair resolution of their claims."

Eizenstat said that the United States should set up a commission to investigate what happened to the assets and that Congress should consider a payment to the Hungarian Jewish community to recognize what he called the U.S. government's mishandling of the issue.

He said, "We should be prepared to act as part of a moral, not legal, obligation."