Regina

Fighting for Justice

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## Dutch Jews, their life insurance policies and the Second World War


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*Regina Grüter*



This is a translation of the greater part of *Strijd om gerechtigheid. Joodse verzekeringstegoeden en de Tweede Wereldoorlog*, Boom, Amsterdam, 2015 (ISBN 979089536686 NUR 680)

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# Introduction

On the fiftieth anniversary of the liberation of Auschwitz, in 1995, the World Jewish Congress (WJC) appealed for an investigation into the property, cash and assets that had been taken from Holocaust victims and not returned to survivors or their heirs after the Second World War. The following year was like the proverbial calm before the storm. But when the silence broke, the issue mushroomed into an intense international debate. Then, a forceful campaign was mounted to hold European financial institutions accountable. Swiss banks were the first to face demands for clarification of their wartime policies and information on dormant bank assets that had not been paid to their owners. European insurance companies were the next to come under fire. The discussion spread by way of Israel to European countries, including the Netherlands. It took some time for the Dutch Jewish community and Dutch politicians, financial institutions and journalists to grasp the full magnitude of the scandal. As emotions ran high in the Jewish community, others grew increasingly uncomfortable with the situation.

In late 1996, the Dutch insurance company Aegon received its first claim on two unpaid policies from a man living in Tel Aviv, the son of a Jewish policyholder who had been killed during the war. More claims followed in 1997, targeting Aegon and other insurance companies. In the meantime, Dutch insurers were watching developments in the United States with consternation. Three insurers (Aegon, ING and Fortis) had commercial interests there and faced new legislation in California, New York and Florida requiring insurance firms to inform state officials how they had dealt with the policies held by Jews persecuted during the war. Insurers that did not comply risked losing their license to do business in these states. There was action at the federal level, too. Congress heard testimony from Holocaust survivors and set up investigative committees. The legislature took measures aimed at forcing European banks and insurers to refund dormant bank accounts and unpaid insurance assets. U.S. lawyers sued these financial institutions by means of a type of lawsuit seldom seen in Europe: class actions. In the late 1990s, numerous class action suits were filed in the United States, claiming sums in the billions of dollars.

In the latter half of 1998, the WJC and U.S. federal insurance commissioners created the International Commission for Holocaust-Era Insurance Claims (ICHEIC). It came to be known as the Eagleburger Commission, after its chairman, former Secretary of State Lawrence Eagleburger. Its purpose was to establish an international procedure for processing unpaid insurance policies held by victims of the Nazis. European insurance companies were expected to join the Eagleburger Commission, and participating insurers were required to contribute substantial amounts to finance its costly work and to pay into funds from which claimants could receive benefits. However, the

divergent interests of the participating parties hampered the commission's effectiveness and their internal conflicts frequently found their way into the news headlines.

The WJC widely propagated the idea that Jews who had survived the Third Reich had been systematically deprived of their rightful possessions and financial assets. Relying on its good contacts with politicians, lawyers and journalists, the WJC remained the principal advocate of the scandal for several years. This did not go down well in the Netherlands, where the insurance companies and Jewish community representatives alike regarded the WJC's approach as needlessly blunt and counterproductive. The WJC's appeal for a boycott of Aegon, in 1999, was a low point in relations between the World Jewish Congress and Dutch Jewish community leaders. It was also a deeply worrying move in the eyes of the Dutch government and insurance companies.

The Restitution Movement in the USA and the discussion it unleashed the world over generated a rash of activity in the Netherlands. Dutch Finance Minister Gerrit Zalm created several commissions of inquiry and tasked them with investigating how legal redress and restitution had been executed in the Netherlands after the war. He assigned an inquiry into insurance-related matters to the *Begeleidingscommissie Onderzoek Financiële Tegoeden WO-II in Nederland* [Supervisory Committee on the Investigation of Financial Assets from WWII in the Netherlands].[1] The life insurance companies and the Dutch Association of Insurers (frequently referred to simply as 'the Association' in this book) also took action. First and foremost, they needed to ascertain what the insurance companies had done with policies during the Second World War and how they had reacted to the disenfranchisement and plunder of their Jewish clients. Had their predecessors complied with the Nazi occupiers' demands and surrendered so-called 'Jewish policies'? An even more pertinent question was whether they had returned the stolen insurance assets after the liberation or instead pocketed the money that rightly belonged to persecuted and murdered Jews. Only with these facts could the Association respond fairly to claims and enquiries regarding potential unpaid insurance policies and resolve the issue in the USA. Such knowledge would also enable the Association to parry the accusations in the media that it saw as damaging to the insurance industry's reputation.

From 1998 onwards, the Association and the *Centraal Joods Overleg* (CJO) [Dutch Central Board of Jewish organizations in the Netherlands] gradually arrived at the conclusion that after the war, large scale legal redress had indeed taken place. However, they did discover shortcomings in that complicated and prolonged process. As 1999 drew to a close, they agreed to the settlement of

[1] In the late 1990s, the Dutch government installed several commissions of inquiry named after their chairpeople: Van Kemenade, Scholten, Kordes and Ekkart. Their task was to look into the postwar restitution of belongings, properties, assets and art robbed from Jews.

unpaid insurance policies, for which a total of NLG 50 million was made available to the Jewish community. Part of this arrangement was the creation of an independent foundation which was to investigate individual claims and information requests regarding unpaid insurance assets and benefits. This foundation was called *Stichting Individuele Verzekeringsaanspraken Sjoa* (SIVS) [Holocaust Foundation for Individual Insurance Claims]. Unfortunately for the Dutch insurers and the CJO, however, the WJC and other American parties refused to acknowledge their agreement. A difficult process ensued in which the Association joined the Eagleburger Commission as a representative of the Dutch life insurers. Both the CJO and the Dutch Ministry of Foreign Affairs, which appointed a special envoy for Holocaust Affairs, supported the insurers. The foreign affairs and finance ministries felt at this point that not only economic interests were at stake, but also the credibility and diplomatic interests of the Dutch State.

In 2012, thirteen years after the agreement was concluded, the Association's board decided that the history of the looted insurance assets, the course of legal redress and the restitution of unpaid policies should be recorded by an independent historian. The board felt that the accumulated knowledge should be preserved for the day when insurance employees familiar with the insurance assets issue would no longer be available for consultation. The facts collected — on the robbery of Jewish assets, postwar legal redress, the later revaluation of that legal redress, and the Holocaust restitution movement in the USA — are all part of history, and not only the history of World War Two but that of the Dutch life insurance industry, too. In 2012, the Association commissioned the NIOD Institute for War, Holocaust and Genocide Studies to record this history and asked me to conduct the study. As an independent researcher, I had investigated the legal redress of life insurance policies for the Scholten Commission in 1998-1999 and written that commission's report on the restitution of Jewish insurance policies.[2] In that turbulent period, I had followed the intense discussions in the Dutch and American press from the sidelines. I had heard about developments in the Dutch insurance industry and government and their negotiations with the American stakeholders, but I was not familiar with all the facts. The opportunity to do this research meant I could satisfy my personal curiosity on a subject I had remained interested in ever since completing my report for the Scholten Commission so many years earlier.

The result is a book that can be divided into three parts, the first two of which relate to the disenfranchisement of Jewish policyholders in the Netherlands and the process of legal redress after

[2] R. Grüter, 'Levensverzekeringen, lijfrenten, pensioenen en uitvaartverzekeringen'. Part I of the Scholten Commission's final report (*Eindrapport van de Begeleidingscommissie onderzoek financiële tegoeden WO-II in Nederland* (Leiden 1999)). From here on, I refer to this as the 'Insurance Report'.

the liberation. These subjects are partly legal and financial, which makes them rather dense reading, but they are indispensable to understanding the developments presented in Part III.

Part I of this book describes how the disenfranchisement and theft of insurance assets took place during World War II, and how this affected Jewish policyholders. The Nazi decrees demanding the registration and surrender of insurance policies held by Jewish policyholders were part of the National Socialists' master plan to destroy European Jewry. The Nazi authorities in the Netherlands used salami tactics by subsequently ordering registration of the Jewish population, isolating them and thus excluding them from society. A fundamental tool for the genocide of the Jews was the deprivation of their individual and collective legal rights. Their jobs, possessions and every means of participating in society were successively taken from them. With regard to insurance, the occupier systematically denied the Jews all provisions they had made to deal with future risks, or "arrangements to minimalize the consequences of risks that threaten the existence and limit damage, in general, and that of health, life cycle and economy in particular," as insurance was defined by historians of the insurance industry in the Netherlands.[3] In common parlance, I am referring here to life insurance policies, their current or future benefits in the form of annuities, and funeral insurance.[4]

The decrees to achieve this social and material disenfranchisement had the power of law in the new order. The deprivation of the Jews' rights included the confiscation of all cash, savings balances, claims and accrued entitlements to future benefits. As legal historian W.J. Veraart points out, the National Socialists' goal was not merely robbery or deprivation, but taking away their very right to exist. He describes the phenomenon of disenfranchisement as "a complex set of measures aimed at excluding specific categories of people from the legal relations between citizens by taking their rights away from them."[5] Words such as 'robbery' and 'looting' are not entirely correct because the legal possession of a robbed object always remains with the robbed person, while the anti-Jewish measures specified otherwise. These measures stripped the Jews of their legal right to own property

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[3] J. van Gerwen en M.H.D. van Leeuwen (red), *Studies over zekerheidsarrangementen*, published by the Nederlands Economisch Archief (NEHA) and the Association of Insurers (Amsterdam/Den Haag 1998): introduction, quotation: p. 14.

[4] A life insurance policy is an agreement between an insurance company and a policyholder whereby the company – in return for premiums or a lump sum – makes a monetary payment when the insured party dies or reaches a certain age. Depending upon the details of the agreement, the insured amount is paid out in a lump sum or on a regular basis for a particular period: a (life) annuity insurance. Funeral insurance was normally an in-kind policy that covered funerals in accordance with the policy terms.

[5] W.J. Veraart, *Ontrechting en rechtsherstel in Nederland en Frankrijk in de jaren van bezetting en wederopbouw* (Rotterdam 2005), p. 29.

and prior to the physical removal of their possessions and assets. The term 'expropriation' also fails to describe the legal arrangement reached, because expropriation by definition includes some means of compensation.[6] Still, I will continue to use the terms 'robbery', 'theft' and 'looting' in addition to disenfranchisement. My reasons for doing so are not just practical, but historical too, for the words 'robbery' or 'theft' also appear in archive documents from the period under study. Contemporaries also used this terminology in the postwar period of legal redress.

In Part I of this work, I begin by focusing on the organization of the Dutch insurance industry and reconstructing how the Jewish population was insured. I then discuss the anti-Jewish measures gradually introduced by the occupier and the means by which the Nazis stripped Jewish policyholders of their the policies and benefits. I mainly focus on those policies that had to be surrendered to the *Liro* — the Lippmann, Rosenthal & Co bank situated on Amsterdam's Sarphatistraat — which the German authorities in the Netherlands had specially created for the purpose of taking possession of all Jewish assets. However, I also explore other types of insurance that Jews purchased by means of membership in associations and foundations. In conclusion, I address the key question surrounding the degree to which insurers cooperated with and opposed the anti-Jewish measures.

Part II deals with the immediate post-liberation period, looking at the manner in which the disenfranchisement was undone and the process by which legal redress and restitution were executed. This process was the result of a set of laws prepared by the Dutch government-in-exile prior to the liberation. It was a laborious, troublesome and very bureaucratic process. Legal acts E 100 and E 93, established by the Dutch government-in-exile, provided for the establishment of the Council for Legal Redress, which had judicial powers, and declared the measures executed by the occupier null and void. However, the acts made no provisions for the restoration of insurance contracts, so such restoration could only follow the case law set by rulings of the Council for Legal Redress. Part II therefore deals with the decimated Jewish community's situation in the postwar period, the avenues open to it for (legal) redress, and the precarious financial position that insurance companies found themselves in. It goes on to describe how legal redress for survivors was achieved through jurisprudence and the arrangements made to achieve provisional or final restoration of policies that were no longer claimed, usually because there were no surviving policyholders, beneficiaries or heirs. The following section deals with the redress of insurance policies purchased through funeral foundations and associations, which is a different story altogether. Part II concludes with an evaluation of the postwar redress of insurance policies and a comparison with the legal redress of financial assets in the banking and securities industries.

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[6] Ibidem, pp. 28-32 and 48-49.

Part III traces the heated exchanges that took place five decades after the war's end and approximately four decades after completion of legal redress in the Netherlands. As a consequence of this discussion, the restitution process in the Netherlands underwent a revaluation in accordance with the standards that applied around the year 2000. I explore the phase Dutch insurers entered as of 1997, when the issue of 'Jewish assets' reached Europe by way of the United States and Israel. It was in this period that the Netherlands and other countries created commissions of inquiry to explore how the theft and postwar legal redress had occurred. Pressure from the Jewish community, the media and politics were decisive in spurring the government to act and in forcing financial institutions to provide clarity. How did the insurers deal with this pressure, and more importantly, with the claims and enquiries from Jewish survivors and surviving dependents who came forward at this time? And how was it possible that two parties with apparently opposing interests (the Association and the CJO) united as consultative partners and ultimately reached an agreement on how to resolve unpaid insurance policy claims? What stance did the Ministry of Finance take towards the insurers?

The first two parts of this study are based on the research conducted for the Scholten Commission, which is documented in the December 1999 report '*Levensverzekeringen, lijfrenten, pensioenen en uitvaatrverzekeringen'*. In this monograph, I place disenfranchisement and legal redress in a broader context including individual human perspectives. The original research for the Scholten Commission paid scant attention to this aspect of the problem, and understandably so given the nature of the discussion and the urgent questions that needed to be answered at that time. In this work, I have included some edited excerpts from my earlier writings as the author of the Scholten Commission report and several articles in *Het Verzekerings-Archief*, a scholarly journal focusing on the insurance industry. In order to place the legal redress of insurance in a broader context, I have also used the findings and conclusions of the Van Kemenade Commission, whose report was made public shortly after that of the Scholten Commission.[7] Furthermore, I cite scholarly and lay literature published during and after the period of debate and public inquiry (1997-2000).

I relied mainly on primary sources for Part III. The Association's archives, which I was given unrestricted access to, proved extremely useful. These archives document the Association's actions with respect to 'Jewish assets', its strategy, its handling of claims and enquiries, and its negotiations

[7] *Eindrapport van de Contactgroep Tegoeden WO II (*Commissie Van Kemenade), in particular Appendix 2: P.W. Klein, *Het rechtsherstel gewogen. Vragen met en zonder antwoord* (Amsterdam 2000).

with the CJO and communications with the government. They also contain an extensive file concerning the issue in the USA. As the Association archives also hold documentation on the reactions of the three insurance companies active in the United States, I did not consult these companies' own archives. I was also given access to the archives of the SIVS on the proviso that privacy-sensitive information be treated with discretion and that data to be published could be inspected beforehand. In addition, I was granted access to the archives of the then CJO secretary Joop Sanders. The Ministry of Finance granted access to some of the records kept by the *Projectgroep Tegoeden WOII* (PTG) [Project Group on WWII Assets], which dealt with the assets issue between 1997 and 2001. The restrictions on the use of this information are related to the privacy of living persons and political documents regarding the minister of finance, the cabinet and the interdepartmental Ministerial Ad Hoc Commission, which was specifically created for considerations and decisions at interdepartmental and ministerial level. The archives of the Association and the Ministry of Finance also contain information about activities of the Ministry of Foreign Affairs, which became directly involved in the insurance issue as of the fall of 1999. The collection of press clippings kept by the Association were instrumental in tracing developments in the media, both with respect to the Holocaust restitution movement in the USA and the assets discussion in the Netherlands.

Secondary sources that I used are scholarly and lay publications in the United States about legal redress in Europe and the Holocaust restitution movement. However, most of these were written by American legal experts, lawyers and (political) figures who played a role in the issue, such as Stuart E. Eizenstat, the diplomat who served as President Clinton's deputy treasury secretary from 1999-2001. The international scholarly and journalistic literature on European legal redress contains hardly any information about the legal redress involving Dutch insurance companies.[8] For this reason, I have chosen to use these sources mainly for background information about the Holocaust restitution movement and the Eagleburger Commission. In general, the archives I consulted were highly complex and abundant, which required me to make tough choices. The guiding principle was

[8] In particular: M.J. Bazlyer, *Holocaust Justice. The battle for Restitution in America's Courts*( New York 2003); M.R. Marrus, *Some measure of Justice. The Holocaust Era Restitution Campaign of the 1990s* (Wisconsin 2009); M. Bazyler, R.P. Alford (eds) *Holocaust Restitution. Perspectives on the Litigation and Its Legacy* (New York 2006); S.E. Eizenstat, *Imperfect justice: looted assets, slave labor and the unfinished business of World War II* (New York 2003). Also: Richard Z. Chesnoff, *Pack of Thieves. How Hitler and Europe plundered the Jews and committed the greatest Theft in History* (New York 1999), chapter on the Netherlands : 'Loot thy neighbor', pp. 80-110; A. Beker (ed), *The Plunder of Jewish Property during the Holocaust. Confronting European History* (Palgrave 2001) with contributions from Sidney Zabludoff and Gerard Aalders; Martin C. Dean, *Robbery and Restitution. The Conflict over Jewish Property in Europe*, (New York 2007); M. Gerstenfeld, *Judging the Netherlands: The Renewed Restitution Process* 1997-2000 (Jerusalem 2011).

my focus on the history of the legal redress with respect to insurance in the Netherlands and the international discussion's impact on the Dutch situation.

I deal with legal redress in other fields of finance, such as banking and stocks, only insofar as these touched upon the insurance industry. For the issue of looted art, there is hardly any direct connection, so I left this subject virtually untouched. Likewise, I do not discuss in detail the financial gesture made to the Jewish community in 2000 by the government, insurers, banks and the stock exchange, or the decision-making process which led up to this gesture and payments resulting from it. An aspect of my topic which I only briefly touch upon is the course of the discussion in the Jewish community as reflected in the media, and particularly the fact that some were opposed to reopening the painful wounds of postwar legal redress.[9] The same limitation applies to the discussion in the USA, where a minority including Raul Hilberg and Norman Finkelstein also expressed their opposition to the restitution campaign.[10] I deal with this discussion only where it sheds light on the debates and policymaking of relevant parties in the Netherlands.

In the Epilogue, I summarize how the Dutch insurers responded to the pressure to join the Eagleburger Commission, and I describe the activities of the SIVS, which was jointly founded by the CJO and the Dutch Association of Insurers in November 1999. Although the SIVS initially intended to finalize its activities in January 2010, it is still continuing its efforts. That is what it is all about: offering survivors and surviving dependents of insurees, beneficiaries or their heirs the opportunity to claim what they were legally and morally entitled to. They can submit their claims to the SIVS until 2025.

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[9] For example, see interviews with Henriëtte Boas, (*Volkskrant*, 17-12-1997 and *Trouw*, 25-5-1999) and Judith Belinfante, former director of the Jewish Historical Museum and then member of Parliament, who denounced the victimization and the 'misery money' in the negotiations with the government, banks and stock exchange (interview in *Vrij Nederland*, 22-4-2000).

[10] Marrus, *Some Measures of Justice*, p. 7; Bazyler, *Holocaust Justice*, pp. 286-301; Norman Finkelstein, *The Holocaust Industry: Reflection on the Exploitation of Jewish Suffering*, (New York 2000) and Bas Blokker: interview with Finkelstein*, NRC Handelsblad*, 5-8-2000; Gabriel Schoenfeld, in *Commentary*, June 1998 and September 2000; Charles Krauthammer*, Los Angeles Times*, 11-12-1998.

### *About the English translation*

The English translation consists of the greater part of the Dutch monograph. Parts I and II were translated as a whole. The content of Part III was abridged: the chapters in the original monograph addressing SIVS, details of the work of the Eagleburger Commission, and the activities of insurance commissioners in the USA are summarized in the Epilogue.

I would like to thank the Dutch Association of Insurers and the Holocaust Foundation for Individual Insurance Claims for taking the initiative of having the lion's share of my book, *Strijd om Gerechtigheid. Joodse verzekeringstegoeden en de Tweede Wereldoorlog*, translated and made available in English online. The text was translated by Wim Pols and Robert Chesal. The latter also edited the entire English version of the manuscript. Miranda de Groene prepared the English text for publication online. I am very grateful for their efforts and for all the support I have received from Willem Terwisscha van Scheltinga and Henk van der Well.

# Part I Disenfranchisement and the Expropriation of Insurance Assets

## Chapter 1
## The Writing on the Wall

In the archives of the NIOD Institute for War, Holocaust and Genocide Studies, there lies a chilling file containing the correspondence between the Nazi-founded Dutch Liro bank and an insurance company, de *Hollandsche Algemeene Verzekerings-Bank*, [HAV Bank]. In the second half of 1942, this insurance company was entangled in a dispute with Liro about what should be done with a number of Jewish-owned policies of small value. They were funeral insurance policies, and Liro laid claim to the premiums paid for these policies. HAV Bank refused to surrender the premiums, as the policy conditions forbade this and because the beneficiaries could still claim their rights in the future. The insurer argued that the Liro did not have the right to take away insurance policies. Liro, however, thought it was entitled to them:

> Liro:
> "As we already wrote you on 20 October 1942, it concerns persons who have travelled abroad and with whom all contact has been lost, and therefore it isn't possible to check whether they are still alive or have died. The values inherent in the paid-up policies would then be kept with you for an indefinite period of time."
>
> HAV Bank:
> "Even if, as you write, all contact with these persons has been lost, surely it is not impossible that contact will at some point be restored? In the event of death, the paid-up value will be paid out. In any event, we have been informed that you have taken the rights of these persons. Those rights, in this case, do not extend beyond requesting a paid-up policy, in accordance with the policy conditions."
>
> Liro:
> "In reference to your letter of 7 January 1943 regarding the above subject, our response is as follows.
> By means of our permanent contacts with the relevant authorities we are aware that Jews deported by the government have been entirely removed from the social system and nothing will be heard from them in the future. This implies automatically that there are no obstacles to our rights, also with respect to your administration, whereas, if no contrary measures

were taken, the insurance policies they have left behind would continue to exist without interruption.

You will surely see that the situation of the aforementioned Jews both socially and with respect to your administration is tantamount to a situation which arises when a policy terminates due to the death of the insured, which implies that a manner will have to be found to pay out the insurance policies concerned.

We therefore invite you to pay out the reserve that was created for the envisaged policies to us with deduction of a fair compensation for your risk. We keenly await your proposed resolution without delay.

Yours faithfully,

Lippmann, Rosenthal & Co. Sarphatistraat."[11]

These cold, bureaucratic letters show the true face of the Liro bank. They are a rare record of the disenfranchisement and theft of Jewish policyholders' insurance policies, contracts they had signed to prepare for risks they might face in the future. The letters raise many questions, not in the least because they are exceptional in the archives consulted for this research. In them, Liro let down its facade of a proper financial institution, revealing the assumption of its high-ranking officials, who were Nazi sympathizers, that the policyholders would never return. At the time of this correspondence, tens of thousands of Jews had already been deported from the Netherlands and murdered. Many had surrendered their policies to Liro and the insurance companies were also obliged to report their Jewish clients' policies to the same bank. To grasp how this mass robbery could take place, we must begin by looking at the situation at the start of the German occupation. How was the life insurance industry organized? How were the Jews, in general, insured? And how were they confronted with the anti-Jewish measures?

## The insurance industry during the German occupation

From the moment they came to power, the occupation authorities tried to gain control of all parts of Dutch society that were important to the Third Reich, which naturally included the economy. An important means to achieve this was the creation of the *Zelfstandige Organisatie ter Ontwikkeling van het Bedrijfsleven* [Independent Organization for Development of Trade and Industry], usually

[11] Correspondence in NIOD, Doc II, 249-0418, inv.nr. L-4.

referred to as the Woltersom Organization, whose aim was to interweave the Dutch and German economies. This organization was based on the example set by Germany, which restructured its economy in the 1930s by sectioning all of its economic activity into six clusters under the Reich. Thus, between 1940 and 1942, the occupier created a new economic structure in the Netherlands with six newly-formed clusters, or Groups: insurance, banking, trade, traffic, crafts and industry. These Groups replaced previously existing organizations that had represented the different industries; from then on, they were to exclusively represent the interests of their lines of business. In practice, however, the boards and sometimes even the secretariats of the discontinued organizations reappeared in the new structure of the Woltersom Organization.[12] This was the case in the *Nederlandse Vereniging ter Bevordering van het Levensverzekeringswezen* (NVBL) [Dutch Association for the Promotion of the Life Insurance Industry]. When the occupation began, nearly all life insurance companies in the Netherlands were members of the NVBL. As part of the economic restructuring, the NVBL was replaced in October 1941 by the *Bedrijfsgroep Levensverzekering* [Life Insurers' Group], which was part of the overarching Insurance group, or cluster.[13] Because of its key role in the events described here, I will refer to this subcluster for life insurance companies the 'Bedrijfsgroep' from now on. The Bedrijfsgroep had four divisions, for life insurance, industrial insurance, savings funds and funeral funds. All companies active in these lines of business were required to become members.[14] The Bedrijfsgroep board was composed largely of former NVBL board members, who were said to be 'trusted patriots'.

Another relevant agency was the *Verzekeringskamer* [Supervisory Board for Insurance Companies], which monitored the companies' solvency. I will refer to this organization by its Dutch name as well. The Verzekeringskamer fell under the Ministry of Justice and its powers and duties were laid down in the 1922 Life Insurance Business Act. However, at the end of 1941, the *Generalkommissar für Finanz und Wirtschaft* [General Commissioner for Finance and Industry] H. Fischböck moved the Verzekeringskamer from the Justice Ministry to the newly created Department of Special Economic Affairs, whose secretary general was M.M. Rost van Tonningen, a prominent member of the Dutch National Socialist Party (NSB).[15] This move weakened the Verzekeringskamer's

[12] See L. de Jong, Het koninkrijk der Nederlanden in de Tweede Wereldoorlog, part 7, pp. 19-29; M. van Tielhof, Banken in bezettingstijd (Amsterdam 2003), pp. 29-30; G. Hirschfeld, Bezetting en collaboratie: Nederland tijdens de oorlogsjaren 1940-1945 (Haarlem 1991), pp. 185-199.
[13] The Bedrijfsgroep existed until 1950, when the NVBL was reinstated. In 1978 the NVBL and the Dutch Union of General Insurances were subsumed in the Dutch Association of Insurers.
[14] B.P.A. Gales, Het Verbond van Verzekeraars in Nederland 1978-1988. Een geschiedenis van vrijheid in gebondenheid van het Nederlandse Verzekeringswezen, Den Haag (1988), pp. 21-23.
[15] Decree 218/1941 regarding the insurance industry, 5-12-1941

ability to influence the occupying authorities. No longer was there a direct line of communication with the Secretary General of Justice. Now, the manager of the insurance department in the Department of Special Economic Affairs, C.A. Piek, became the liaison and a member of the Verzekeringskamer.[16]

In another measure intended to straightjacket the insurance industry once and for all, Rost van Tonningen created a new agency, the *Verzekeringsraad* [Insurance Council], whose task was to advise him on "the basics of business technicalities, economic and organizational matters in the field of insurance." These tasks traditionally fell to the Verzekeringskamer, which therefore protested when the creation of the Insurance Council was announced in August 1942. However, Rost van Tonningen went ahead and formally installed the council on 5 January 1943. About half of its members were Nazi sympathizers or NSB members. Nevertheless, the council had difficulties getting started and ultimately petered out, much to the satisfaction of the Verzekeringskamer.[17]

A postwar report penned by J. van Bruggen, chairman of the Verzekeringskamer between 1943 and 1954, explained the policy his agency had followed under the new order. The insurance companies were expected to ensure the accurate and complete implementation of the Life Insurance Business Act of 1922. The role of the Verzekeringskamer, Van Bruggen wrote, "was, and is, first and foremost protection of the interests of the insured, and this protection requires that the companies were able to continue their activities undisturbed and undiminished to the greatest possible extent." He described how the Verzekeringskamer had defended the interests of the industry or certain companies during the occupation. This occurred, for instance, when the general managers of an insurance company had been taken hostage, when the occupying authorities demanded that companies relinquish their offices to the *Wehrmacht*, and when they ordered insurance personnel to join the *Arbeitseinsatz* to do forced labor in Germany. The Verzekeringskamer also had to deal with the occupier's demands regarding the Nazi *Winterhulp Nederland* charity program, and refused to take part in the propaganda campaigns run by this Nazi-run agency. In two instances, the Verzekeringskamer threatened to step down in order to prevent an intervention.[18]

The Verzekeringskamer felt it had a duty to represent the interests of the companies and their policyholders. But did they feel the same obligation with respect to Jewish policyholders? After all, the Jews were set apart by the authorities and subject to specific discriminatory measures. The Verzekeringskamer Memorial Book states the following on this question: "In view of the principal

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[16] *Gedenkboek Verzekeringskamer 1923-1948* (Den Haag 1948) p. 110.
[17] *Gedenkboek Verzekeringskamer* pp. 153-157 and G.R. Boshuizen, *Toezicht of toekijken. De verzekeringskamer 75 jaar,* pp. 57-58.
[18] *Gedenkboek Verzekeringskamer*, pp. 110, 112-113.

illegitimacy of the complex set of arrangements, which are in flagrant conflict with the Regulations concerning the Laws and Customs of War on Land, we held the opinion that we should do everything in our power to prevent or alleviate their application."[19] The Verzekeringskamer regularly consulted with the "competent authorities" and the Bedrijfsgroep about the execution of regulations. In terms of general principles, every insurance company was individually responsible for deciding how far it would go in opposing the occupier's measures. The Verzekeringskamer gave the general interest of all policyholders priority over the specific interests of a small group. The reason for this was that all policyholders insured by a given company would suffer if, due to obstruction, a manager appointed by the occupier (*Verwalter*) were appointed. Therefore, the Verzekeringskamer did not impose on the companies any requirement in principle to defend the interests of insured Jews. After the registration of Jews' insurance policies was mandated by the second Liro decree, the Bedrijfsgroep and the Verzekeringskamer agreed to a common approach. They foresaw that the regulation would lead to more policy seizures and decided that the registration of policies "should be opposed and sabotaged vigorously." They agreed that this should be communicated to the insurance companies *in secret* and that those policies known to Liro as 'Jewish' should be reported "at the slowest possible pace."[20] Later we will see that in early 1941, the Verzekeringskamer opposed the separation of one small insurance company's Jewish and non-Jewish policyholders and even approached the Secretary General of Justice about the matter — the official to whom the Verzekeringskamer still reported at that time. When that failed, the Verzekeringskamer refused to have any involvement in the transfer of non-Jewish insurance policies to another insurance company.

While the Verzekeringskamer mainly consulted with the German authorities, the Bedrijfsgroep communicated with Liro, and forwarded the bank's demands to the insurance companies by means of memorandums. As the German authorities stepped up the pressure, the Bedrijfsgroep more frequently limited itself to literally citing Liro's demands, or by referring to an attached copy of a letter from Liro or *Generalkommissar* Fischböck. "At a working level," there were direct communications between Liro and the individual companies to exchange policy data throughout the period in which policies were reported and surrendered.

In summary, we see that both the Verzekeringskamer and the Bedrijfsgroep had "business contacts" with the occupying authorities and acted as intermediaries between the companies and the authorities. There was no formal policy to stand up for Jews who held insurance policies or to oppose the anti-Jewish decrees, because it was feared this would have negative implications for the

[19] Ibidem, p. 135.
[20] Ibidem, p. 138.

insurance industry as a whole. There is a more extensive discussion of the insurance industry's attitude towards the anti-Jewish decrees in Chapter 2.

## Dutch Jews and their life insurance policies

The correspondence between Liro and the HAV Bank dealt with policies of a low value. These were called *volksverzekeringen*, or industrial insurance policies, which were meant to pay for the claimant's funeral. In the event of death, these policies paid out benefits ranging from NLG 50 to 300. There were also 'intermediate insurance policies' and policies of a high insured value. So, the policies which the occupier wanted to gain control of varied widely in type and value. Therefore, few generalizations can be made about the insurance coverage held by the Jewish population of the Netherlands. In terms of their prosperity and financial means, the Jewish community was just as diverse as the Dutch population as a whole in the prewar period. The same can be said of the manner in which they were insured.

Several attempts have been made to estimate the amount of property taken from the Jews during the Third Reich; the insured values were also the subject of study and statistical calculation. This took place soon after the Holocaust assets controversy arose in the USA. In 1998, the WJC asked economist Sidney J. Zabludoff to calculate the average value of Jewish possessions in Nazi-occupied countries.[21] He based his calculations partly on studies published in the late 1940s by international law specialist Nehemiah Robinson, who was born in Lithuania in 1898 and emigrated to the USA in 1940. In 1947, Robinson became the director of the Institute of Jewish Affairs, a think tank founded by the WJC. He published on human rights, the Genocide Convention of 1948, legal redress and loss adjustments in Europe after the war.[22]

Zabludoff assumed that the Jewish population, on average, had assets valuing 25% more than those of the non-Jewish population. His reasoning was that only a small part of Europe's Jewish population worked in the agricultural sector and that Jews lived mainly in urban areas. Living and working in the cities meant one enjoyed greater prosperity. Zabludoff also researched separate categories of assets, but when it came to insurance he obtained only information about prewar Austria. There, 2% of total assets were in insurance and 20% in annuities or pensions.[23] In 2007, he

[21] Zabludoff is an economist who worked for the White House, CIA, and Treasury Department for more than thirty years.
[22] See: https://www.encyclopedia.com/religion/encyclopedias-almanacs-transcripts-and-maps/robinson-nehemiah.
[23] S.J. Zabludoff, *And it all disappeared. The Nazi Seizure of Jewish Assets*. *The Institute of the World Jewish Congress*, Policy Forum No. 13, June 1998; Zabludoff, 'Estimating Jewish Wealth', in: Avi Beker

estimated that the Jews in Western Europe tended to buy three times as much insurance as non-Jews.[24] Less far-reaching claims were made by Deborah Senn, Washington state Insurance Commissioner, in her April 1999 report. In that report, she dealt mainly with the conduct of nationalized insurance companies in Central and Eastern Europe. However, she did provide some general information about European life insurance in the thirties. Based on "anecdotal evidence" and without scientific substantiation, she asserted that the Jewish population's insurance coverage density was higher than the average among the general population. She cited the fact that Jews were overrepresented in the liberal professions and trade as grounds for that assumption.[25] Law scholar Michael Bazyler adopted the assumption in his own writings, with the exception of the Soviet Union, as his mother was originally a Soviet citizen and he had first-hand information about the situation there. Historian M.R. Marrus in turn adopted the notion of European Jews' higher insurance density from Bazyler.[26] The reports published in the USA when the issue of Holocaust assets was topical paid little attention to the specific situations in different countries, which is rather strange as WJC researcher Robinson had already published research in 1951 about compensation and legal redress legislation in several European countries.[27] Moreover, Zabludoff's choice of sources for information about the Netherlands casts doubt upon his conclusions regarding the Dutch situation.[28] While

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(ed.) *The Plunder of Jewish Property during the Holocaust. Confronting European History* (Basingstoke 2001), pp. 54, 60, 61.

[24] Zabludoff, *The International Commission of Holocaust-Era Insurance Claims:* Excellent Concept but Inept Implementation (1-3-2007), note 6; http://jcpa.org/article/the-international-commission-of-holocaust-era-insurance-claims-excellent-concept-but-inept-implementation/. Please note that this is an elaborated version of Zabludoff's earlier article: 'ICHEIC Excellent Concept but Inept Implementation' published in Bazyler en Alford, *Holocaust Restitution* (pp. 260-267).

[25] The 'Senn-report' ('*Private Insurers & Unpaid Holocaust-era Insurance Claims')* stated that European Jews considered insurance policies '*a sound means of saving and investment, an issue of heightened concern to a vulnerable minority group. Across Europe, Jews were more likely than the population in general to purchase Insurance, due to their relatively high socioeconomic standing. Jewish breadwinners were more likely to be self-employed business owners and professionals who purchased Insurance directly from agents, rather than through Group or workplace plans. The anecdotal evidence is that Jewish families were more likely to purchase larger than average policies*', p. 3-4, Senn-Rapport, 30-4-99. In AV 75/7.

[26] M.J. Bazlyer, *Holocaust Justice*, p. 110 en M.R. Marrus, *Some measure of Justice*, p. 110.

[27] See: N. Robinson, 'War Damage Compensation and Restitution in Foreign Countries', in: *Law and Contemporary Problems* 16, no. 3 (1951) pp. 347-376. Robinson gives a systematic review of the measures for legal redress and compensation for loss at the end of the 1940s in many European countries, among others the Netherlands. He doesn't specifically mention legal redress of insurance, but does mention E100 and E93.

[28] Zabludoffs' sources for his 1998 report regarding the Netherlands are a report by the American vice consul in the Netherlands with incomplete information dated April 1946; a letter by the Joint dated 1946 and *The destruction of the Dutch Jews* , a translation of J. Presser's monograph dating from 1965.

Zabludoff and Senn estimated the wealth of Dutch Jews on the basis of assumptions, anecdotal evidence and incomplete sources, Itamar Levin stated that the Jews of pre-war Holland were not wealthy. His source was an expert on the history of Dutch Jewry, the Dutch-Israeli historian Dan Michman.[29]

The Van Kemenade Commission made its own attempts to establish the total value of Jewish assets robbed in the Netherlands. They based their investigation on Dutch sources. Using demographic and wealth distribution data, auditors estimated the assets of the Jews in the Netherlands before and after the occupation. Unfortunately, the results offer no insight into the insurance density of the Jewish population or the insurance ratio of Jewish and non-Jewish insurees before the war.[30]

Other historical literature, however, can shed light on the economic position of Dutch Jews before the war. Demographic studies show that in 1940, Jews (less than 2% of the population) were represented in all professional groups, but were overrepresented in trade and particularly in the diamond industry. A relatively large percentage of university graduates were Jews (2.6%), and the percentage of Jews among women with a university education (3.8%) is even more striking. In the academically-trained professions, Jews were overrepresented among dentists (7.4%), economists (7%), medical doctors (3.8%) and lawyers (3.2%). Several successful Jewish entrepreneurs were leaders in industry and trade. Another group were the underprivileged. Many were poverty-stricken and depended on support. A significant part of Amsterdam's Jewish population belonged to the so-called proletariat. Some were "small independent entrepreneurs" who worked as street traders, hawkers, market vendors or rag and bone men, while others lived on welfare. Their situation deteriorated further during the economic crisis of the 1930s. The diamond industry, for instance, which had grown substantially since the second half of the nineteenth century, was hit hard. In 1935, a large number of the 5,000 registered diamond workers were unemployed and depended on government support. Jews who lived outside Amsterdam were mostly small entrepreneurs and traders who struggled to make a living. There was also a rather large group of Jews who were financially middle class, as they were neither members of the economic or cultural elite, nor struggling to keep their heads above water.[31]

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[29] I. Levin, *The last chapter of the Holocaust?* (2nd revised and update edition Jewish Agency for Israel & World Jewish Restitution Organization, 1998), p. 105.

[30] F. Hoek and J. ten Wolde, 'Roof en restitutie Joods vermogen', Appendix 4 to the final report of the Van Kemenade Commission (*Eindrapport van de Contactgroep Tegoeden WO II*, (Amsterdam 2000)).

[31] See J.C.H. Blom and J.J. Cahen, 'Joodse Nederlanders, Nederlandse joden en joden in Nederland (1870-1940)', pp. 257-266. in: *Geschiedenis van de joden in Nederland (*Amsterdam 1995). This article contains an extensive bibliography with significant sources and studies. Also S. Leydesdorff's

The figures show that in the Netherlands, where the recovery from the 1930s economic crisis was relatively slow, the Jewish population was not on average wealthier than the non-Jewish population and certainly not 25% wealthier. Jewish overrepresentation in the liberal professions, which was an important reason why Zabludoff and Senn assumed that many Jews had invested their capital in insurance policies, does not apply to the Netherlands; many university graduates, Jews and non-Jews alike, were also unemployed. Moreover, the figures indicate that in Amsterdam, where most of the Jewish population lived, Jews' annual average income lagged behind that of non-Jews and had done so from as far back as the 1920s. In 1932, Jews constituted a quarter of those living on unemployment benefits, while they made up less than 10% of Amsterdam's population.[32] Due to the economic crisis of the thirties, we cannot assume that the income ratio had been restored before the outbreak of the war.

The poor often made provisions to pay for their own funerals. To do so, they took out a small policy with an insurance company or they joined a funeral association. Membership in a funeral association entitled one (and one's family members) to a benefit for the funeral or a funeral in kind.[33] For many Jews it was important that the rituals surrounding death and funerals complied with religious traditions and laws. This is why many joined a Jewish funeral association. Included among the responsibilities of these associations were both the ritual care of the deceased and the performance of funerals themselves.[34] Rich and poor, religious and non-religious Jews alike

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description and analysis of the economic situation of the 'Jewish proletariat' in Amsterdam during the Interbellum, based on statistical and demographic data and interviews. See *Wij hebben als mens geleefd. Het joodse proletariaat van Amsterdam 1900-1940* (Amsterdam 1987), Chapters 5 and 6. Information on Jewish entrepreneurs: Blom and Cahen, o.c., p. 263-264; B.W. de Vries, *From pedlars to textile barons. The Economic Development of a Jewish Minority Group in the Netherlands* (Amsterdam 1989) and H. Berg, Th. Wijzenbeek, E. Fischer, *Venter, fabrikant, joodse ondernemingen 1796-1940* (Amsterdam 1994).

[32] Income per annum in 1920-1930: NLG 3000-6000 for the total Amsterdam population was 18.5% and 8.4% in the district where most Jews were living; NLG 6500 or more for the total population of Amsterdam 3.5% and 2.3% for the Jewish quarter. See J. Michman, H. Beem en D. Michman (red.), *Pinkas. Geschiedenis van de joodse gemeenschap in Nederland* (Amsterdam/Antwerpen 1999), pp. 128-130.

[33] In 1941 there were approximately 1,120 funeral foundations with a total of 581,194 members. With family members included, a total of 1,627,348 'souls' were insured. Almost 24% of the funerals in the Netherlands were organized by a funeral foundation. See CBS: *Statistiek der Onderlinge Uitvaartverenigingen en begrafenisfondsen* (1941), p. 5. Jewish funeral foundations are not included in these statistics.

[34] In 1940 there were 65 Jewish associations that dealt with funerals. The number of members or families is not known. I found no information on the payment of memberships. See: I. Lipschits, *Tsedaka*, *Een halve eeuw Joods Maatschappelijk Werk*, Zutphen (1997), pp. 21-22.

appreciated a Jewish funeral, in part because of the religious and cultural meaning of the funeral.[35] Jewish funeral associations were not supervised by the Verzekeringskamer and it was not customary for their memberships to be administered by life insurance companies.[36] The Jewish funeral associations could collectively take out an insurance policy with a company, for which they paid the premium collectively. Under these policies, the associations were the beneficiary.

In addition, we see that Jews who were attracted to social democracy were interested in associations that focused on particular types of funerals, such as cremation, or in life insurers that based their activities on social democratic principles, such as the *Centrale Arbeiders- Verzekerings- en Depositobank* [Central Workers Insurance and Deposit Bank], which I will refer to as the 'Centrale.' One of the founders of this company was Nehemia de Lieme, who played an important role in the Dutch Zionist Union. The Centrale was established to fulfil the ideal that the working class should be able to insure itself in a decent manner against the consequences of old age and death. The profits would be dedicated to strengthening the working class by donating them to the social democratic movement.[37]

Overall, it is difficult to get a detailed overview of the types of insurance policies commonly held by Jews in the Netherlands, but it is clear that Jews held various types of policies. Aside from membership in funeral associations not supervised by the Verzekeringskamer, Jews, just like non-Jews, held policies with life insurance companies. It is unlikely that Jews in the Netherlands were insured very differently from non-Jews. More affluent people chose insurance policies with a higher insured capital and the wealthy contracted endowment policies with larger insured sums. In the archives concerning the disenfranchisement of insured Jews, we find information about small insurance policies as well as large endowment policies.

## The anti-Jewish decrees

Once the country was occupied by the Germans, a number of changes were made that were initially rather imperceptible to the ordinary citizen. After the queen and the council of ministers had fled the country, the strategy of the occupying authorities was to let Dutch society function as normally as possible, but to take measures where necessary to establish Nazi authority and eliminate any threats

[35] I.B. van Crevel (*Kille-zorg. Drie eeuwen sociale geschiedenis van joods Den Haag, den Haag* (1997), pp. 219-239) gives an overview of the history of rituals concerning death and funerals, and the maintenance of graves in the Jewish community of The Hague.
[36] J. van Gerwen, 'De levensverzekeringsbranche 1890-1950', in J. van Gerwen en H.D. van Leeuwen, *Studies over zekerheidsarrangementen*, Amsterdam/Den Haag (1998), pp. 650-651.
[37] J. van Gerwen, *De Centrale Centraal* (Amsterdam 1993), preface.

it faced. The measures were taken on the basis of the so-called *Führererlass* of 18 May 1940, in which the *Reichskommissar* of the Dutch occupied territories, Arthur Seyss-Inquart, held supreme power on behalf of Adolf Hitler. This document gave regulations issued by the Reichskommissar the force of law. Dutch law remained valid only insofar as it could be reconciled with the occupation. On 29 May 1940, the date of his installation as Reichskommissar, Seyss-Inquart asked the secretaries-general, the highest ranking civil servants in the Dutch government ministries, if he could count on their cooperation. After the departure of the queen and the council of ministers, they had received guidelines to continue their work in the interest of the country. So after consultation, they gave a positive reply to Seyss-Inquart. The formal principle of the authority of the secretaries-general was laid down in a decree on 21 June 1940. This enabled them to take measures to maintain public order and to issue administrative orders, including the Reichskommissar's decrees. It was a crucial move. The execution of Nazi policy in the Netherlands depended upon the cooperation of the ministries' top civil servants. Hundreds of decrees were issued and executed in the years that followed. Among these were the anti-Jewish regulations that were gradually introduced.


*Acces to all public places such as parks, bars, restaurants, swimming pools was prohibited for Jews (NIOD)*

From the outset of the occupation, the Nazis intended to strip Jews of all their economic, cultural and social influence. All who were considered 'Jewish' by National Socialist definition eventually had to

disappear from Dutch society.[38] They were identified and registered, isolated and excluded. In July 1942, the deportation of the Jewish population of the Netherlands began.

A series of decrees that included both obligations and prohibitions formed the framework for the complete disenfranchisement of Dutch Jews. Crucial instruments in the persecution process were the requirement to register, Decree 6/1941 (January 1941), and the order to wear the yellow star of David, in May 1942. The anti-Jewish regulations took away the Jews' rights one by one, from the ban on membership in the *Luchtbeschermingsdienst*, a civil defense organization, to the prohibition on going to the cinema or sitting on a park bench. Jews were forbidden to use public transport, sit in a privately-owned car, or visit non-Jewish friends. Their children were excluded from regular education and had to go to exclusively Jewish schools with Jewish teachers. Jewish civil servants were collectively dismissed in November 1940. From May 1941, Jewish doctors, lawyers and pharmacists were no longer allowed to provide services to non-Jewish clients or patients. In October of that year, a new law was enacted enabling employers to dismiss Jews with three months' notice. Jewish-owned companies that were deemed viable were 'Aryanized' (which meant simply that ownership was transferred to non-Jews), and many businesses with sole proprietorship were liquidated. Large companies with Jewish board members or managers were ordered to 'Aryanize' their board or management or face takeover by the Germans. The anti-Jewish regulations ranged from downright harassment to measures aimed at taking away Jews' legal rights. Whether rich or poor, all Jews were vulnerable. Most had lost their jobs and had little or no income. Sooner or later, they fell destitute and many came to rely on support from the Jewish Council.[39]

The regulations aimed at the deprivation of the Jewish population were the final phase of disenfranchisement. The Nazis took possession of property, cash and claims to future benefits by means of the so-called Liro decrees. To facilitate the seizure of Jewish property, the occupier had concocted a plan to mislead as many people as possible. In the summer of 1941, they opened what appeared to be a new branch of an existing and highly reputable bank, Lippmann, Rosenthal & Co, whose headquarters were situated on the Nieuwe Spiegelstraat in Amsterdam. In fact, the new 'branch' called Lippmann, Rosenthal & Co Sarphatistraat, or Liro, had nothing to do with the old bank. By using its name, which was well-known in Jewish circles, the Nazis meant to give the Jews a

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[38] According to Article 4 of Decree 189/1940, a Jew was defined as any person who had three 'fully-Jewish' grandparents or anyone who had two Jewish grandparents and who had at any time been a (registered) member of the Jewish faith, or was married to a Jewish partner. A grandparent was considered fully Jewish if he or she had been a registered member of the Jewish faith.

[39] For a compelling account of this phase of the persecution see: A.J. Herzberg, *Kroniek der Jodenvervolging, 1940-1945* (Amsterdam 1985 revised edition) and I. Lipschitz, *Tsedaka. Een halve eeuw Joods Maatschappelijk Werk in Nederland* (Zutphen 1997).

false sense of security. By means of a series of subsequent decrees, authorized by Reichskommissar Seyss-Inquart or in his place *Generalkommissar für Finanz und Wirtschaft* Fischböck, all of the Jews' possessions were concentrated at the Liro bank.

The first Liro decree of 8 August 1941 ordered all Jews as defined by Article 4 of Decree 189/1940 to surrender their cash or deposit it in a Liro account. Savings banks and post office giro institutions were also ordered to transfer Jewish clients' balances and deposits to Liro. Jews with assets below NLG 10,000 and a taxable income of less than NLG 3,000 were exempted from this measure. A "free maximum" of NLG 1,000 per month remained available to those to whom the decree applied.[40]

Almost ten months later, on 21 May 1942, the German authorities announced Decree 58/1942 "concerning the treatment of Jewish assets," also known as the second Liro decree. This order required all Jews to report and surrender their "collections" and "claims of any kind" to Liro. Now insurance policies had become a target, too. Policyholders had to declare their insurance (claims) and submit the relevant documents.[41] More than a year later, Decree 54/43 of June 1943 led to the total disenfranchisement of insured Jews. All policies ordered declared under the second Liro decree had to be surrendered by 30 June 1943.

Although insurance contracts did not become a formal target until May 1942, the insurance contracts of many Jewish policyholders, rich and poor alike, were affected by the anti-Jewish measures at a much earlier stage. One family of modest means that typified this development was the Amsterdam family W., a married couple with three children. Father was a fishmonger with a shop on the east side of Amsterdam. He bought his fish in the harbor of IJmuiden. When this was no longer allowed, he started buying at a distribution center in Amsterdam. He was probably arrested there in early April 1941 by the Gestapo. After some time, he was released on the condition that he would no longer show up at the market. This made it impossible for him to continue his profession, and as a result, he could no longer pay the premiums on the five policies he had purchased in December 1940 (each with an insured value of NLG 100 and a monthly premium between 15 and 31 cents, totaling NLG 1.10). In early May, he notified the insurance company, stating that he hoped to make up the arrears later on. However, the insurer terminated all five policies that same month. The entire family was arrested on 10 November of the following year. Four of them were murdered during the war, and only one daughter survived the Holocaust.[42]

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[40] Aalders, *Nazi looting. The Plunder of Dutch Jewry during the Second World War (Berg Publishers 2004)* pp. 147-149.
[41] G. Aalders, o.c., pp. 175-183.
[42] Information submitted by the daughter; SVIS archive.

Another family affected by the occupier's measures was the F. family, a married couple with a son and a German foster daughter. They lived in a large house in the Hague, where the father, a doctor, had a medical practice. In 1941, the house was confiscated and the family had to move into a rented apartment. As of 1 May of that same year, Jews who worked in the so-called liberal professions were forbidden to work for non-Jews. As a doctor, F. could only treat Jewish patients, which resulted in a large loss of income. He requested and was granted suspension of premium payments as of 1 May 1941 for a life insurance policy of NLG 20,000, which he had taken out on his life in 1936 for his wife's benefit. In addition, he borrowed NLG 600 using the policy as collateral. One of Dr. F.'s main concerns was the need for cash to go into hiding or flee via Belgium and France, if necessary. The family went into hiding. Father and son went to a home in the Veluwe forest, while mother and foster daughter secretly stayed at another address. On 10 August 1943, Dr. F. committed suicide. Mother, son and foster daughter survived the war. When they inquired about the insurance policy after the liberation, they were told the company had terminated the policy due to lack of premium payments.[43]

These are just two examples of the many hardships Jewish policyholders faced under the general anti-Jewish regulations. Many Jewish policyholders could no longer afford their premiums or were obliged to pawn their policies in return for a bit of badly needed cash. Many policies were rendered worthless by the suspension of premium payments. So, there were problems with insurance policies long before the Nazi authority implemented regulations specifically targeting those policies.

## A foreshadowing of what was to come

While some insurance policies were affected by the sudden impoverishment of their policyholders, insurance policies that fell outside the scope of the dispossession measures were also targeted by the occupying authorities. This was not the result of measures aimed specifically at obtaining insurance assets, but a side effect of a policy meant to combat "hostile organizations." These included organizations that were part of an international network, such as the Freemasons, the Esperantists and the international scouts founded by Baden Powell. The occupier feared such organizations could undermine its rule via international contacts. It also saw clubs, associations and foundations as a possible threat because they could provide a forum to people with political or ideological beliefs that ran counter to National Socialism. The occupier intended to reform cultural

[43] Information submitted by Dr. F's son; SIVS archive.

life in the Netherlands in accordance with the National Socialist model, and that meant associations would have to be reformed, too. To gain a grip on these groups, the occupier began in the summer of 1940 to execute the so-called *Loge-ähnliche* (lodge-like) organizations. The occupier also began to take inventory of the associations and foundations' risks. As a result, over two thousand Jews were confronted with the deprivation of their insurance in the first year of the occupation through measures which were not specifically aimed at them and which did not serve to obtain Jewish money or assets.

*The Ancient Order of Foresters*

On 4 July 1940, two months after the Dutch surrender, the occupier targeted the Freemasons and related groups. Based on the Decree 33/1940, such *Loge-ähnliche* associations, which were considered hostile to Germany, were dissolved and their assets confiscated. On 19 October, the Ancient Order of Foresters (also called AOF or the Foresters) was notified that it had been added to the *Loge-ähnliche* associations.[44]

The AOF was a humanitarian association, a fraternity whose objective was to provide support to its members and third parties. Founded in England in the nineteenth century, the order had since started chapters in Belgium, the Netherlands, Surinam and the Netherlands Antilles. Membership was open to all, irrespective of faith, race or political creed. Members were given the option of joining a mutual insurance fund. Under the Life Insurance Business Act of 1922, the Foresters' insurance fund became a formal insurance company subject to supervision by the Verzekeringskamer. When the occupier decided to dissolve the fraternity, a solution had to be found for the Foresters' 2,651 policies, whose average insured value was NLG 982.93. The insurance company was allowed to continue its operations for a few months until the occupier had decided how to deal with the assets.[45] They ultimately opted to have the company's contracts transferred to another insurer. But problems arose when it became clear that the fraternity — while not a Jewish organization — had mostly Jewish members. Months before the Jewish community was segregated from the rest of the Dutch population, the Nazi authorities decided to liquidate the Jewish Foresters' policies rather than transfer them to other companies. The Verzekeringskamer was strongly opposed

[44] 'Nota onderlinge verzekeringsmaatschappij Uitkeringsfonds bij Overlijden' (Nota Uitkeringsfonds), appendix 8. GAA, arch. 1248, inv.nr. 399.

[45] On 31 December 1939 the total insured capital amounted to NLG 2,605,755. See: 'Verslag van de Verzekeringskamer over de `Onderlinge verzekeringsmaatschappij Uitkeringsfonds bij overlijden van den Subsidiary High Court Nederland - België der Ancient Order of Foresters' in liquidatie te Amsterdam, 1958' (Verslag Verzekeringskamer Uitkeringsfonds), appendix III, p. 11 en 15. GAA, 1248, inv. nr. 429.

to drawing a distinction between Jewish-owned policies and those belonging to non-Jews. It lodged a complaint with the Secretary General of Justice, but to no avail.[46]

In the meantime, in late 1940 or early 1941, all insured members had received a questionnaire asking them to declare whether or not they were Jewish. This was sent out after 22 October 1940, when the infamous Decree 189/1940 indicating the "definition of Jewishness" came into effect. But in the circular letter to those insured by virtue of AOF membership, the occupier used another, stricter definition:

> Jews or those of Jewish blood are those who descend from at least one grandparent of the Jewish race. (…) 'For full members of the Jewish race, it will suffice to give a single statement about this; insured persons who are partly of Jewish blood should, in case of doubt about their origin, submit copies from the records of the Civil Register of Birth and Marriage of their four grandparents.[47]

Whoever did not return a completed questionnaire within two weeks was deemed to have surrendered his life insurance. Subsequently, those defined as Jewish on the basis of the completed form received a letter announcing that their policy had been cancelled. The policyholders received a check for any premium they had paid in excess. Any amounts borrowed on the policy before 20 October 1940 were deducted. The accrued premium reserve for the Jewish policyholders was confiscated as 'German-hostile assets'.[48] In this manner, a total of 2,329 insurance policies with an insured value of more than NLG 2,272,000 was cancelled.[49]

Despite opposition from the Verzekeringskamer, the Centrale on 1 April 1941 seized control of the insurance policies belonging to non-Jewish policyholders in the AOF. The Centrale had little choice; because of its historic ties to the social democratic movement, the occupying authorities considered this company to be Marxist and placed it under German control early on in the occupation. Aside from Germans, the new management was partly made up of Dutch members of the NSB, among whom was board member and general manager J.A.H. van der Does.[50] Through the

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[46] Letters sent by the Verzekeringskamer to the Secretary General of the Department of Justice, 5-2-1941, 22-2-1941 and 18-3-1941, appendices Nota Uitkeringsfonds. GAA, 1248, inv.nr. 399.
[47] Nota Uitkeringsfonds, appendix 4. GAA, arch. 1248, inv.nr. 399.
[48] Ibidem, Appendix 10.
[49] During the post war restitution process, the Foresters determined the average insured value was NLG 1,150 – which adds up to a total insured value of more than NLG 2.6 million. Verslag Verzekeringskamer Uitkeringsfonds, appendix III, p. 15. GAA, 1248, inv. nr. 429.
[50] Van Gerwen, *De Centrale Centraal*, p. 210.

Centrale, the occupier thus took control of the portfolios of 255 to 263 non-Jewish policyholders in the AOF.[51]

These figures show that in the first three months of 1941 more than 2,300 Jewish policyholders and their families experienced what other Jewish policyholders would go through the following year, when the second Liro decree demanded that Jews had to register and surrender their policies to Liro.

*Associations and foundations*

At least 2,400 other Jews also lost their insurance policies as a result of developments other than the Liro decrees. These cases resulted from measures targeting non-commercial associations and foundations (Decree 145/1940 and Decree 41/1941). The first of these, announced on 20 September 1940, ordered all non-commercial associations and foundations to report their assets, liabilities and number of members to the public prosecutor in the region where they were established.[52] The measure was intended to prepare "a reorganization in the field of non-commercial associations and foundations" which was announced on 28 February 1941. As part of this reorganization, H.W. Müller-Lehning was appointed Commissioner for Non-Commercial Associations and Foundations and given the authority to dissolve or merge associations and foundations, to replace board members and change articles of association. This enabled the occupying authorities to assume full control of them and would facilitate the exclusion of Jewish members, except in those cases where the association or foundation was fully Jewish. The German strategy was to liquidate such Jewish associations and foundations once the Netherlands was declared *judenrein*, free of Jews.

At the beginning of the occupation period, there were some 90,000 associations and foundations in the Netherlands.[53] They focused on a wide range of activities, from performing music, to rabbit breeding, to collecting postage stamps. Like the rest of Dutch society, they were organized along denominational and ideological lines. Among them were associations that arranged funerals or cremations in return for payment of a contribution for each member or family. The benefit consisted of a package of services ('in kind') or a discount on the costs of the funeral. Such associations worked on a non-profit basis, based on mutual solidarity among the members.

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[51] The number of policies is not clear. The insured value was NLG 257,000 and the revaluation reserve was approximately NLG 106,000. See: Verslag Verzekeringskamer Uitkeringsfonds, appendix III. GAA, 1248, inv. nrs. 401 en 429 en J. van Gerwen, *De Centrale Centraal,* pp. 437, n. 98.

[52] 'Verslag van de beheerders van het vermogen van H.W. Müller-Lehning, 1945'. NA, arch.nr. 2.09.16, inv.nr. 631, folder 'diversen'.

[53] L. de Jong, *Koninkrijk*, part 5, pp. 415-423.

Two Dutch funeral associations which operated on a charitable basis had a relatively high number of Jewish members. *De Arbeiders Vereeniging voor Lijkverbranding* (AVVL) [Workers Association for Cremation] was founded in 1919 with the objective of spreading the concept of cremation and making cremations accessible to less affluent people. The principal founders, Andries de Rosa (1869-1943) and Jacob Rooselaar (1893-1985) were Jewish diamond workers by origin.[54] Most of the Jews insured by this association were diamond workers, too. The members of the association had an insurance in kind and their membership included a discount on a cremation in Velsen, the only crematorium in the Netherlands. Though the central board was unsure whether the occupier considered the AVVL a commercial enterprise, the association did report to Müller-Lehning's agency. A year later, the AVVL was informed that it was considered not a charity but a commercial enterprise. Therefore, the reporting of the association was reversed.[55] This meant that the board did not need take measures against Jewish members and that the AVVL's contracts arranging future cremations remained valid. In practice, this meant that insurance policies were cancelled if members could no longer pay for their membership. This occurred in many cases, either because of the impoverishment wrought by the anti-Jewish decrees or because Jewish members were deported or went into hiding. When a policyholder stopped paying fees, their membership was usually cancelled. This applied to both Jewish and non-Jewish members. Of the estimated total of 17,000 members, 2,656 memberships were cancelled during the occupation. It is estimated that about 1,600 of those affected by cancellation were Jewish.[56]

Things took a different turn at the *Vereeniging voor Facultatieve Lijkverbranding* [Association for Facultative Cremation], which I will refer to as 'de Facultatieve.' In October 1941, this association, which was meant to promote cremation, had more than 20,000 members. Approximately 800 of them had a Jewish background.[57] De Facultatieve was regarded as an association with no commercial purpose, which meant it had to adhere to the decree on non-commercial associations. When members (and an unknown number of their wives and underage children[58]) were cremated, their next of kin were entitled to financial compensation. In addition, 1,283 members, including thirty

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[54] *Ontstaan uit noodzaak, gegroeid door kwaliteit. 75 jaar AVVL* (Meppel 1994), pp. 9-10,25.
[55] Letter from AVVL's general board to W. Nieuwhoff, 17-10-1940. AVVL, HB/DB/AV; circulars AVVL dated 18-10-1940 and 12-11-1941.
[56] The actuarial reserve released by the cancellation of the 1600 Jewish members was NLG 69,000. Memorandum `Enkele bijzonderheden van de afdeling Amsterdam', 9-2-1946. Archief AVVL, map 1945-1954.
[57] *Berichten en Mededeelingen*,LXVI (1941-4) 170 en Notulen honderddrieënnegentigste vergadering hoofdbestuur. Archief Facultatieve: VFC-ordner notulen hoofdbestuur, 30-10-1941.
[58] *Berichten en Mededeelingen*, LXVI (1941-1) 28 en (1941-4) pp. 173-174.

Jewish members, had concluded an endowment insurance with de Facultatieve's Cremation Fund to pay for the transport to the crematorium in Velsen and the cremation.

Decree 199/1941, announced on 22 October 1941, forbade Jewish membership of charitable associations, with the exception of associations that had solely Jewish members. As a result, at least 674 Jewish members had to leave de Facultatieve.[59] The association's Cremation Fund informed the members in February 1942 that the policies held by Jewish insurees would remain unchanged. The following month, however, the Cremation Fund decided to break all ties with Jewish insurees after all.[60] Their policies were sent to the insurance companies that had originally provided the coverage on de Facultatieve Cremation Fund's behalf. These thirty insurance contracts would later formally become part of the wealth confiscated by Liro under the second Liro decree, which was announced a few months later.

Of the Jews who had purchased funeral insurance in kind, most did so by way of a Jewish funeral association. For less affluent Jews and the so-called Jewish proletariat, joining a Jewish funeral association would have been the only affordable risk arrangement. Because it was customary in Jewish circles to bury the dead in accordance with Jewish law and tradition, wealthy Jews were also members of such funeral associations. Despite the decree against associations and foundations, many Jewish associations remained in place; as long as there were still Jews in society, certain activities had to continue. These associations came under the supervision of the Jewish Council.[61] Eventually, the Jewish funeral associations were liquidated like all other Jewish associations, and their assets were confiscated by the occupying authorities.[62]

In summary, some Jews did not lose their insurance policies as a result of the decrees, which are discussed in the next chapter. These were people who, mainly for ideological, religious or cultural reasons, were members of an association that would arrange a funeral in kind based on specific needs. This might be a cremation or a funeral according to Jewish ritual. In associations that did not have exclusively Jewish members, the Jews were excluded (at least 800 from de Facultatieve) or their memberships were cancelled (approximately 1,600 AVVL members). The accrued assets of their memberships remained with the associations. Exceptions to this were the Jewish funeral

[59] However, this figure does not include an unknown number of Jews from Amsterdam whose names were registered on lists that were lost; archive VFC 209, folder 'Lidmaatschap van joden'.
[60] Commission Cremation Fund circular to policyholders, February 1942, archive VFC 192; minutes of the 195th general board meeting, 6-3-1942 archive VFC folder minutes; minutes of the 17th meeting of the Commission Cremation Fund, 18-3-1942, archive VFC 165.
[61] Lipschits, *Tsedaka,* pp. 51-52; Aalders, *Nazi Looting*, pp. 111-113.
[62] Grüter, Insurance Report, pp. 201-202.

associations with an unknown number of memberships, all of which were liquidated, and the Foresters. In the latter case, membership was linked to an insurance company owned and operated by the association itself, which was liquidated by the occupier. More than 2,300 Jewish members of the Foresters lost their insurance policies within the first year of the occupation. In Chapter 4 we will see that, with the exception of the thirty policies held by Jewish members of de Facultatieve, which had been placed with the Cremation Fund, post war legal redress would follow another route.

## Chapter 2
## Liro, the Jewish Insurees and the Insurers

In 1942, a Jewish entrepreneur named Carl Polak approached the assistant general manager of the Twentsche Bank and requested assistance in safeguarding his possessions. These included a small box containing diamonds and NLG 35,000 in cash that belonged to his company. The assistant general manager took custody of the diamonds and advised Polak to bring the cash to the 'Olveh van 1879' insurance company. Polak followed his advice and invested the cash in two policies, which were entered pro forma as life insurance policies of NLG 10,000 and NLG 25,000 respectively in Olveh's records. The contracts were backdated and the parties entered a verbal agreement that the money would be paid back after the war with a deduction of 5% for administrative costs. At the time, the money constituted 35 to 50% of Polak's corporate assets and would be needed after the war to rebuild his company. That same summer Carl Polak told his eldest son Dick that he had put the money away for safekeeping and that it would be available after the war. In case he did not survive the war, he assured Dick, the money would cover his three sons' education and cost of living. He gave his son the name of the liaison at Twentsche Bank. Incidentally, Carl Polak's brother had also stored his own company's cash with Olveh on similar conditions.[63]

### 'Escape policies'

The Polak brothers were not the only ones to take such precautions. The developments in Germany after Hitler's rise to power had not gone unnoticed in the Netherlands. Jews in the Netherlands were concerned as they had already seen Germany enforce the *Wirtschaftsentjudung*, or removal of Jews from the economy. Strikingly, the National Socialists had so far let Jews in Germany keep their annuities. These were, for the time being, necessary to cover their cost of living.[64] With this in mind, more affluent Jews in the Netherlands grew interested in opportunities to safely 'invest' capital in an insurance contract whose capital could be paid out in annuities at a later stage. The contracts were single premium policies, a customary type of insurance policy. After the war, such contracts became

[63] See: copy of H.D. Polak's letter to Aalders, 19-11-1996. AV 75/16 and Karel Berkhout's article in *NRC Handelsblad,* 15-7-1997.

[64] 'Geschiedenis van de Joodsche levensverzekeringen in bezettingstijd' (25-3-1946); appendix to the Bedrijfsgroep's letter to the Council for Legal Redress, 10-4-1946. Archive NN. Some postwar legal rulings refer to the situation in Germany and the fact that annuities were not liquidated for some time. See for instance the ruling in the lawsuit Fanny Rosalie D.-J. vs. Eerste Nederlandsche, 25-6-1947.

known as ‘escape policies.’ At the company ‘De Nederlanden van 1845’ they were also referred to as ‘escape annuities’ as a camouflage for deposits. “These should nearly always be regarded as joint efforts of the policyholder and the company to withdraw capital from the hands of the occupiers.”[65] Policyholder and insurer verbally agreed that they were not really annuities, but temporary custody of assets which would otherwise be taken away by the occupier under the anti-Jewish decrees on possessions. Such contracts were usually backdated by the company in order to shield the assets from the order to surrender possessions to Liro.

Generally speaking, single premium policies were contracts in which the capital was not accrued by periodical premium payments over a longer period of time, but contracts for which the policyholder paid the required premium in a lump sum. The single premium was proportionally lower than the total premiums as the risks for the insurer were lower and the insurer immediately received interest over the full amount. When and how the assets would be paid back to the policyholder were laid down in the contract. Sometimes it was paid as a lump sum, while in other cases it took the shape of an annuity as of a certain date. Additional conditions could also be added to the contract, such as the division of policies into insurance contracts that could not be surrendered. The capital invested in such contracts rose from NLG 24.2 million in 1941 to NLG 173.5 million in 1944. Clearly, they were seen as an attractive way to protect assets. However, their growth can also be explained by the lack of investment opportunities in unoccupied countries, the scarcity of consumer goods and especially the introduction of a new Income Tax Decree in 1941. This decree considerably widened the possibility for tax deduction of premiums and single premiums for life insurance policies.[66] However, not all insurers were enthusiastic about the general popularity of single premium policies as these products were frequently misused to launder money and to pay less taxes.[67]

The insurance companies’ reluctance to underwrite single premium policies specifically for Jews was made explicit in a memo circulated at the Hollandsche Sociëteit.[68] The memo instructed field staff, the employees who maintained most contact with clients, that “such artificially created divisions can no longer be accepted by us.” When in doubt, field staff were to submit new contracts to general management for approval. They were also told to consider that for insurance policies with a death risk “the assessment of a candidate’s life prospects is determined by numerous factors which, in the past, appeared to be less important.” And “[i]t is therefore likely that, in future,

[65] Letter from De Nederlanden van 1845 to R.V. Bakker, 24-6-1947; archive NN.
[66] J. Barendrecht and T. Langenhuyzen, *Ondernemend in risico. Nationale Nederlanden 1845-1995,* p. 199.
[67] Bedrijfsgroep Raad van Bijstand minutes, 1-3-1944. In AV S94/3.
[68] Circular 203, 27-3-1941. Archive DL.

decisions will be made to reject transactions or accept them only up to a limited amount for reasons not directly related to the candidate's current state of health."[69]

The date of the memo clearly documents how keen Jewish clients were to purchase single premium policies before the announcement of the first Liro Decree of 8 August 1941. Once this decree was in force, it became more difficult for Jews to purchase escape policies and for insurers to offer them. Those who had surrendered their assets were given a Liro account, but they could not just withdraw money from it. They had to submit an application for this to Liro. High single premium policies were no longer possible due to the asset restrictions for Jews. However, this was sometimes avoided by backdating escape policies to a date preceding the decree or by taking out smaller single premium policies with several companies.

The insurance companies were not mentioned as financial institutions in the first Liro Decree, so the business contacts between insurers and Jewish insurees could continue to exist. After consultation between the Verzekeringskamer and Liro, the NVBL announced that insurers, when in doubt about whether they were in compliance with the decree, should seek approval from Liro.[70] Liro demanded that companies adapt a consistent strategy. A Jewish client who wished to purchase a single premium policy for an annuity or an endowment insurance had to convince the insurer that "he was entitled to making the single premium payment." He could do this in three ways: 1. by submitting a statement that Decree 148/1941 did not apply to him because his assets and income remained below the determined limits; 2. by submitting a statement of consent by Liro; or 3. by demonstrating that the single premium was not paid from private assets, but from a company's capital. This third option applied to the Polak brothers, who had formally invested company money in single premium policies with Olveh. The NVBL warned its members to exercise the greatest possible caution and to request tangible evidence if a single premium policy appeared to originate from the business assets of a one-man company.[71]

Despite the significant obstacles, a fairly large number of escape policies were purchased in this period. For example the RVS insurance company converted a policy which was due to be paid out into a new insurance contract. As part of the move, the client increased the value by more than NLG 5,000. The reason for purchasing this insurance was clearly to evade the asset restrictions. The file shows that the agent and the client were friends who jointly sought a creative solution within the limitations of the decree.[72] It is not clear how many such escape policies or escape annuities were

[69] Circular 200, 13-3-1941. Archive DL.
[70] Verzekeringskamer Circular 304, 30-8-1941. AV 73a.
[71] NVBL circular, 10-9-1941. AV 73a.
[72] Information found in the RVS archive.

sold, but postwar court records reveal that it was quite common.

As company assets fell outside the scope of the decree, it was possible to use a company's working capital to finance insurance contracts. Such contracts can also be regarded as escape policies. The Hollandsche Sociëteit even offered what it called a 'freedom policy' in its brochure. Such policies were deferred annuity contracts under which the policyholder had the discretion to determine the timing and amount of the premium. According to a postwar report, these were designed as life insurance policies for Jewish employees of Jewish-owned companies not yet taken over by the occupier. "The policy offered the possibility that after dismissal, the employee would be paid a surrender value of about 98% of the premium paid." There is cause for skepticism about the reasons for creating freedom policies and naming them as such, as it would have been risky to create a freedom policy especially for a persecuted group. However, it appears that Jewish policyholders of the Hollandsche Sociëteit did purchase them in "quite a considerable number of cases."[73]

Some companies did indeed begin to purchase annuity contracts that could serve as a disguised tide-over allowance for their Jewish employees in case of dismissal. Most such arrangements were made collectively. Jews employed by De Nederlanden van 1845 who were threatened with dismissal received a temporary pension scheme. The payments were handled outside their normal payroll systems.[74] However, Liro kept a close watch on such developments. It had learned, for instance, that a Jewish client of an insurance company called De Nationale had used his company's capital to purchase an annuity contract of NLG 27,000. Liro promptly instructed De Nationale to submit a list of all known cases in which Jews had paid for a life insurance policy, annuity or another contract with money from their own business from 9 August 1941. In its reply, the company wrote that it had always carefully observed the relevant decree, but that it currently could not search the entire administration for such cases. Moreover, its records did not indicate which clients were Jewish. Liro in turn demanded that the company submit the list anyway. On 27 June 1942, De Nationale reported finding 39 such contracts.[75]

A well-documented example shows how a Jewish-owned company took out a collective insurance agreement with the Dutch branch of Vita, an insurer that was Swiss at that time. On 7 March 1942, this Jewish company purchased single premium policies, naming its 46 employees as beneficiaries. The duration of the policies was three years and the benefits equaled six months'

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[73] Letter from Hollandsche Sociëteit to Commissie Joodse Verzekeringen [Jewish Insurance Committee], 17-12-1948, Archive DL; Gedenkboek ter gelegenheid van het honderdvijftigjarig bestaan van De Hollandsche Societeit van Levensverzekeringen N.V. 1807-1957, pp. 89-91.
[74] J. Barendregt and T. Langenhuyzen, Ondernemend in risico, p. 209.
[75] Correspondence between Nationale and Liro, 29-04-1942; 05-05-1942; 27-06-1942; Archive NN.

salary. The policy stipulated that the policyholder, the company, would transfer the rights to the beneficiaries in case the employees were dismissed. In that case, the beneficiary could choose either to let the policy run until the scheduled payout date of 7 March 1945, or surrender the policy in six monthly installments of one-sixth of the insured sum. The policy ensured that the employee would still receive a salary for six months in case of forced dismissal. Soon after Vita concluded this collective contract, however, the company was placed under the control of a German-appointed administrator, or *Verwalter*. Six months later, he ordered a buyback of the 24 insurance policies that had been taken out for Jewish employees. The buyback took place around the turn of the year with Liro's approval, although at Vita's insistence it affected only those contracts whose policy documents could be recovered and returned to the company. As a result, only 19 of the 24 contracts were bought back from the company. The other five could not be submitted as "the persons concerned are probably or certainly no longer present in the Netherlands."[76]

Though we can conclude that some clients took out escape policies financed from company capital, it appears that insurers took a dim view of these policies. The NVBL wrote a draft circular letter advising companies to refrain from improper practices and from concluding such policies which were technically unattractive for the insurance industry as they entailed risks: "… as everyone knows, insurers never issued such a policy because it was a good business proposition. It is more like a deposit, and therefore a banking product, than an insurance product. It offers not more security, but less."[77] It is unclear whether the draft was sent to the insurance companies. Nonetheless, it clearly shows the apprehension felt. According to a Bedrijfsgroep postwar report, the companies had decided that Jews could no longer take out term life insurance policies worth more than NLG 5,000.[78] As a result, some Jews are believed to have taken out insurance policies with several companies at the same time. In practice, however, we saw that such policies were still issued in 1942, well after the insurers received the warnings in the circular letters. There appears to be a discrepancy between the circular letters and daily practice. It is possible that insurers wanted to formally indicate to the authorities that they were opposed to such policies without ever truly intending to cease issuing them. Another possibility is that insurers, as a rule, did not issue escape policies, but that there were exceptions. This seems likely because they were often issued in cases where there was a personal or at least less formal connection between insurer and client, perhaps through a business network, as

[76] Correspondence between *Verwalter* and Vita, 20-11-42, 8-12-42 en 13-01-43. Archive Zürich Leven, the legal successor to Vita.
[77] Draft circular 'regarding insuring dismissed Jewish employees', sent to members of the NVBL board, 25-10-41. AV 73a.
[78] `Geschiedenis van de Joodsche levensverzekeringen in de bezettingstijd', (5-3-1946). Archive NN.

was the case with the Polak brothers. Be that as it may, it was all to little avail. However resourceful Jewish policyholders may have been, and however cooperative their insurers, their efforts to secure property were dashed by a new Liro Decree nine months after the first one was announced.

## The mandatory registration and surrender of policies

The Second Liro Decree of 21 May 1942, "regarding the handling of Jewish capital assets," nullified whatever initial success Jews and their insurers had enjoyed in shielding money from Liro by means of escape policies. The decree was shrewdly timed, nearly two months before the first deportation of Jews. Before being taken away, Jews had to surrender to Liro whatever possessions they still had and all claims to money still due to them. For the occupying authorities it was important to complete the surrender of possessions and receivables before starting the deportations. The Jews were ordered to declare these by 30 June 1942. The first deportations took place in July.

*The consequences for Jewish policyholders*

The Second Liro Decree reduced the maximum capital each Jewish individual was allowed to possess from NLG 10,000 to 250 guilders per family. The Jews had to report and surrender all their collections and claims to Liro. The definition of 'collections' was broad, including anything of value that had not been taken away under earlier decrees. And so, collections of art, books, postage stamps, silver work and jewelry went into storage at Liro. Everyone was allowed to keep one set of cutlery, but teaspoons had to be handed in. Other items exempt from the decree were one's own wedding ring and "dental fillings for personal use." Receivables that had to be relinquished included claims to money lent, ledger entries, rents and leases, rights to fixed salary, workman's wages and the benefits of annuities, life insurance policies and supplementary pensions. Amounts due to doctors and lawyers – the liberal professions – all had to be declared and paid to Liro, as did patents, copyrights and rights to inheritances. This meant that Jews had to transfer to their Liro account all income to which they were still entitled. In turn, Liro sent them that to which they were still entitled according to the fixed maximum standards. The free maximum monthly income per person was reduced to NLG 250 per family.[79] This decree dealt the Jews an economic deathblow and completed the process which Lipschitz described as the impoverishment of the Jewish population in the Netherlands.[80]

Under the decree, Jewish policyholders had to notify Liro of their life insurance policies, annuities and non-life insurance policies, and to hand in the relevant contracts. Liro seized the

[79] See G. Aalders, *Nazi Looting*, p. 201 ff for details.
[80] I. Lipschitz, *Tsedaka*, p. 53.

policies and assumed the right to all present and future benefit payments. The contracts were recorded in Liro's records and the policy documents were filed. Jews were also forced to report policies that yielded smaller benefits, the so-called industrial insurance policies. On 10 July 1942, *het Joodsch Weekblad* [Jewish Weekly], the mouthpiece of the Jewish Council and the only Jewish newspaper that was still allowed to print, published a notice on the order to report all policies. It told readers of a brief extension of the deadline.

A large percentage of Jewish policyholders heeded the order to declare their insurance policies. This can be inferred from the fact that in August 1942, insurers were given adjusted guidelines for reporting. This was less than three months after the decree was announced and nearly one month after the deadline for policyholders to report their policies. Under the adjusted guidelines, the insurance companies were told Liro would send them lists of the insurance contracts declared by Jewish policyholders in duplicate. They were to check the data, indicate any errors and policies not reported by Jewish insurees, and return one copy of the supplemented list to Liro. The other copy was to be kept in the insurer's own files, and the insurer was to indicate in its own administration any items that were 'Jewish.'[81] The companies were under an ongoing requirement to investigate which contracts were 'Jewish' or not and report any Jewish contracts to Liro.

This is how Jewish policyholders lost all rights with respect to their insurance policies. Not a single legal act was possible without Liro's permission. For instance, surrendering a policy for cash to get through a tight spot financially was only possible with approval from Liro. Jews even needed permission to pawn a policy so they could cash part or all of the policy's accrued value. The same applied to transforming a policy into a premium-free policy so that, upon suspension of premium payment due to impoverishment, the insurance would be cancelled after a certain period. As a consequence, the insurance contract would be annulled, irrespective of the level of the premiums paid in the past. Additionally, Jews could no longer change the designation of the beneficiaries (to whom the benefits would be paid). In short, the policyholder had absolutely no authority left over his security arrangements, as these were no longer his.

The practical consequence was that Liro, and not the Jewish beneficiaries, received the amounts that were paid out. The same happened with annuities. As a result, the payment of monthly annuities became an urgent matter once the decree went into effect, because even benefits below the monthly 250 guilder limit had to be paid to Liro, which would in turn arrange payment to the insurees. Correspondence between De Nationale and Liro shows that the company tried to continue

[81] Bedrijfsgroep circular, 11-08-1942. AV 94/1

protecting its Jewish clients' interests. De Nationale expressed its concerns to Liro about the timely payment of the benefits as its clients depended on these for their daily subsistence. The company also intended to inform recipients of annuities so that they could count on being paid on the scheduled date and wanted Liro to conform to the recipient's preferred method of payment (in cash or by postal check).[82] Liro instructed De Nationale that those who depended on these annuity payments were to send a request for payment to Liro's Inspection Department. The recipients would then receive a questionnaire "in which they have to inform us of all details with respect to their income and capital circumstances." Liro assured De Nationale that after receiving this information, it would endeavor to "handle these requests as swiftly as possible."[83] Later on, the companies were told they could submit a request to Liro to resume making direct payments to the beneficiary. The beneficiary had to submit a statement to Liro affirming that he and his family received no more than NLG 250 income per month. This was particularly relevant in situations where someone could cash a total exceeding this amount from multiple policies held with several companies. In such cases, the policyholders had to pay all money in excess of that limit to Liro themselves. If they did not adhere to this obligation, the companies would be required to resume making payments to Liro rather than to the beneficiary.

To be eligible for annuity payment, the insuree had to submit a statement about the allowed amount just before every payment, as well as an '*attestatie de vita*' (life certificate). Due to the deportations, Liro received steadily fewer such statements and so its benefit disbursements gradually decreased in number. In the archives of several companies, there are notes from insurance agents informing the company that the insured had departed, destination unknown.

Liro left no stone unturned in using the new legal system to strip Jewish policyholders of their money. Even before Decree 58/1942 went into effect, the occupier took measures to rob the annuities of people who had given notice that they were looking to emigrate. Liro informed the Bedrijfsgroep in June 1942 that a deed of transfer was drawn up for these policies "in which the policyholder transfers all the rights stemming from the policy concerned to our institution, while at the same time we are designated as the sole beneficiary."[84]

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[82] Letter from Nationale to Liro, 19-6-1942. Archive NN.
[83] letter from Liro to De Nationale, 22-06-1942. Archive NN.
[84] Letter from Liro to Bedrijfsgroep, 23-6-1942. Archive NN. Regarding the realistic opportunities for emigration, see D. Giltay Veth and A.J. van der Leeuw, *Rapport van het Rijksinstituut voort Oorlogsdocumentatie uitgebracht aan de minister van Justitie inzake de activiteiten van drs. F. Weinreb gedurende de jaren 1940-1945, in het licht van de nadere gegevens bezien* (Den Haag 1976), pp. 4-9.

*Consequences for the insurers*

The decree imposed obligations not only on policyholders but on insurers, too. The main requirement was to declare all endowment and annuity insurance held by Jews. The companies were to report policies with an insured value exceeding NLG 10,000 by 1 October 1942, while they had until 1 April the following year to report policies worth between 1,001 and 10,000 guilders. Endowment insurance valued at NLG 1,000 or less did not need to be declared at all. Industrial insurance policies, initially those valued at no more than NLG 300 and later NLG 500, were, for the time being, exempt from the reporting requirements. The level of the annuity insurance was determined by multiplying the annual amount by ten.

The Bedrijfsgroep passed on the Liro directives to the companies via circular letters. The declarations had to be completed in a uniform manner, preferably in folio format; endowment policies and annuity policies on separate lists. For each declared policy, the insurers had to note the family name and given names of the policyholder; address; policy number; type of insurance; insured amount and final date of the insurance. For annuity policies they had to state the effective date, the term and the interest amount.[85]

To ensure the accuracy of its lists, Liro demanded that the insurers take action to identify all policies written for Jewish insurees. The companies had to have all policyholders – including those whose policy had already been converted to a premium-free policy – sign a statement indicating whether they were Jewish "in the sense of Decree 189/1940." Policies worth more than NLG 10,000 were the top priority. The Bedrijfsgroep issued guidelines concerning the forms to be sent to all policyholders and returned signed.[86] Though it later became clear that the insurers did not do everything possible to determine which policies belonged to Jews, the forms were evidently sent to individual policyholders and the companies' intermediary agents and field staff. These agents and staff were also ordered to visit certain clients and check on the basis of identity cards whether they had filled in the form correctly. The agents on some occasions questioned the need for this, given the time investment and financial cost of visiting clients who lived across a wide geographical region. After all, most agents were not employed by the company, but worked for commissions. A few files show veiled criticism of the anti-Jewish regulations. One agent from Venlo had the form signed by his client, but as he added in a short note to the company: "I herewith return the signed note of [name]. But it is beyond me why this is necessary. Isn't it so that all of Europe descends from the Jews? One

[85] Bedrijfsgroep circular, 24-6- 1942. AV 94/1
[86] Bedrijfsgroep circular, 12-06-1942. AV 94/1

of the sons of Noah (from the ark) came to live in Europe and he was a Jew, so……"[87]

Sometimes the insurance companies accepted a written statement from the independent intermediaries or insurance staff who maintained contact with clients. But many of the forms were returned uncompleted, with a note on the envelope indicating that the addressees were no longer living at that address. These were Jews who had already been taken away or had gone into hiding. For the sake of certainty, some insurance companies requested information from the *Rijksinspectie van de Bevolkingsregisters* [Government Inspectorate of Public Records] about whether their clients were Jewish.[88]

Despite the rules imposed by Liro, ambiguities arose in the execution of the decree, prompting Liro to draft more detailed instructions which the Bedrijfsgroep communicated to the members via circular letters. Liro insisted it be asked permission for any suspension of payment or exemption from premium payment at the policyholder's request. Companies were to report to Liro any time a default was found, whether because the Jewish policyholder could no longer afford the premium or because "he was no longer present." Policies that had been pawned or "transferred to someone else's possession as security for a debt" had to be reported, but "the rights of third parties/non-Jews remained untouched, provided there was a proper explanation for them."[89] Furthermore, Liro demanded it be notified of policies belonging to non-Jewish policyholders with a Jewish beneficiary and policies belonging to Jews with a non-Jewish beneficiary. If a policy with an "Aryan" beneficiary was due to be paid out, the insured sum was first blocked. The beneficiary had to send a request to Liro's Inspector for the benefit to be released. If the beneficiary had been designated on a date before the first Liro Decree of August 1941, Liro authorized the company to pay out the benefit. In cases of a mixed Jewish and non-Jewish married couple whose marriage contract was not based on community property, the company was to treat the spouses policies separately. If the marriage was based on community property, the company was obliged to report the policies in case the husband was Jewish. In addition, the regulation applied to Jews from Germany and stateless Jews, as well as to Jewish citizens of German-occupied countries.[90] In conclusion, the insurers were informed that benefits from a company pension worth less than NLG 250 a month per family (or in larger, less frequent installments, but totaling no more than NLG 3,000 per year) could be paid out

[87] Letter from an agent from Venlo to de Oude Haagsche 14-7-1942. Archive TU.
[88] Letters from insurance companies (Amstleven, Olveh, de Utrecht) to Rijksdienst van de Bevolkingsregisters, 10-7-1942, 25-3-1943, 9-10-1943. Archives of Centraal Bureau voor Genealogie, coll. Calmeijer.
[89] Bedrijfsgroep circulars, 11-08-1942, 04-09-1942, 30-09-1942, 26-10-1942. AV 94/1
[90] Bedrijfsgroep circulars, 11-08-1942, 17-08-1942 en 26-10-1942 in AV 94/1; letter from Liro to Bedrijfsgroep, 06-01-1943. Archive NN.

without restriction, provided the pension insurance had been purchased by the employer. Pension insurance purchased by the employee was treated the same as annuities.[91]

*The German authorities grow dissatisfied*

As the decree ordering the surrender of Jewish-owned insurance policies drew nearer, the authorities evaluated the results of the reporting requirement. They were dissatisfied with the insurance companies' results. In April 1943, Commissioner-General Fischböck informed the Bedrijfsgroep via Liro that "the racial investigation was experiencing delays." Policyholders who had not sent back their form declaring whether they were Jewish would in future automatically be considered Jewish. These policyholders were to be notified of this and sent a new statement by their insurance company.[92] However, many forms could not be returned by the Jewish policyholders because practically nobody could be reached at his home address. Between July 1942 and mid-April 1943, almost fifty-five thousand Jews had been deported and those still in the country had been ordered to report to Vught concentration camp by 1 April 1943.

*Generalkommissar für Finanz und Wirtschaft Hans Fischböck (NIOD)*

[91] Bedrijfsgroep circulars, 04-09-1942 and 30-09-1942. AV 94/1
[92] Bedrijfsgroep circular, 14 April 1943. AV 94/2

The authorities were dissatisfied with the pace at which insurers were reporting and checking the lists sent by Liro. The reason these processes were going slowly was that the companies assessed the policies individually based on the Liro guidelines and the insurance conditions in the policies concerned. They noted all sorts of reasons why, in their opinion, reporting was not necessary. They objected to reporting when the policy had been pawned or transferred to a bank, company or private person; when the policy had been cancelled due to suspended premium payments; and when the policyholder had died, was not Jewish or was in a mixed marriage. The policyholder could also be exempted and sometimes there was a statement that the data were incorrect. Liro found this meticulous method too time-consuming and grew impatient.

The annoyance at some insurers' obstinacy and punctiliousness will not have been the only reason the authorities were dissatisfied. One example of Liro's irritation is the correspondence between Liro and HAV Bank, cited at the beginning of Chapter 1. The letters reveal not only the occupier's plans and the fact that some people at Liro were aware of the deportations' purpose. They also show how one insurance company remained mindful of every detail and tried to resist the Liro measures even when it came to very small sums of money. And that the company did so on the basis of arguments which Liro must have considered irrelevant. Other correspondence between Liro and HAV Bank shows that this company in some cases followed Liro guidelines by transferring the insured value of some policies, but only in cases where the surrender was consistent with the conditions stipulated in the policy. When Liro demanded the surrender of small funeral policies whose conditions did not allow this, HAV Bank raised objections and wanted to discuss the matter. Ultimately, HAV Bank wrote: "To conclude this matter we will pay you the surrender value of the policies sent which would give entitlement to a policy exempt from premium." This sentence was partly underlined by a Liro employee, who added in the margin "not only those, but also the ones that will still be sent." Apparently, Liro was satisfied with this concession.[93]

Six months after the first Liro decree, Liro had already estimated the value of the insurance contracts to be liquidated. On monthly statements, Liro employees recorded which amounts had been '*eingegangen*' and how much remained to be cashed. At the end of November 1942, the total expected value of "the Jewish policies," including the annuities, was estimated at NLG 25 million. At that time, NLG 210,000 had been liquidated on the basis of insurance policies that had expired and annuities with values higher than the permitted limit. A value of NLG 24,790,000 remained

[93] Correspondence between Liro and HAV Bank (September 1942-January 1943). The letter cited is dated 29 January 1943. NIOD, Doc II, dossier nr. 249-0418, inv.nr. L-4.

uncashed.[94] In order to be able to cash that amount, the decree was prepared which made surrender mandatory. By the time this decree became effective, more than NLG 2,000,000 had been liquidated.[95] As the total sum was not adjusted upon completion of the surrender of policies in the summer of 1944, the initial estimate of 25 million was apparently accurate. From this we can conclude that the process of forcing policyholders to report their policies and the insurers to confirm the data on the Liro lists had proceeded as the German authorities wished.

### The surrender: *ein kurzfristiges Inkasso*?

When the mandatory surrender of insured values was announced in June 1943 (Decree 54/43), more than seventy thousand Jews had already been deported; about 24,000 of them had been sent to the gas chambers immediately upon arrival in Sobibor. A large number of the deported Jews had already been put to death before the formal surrender of their policies even began. Those who still remained in the country had no role in the process anymore. They had lost control over their policies the moment these were reported and submitted to Liro. Whatever happened now was between Liro and the insurance companies, and Fischböck personally intervened in this process.

According to the decree, all policies that had to be reported in compliance with Decree 58/1942 were to be terminated – and therefore surrendered – as of 30 June 1943. In normal circumstances, surrender was not an unusual procedure in cases where the policyholder wanted to terminate the policy for some reason. He then received a part of the value that the insurance policy had accrued through premium payment, with deduction of costs charged by the insurer. Now that the policyholders no longer had control over their policies, it was not the policyholder who requested the surrender, but the German authorities who demanded it. If the conditions of the contract included surrender, the insurer had to pay the surrender value to Liro. If this was not so – as in the case of annuities, for instance – the insurer had to pay three quarters of the value (the premium reserve as established by an actuary) to Liro. For these legal acts, Liro was not required to submit the policy, a life certificate or a certificate of health, all of which are normally required in the insurance industry in case of surrender.

Liro and Fischböck were highly optimistic. According to Liro's 1942 annual report, the policy department had completed the tracing and registration of Jewish policies. According to the first quarterly report in 1943, Liro was ready for the decree that would terminate the insurance contracts

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[94] '*Meldung ueber in unserem Besitze befindete Juedische Vermoegenswerte per 30 november 1942'.* NIOD, coll. 97 inv.nr. 8.
[95] Liro monthly reports; NIOD, 97, inv.nr. 10.

and facilitate speedy liquidation. Fischböck and Liro expected the surrender of policies to be an easy and automatic process to complete, "*automatisch und in Bausch und Bogen vor sich gehen wurde*," [96] because the insurers would no longer need to deal with cases individually.

Nothing could have been further from the truth. It turned out to be a lengthy process, precisely because the companies continued to handle the policy contracts case by case. Moreover, the Bedrijfsgroep and the companies still had a number of questions. The Verzekeringskamer brought these to Fischböck's attention. They related to three issues: 1) how to apply the decree to policies with a non-Jewish beneficiary and non-Jewish policies with a Jewish beneficiary; 2) whether it was necessary to surrender insurance contracts which for certain reasons no longer had any value; and 3) what to do about the surrender of industrial insurance policies.[97]

The results of the correspondence about these issues were communicated in a Bedrijfsgroep circular letter in September 1943. Policies with an irrevocable non-Jewish beneficiary were regarded as non-Jewish insurance contracts, unless a Jew could still claim some right to surrender or pawning despite the naming of an irrevocable beneficiary. However, this rule did not apply to policies which had been transferred to a bank that agreed to be the policy's beneficiary as security for a loan. These so-called bank policies had to be terminated, but if the creditor was not Jewish, he was to be compensated by Liro. Policies owned by non-Jews but with an irrevocable Jewish beneficiary were to be regarded as Jewish insurance contracts and surrendered. Policies that had existed for such a short time that they had not yet accrued any value did not need to be surrendered. The surrender of industrial insurance policies was postponed for the time being.[98]

The insurers' continued attention to detail did not bode well for Liro. In addition, there were more exceptions. One of these was made for mixed marriages. According to Seyss-Inquart's instruction, dated 15 January 1943, policies bought by mixed married couples with children could be transferred to the non-Jewish children. On this basis, Liro sent a directive on 23 July that the handling of such insurance contracts could be postponed until other insurance contracts had been dealt with. Whenever Fishböck received a notice about such a mixed-marriage policy from one of the insurers, he declared that policy permanently exempt. When insurers were unable to submit such a notice, they had to terminate the policy after all.[99] At least two insurance companies are known to have paid

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[96] '*Jahresbericht 1942'*, NIOD, archief 97, inv.nr. 8 and `*Bericht ueber das erste Quartal 1943*', 16-04-1943, NIOD, archief 97, inv.nr. 10.

[97] Correspondence between Nationale and Fischböck, , 23-6-1943, 25-6-1943, 28-6-1943. NN archives.

[98] Bedrijfsgroep circular, 10-9-1943. AV 94/2.

[99] *Copy of Liro guidelines, 22-7-1943, part of the correspondence between De Groot and Noordhollandsche van 1845. AV S96/24.*

out insurance policies belonging to the spouses in a mixed marriage and requested reimbursement based on Liro guidelines. Liro responded that this was not possible: "Once a policy has been surrendered under Decree 54/43, we cannot change this alteration even if it concerns a mixed marriage with children."[100] The Bedrijfsgroep warned its members in a circular letter of 11 May 1944 that the transfer of policies to non-Jewish children was to be effected no later than 1 July as these policies would otherwise have to be surrendered after all. The circular asked the companies to inform the relevant policyholders of the possibility of transfer.[101] Jews whose requirement to wear the yellow Star of David had been waived, were also exempted from the order to surrender their policies.[102] Liro received the go-ahead from Reichskommissar Seyss-Inquart to notify the relevant policyholders of this exemption.[103] A memorandum in the archives of Nationale-Nederlanden shows that these 'de-starred' Jews (partially) regained assets that had initially been liquidated.[104] Letters were found in the Nationale archives detailing exemptions of this type given in three individual cases.[105]

The small insurance policies (industrial insurance policies) were a prominent and persistent topic of discussion between Fischböck and the insurance companies. From 1942, the requirement to report these policies was a matter of much discussion. For the time being, this type of insurance product had been '*rückgestelt*' (suspended). Then the authorities devised a plan under which the companies would pay a '*Pauschalsumme*', or compensatory fee split equally per policyholder, and in return Liro would not order these small insurance policies surrendered. The companies raised major objections to this and Fischböck ultimately agreed not to enforce it.[106] He would later reconsider this decision, however, when the surrender of other categories of insurance policy utterly failed to meet his expectations. As we will see below, he used the exception granted for industrial insurance policies as leverage to force the surrender of other types of insurance.

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[100] Letter from Liro to St. Eloy van 1875 insurance company 16-8-1943; correspondence between De Groot and Noordhollandsche. AV 96/24.
[101] Bedrijfsgroep circular, 11-5-1944. AV 94/3
[102] 'Sternbefreite' Jews were exempted from wearing the star of David.
[103] Copy of letter from Seyss-Inquart to Liro, 19-10-1943. NN archives.
[104] 'Aantekening over de verplichtingen van joden, die geen jodenster behoeven te dragen'. NN archives.
[105] Letters from Seyss-Inquart to Nationale, 18-12-1944 and 9-1-1945. NN archives.
[106] Bedrijfsgroep minutes, 12-10-1943; Bedrijfsgroep General Meeting minutes, 2-11-1943, AV 94/2; Bedrijfsgroep circular citing Fischböck's letter of 19-1-1944, 20-01-1944; 10-3-1944. In AV 94/3

*Pressure and threats*

In the meantime, the process was comparable to the method applied to the mandatory reporting of policies. A final round began with lists from Liro detailing the policies to be surrendered. The insurance companies and Liro sent these lists back and forth to verify data. After checking and recording, where appropriate, the reasons why surrender was not possible, the final lists were drawn up according to Liro's specifications and the amounts surrendered were transferred to Liro. In the meanwhile, all individual accounts at Liro had been suspended as of 1 January 1943. They were merged into a *Sammelkonto* (combined account), which meant that the amounts sent by the insurance companies were not transferred separately into accounts for each policyholder. When the *Sammelkonto* was created, Liro had made an exception for about 5,000 accounts, mainly belonging to Jews in mixed marriages, although that number dropped to no more than 1,400 accounts by the end of the war.[107] Liro entered the names, policy numbers, beneficiary, insured value and surrender value of each surrendered policy in its records.

This decree put great pressure on both sides. The bureaucratic burden resulted in delays at Liro and the insurance companies. General conditions under the German occupation led to technical problems, paper shortages and understaffing. The latter of these was the main reason the insurers gave to explain why it was taking so long to implement the decree.[108] The slowdown greatly displeased officials at Liro.

A matter concerning the surrender of so-called 'uninsured write downs' or savings certificates issued by *Nationaal Spaarfonds* [National Savings Fund] must have increased Liro's annoyance considerably. Nationaaal Spaarfonds did not regard these certificates as insurance contracts. A Liro representative visited the organization in early 1944 to "inspect the records and the documents." He concluded that the savings fund was in default in several respects. First of all, the company had not followed up when it received no response to the questionnaire about Jewish origin. Secondly, the fund had not provided accurate information as required under regulations for savings insurance. Some articles had been listed, others concealed. "While it can not be called deceit, what certainly can be observed here is a large measure of negligence, probably deliberate, whose intention might be to conceal the depositors' rights or ours as the Jewish depositors' legal successors," the Liro inspector wrote. In addition, the company had cancelled several items without settling the funds that Liro "was due under decrees 58/1942 and 54/1943." The savings fund had also cancelled uninsured savings

[107] J.L. van der Pauw, Eindrapport van de Begeleidingscommissie onderzoek financiële tegoeden WO-II in Nederland, part 3, p. 573; G. Aalders, Nazi Looting, pp. 141-142.
[108] Nationale memo, 11-5-1944. NN archives.

policies without reporting three quarters of the savings balance to Liro. Following the inspection, Nationaal Spaarfonds was given until 15 February 1944 to ascertain which of their clients were Jewish, warning that it would from that date on regard all contracts for which no declaration was received as Jewish-owned. Furthermore, Liro demanded a detailed list of all contracts that had been cancelled to date. All items yet to be settled were to be handled as top priority and without delay, and to be concluded by the end of February 1944. Finally, Liro threatened to order a full audit if it suspected any work was not carried out properly. Liro warned Nationaal Spaarfonds of its right to inform the "relevant German authorities" of its findings. Two days later, the savings fund had the audacity to ask Liro by letter whether it could be allowed until 1 April to comply with the orders, as this was the date mentioned in a circular from the Bedrijfsgroep. Moreover, the savings fund wondered, with reference to a telephone call with the Bedrijfsgroep, whether the exception granted for small insurance policies (of NLG 500 or less) also applied to savings certificates. The fund pointed out that it had duly followed Liro's other instructions; a letter had been sent to the depositors and a first series of items had already been paid. The savings fund contested that it was not technically negligent in this regard, because these items had already been cancelled before Decree 54/1943 was announced. Although Liro stated on 26 January 1944 that it disagreed with Nationaal Spaarfonds on these points, it did agree to extend the final date for settlement until 1 April 1944.[109]

This was probably the only inspection that Liro carried out. In any case, the Verzekeringskamer wrote in a statement that there had been just one inspection. The incident will certainly have heightened insurance companies' fears of an audit by Liro or "the German authorities." The only retired insurance company employee that the Scholten Commission was able to interview for its study mentioned those fears. He testified that the company had a secret knob they could use to warn others "if they were coming" and a hideout where the young men could go if this were to happen. He had not witnessed inspections himself, but he said the fear of them was constant.[110] The results of the Spaarfonds inspection will have increased the agitation felt by Liro, all the more so because the books showed a disappointing amount of surrendered and paid out policies. While a monthly average of NLG 1.5 million was liquidated in the previous period, in February 1944 only NLG 490,000 was cashed.[111] The German authorities' dissatisfaction is evident from a circular letter the Bedrijfsgroep sent to its members, quoting verbatim from a letter from Fischböck dated 8 March 1944. Liro's Policy Department had informed him that as of 31 December 1943 only 46.7% of

[109] Correspondence between Nationaal Spaarfonds and Liro from 19-11-1943 to 26-1-1944. AV, 96/24.
[110] Interview with former actuary from Oude Haagsche, 19-4-1999.
[111] Surveys by Liro. NIOD, 97, inv.nr. 10.

policies had been surrendered and that the insurers hardly appeared to be trying to expedite matters, but were actually obstructing the process. In his letter, Fischböck threatened to lift the exception for industrial insurance policies if the surrender of insurance contracts was not completed with great speed.[112] He used this threat as leverage to enforce the surrender of the other policies. In May, the Bedrijfsgroep passed this message on to the insurers:

> The Generalkommissar emphasizes that if the company still appreciates the waiver granted for industrial insurance policies, the other policies that have not yet been surrendered must now be liquidated *no later than 10 June 1944*. Should this not be completed before 10 June 1944, the exemption of industrial insurance policies will be rendered null and void and these policies will have to be surrendered after all.[113]

In addition, Liro increased the pressure on individual insurers by sending them letters urging them to speedily surrender policies. The Nationale, for instance, received a letter which accused the company of a "miscalculation in the measure of time," which was regarded as "at least a serious error." Enclosed in this letter was a statement showing that the company had sent an average of just one list per week to Liro for settlement from the effective date of the surrender decree until February 1944. Liro concluded by stating that "sister companies had almost fully completed the settlement of the Jewish insurance policies." Liro stated that it had no choice but to report to Seyss-Inquart that the company had been negligent. "You can therefore expect to face further steps from that side."[114] Other companies received similar letters in the first half of 1944, which means the other insurers, or "sister companies" had in fact not settled policies any more quickly than the Nationale had.

Ultimately, the insurers must have succumbed to the pressure, the spectre of having to surrender industrial insurance policies, and the threat of inspection (which they took seriously after Liro audited the Spaarfonds). Following the low monthly average of NLG 1.5 million, more than NLG 4 million in policies was liquidated in March 1944. According to the monthly surveys, the insurers had paid a total of NLG 24,610,907 to Liro by July. This included the settlement of NLG 1,210,110 referred

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[112] 'Wie mir die Abteilung Feindvermögen mitteilt, sind nach einer Auskunft des Bankhauses Lippmann, Rosenthal u. Co. bis zum 31. Dezember 1943 nur 46,7% der jüdischen Versicherungen aufgrund der Verordnung 54/1943 abgewickelt worden. Es besteht bei den beteiligten deutschen Stellen der Eindruck, dass die Versicherungsgesellschaften sich nur kleine Mühe geben die Abwicklung zu beschleunigen, sondern diese absichtlich hinauszuzögern.'Circular Bedrijfsgroep, 10-3-1944. AV 94/3

[113] Bedrijfsgroep circular, 11-5-1944 referring to Seyss-Inquart's letter of 8-3-44. AV 94/3.

[114] Letter from Liro to Nationale, 6-7-1944. NN archive.

to as *franco ausgeliefert* (repaid free of charge). This was the sum that had been repaid to "people freed from the star," or non-Jewish children of Jewish policyholders, mixed marriage partners and other exempted persons.[115] On 1 September 1944, the insurance companies received a message from the Bedrijfsgroep informing them that Fischböck had said the surrender of Jewish-owned policies had been achieved to the satisfaction of the authorities and that the exception for industrial insurance policies was now definitive.[116]

Based on available sources, no certainty can be given today about the exact number of policies liquidated by Liro and the total sum cashed. The statement for the month of July is the latest Liro overview found. However, a memorandum found in the Nationale-Nederlanden archives refers to a monthly statement dated 31 August. We can assume that this was the final statement.[117] The figures mentioned by lawyer M.H. Bregstein in a document written after the war were also based on the 31 August survey.[118] The chaos at Liro on *Dolle Dinsdag* [Mad Tuesday], 5 September 1944, and the expectation of German defeat led employees to destroy a large portion of Liro's working files in the central heating system.[119] Moreover, it is unlikely that any policies were surrendered after that date; on Mad Tuesday the Verzekeringskamer declared a moratorium and restricted the surrender and pawning of policies due to the acute threat posed by fighting. The Bedrijfsgroep was informed at the end of August that Fischböck was satisfied with the surrender operation's results. This, after all, is the most compelling reason to assume that the August statement was the last one. The latest figures are based on memorandums from the Nationale-Nederlanden archives and Bregstein. They amount to the following:

*Number of reported/processed insurance policies*

| | |
|---|---|
| Total number of life assurance and annuity policies reported to Liro : | 29,281 |
| Total number of policies processed: | 22,222 |
| Policies still to be processed: | 3,841 |
| Remaining policies (industrial insurance policies): | 3,218 |

[115] `Uebersicht ueber die Zusammensetzung der bei der Firma Lippmann, Rosenthal & Co, Sarphatistraat, Amsterdam, vorhandenen juedischen Vermogenswerte', 31-7-1944. NIOD, archive 97, inv.nr. 10.
[116] Bedrijfsgroep circular, 01-09-1944. AV 94/3.
[117] 'Herstel van rechten van verzekeringnemers in het levensverzekeringbedrijf', anonymous and undated memo. NN archive.
[118] 'Herstel van rechten van verzekeringnemers in het levensverzekeringbedrijf', NIOD, M.H. Bregstein's archive, 212E, inv. nr. 67.
[119] Introduction to the inventory of the Liro archive, NIOD.

*Sums in NLG*

| | |
|---|---|
| Total value of surrender amounts cashed by Liro: | over 23.5 million |
| Liro's total income based on expirations and surrenders: | 27.5 million |
| Repaid (to persons freed from the star and non-Jewish children) | over 1 million |
| Total estimated sum remaining at Liro | 26 million |

Several questions regarding the interpretation of these numbers remain unanswered. It is not clear, for instance, why Fischböck was content while 3,841 policies had not yet been processed. Perhaps these, most of which were probably industrial insurance policies, had no value due to cancellation. The figures in the Nationale-Nederlanden memorandum indicate that between March and August 1944 another 6,913 policies were reported, while the additional surrender sum stayed roughly the same, which seems unlikely. On the other hand, the sources in the Liro archive and the Nationale-Nederlanden memorandum both state that the total surrendered sum is NLG 23.5 million.

*Employees of the Liro office at Westerbork relaxing after work (NIOD)*

The circular letter from the Bedrijfsgroep in early September 1944 marked the end of a long and arduous process: the registration and surrender of Jewish policyholders' insurance contracts. The deportations ended almost simultaneously. In the two weeks after the letter reporting the success of the surrender operation, the last transports carrying 3,385 men, women and children departed from Westerbork to Auschwitz, Theresienstadt and Bergen-Belsen. Approximately 107,000 Jews had been deported in all. Only about 5,200 of them returned.

## Cooperation and opposition: an evaluation

Considering all the circular letters and insurance companies' archival records, one can only conclude that the Bedrijfsgroep, the Verzekeringskamer and the individual insurers all ultimately co-operated in executing the Germans' orders to register and surrender Jewish insurance policies. They drafted circulars and followed guidelines, and corresponded with the authorities about the problems encountered in complying with regulations. They drafted forms for the 'statements of Jewishness' and had them printed and sent out. When these were returned with an affirmative reply, they stamped 'JEW' or 'J' in red ink on the policy cards. They meticulously studied, assessed and administrated Liro lists with the names of Jewish policyholders and their policy data. Though the entire process took far longer than Liro and Generalkommissar Fischböck would have liked, these authorities who oversaw the entire theft were satisfied in the end.

Nevertheless, one cannot conclude that the insurers wholeheartedly co-operated without hesitation. The Verzekeringskamer opposed the separation of the Foresters' Jewish and non-Jewish policyholders in early 1941 and refused to cooperate in the transfer of non-Jewish policyholders to Centrale. And although the insurers were less than enthusiastic about underwriting escape policies, it is clear that they did so. Furthermore, the insurers' postwar reports, in particular a small number of unpublished reports found in the archives, refer to obstruction of the surrender operation. These reports go into great detail about the efforts to exploit all administrative avenues of investigation and policy data checking. The main motives mentioned in the reports were: obstruction, playing for time and not insisting that clients complete the 'Aryan' declaration. Furthermore, only those policies listed by Liro itself would have been surrendered. The reports also mention practices such as forgery, backdating or mislaying documents, and falsely stating that people lived abroad or were in a mixed marriage.[120] A former Oude Haagsche employee remembered a Jewish policyholder who was administratively declared dead during the occupation and received the benefit with the company's consent.[121]

Although we should generally regard postwar reports with some skepticism, the occupation period archives sometimes confirm the insurers' more uncooperative practices. We see, for instance,

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[120] 'Geschiedenis van de Joodsche levensverzekeringen in bezettingstijd', memo by Bedrijfsgroep, 25-3-1946; NN archive; Report by Hollandsche Sociëteit, 22-5-1946; DL archive and a more elaborate version of this report with annexes in NIOD, doc II, 418, map H 3; Report by Nederlanden van 1845, 6-5-1945; NN archive. Also: memo 'Enige aantekeningen in verband met de afkoop van Joodse verzekeringen ingevolge Verordening 54/1943' by Nationale, 11-5-1944 (NN archive) with the reasons for the delay.

[121] Interview with former actuary of Oude Haagsche, 19-4-1999. He told me about the problems rectifying the records of people falsely declared dead by the company during the war.

that insurance companies sometimes disputed Liro's guidelines. In some instances this bordered on flat refusal, as we see in the HAV Bank's letters. Liro's correspondence with Nationale and the National Spaarfonds reveal cases where companies fearlessly went their own way. We see mention of anti-German sentiment in some companies and among general managers who were engaged in resistance activities. Among them was Board Chairman J.G.H Sauveplanne at De Nederlanden van 1845. His Jewish employees who were forced to resign temporarily received a pension arranged outside the payroll administration. The company also secretly donated money (NLG 165,000) to support people in hiding, war victims and railway strikers. Sauveplanne brought the support money to them in person.[122] Well-known resistance hero Pim Boellaard, general manager of the Utrecht department at Nationale, hosted meetings of the Utrecht department of the *Orde Dienst* [resistance movement] in his own office.[123] A group of Centrale employees was also active in the underground.

Resistance activities are not found in documents, of course, which means postwar reports can hardly be verified. The positive tone in these reports and their pronouncements that Jewish clients were given the opportunity to take out escape policies contrast sharply with the circular letters advising insurers to refrain from writing these policies. Evidence of a formal, distant attitude towards Jewish clients does not necessarily exclude the possibility that the insurers were in fact helpful towards Jews, since the companies had to appear to be in compliance with regulations in any official directives to their staff. In this respect, we find an interesting passage in the 1948 Verzekeringskamer MemoriaI Book. It states that in a Verzekeringskamer circular on guidelines for compliance with Decree 58/1942, there were two sentences printed in italics, indicating to the management what aspects of the regulations "could (*in principle*) be ignored and sabotaged."[124] According to the Memorial Book, the management were verbally informed of this code in secret. After the liberation, the Council for Legal Redress mentioned in its statements the "delaying game" and procrastination in transferring to Liro insurance policies that had been paid out upon expiry.[125] However, court records also show that companies were sometimes deemed too willing to pay the surrender value to Liro.[126]

While the archives contain few traces of factual sabotage, an exception was found in the archives at the Centrale. As discussed in Chapter 1, an NSB board and general management was

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[122] J. Barendregt and T. Langenhuyzen, *Ondernemend in risico*, p. 209.
[123] J. Withuis, *Weest manlijk, zijt sterk. Pim Boellaard (1903-2001). Het leven van een verzetsheld*. (Amsterdam 2008), p. 103.
[124] *Gedenkboek Verzekeringskamer 1923-1948*, p. 140. However, I did not find the original document with italics.
[125] See for instance the court ruling of 27-2-1947 (Catz/Nationale).
[126] See Chapter 4, Koppens vs. Pensioenrisico.

installed at this company shortly after the occupation began. In early 1941, it assumed the non-Jewish clients of the Foresters Benefit Fund. More than a year later, the company's employees decided to take action. Shortly after the announcement of the second Liro Decree, files belonging to the Jewish-owned policies were concentrated in a separate agency called 'Head Office J'. In the same period, premium payments ceased because the collection of premiums was suspended. Most policies were a year in arrears on premiums. This meant that the policies were automatically continued; the premiums were paid from the policy's accrued reserve value while the insured value remained the same. Upon payment of the benefit, all unpaid premiums would be deducted. In November 1943, about five months after the surrender decree was announced, the Centrale created a new administrative department called 'Head Office II'. All Jewish-owned policies which had been taken to 'Head Office J' from August to September 1942 were transferred to this new department. A list naming these policies was found in the archives at the Centrale.[127] The Centrale did not report these 583 insurance contracts with an insured value of more than NLG 100,000 to Liro and thus kept them safe from surrender. This administrative action mainly concerned industrial insurance policies that the insurer did not have to report, whereas the Jewish policyholders were required to report them. More than thirty endowment insurance policies were part of the group of transferred policies.[128] The Centrale employees who carried out this administrative operation ran a high risk of being prosecuted for sabotage if the occupier had found out, particularly because many policyholders had in fact reported their policies themselves so Liro could easily have discovered the ruse. It is not clear who at the Centrale took this initiative, but it is clear that employees within this Nazified company maintained illegal contact with a former general manager, C.M. Simonsz, who had been "honorably" discharged as of 1 May 1941, and some former board members. These employees were preparing for better times. In a letter written to some confidants on 17 August 1942, Simonsz predicted that a turnaround in the war was imminent "at least for the Western part of the country."[129] The addressees were probably the same employees who were secretly securing Jewish insurees' policies.

The occupier clearly felt the insurance companies were being obstructive. Liro and Fischböck expressed this frustration in 1943 and 1944 when they complained about the insurers' lackluster efforts and slow pace, and threatened to liquidate industrial insurance policies. They sent letters, for instance, in which they blamed the delays on laxity in executing the "Jewish questionnaire." In a quarterly report, they expressed optimism that the surrender would be much easier now that they

[127] 'Staat van overvoer der navolgende verzekeringen op 22 nov. 1943. Van den agent Hoofdkantoor J te 's-Hage aan den agent Hoofdkantoor II te 's-Hage'. IISG, arch. De Centrale, inv.nr. 1444.
[128] Memo, including lists with Policy data; Reaal archives, 23-3-1999. In AV 75/16.
[129] Van Gerwen, *De Centrale centraal*, pp. 210, 220-226.

would no longer be individually processed; each of these examples indicates that they saw the insurers as the cause of the delay. After the liberation, a former Liro employee declared that Decree 54/1943 (ordering the surrender of Jewish-owned policies) had partly been inspired by the failure of the Second Liro Decree, which was, in this employee's view, due to the insurers' persistence in handling the settlement of policies too individually and meticulously.[130]

The Centrale's discharged general manager, Simonsz, was not the only one who foresaw a speedy collapse of the Third Reich. In a postwar Verzekeringskamer account of the mandatory reporting of policies, Van Bruggen wrote that a "turnaround in the war" had begun in 1942, adding that "in practice, we knew the policyholders would raise so many objections that the reporting would take far longer than planned. The axiom 'he who wins time has won half the battle' still held true."[131] It is in this light that one should view the insurers' obstructive attitude. On the battlefield, the Germans' luck seemed to change after the summer of 1942, particularly when reports filtered through of the German army's defeat in Stalingrad and the Allies' landing and advance in southern Europe. The insurers apparently felt that if they could win time, at least some of the policies could be spared from surrender. In their eyes, every day won by dragging their feet and by time-consumingly assessing policies on a case-by-case basis could bring them closer to the day when the disenfranchisement of their Jewish clients would be halted. When Simonsz and Van Bruggen spoke of a turning point the registration of Jewish-owned policies had started. It took another two years before the Third Reich collapsed, and during the interim most of the policies had been surrendered. Ultimately obstruction and playing for time did not make a great difference, but the fact that it happened at all demonstrates that at least some insurance companies tried to thwart the surrender despite their limited room for maneuver. Clearly, the surrender of Jewish-owned policies was not always advantageous for the insurers, and the insurance companies will have been particularly displeased by the requirement to take actions that ran counter to insurance law. This, too, may have been a motive for them to play for time.

In this evaluation we must not ignore the fact that the surrender of insurance policies mainly depended on the reporting of these policies. Most policies were reported by the policyholders themselves. Painful though it may be, this fact cannot be ignored. Historians have tried to explain it, for instance by addressing the fact that nearly all Jews were willing to register their Jewish identity based on Decree 6/1941 and that a large percentage of Jews reported and surrendered their assets,

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[130] See undated interrogation of J. Th. van Rossum, manager of Liro department III, which processed the surrender of the 'Jewish insurances'. NIOD, Doc. II-418, H3.

[131] Van Bruggen report, p. 30; *Gedenkboek Verzekeringskamer 1923-1948*, pp. 140-141.

claims and possessions in compliance with the Liro Decrees. The historians concluded that the law abiding character of the Dutch people and of its Jewish contingent had played a part in this, as had the prolonged period of Dutch neutrality which had bred a degree of naive trust in the authorities. Another factor they noted was the fact that the Nazis had established a civil administration in the Netherlands. Yet another factor which was likely important, and for some probably even decisive, was the punishment for non-compliance. Particularly after the February strike of 1941, the threat of deportation must have felt like the sword of Damocles. In this chaotic period, the Germans arrested more than 400 Jewish men who were deported to Buchenwald and then transferred to Mauthausen. By September 1941, reports of their deaths started to reach the Jewish Council in Amsterdam. The occupier announced that the penalty for non-compliance with the Liro Decrees was deportation to Mauthausen. One must not underestimate the effect that this had.

We conclude this chapter by asking whether Dutch insurers generally took a different position than other agencies that had to deal with the occupier's demands. It is clear that the insurance industry compares favorably with the stock exchange, for instance, where there was downright collaboration.[132] Generally speaking, we can see the insurance industry's reaction to the disenfranchisement and economic isolation of Jewish policyholders as part of a wider collective reaction to the Nazi occupation. Leaving aside the cases in which people hit especially hard by the occupation were given assistance, we see that many Dutch people adopted a wait-and-see attitude.[133] Historians speak of "accommodation" and "conformism policy," which meant nothing short of adapting to the occupier's policy, often in the hope of preventing things from getting even worse. Historian Hans Blom wrote of a "conservative reflex" of the majority of the population "who [tried to] maintain the familiar way of life and in any case [tried to] prevent difficulties through a withdrawn and hesitant, sometimes even evasive behavior."[134] In the administrative and economic sphere, people adapted to the new order. Not long after the Dutch capitulation in 1940, the secretaries general who became responsible for the ministries after the departure of the queen and the ruling cabinet declared themselves prepared to cooperate with the new order. They constituted a buffer between the civil servants who executed policy and the occupying authorities. Most civil servants carried out their tasks obediently. This was also related to the *Aanwijzingen* [instructions]

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[132] See Veraart, *Ontrechting en rechtsherstel*.
[133] The illegal agency assisting people in hiding, Nationaal Steunfonds, was set up and funded by banking companies. See Tielhof, *Banken in bezettingstijd*, p. 190 ff.
[134] J.C.H. Blom, *Crisis, bezetting en herstel. Tien studies over Nederland 1930-1950*. (Den Haag 1989). pp. 70-71.

drafted in 1937 for the personnel of public or semi-public authorities in case of a hostile invasion.[135] The underlying motive of this document was mainly that it was in the population's best interest to maintain order, ensure the continuation of employment and the food supply; in short to prevent chaos. Adaptation and downright collaboration also occurred in several key sectors of the economy, as Joggli Meihuizen demonstrates.[136] It was believed that cooperation with the occupier would help preserve the social and economic structures of the Netherlands and ensure maintenance of essential services for the population. Therefore, people felt it was important to keep as much supervision as possible in Dutch hands. In this respect, the course of action taken by the Verzekeringskamer was meant to ensure proper execution of the Life Insurance Business Act. The policyholders' interests were best safeguarded by seeing to it that the insurers could continue their work unhindered. Despite the understanding that the forced surrender was a breach of the Laws and Customs of War on Land, the interests of the insurance industry as a whole prevailed over those of a small group of clients, the Jewish policyholders. The insurance industry knew the appointment of *Verwalters* (administrators) and pro-German general managers and board members was one method the occupiers used to gain control of companies. Insurers wanted to avoid this wherever possible. Whatever their motives may have been, the occupiers remained in control. They deported the Jews from the Netherlands after stripping them of all rights and possessions. Neither obstructing and delaying, nor adapting to the occupier's demands, could have prevented that. And thus, after a series of frustrations, Fischböck was finally satisfied.

[135] See J.H. Sikkes, *In geval van een vijandelijke inval. Ambtelijk gedrag in bezettingstijd en de daarvoor geldende aanwijzingen.* Deventer, 1985 and P. Romijn, *Burgemeesters in Oorlogstijd. Besturen onder Duitse bezetting*,( Amsterdam 2006), pp. 50-58.
[136] J. Meihuizen, *Noodzakelijk kwaad. De bestraffing van economische collaboratie in Nederland na de Tweede Wereldoorlog*, (Amsterdam 2003), pp. 19-147.

# Part II Legal Redress after the Liberation

## Chapter 3
## Drawing up the Balance

Only after the liberation did it become clear how candid Liro had been when it wrote, in a January 1943 letter to the HAV Bank, that "...Jews deported by the government have been entirely removed from the social system and nothing will be heard from them in the future." The Jewish community had been brought to the brink of complete destruction. Nearly all who survived had been robbed of their possessions. Most Jewish policyholders, beneficiaries and heirs were dead and, in the situation the occupier left behind, no longer held any rights. The government-in-exile wanted to redress this by restoring the rights that had been taken away, so it had prepared legislation that would reverse the regulations. As we will see later, however, the reality of the initial postwar years presented unforeseen difficulties. The government had to make many hard decisions. The insurance industry also had to assess its situation. The occupation had damaged insurers in a variety of ways. There were losses related to both Jewish clients and those in the East Indies — which had been occupied by Japan — as well as damage due to acts of war and to conversion of the reserves because of a sharp decline in the interest rate. In the case of 'Jewish policies,' the insurance companies had had to make payments to Liro which ran counter to normal insurance principles, such as annuities. The companies, too, had been harmed by the occupier. They approached the Minister of Finance and even the Council for Legal Redress. The way legal redress of surrendered insurance policies was pursued amid such difficult circumstances can best be understood by examining how these three groups drew up the balance.

### The decimated Jewish community

The Jewish community was decimated and the framework in which it could seek legal redress was, in short, deeply complex. Only 5,200 of the 107,000 Jews deported from the Netherlands returned from the concentration and death camps.[137] About 17,000 of the approximately 25,000 Jews who had gone into hiding survived the war, in some cases after having resided at dozens of addresses. About one third of the Jews who had gone into hiding were betrayed during the occupation and deported. Most who survived the camps eventually returned to the Netherlands; a small number of survivors

[137] P. Griffioen and R. Zeller, *Jodenvervolging in Nederland, Frankrijk en België 1940-1945. Overeenkomsten, verschillen, oorzaken* (Amsterdam 2011), pp. 442-443, 898.

decided to go straight to Palestine, the United States or elsewhere.

Not only the survivors of the camps were returning home, but thousands of forced laborers, political prisoners and Dutch prisoners of war were, too. No distinction was made between Jewish and non-Jewish returnees. The repatriation process was hampered as the government was often caught between conflicting responsibilities. At first, the Dutch authorities tried to delay the expected return of large numbers of citizens from the collapsed Third Reich. The government feared returnees might bring contagious diseases with them. Moreover, returnees needed to be questioned at the border to weed out collaborators, NSB members and those who did not have Dutch nationality. At the same time, the Netherlands was suffering acute shortages of nearly all necessities and hardly any facilities were available to care for survivors. The Dutch authorities were less than enthusiastic about extending a helping hand.[138]

Some Jewish returnees came back to the Netherlands on their own strength, partly on foot, partly by hitching a ride, and many of them were helped by the Allied occupiers of the defeated Third Reich. Survivors experienced great difficulties, but euphoria too, as they made their way through France and Belgium. Later, many spoke of immense disappointment at the unwelcoming reception they were given once they reached Dutch soil. A moving example is the story of how Gerard Durlacher, a survivor of Auschwitz who had a serious foot injury, was marveling at the beautiful items on display at a Paris shoe store when he was told he could pick out a pair of shoes for himself. But after all the warmth and hospitality he received on his journey, his homecoming in the Netherlands was a cold one.[139] The experiences of Jewish returnees are also recorded in the book *U wordt door niemand verwacht* (You are expected by nobody), by historian Michal Citroen. Other publications, from the *Stichting Onderzoek Terugkeer en Opvang* (SOTO) [Foundation for the Research of Repatriation and Relief][140], supply additional documentation of how little the Dutch people and government generally did to offer Jewish survivors and other returnees a warm welcome.[141]

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[138] See M. Bossenbroek, *De Meelstreep. Terugkeer en opvang na de Tweede Wereldoorlog* (Amsterdam 2001).

[139] G. Durlacher, *Strepen aan de hemel*, (Amsterdam,(first edition 1985), p. 81-82, ev.

[140] The Dutch government requested a broad study of the repatriation and reception of Dutch victims of the Second World War. For that purpose an independent foundation, *Stichting Opvang en Terugkeer Oorlogsgetroffenen* or SOTO, was formed in July 1998. SOTO documented and analyzed the experiences of Jewish survivors, Roma and Sinti, forced laborers, political prisoners, prisoners of war, and migrants and repatriates from the Dutch East Indies. In 2001 and 2002, SOTO presented a comprehensive study by M. Bossenbroek and three volumes with articles edited by C. Kristel and H. Piersma.

[141] See B. de Munnick, 'Na de zogenaamde bevrijding' in: H. Piersma (ed.) *Mensenheugenis. Terugkeer en opvang na de Tweede Wereldoorlog. Getuigenissen,* Amsterdam (2001) p. 45-69.

All Jewish families had suffered great losses and many had been wiped out altogether. Some still had non-Jewish friends, former employers or relatives in mixed marriages who they could turn to for help. But the majority had to contend with a dire situation: without money, housing, furniture, employment or any source of income. Not only had all their possessions been taken from them, but also their right to work. Their jobs, if they still existed, had been given to others. Their homes were now occupied by strangers, while their furniture had been taken away. Was there no one to help these people who had survived the horrors of persecution?

*General provisions for victims*

The Dutch government-in-exile had taken measures and prepared legislation to deal with the return of displaced persons and the postwar reconstruction of society. Its response to the systematic persecution of Jews from 1940 to 1945 was to create a policy in which Jews would not be set apart as an exceptional category. However well intentioned this may have been, the policy meant there would be no special aid for the group that had been hit hardest, and no specific arrangements for their legal redress. Upon their return to the Netherlands, Jews were not registered separately; the only distinction that the authorities made was between Dutch citizens and foreign nationals. As a result, Jews who had fled to the Netherlands from Germany or Austria before 1940, and who returned to Dutch soil after surviving the camps, were denied access or were put in shelters that also housed NSB members.[142] At the same time, the Dutch authorities did create a separate legal arrangement for military personnel and civil servants. So while Jews were left to fend for themselves, army and navy servicemen were paid their salary in arrears in the summer of 1945.[143]

In April 1945 the Ministry of Interior Affairs created the *Centraal Bureau Verzorging Oorlogsslachtoffers* (CBVO) [Central Bureau for the Care of War Victims]. War victims could turn to this organization for financial and social assistance.[144] Formally speaking, people could also claim compensation based on two successive war damage compensation decrees: *Besluit Overgangsregeling Oorlogsschade*, enacted on 16 June 1945, and *Besluit Materiële Oorlogsschaden*, which replaced the former decree in November 1945. The latter is also known as MOS, and its title makes clear that it is intended to compensate victims of property damage resulting from the war.

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[142] D. Hondius, 'Welkom in Amsterdam' in: C. Kristel (ed.) *Polderschouw*. *Terugkeer en opvang na de Tweede Wereldoorlog. Regionale verschillen,* Amsterdam (2002), p. 201-221.
[143] See P.W. Klein, *Het rechtsherstel gewogen. Vragen met en zonder antwoord*. Annex 2 of the Van Kemenade Commission's final report, p. 42-43.
[144] See *Onderzoeksgids Oorlogsgetroffenen WO2*: 'Centraal Bureau Verzorging Oorlogsslachtoffers'.

These decrees were an extension of the measures implemented during the occupation to compensate civilians for property damage caused by acts of war. Damage had to be reported to a special Damage Inquiry Commission, called the *Schade Enquête Commissie*, which had offices throughout the Netherlands. When an office received a damage report, it sent an assessor to inspect the damage. The CBVO could make advance payments.[145] However, the measure did not cover the loss of income, money or securities, so it was of little benefit to many Jews for the time being.

The compensation scheme as it was devised on paper bore little resemblance to how it was applied in practice. Jews who were completely destitute had to fight long and hard for compensation of the damage they had sustained, as many described in later years. Mozes Benjamin, one of the survivors interviewed by Michal Citroen, was physically weak and had nothing but the camp uniform on his back when he arrived at Rotterdam train station after the war. He was taken to a Jewish shelter where he stayed until 1948. He had lost his pregnant wife, child and in-laws to the Nazi persecutors. Because he was now single, he was not given a house to live in. He approached the Damage Inquiry Commission in Rotterdam to report the loss of the textile business he had run before the war. The commission told him to report everything he had owned prior to the war, from his company inventory to his wife's nightgowns and child's diapers.

> They wanted to see receipts. Well, it was unlikely that I still had those after three years in the concentration camps. That I had to collect all those things hurt my heart so much. Having to state exactly what clothes my murdered wife had worn. At a given moment I said: you can choke on it! (…) I did not go back. Just because I had to tell them. I did not want to go to the tax office and not even to the counter where I had to apply for a new textile permit.[146]

Robert Cohen returned from the camps at the age of 19 after having lost his brother and his parents, who had run a grocery shop in Amsterdam. In principle, he could reopen his parents' business, but he lacked experience and the shop itself. Other people had moved into the house above the store.

> For my parents' furniture I received fifteen hundred and thirty-one guilders from the Damage Inquiry Commission. My aunt and uncle pointed out to me that I could fill in forms for that. (…) I also inquired if there were data about the possessions of my parents with Liro, but

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[145] See *Onderzoeksgids Oorlogsgetroffenen WO2*: 'Schadevergoedingen' and ' Schade Enquête Commissies'

[146] M. Citroen, *U wordt door niemand verwacht. Nederlandse joden na kampen en onderduik,* Houten (1999) pp. 103-105, 184-185.

> nothing was known about that. (….) I never tried to start legal proceeding with the Council for Legal Redress.[147]

What the experiences of Jewish returnees show us is that survivors often made attempts to claim the compensation to which they were legally entitled, but that they encountered many difficulties. These were caused by the conditions of the compensation process and their emotional effects on the survivors. Those who asked for help in this immediate post-liberation phase were often distressed by the coldly formal rules or overcome by their own traumas. By the time they were eligible for recourse via the Judicial Department of the Council for Legal Redress, many had already given up.

In addition to the channels described above for government support and compensation for material damage, postwar aid was also made available by the cooperative effort of a number of charitable organizations operating under the name *Stichting Nederlands Volksherstel* [Foundation for the Restoration of the Dutch People], which I will call by its commonly used name 'Volksherstel.' The foundation's stated purpose was "to promote the mental and physical recovery of those in the Dutch population left in need by the war."[148] The *Nieuw Israelitisch Weekblad* (NIW), a Jewish weekly, regularly reported on ways of receiving assistance, but Citroen found only one reference to Volksherstel in *NIW*, in a June 1945 issue. Many of those she interviewed had never heard of the agency. One said Volksherstel had assisted him with housing and intermediation. But young Robert Cohen, who was mentioned earlier, was turned down when he applied for a winter coat.[149] The needy could also turn to *Hulpactie Rode Kruis* (HARK) [Red Cross Aid], until that organization was subsumed into Volksherstel in 1947.[150]

Just as prewar assistance and care for the poor were mostly taken up by private and religious organizations, post-liberation aid initiatives were again taken by specific groups, for specific groups. The most important organization that aided Jews was the *Joodse Coördinatiecommissie* (JCC) [Jewish Coordination Commission]. This advisory body was re-established to represent the interests of the Dutch Jews and to serve as an umbrella group for other Jewish organizations.[151] In the initial postwar years, the JCC filled the gap left behind when the occupiers annihilated the entire structure of the Jewish community. The JCC did not receive funds from the Dutch government, but from the Jewish

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[147] Ibidem. pp. 185-186.
[148] *Onderzoeksgids Oorlogsgetroffenen WO2*: 'Volksherstel'.
[149] Citroen, *U wordt door niemand verwacht,* p. 138.
[150] *Onderzoeksgids Oorlogsgetroffenen WO2:* 'Hulpactie Rode Kruis'
[151] The JCC was formally founded in January 1941 to look after the interests of Jews hit by the anti-Jewish measures. See: Lipschitz, *Tsedaka*, p. 48-49.

Joint Distribution Committee (or Joint, for short). This American Jewish organization had offered support to Jewish refugees from Nazi Germany in the 1930s and after the war it set up a large-scale aid program for camp survivors after the collapse of the Third Reich.[152] The JCC offered camp survivors medical services. Jews could also turn to the JCC for financial support and commodities such as clothing, shoes, household goods, beds and mattresses, and there was a fund for loans to small entrepreneurs. The Joint also provided legal advice to Jews who had fled Germany and Austria before 1940 and lost their nationality. The Dutch government viewed these individuals' possessions as enemy property and ordered them confiscated by the *Nederlands Beheersinstituut* (NBI) [Dutch Control Agency]. Only after the rightful owner submitted a statement affirming that he was not an enemy of the Dutch state would these items be released, in a process that could take years. The JCC could offer its clients advice on legal redress, but could do nothing tangible to achieve it.[153]

*The principles of the legal redress*

In the narratives told by survivors, memories of the official measures taken to restore losses and provide support are sometimes interwoven with recollections of the legal redress process that later got off the ground. Few survivors' accounts make mention of insurance policies. The support measures that were available to survivors soon after their return were, however, sharply different from the measures aimed at providing legal redress. Although the two decrees regarding legal redress, *Besluit bezettingsmaatregelen* [Occupation Measures Decree E 93] and *Besluit Herstel Rechtsverkeer* [Restoration of Rights Decree E 100] had already been announced on 17 September 1944, the government was unprepared to implement them immediately after the liberation. Initially the only party with the power to deal with legal redress was the Military Authority, in which the government-in-exile had vested temporary authority in the liberated south of the Netherlands. However, the Military Authority could do little until the *Raad voor het Rechtsherstel* [Council for Legal Redress] was installed in August 1945. Even with the council formally in place, little could be done because it was still little more than a paper tiger. In his report for the Van Kemenade Commission, historian P.W. Klein wrote that legal redress moved at a "snail's pace" in the early years.[154] Why did a set of measures that the government considered so important get off to such a

[152] Financial aid from the Joint totaled 4 million guilders between 1945 and 1948. See C. Kristel, 'Leiderschap na de ondergang. De strijd om de macht in joods naoorlogs Nederland', in C. Kristel (ed.) *Binnenskamers*, *Terugkeer en opvang na de Tweede Wereldoorlog. Besluitvorming,* Amsterdam (2002) p.224

[153] See *Onderzoeksgids WO2*: CIB, Centraal Registratiebureau and JCC; C. Kristel, 'Leiderschap na de ondergang'. In *Binnenskamers*, pp. 209-214; M. Citroen, *U wordt door niemand verwacht,* p. 169.

[154] Klein, *Het rechtsherstel gewogen*, pp. 22-40.

slow start? There are two reasons for this. On the one hand, there was a desire to perfect the legal acts of redress, and on the other, there were conflicting interests. Legal redress had, after all, a dual purpose: to reverse the disenfranchisement of citizens and to restore the legality of transactions involving assets.[155]

Decree E 93 clarified the status of regulations issued by the occupier. It retroactively declared Nazi regulations null and void. The 61 anti-Jewish regulations were placed on the so-called A-list. All legal acts that had taken place on the basis of those regulations were annulled. In addition, there were a B-list and a C-list containing regulations that, respectively, would be withdrawn upon liberation or would continue to exist for the time being. However, no one could lodge claims based on E 93 until provisions were made for legal redress itself. Those special provisions had been included in the second decree of 17 September, E 100. This deeply complicated and lengthy decree contained 166 articles of formal rules for legal redress with respect to assets. "This described exactly who, for which reasons, for whose benefit, under which conditions, by which procedures and via which organization the legal redress of assets took place," Klein wrote.[156] This perfectionism in preparing the decree was intended to equitably resolve any conflicting interests that might arise in the execution of legal redress. One of the principles in the legal redress scheme that could be expected to present problems was "good faith." The new owners of expropriated Jewish possessions who could not have known of the property's origin could not be forced just like that to return it to its original owners or their heirs. However, the new owner was required to prove he had acted in good faith. This principle had to be upheld if the Dutch authorities were to restore the legality of economic transactions. Economic restoration, in turn, was a precondition for restoring normalcy in Dutch society. The authorities felt it necessary to prevent any additional economic chaos in a society that had already been affected in so many ways. Veraart, in characterizing the contradictory nature of legal redress, referred to the Jewish lawyer H.J. Sanders. Those who had been robbed, or "Sanders cum suis," viewed legal redress as a:

> gateway to justice and economic life, the only avenue to return to a normal, dignified existence. In this vision, legal redress was directly related to the return of the Dutch democracy in which different segments of the Dutch population are treated equally.

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[155] For extensive information on E 93 and E 100 see: *Eerste rapport van de begeleidingscommissie onderzoek financiële tegoeden WO-II in Nederland* (Leiden 1998), pp. 20-25; Klein, *Het rechtsherstel gewogen,* pp. 18-19 and Veraart, *Ontrechting en rechtsherstel,* chapter 2.
[156] Klein, *Het rechtsherstel gewogen,* p. 19.

In the government's view, however, legal redress served economic reconstruction, "one of the many instruments needed for the reconstruction of the plundered Netherlands." This meant that redress could be made subordinate to the interests of the economic reconstruction led by Finance Minister Piet Lieftinck. "It even meant that legal redress could be postponed in case it conflicted with other, more vital interests," Veraart wrote.[157]

Jaap van Amerongen, who helped re-establish the JCC in 1944, held a different view. He understood that the interests of the Jews were subordinate to the general need for currency reform, but nonetheless he supported Lieftinck's method. "In my opinion he played an unforgettable, important role," Van Amerongen said in an interview with Citroen. He admitted that Lieftinck's policy "determined the treatment of the Jews and again made it difficult for them to adapt after the war." And yet when Van Amerongen was serving as Israel's Director General of Finance, he and Lieftinck became friends.

> I did ask him: what were you thinking between 1946 and 1952? Why didn't legal redress for the Jews take place more quickly? He was certainly not an anti-Semite, but saw it as part of the framework of economic restoration. It was in his interest to do it slowly. (…) We, the JCC, were against it, but we knew that the currency reform was an important issue for the Netherlands. That we, especially, became victims again was of secondary importance.[158]

Comprehensive though it was, nowhere in its 166 articles did Decree E 100 mention the restoration of insurance policies. The decree did state that disputes and unclear situations should be arbitrated by the Judicial Department of the Council for Legal Redress. As a result, it was the Council for Legal Redress, which started out with five departments and eventually grew to six, that determined the restoration of insurance contracts. This meant that robbed people, referred to as the 'dispossessed' in the legal terminology of that time, had to submit their claims to a restoration judge. The council could annul or alter legal relationships effected during the occupation and could wholly or partially revive or modify legal relationships that had been annulled. The council could also order the defendant to pay the claimant if the original property could not be returned. The Judicial Department was authorized, where necessary, to correct the injustice done by the occupier, particularly when it came to possessions in Category A of Decree E 93 that were taken away under the anti-Jewish

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[157] Veraart, 'Sanders contra Lieftinck', in C. Kristel, *Binnenskamers. Terugkeer en opvang na de Tweede Wereldoorlog. Besluitvorming* (Amsterdam 2002), p. 174.
[158] Citroen, *U wordt door niemand verwacht,* pp. 169-170.

regulations. In this sense, legislators and regulators took the specific plight of Jewish war victims into account, according to Klein.[159] However, it remains true that legal redress for dispossessed Jews was subordinate to the national priority of economic restoration and reconstruction.

Another agency that figured prominently in the legal redress of insurance policies was the Control Department of the Council for Legal Redress. The NBI, an office which fell under this department, managed assets as long as entitled parties had not stepped forward to claim them. One of the organizations that reported to the NBI was the Amsterdam-based *Stichting Bewindvoering Afwezigen en Onbeheerde Nalatenschappen* (BAON) [Foundation for the Administration of Absent Persons and Unmanaged Inheritances]. This foundation, established on 29 June 1945,[160] would later play an important role in the restoration of insurance policies belonging to victims who had not returned. See Chapter 4 for more information on this.

Because no specific regulations were put in place for the redress of insurance policies, the legal redress of such assets was based on Judicial Department rulings. Policyholders originally had until 1 January 1948 to submit claims to the Council for Legal Redress, but the deadline was eventually extended to 1 July 1956. So, how were surviving policyholders, their heirs and other entitled parties to seek what was rightfully theirs? Through what steps could they have their rights restored? To answer these questions, we must first explore the organization and procedures of the Judicial Department.

*The Judicial Department*

The Judicial Department was an independent legal body; its chairman and members were appointed by the Crown and could not be dismissed as long as the Legal Redress Decree was effective. The Judicial Department was not required to follow orders from the finance and justice ministries. It was not possible to appeal a department decision. A claimant could request a review three months after a decision was handed down, provided he could present new facts. The Judicial Department had the power to appoint judges and set up chambers for the handling of cases. The department was chaired by University of Leiden professor Rudolph Pabus Cleveringa, known for his public protest against the dismissal of his Jewish colleague E.M. Meijers on 26 November 1940. In September 1946 he was appointed rector of Leiden University and was succeeded by his Leiden colleague R.D. Kollewijn. After his departure, Cleveringa remained involved with the Council for Legal Redress. Initially, the department had 16 judges, but their number rose to 65, not counting substitute judges. Redress

[159] Klein, *Het rechtsherstel gewogen*, pp. 55-57, quotation on p. 56
[160] Founding act, 29-6-1945. NA, NBI, inv.nr. 2.09.4.9, folder 82.

judges were not judges in daily life; they were recruited from the ranks of prominent lawyers and solicitors and exercised their role with the Judicial Department alongside their normal duties. In 1946, chambers had been installed in eight cities, but cases related to legal redress of insurance assets were nearly always heard in The Hague.

The procedure was as follows: the claimant submitted a written request and exhibits to the department's Central Registry in The Hague. The request had to state the grounds for the claim. The Central Registry sent a copy to the respondent, referred the request to a chamber and set the term. The respondent could then send the appropriate chamber a reply, including the grounds for contesting the claim and a conclusion. Copies were sent to all parties involved. The chamber's chairman decided in consultation with the substitute clerk whether a hearing was necessary. If not, they set a date for the decision. Otherwise, they convened a public hearing where witnesses or experts were consulted. Chamber decisions were published. In some cases where the chamber wanted more information, the judge handed down an intermediate decision that remained valid until an extra session could be held to hear witnesses or experts.[161] Clearly, most dispossessed people needed the assistance of a lawyer.

*The treatment of Jewish interests*

As straightforward as the procedure may seem, there were significant barriers for Jewish claimants to overcome. The testimonies gathered by Citroen illustrate some of the difficulties they faced in the compensation or legal redress process. Mr. Benjamins, who was cited above, did not pursue restoration of his textile business and Robert Cohen did not enter legal proceedings to recover his parents' grocery shop. Mr. Polak, whose father Carl had been murdered in Auschwitz, could not bring himself to claim the escape policies Carl had entrusted to the Olveh insurance company. They were not the only ones for whom the emotional and financial toll of claiming restoration of rights was too much to bear. Though the council's managing board decided to publish its most important jurisprudence by mid-1946, it is unclear whether disoriented returnees were clearly informed about the procedures they had to follow. The JCC may have played a role in this. Meanwhile, Jewish lawyers closely monitored the sluggish progress of redress; they described their observations in critical reports and commentaries in the *NIW*. From 1 June 1945, a recurring rubric appeared, written by lawyer Jacob Fränkel, under the heading: 'Now that THE LAW has been restored, it would be good to know:…. '. The series included information on topics such as the decree on legal transactions and the absence of a provision for automatic restoration of property which meant one had to submit an

[161] Introduction, inventory of the archive, Raad voor het Rechtsherstel, National Archives, 2.09.48.02.

application to the Council for Legal Redress. This was a way of keeping the Jewish community informed. The assertive Jewish lawyer Heiman Sanders (1888-1958) followed developments with particular suspicion and commented on how legal redress of insurance and other assets was progressing. Sanders published in both the *NIW* and the *Nederlands Juristenblad*, a well-known Dutch trade journal for lawyers. He did not hesitate to warn *NIW* readers of financial institutions' unfavorable proposals for redress. He also worked as a solicitor for claimants in a small number of insurance policy restoration cases.

Sanders was not alone in standing up for dispossessed Jews. Several Jewish commissions and other bodies defended their interests, sometimes by appealing to the government. K.J. Edersheim of the *Kring van Joodsche Ondernemers voor Herstel* [Jewish Entrepreneurs for Redress], for instance, wrote a document in October 1945 entitled 'Proposals to change the legal arrangements and the practical execution of legal redress.' He argued that this laborious and time-consuming system was unfair because it required the victim to sue and to carry all the costs involved, in addition to the burden of collecting evidence. Edersheim's document dealt with the problems Jewish entrepreneurs faced in the various fields of legal redress, including insurance. The author wrote that due to the surrender, the surviving next of kin of deported persons – widows and children – were affected even more seriously "as they also lose, at least for the time being, income from other assets." Surviving policyholders were also affected; they could not simply resume the payment of premiums because insurers did not want to continue past policies, not even after clearance of the paid surrender value. "It even appears some insurers are requesting a new medical checkup, which would imply a blatant injustice." Edersheim reported that insurance companies had informed insurees that redress would not take place until the government had introduced a formal measure to this end. The insurers had pointed to the fact that "due to the large number of deceased as a result of deportation or other causes, the insurance companies would be hit too hard if they honored existing contracts." He argued that "the companies should get a claim on Liro for repayment of the deposited surrender value, so that the insurance contracts could be reinstated and the policyholders would not be duped by the forced surrender which was beyond their control." In anticipation of this arrangement surviving relatives of the policyholders who had died in the meanwhile should receive an advance.[162]

The Jewish *Commissie voor Herstel* [Commission for Restoration] also entered the battle in the spring of 1946 and sent an exposé with a sizable dossier to the Dutch prime minister, requesting "the government's consideration of the objections to the arrangements for redress and compensation for the Jewish population and the execution thereof." The commission argued that

[162] Appendix A in Klein, *Het rechtsherstel gewogen*, pp. 79-88.

these special measures had to be modified,

> so that the Jewish population will be on equal footing with the rest of the population, including that part which has also been hit hard by the war, and that it will not have to keep bearing the extra burden that the occupier put on its shoulders. In drafting and executing its measures, the government is insufficiently focusing on this.

The commission also brought up the "tragedy of the life insurance policies." Jews, "who, like all other people who put their savings into premium payments, did so to leave a widow and orphans at least somewhat financially secure in the event of death," the commission wrote. However, it pointed out, these efforts had so far been in vain. The commission proposed ways the government could improve the rules for redress of insurance policies in a separate file. It also detailed some of the experiences Jews had gone through when trying to have policies restored. Many Jewish stakeholders who reported to their insurers after the liberation were told to be patient, but that the interests of Jewish policyholders would be duly considered, the commission wrote. And then,

> [m]onths went by, but nothing happened. Yet, we happened to hear in passing that the matter was attended to. The Insurance Bedrijfsgroep, with whom we sought contact, promised to give full disclosure but later withdrew that promise. The chairman of the Bedrijfsgroep did disclose that the proposed arrangements fell through due to a lack of co-operation from the government. The consequences have been described before: widows, orphans and beneficiaries of annuities were left to fend for themselves. Those who have returned and have to rebuild their life under difficult circumstances must do so without even the certainty that their dependents will have financial security.

The commission proposed three steps as an initial stopgap measure. First, payment of the insured amounts upon death, at least to the surviving dependents, minus any unpaid premiums with interest. Second, the payment of annuities, and third, reinstatement of policies belonging to still living policyholders following payment of all due premiums with interest. To facilitate this, Liro would have to cede the policies in question to the insurers. The Commission for Restoration complained bitterly that in the case of ordinary life insurance policies, the insurance companies had kept the difference between the surrender value and the premium reserve, while – in the commission's view – the same

insurers had made it virtually impossible to retain the policies during the occupation.[163]

## The insurers in a tough spot

As we see from the last few quotes, the insurers were not amenable to requests they received shortly after the liberation from robbed people. Initially, each insurance company decided individually how to respond to such claims. The Nationale, for instance, referred to the NBI's Legal Redress Bureau. In some cases where the policyholder had died prior to the surrender date, the insurers offered to pay the difference between the insured capital and the surrender amount paid to Liro. But the problem faced by policyholders and insurers alike was that many payments could not yet be effected because the dates of death and details about surviving heirs were still unknown. The insurers therefore temporarily set aside most claims for payment due to death. In the case of benefits due during the insuree's life (annuities), they offered restoration upon payment of premiums in arrears and the surrender value, plus 3.5% interest. A review from 1950 shows that some policyholders accepted this offer on condition that this settlement was still subject to adjustment under future legislation.[164]

Restoration of policies was discussed by Bedrijfsgroep members in a 27 July 1945 meeting. One member pointed out that the stakeholders required speedy processing. The chairman, however, argued that this matter was complicated and that the insurers should not act in haste. Large financial interests were at stake, requiring extensive research.[165] The first initiative already taken to this end in June was the creation of a commission that would deal with the restoration issues: the *Commissie voor Advies inzake Joodsche Verzekeringen* [Advisory Commission on Jewish Insurance Policies], which I will refer to as the Commission on Jewish Insurance Policies. This body's first step was to collect data about surrendered policies from the insurers. It asked the members of the Bedrijfsgroep to submit data concerning the surrender of Jewish insurance policies to Liro before 15 July. For the time being, the insurers' general strategy was to ask Jewish claimants to wait until legislation concerning the restoration of their policies was in place.[166]

In a Bedrijfsgroep plenary meeting on 24 January 1946, the chairman announced that the government had been sounded out about issuing a guarantee for surrender amounts paid to Liro. The government had indicated it would only consider doing so for living beneficiaries of annuities,

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[163] Appendix C in Klein, *Het rechtsherstel gewogen,* pp. 90-103; quotations: pp. 90 and 98.
[164] Memo, 'De Joodse polissen van Levensverzekering (gang van zaken na de bevrijding.)', 24-2-1950. NN archives.
[165] Meeting minutes, Bedrijfsgroep, 27-7-1945. AV 94/4.
[166] Circular, Bedrijfsgroep, 19-6-1945.

which amounted to a tiny fraction of the money paid to Liro. As it was now clear there would be no state financial compensation of the surrender values paid to Liro, the insurers had to consider their own response.[167] After the government made its position known, the Bedrijfsgroep had prepared a way to deal with the issue and unveiled its proposal during the 24 January 1946 meeting. The aim behind this proposal was to set in motion the legal redress of policyholders who had lodged claims with insurers. At the same time, the insurers would enter talks with the government to speedily draft legislation to replace this temporary arrangement.

The preliminary arrangement that went into effect in February 1946 provided for restoration of several categories of surrendered policies whose insurees were still alive, irrespective of the health of the insured person. However, it was a poor arrangement as it implied that upon restoration of the policies, the policyholder had to pay not only the premiums in arrears, but also the surrender value that the insurers had paid to Liro, with 3.5% interest added to both amounts. If the policy held sufficient value, this "compensation" by the policyholder could remain as a debt on the policy with an interest charge of 3.5%. Any benefits that the insurer would have had to pay if the policy had not been surrendered, would still be paid after all.

By this preliminary arrangement, only a quarter of the annuity policy would be restored. The policyholder would have to pay the insurer one-fourth of the unpaid premiums with 3.5% interest. In case the insurer owed the insuree a benefit, it would pay out a quarter of that amount. Restoration of the remaining three quarters was possible only if the policyholder paid the insurer the amount surrendered to Liro and any unpaid premiums, plus 3.5% interest per annum. The insurers would not charge commission for the restoration.[168] To be eligible for full restoration, the beneficiaries in effect had to repay the insurance companies the amounts that the insurers had paid to Liro. The Bedrijfsgroep stated that restoration of all other insurance policies could only proceed after legislation was in place.

The dispossessed showed little interest in restoration of their policies on these conditions and continued to pursue procedures with the Legal Redress Department. For the insurers, negotiations with the government now became urgent. They had to make it clear to the Ministry of Finance that their financial position was poor due to "damage" from the occupation period.

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[167] Minutes of the general meeting, Bedrijfsgroep, 24-1-1946, and minutes, Commission on Jewish Insurance Policies, 24-1-1946. AV 96/9 .
[168] Ibidem.

*Estimates of the 'Jewish loss'*

Based on the information it received from the insurers after June 1945, the Commission on Jewish Insurance Policies drafted the 'Report relating to the issue of the Jewish life insurance policies,' which the Bedrijfsgroep's board received in November of that year. The commission included other information in the report, too, including data from the JCC of Rotterdam, which had submitted its estimates about the numbers of deaths due to the persecution. The numbers were as follows:

| *Life insurance policies* | |
|---|---|
| Number of surrendered policies | 11,500 |
| Total sum insured | NLG 42,300,000 |
| Total paid out in surrender value | NLG 11,800,000 |
| Profit on surrender | NLG 1,000,000 |
| Risk capital (difference between insured sum and surrender value) | NLG 29,500,000 |

| *Annuities* | |
|---|---|
| Number of 'surrendered' policies: | 3,000 |
| Total paid out as surrender value | NLG 10,600,000 |
| Profit on cancellation | NLG 3,000,000[169] |

According to this report, a total of 14,500 life policies and annuities were surrendered, representing a surrender value of NLG 22,400,000. This amount is close to those indicated in other sources, but the total number of policies surrendered (14,500) is not. The reported figure of 3,000 'surrendered' annuities is probably inaccurate. The Bedrijfsgroep also indicated this in a letter to the Minister of Finance, explaining that it was not certain that all companies had responded to the appeal from the Commission on Jewish Insurance Policies to supply data about surrendered policies.[170] It summarized the loss and the consequences of full restoration in a supplement to this letter: about 80% of the Dutch Jews had died. The insured value of the surrendered insurance policies upon death was NLG 42.3 million and the capitalized insured value of the annuities was NLG 14.1 million.[171] Thus the total

[169] Memo entitled 'Rapport terzake van het vraagstuk van de Joodse Levensverzekeringspolissen', 10-11-1945. NN archives.

[170] Transcript of letter from Bedrijfsgroep to Minister of Finance including supplement, 20-8-1946. AV 94/5. A copy was also sent to the Minister of Justice.

[171] Three-quarters of the actuarial reserve was paid to Liro as a 'surrender value'. The insurer keeps the

insured value of the surrendered insurance policies was NLG 56.4 million. It would take NLG 34 million (80% of 42.3 million insured capital) to pay out all term life insurance policies without limits. Restoration of the annuity insurance policies would cost NLG 2.1 million (20% of NLG 10.6 million of surrendered annuities). Taken together, the amount needed would be NLG 36 million. An additional problem was that the balance between the mortality risks of annuities and insurance upon death, which is key to the financial soundness of the life insurance industry, was disrupted by the occupier's insistence that the actuarial reserve of annuities be surrendered to Liro. Normally, the actuarial reserve of annuities compensates for large-scale payouts of term life insurance policies in case of excessive mortality, but this reserve was now gone. Had the annuities not been surrendered, the expenditure on death benefits would have been partly compensated by an income of 10 to 11 million guilders. The insurance companies had paid a total of about NLG 23 million in surrender and reserve values to Liro. Even if Liro had repaid the surrender values in full, the loss would still have been around NLG 13 million, "at which the limit of the bearable had well been reached, if not already surpassed" according to the Bedrijfsgroep's memorandum.[172] In the Bedrijfsgroep's view, taking into account the forced conversion of the premium reserves to a lower interest rate, the insurance industry could not bear these financial burdens.

It was still possible that the insurers would get money back from Liro, which had been placed under government control and renamed *Liquidatie van Verwaltung Sarphatistraat* (LVVS) [Liquidation of the Sarphatistraat Office] in February 1948 to avoid confusion. One of the LVVS administrators' tasks was to see to the restitution to beneficiaries of the funds that had ended up in Liro's coffers under regulations 58/1942 and 54/1943. These beneficiaries might also include the insurers. However, the insurers – like many other beneficiaries – feared that precious little of the money surrendered to Liro could be retrieved. In March 1947, a member of the Commission on Jewish Insurance Policies asked one of the LVVS administrators whether they had any idea what percentage could be retrieved from Liro. The administrator estimated that to be 10%.[173] When assessing their financial margins, the insurance companies assumed nothing would be repaid by LVVS.

The Verzekeringskamer, which had in the meantime been placed under the Ministry of

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actuarial reserve for paying out life annuity. Theoretically this could be viewed as the insured sum, but in the case of life annuities it is not knowable beforehand what sum an insured person will receive. When three quarters of the actuarial reserve amounted to 10.6 million, the total actuarial reserve stood at 14.1 million.

[172] 'Memorandum in zake het Joodsche vraagstuk', supplement to the Bedrijfsgroep's letter of 20-8-1946. AV 94/5.

[173] Letter to members of the Commission on Jewish Insurance Policies, 4-3-1947. NN archives.

Justice again, also made calculations. Its legal task was to safeguard the solvency of the individual insurance companies and the industry as a whole. The Verzekeringskamer was worried about the continuity of the insurers and general damage to the industry. Though the number of new life insurance policies had grown during the occupation (a favorable sign for the insurers), the life insurance industry was now faced with several problems. Insurers and clients had lost contact with each other in many cases because the Netherlands had been divided into a liberated section and a part that remained occupied for months longer. These contacts needed to be restored. Many insurance companies had fallen far behind in their administration; some had lost their files, while others fell behind due to shortages and short-staffing caused by the hunger winter and employees going into hiding. The mortality rate was up because of starvation and the occupier's acts of terror, which had an impact on the benefit payments on insurance policies. It was not clear yet whether these fell under acts of war, a category for which a government measure had become effective (war and kindred risks). A larger problem was that the interest rate had declined in the preceding years, which meant the premium reserve had to be converted on the basis of a lower interest rate. As a result, significant amounts were extracted from the insurers' extra reserves.[174]

The Verzekeringskamer also studied the consequences of a restoration of Jewish policyholders' assets. It wanted to assess the damage suffered by the insurance industry during the war and explore how the industry could absorb the damage without compromising the execution of its task. The Verzekeringskamer drafted two reports on the damage in 1946. According to the first report, entitled 'Some figures relating to the settlement of extraordinary claims' and dating from August 1946, the industry could expect the following damage in the years ahead:

| | |
|---|---|
| Claims on Jewish policies | NLG 36.6 million |
| Claims for war and kindred risk in the Pacific ('East Indies claims') | NLG 9.4 million |
| Claims for war and kindred risk | NLG 24.1 million |
| Conversion of reserves[175] | NLG 50 million |
| Total: | NLG 120.1 million |

As it was not known whether there would be a claim on the Liro estate, the Verzekeringskamer left this matter aside. The conclusion was that ten companies (five of which were large ones) would face

[174] *Gedenkboek Verzekeringskamer* 1923-1948, p. 181-182;
[175] For the conversion of the reserves considered necessary due to the sharp decline in interest rates in recent years, the margin between interest accrued and the interest rate on which the reserve calculation as of 31 December 1944 was based was too narrow, and negative for several companies.

a balance sheet deficit (or solvency deficit, in current terminology), while the remaining extra reserves of 21 more companies would prove insufficient. The Verzekeringskamer concluded that the companies could not bear the financing of the 'East Indies' and 'Jewish damage' as well as the conversion of the interest rate without additional financing.[176] A second memorandum from the Verzekeringskamer (November 1946) also contained an estimate of the damage. For the Jewish policies, the estimate remained practically unchanged at 36 million, but the 'East Indies damage' was now 25 million. Of the total damage (61 million), the insurers could only pay 10 million, leaving a deficit of 51 million, the Verzekeringskamer stated.[177]

*The insurers' attitude towards redress*

In addressing the insurers' attitude towards legal redress, it is necessary to distinguish between the individual level (people and companies) and the collective (which was expressed in negotiations with the government and in the defense of lawsuits). At an individual level, there were a variety of opinions and proposals that gradually resulted in a consensus. The minutes of the Bedrijfsgroep meetings and documents aimed at forging a joint strategy reveal that there were many divergent ideas at first. An important topic of discussion was whether redress should be comprehensive. A few people appeared to support this. Lawyer H.M. Bregstein and L.I. Barmat, general manager of the small Aurora insurance company, for instance, had already prepared a draft bill in the final months of the occupation. At its core was a complete redress of the Jewish policies. But there was no support for this draft bill, and as far as could be ascertained it had no impact.[178] In the previously discussed 'Report concerning the issue of the Jewish Life insurance policies' of 10 November 1945, full redress of the old legal order was cast as utopic because of the prohibitive costs involved. Several reports found in insurance archives confirm this view, but not all insurers agreed that this should be the decisive factor.[179] "Jews were insured by us and have as such a right to compensation. We should consider the matter from this point of view, and not separately in the light of the financial capacity of the companies in the first instance."[180]

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[176] Verzekeringskamer: memo 'Enkele becijferingen betreffende de regeling der bijzondere schaden', 23-8-1946. AV 96/1.

[177] Verzekeringskamer: 'Memorandum inzake het treffen van maatregelen t.o.v. het levensverzekeringsbedrijf in verband met de bijzondere omstandigheden', 2-11-1946. NN archives.

[178] Draft bill Bregstein/Barmat, 10-5-1945 and general meeting minutes, Bedrijfsgroep, 11-12-1945. AV 94/4.

[179] See i.e. the following memoranda: 'Joodse levensverzekering', anonymous, 13-6-1945 and 'Joodse polissen. De gedachte van volledig rechtsherstel', undated and anonymous, NN archives.

[180] General meeting minutes, Bedrijfsgroep, 11-12-1945. AV 94/4.

Another matter of discussion was the option of limiting the law of inheritance. Both the Commission on Jewish Insurance Policies, in its report, and the 'proposal from the Board' mentioned the possibility of limiting benefit payments to the closest next of kin, namely the husband/wife and children, to people with Dutch nationality or living in one of the Dutch territories.[181] In the report, it was estimated this measure would cut restoration costs by 50%. Barmat objected, arguing that among the approximately 4,000 orphans there were also children of German immigrants who did not have Dutch nationality. The trust these immigrants had put in the insurance companies should not be betrayed, he argued. Moreover, Barmat said, many children were living in deplorable conditions and many survivors had emigrated. Many were staying with family abroad and could not return, so it would be unfair to exclude them. Barmat did, however, consider it permissible to limit the payment of benefits to the closest family members, provided this was extended to the parents of policyholders and beneficiaries.[182] It appears the parties reached at least partial consensus about this matter, as restriction of inheritance law ended up on the table in negotiations with the government.

The Liro estate was not only a matter of interest to those who promoted Jewish interests; it played an important role in the insurers' deliberations, too. The insurers discussed the possibility that policyholders could only get redress from Liro/LVVS or the government, but this idea met with legal and moral objections. The insurers did agree that the beneficiaries could lodge a partial claim with Liro/LVVS or the government (a claim equaling the surrender amount) and another partial claim with the company, which would restore or pay out the remaining part of the policy. A precondition for this arrangement was that the companies would be 'discharged' for their payments to Liro and could only be held liable for the difference between the surrender amount and the insured value. The payment of this difference, in their opinion, would be voluntary. However, the Bedrijfsgroep meeting minutes show that it was not unanimously felt that the companies had been discharged for the payments to Liro.

The question of whether payments to Liro relieved the insurer of its obligations was a matter of principle which the Judicial Department would eventually have to rule on. The insurers argued that their payments to Liro were required by law, so the original insurance contracts were no longer valid. Although E 93 annulled the anti-Jewish regulations relating to possessions, the insurers based their argument on Article 33 of Decree E 100. This stated that "a debtor who had been obliged, whether

[181] Formally this was a proposal from the board of the Bedrijfsgroep, but some members had distanced themselves from it. So actually it was a proposal from the president of the board. See: 'Voorstel van het bestuur terzake van de zgn. `Joodse' polissen van Levensverzekering', memorandum dated 28-11-1945. NN archives.

[182] Meeting minutes, Bedrijfsgroep, 11-12-1945. AV 94/4.

under certain conditions or not, to make a payment to a creditor and who during the hostile occupation by the German Reich in Europe had made that payment to a party other than the creditor in keeping with an existing obligation, remains discharged, even if the legal act that resulted in the loss of the debt claim (a debt which a creditor can claim) was cancelled by the Council." If the Judicial department ruled that insurers were still obliged to restore robbed Jews' policies and the related benefits, then the insurers would have to bear the costs. The Legal Redress Department's first rulings made it clear that the jurisprudence was indeed headed in that direction. This was based on Section 3 of Article 33 E 100, which stated that the Council "could deviate from what was determined in the first and second section, if it held the opinion that there are special reasons on the basis of which the debtor was obliged to surrender or should have refused payment or, respectively, surrender." The interpretation of Article 23 Section 1 of E100, which mentioned the criteria of reasonableness and fairness, also put the insurers at a disadvantage. The insurers did not agree with this course of affairs. They argued that if this legal trend continued, it would imply that the occupier had not robbed Jewish policyholders, but the insurance companies, and with them all policyholders. This issue became a key point in the treatment of restoration requests lodged with the Judicial Department. It became even more important to the insurers that the government took their difficult financial position into account in devising a special arrangement for the legal redress of insurance policies.

## Negotiations with the government

> The Jews that have lost their policies are in a unfortunate position. Many of them have neither income nor capital. They need their policy urgently, as they are destitute and have been robbed! They have been so badly treated, and yet there is no speedy justice for them. It goes without saying, that if L.R. & Co [Liro] made restitution, the companies could in their turn restore the policies to full effect. In this way the problem could be solved quickly and the Jews would get their full rights. Why does Lippmann not pay the money back? Why does the government not oblige Lippmann to do this? Why are the Jews not aided by a reasonably quick settlement if Lippmann does not, or cannot, pay and the Claims Inquiry Committee does not take on any claims? Should the companies then not pay? What are the government and the companies doing for the Jews? Is it any wonder that the Jews have feelings of bitterness and even anger leading to distorted perceptions of the actual situation?[183]

[183] Memo entitled 'Enkele notities betreffende herstel van Joodsche verzekeringen', 10-9-1946. NN archives.

These lines come from an anonymous September 1946 report in the archives of Nationale-Nederlanden. They illustrate both the distress felt by the policyholders and the frustration of the insurers. The occupation had been over for sixteen months and there was still no solution for the restoration of the policies. According to the insurers that issue contained two key, related problems. The first was the legal side of the matter, namely the lack of clarity in Legal Redress Decree E100, which resulted in the burden of full restoration landing entirely on the insurers' shoulders. Secondly, the decree provided no relief for the financial problems besetting the insurers as a result of the legal interpretation. The companies needed an arrangement with the government to resolve these problems.

The Bedrijfsgroep twice raised its objections to the consequences of E100. The first time was in a letter from its Board to Judicial Department chairman Cleveringa at the Council for Legal Redress. In the letter, the Board called attention to the specific problems insurers were experiencing with respect to the restoration of insurance policies. Cleveringa, however, regarded the letter as an attempt to infringe on the course of independent judicial proceedings and dismissed it, as we will see in the next chapter. Two months later, the Bedrijfsgroep asked the ministers of justice and finance to take measures to clarify the "vague" wording of Article 23 of E100 with retroactive effect:

> While it is reasonable for the state to compensate Jewish property owners for the damage of the compensation, it is also unreasonable to make another group of private citizens pay for it. The sum effect would be that the burden of the German confiscation would be shifted from Jewish people to non-Jewish people. This is what the legally unacceptable jurisdiction of the Council for Redress will achieve (…)
>
> The surrender of Jewish policies and the associated deposit of the Jewish part of the reserves held by the companies was the method used by the German government to confiscate the capital these policies represented. The fact that the companies held Jewish savings in their reserves can never, in and of itself, justify the existing jurisprudence determining that they should suffer the consequences of the confiscation targeting their Jewish clients.
>
> The confiscation was a public measure, enforced and carried out by the occupier. One private individual can never be held responsible for compensating another private individual for crimes committed by a government.
>
> These are the reasons why the undersigned respectfully requests that measures be taken to clarify the vague wording of Article 23 of the Degree on Restoration of Rights E 100 with retroactive effect, and that the restoration of destroyed or altered legal relationships

only be pursued when the destruction or change was founded on a legal act under private law.[184]

Despite the insurers' pleas, the negotiations between insurance industry and the ministries of justice and finance did not lead to an amendment to Decree E 100. They focused mainly on resolving the financial problems the companies were facing as a result of the jurisprudence. The main partners in this consultation were the Bedrijfsgroep and the Finance Ministry, but the Verzekeringskamer and Ministry of Justice were also involved. The justice and finance ministries did, of course, have consultations amongst themselves about a possible arrangement. The government also asked the Jewish Commission for Restoration to represent the Jewish community and to act as an intermediary in some ministerial discussions.[185]

Between August 1946 and the end of 1947 there were at least four so-called ministerial conferences in which Finance Minister Lieftinck held talks with the insurers' representatives. On two occasions, the justice minister took part, too. Between these conferences, there were meetings involving the insurers, the Verzekeringskamer and the head of the Domestic Finance department at the Finance Ministry. The negotiations extended into the 1950s. Between 1946 and 1949 they focused on the realization of a financial settlement for the companies; from then on, the main issue was the handling of the government's claims to insurance benefits not claimed by stakeholders. This resulted in the so-called Veegens agreement, which I will elaborate on in Chapter 5. In those first few years, two options were discussed as a (partial) solution: legally restricting inheritance law and a state financial settlement to be paid to the insurers.

*Attempts to limit the right of inheritance*

In its letter of 20 August 1946, the Bedrijfsgroep asked the finance and justice ministers to arrange a meeting at the shortest possible notice. In addition to the memorandum about the insurance industry's losses, the Bedrijfsgroep sent a proposal for a settlement in which the losses caused by the Germans would be divided among three parties: the insurance companies would, in principle, pay the claimable benefits (including overdue annuities) and restore all insurance policies that qualified

[184] Transcript of a letter from the Bedrijfsgroep to the finance and justice ministers, 6-6-1946; circular sent by the Bedrijfsgroep to its members, 12-6-1946. AV 94/5.

[185] Report on the meeting between Holleman and Spier, 30-7-1946. NN archives; minutes of the meeting of major insurance companies in the Bedrijfsgroep, 5-9-1946 and a meeting of the department of Major Insurances, Industrial Insurances and Saving Funds, 12-9-1946, AV 94/5; minutes of the meeting of the Commission on Jewish Insurance Policies and the BAON board, 23-12-1947. NN archives.

for restoration. The state would designate all surrender amounts paid to Liro as war damage and reimburse the insurers for them. The Jewish side would agree to a legal restriction of the rights of inheritance in cases where the beneficiary was deceased, so that only the insurance policyholder's spouse, children, parents and siblings would be eligible to receive benefits. The reasoning for this proposal to limit the beneficiaries was as follows:

> On moral, financial and social grounds it cannot be argued that distant relatives of deceased Jewish policyholders should benefit from the fate that the Jewish part of the Dutch population suffered due to the inhuman behavior of the Germans at the expense of the insurers who are already in grave difficulties, and that they should receive an inheritance that they had no expectation whatsoever of receiving. The proposed legal limitation of inheritance payment should not be considered discrimination between the Jewish part of the Dutch population and the non-Jewish part, but rather as the Jewish side's contribution to settling the problem caused by German behavior towards the Jews, whereby:
> The claims by close family members of deceased Jewish policyholders will be fully honored and the policies will be restored to their original condition;
> Jewish policyholders who are still alive shall enjoy full restoration of their rights;
> The impact of the damage which the insurance companies will in any case suffer should remain within reasonable limits.[186]

Limitation of the right of inheritance had, in the meantime, also been raised in discussions between the insurers and Jewish representatives. The course of the discussion was that the Jews would limit their claims to "second-degree surviving relatives (children, fathers and mothers, and siblings)," provided that the companies proceeded with complete restoration and the government gave the insurers a full guarantee of the claim against Liro.[187] In a report that estimated how much money was needed for restoration, the loss amounts were listed in two columns: one for the loss without limitation of the inheritance law, and one for the loss if inheritance law were to be restricted. The amount in the latter column was half as big as the first. The document was co-signed by the

[186] Memorandum and letter from the Bedrijfsgroep to ministers of finance and justice, 20-8-1946. NN archives.
[187] 'Resumé van de besprekingen van dr. C. Campagne van de Nederlandse Verzekeringskamer en D. Bijl van de Indische Verzekeringskamer met de Heeren Popken, Bartels en Barrau van het Ministerie van Financiën', 13-8-1946. AMF, Dir. BGW, 1940-1953 (1964), inv.nr. 211.

Verzekeringskamer, the Bedrijfsgroep, and S. Roet of the Jewish Commission for Restoration.[188] Although it seemed that Jewish representatives would support a limitation on eligible beneficiaries, this was not really the case. The representative of Jewish stakeholders in the Jewish Commission for Restoration, notary E. Spier, had initially stated that he could agree with the proposal as outlined in the memorandum. Later on, Spier informed the Bedrijfsgroep that the Jewish Commission for Restoration did not support the limitation and that it preferred to await the rulings of the Council for Legal Redress.[189]

During the first discussion between the insurers and the justice and finance ministers on 27 August 1946, it became clear that Lieftinck was in favor of limiting beneficiaries to those "who were in the circle of people under the care of the policyholders." Justice Minister J.H. van Maarseveen opposed this, as it would come down to expropriation. Lieftinck argued that the limitation of beneficiaries was fully justified from a social standpoint and that it was up to the justice ministry to devise a legal solution for this.[190] The Finance Ministry's views were written down in a report that even repeated verbatim the first paragraph of the Bedrijfsgroep Memorandum cited above. The report also raised the question whether, due to the great importance of a robust life insurance industry, the government should intervene to prevent "unlimited" legal redress, or the legal process should prevail as currently reflected in the jurisprudence of the Judicial Department. The consequences for the insurers would then have to be awaited and assistance to the companies would be rendered based on these consequences. According to this report, the Judicial Department's rulings lacked reasonableness and fairness, as they insufficiently took the consequences for the life insurance industry into account. The alternative, an arrangement supporting the life insurance industry, would also require the consent of Parliament and would only be considered if there were difficulties in the life insurance industry. Another disadvantage would be that the insurers that needed support "would have to be discussed publicly (..). This would have harmful consequences for the good name and quality of the life insurance companies and of the life insurance industry as a whole." The report concluded that the legal arrangement to limit inheritance law was the most advisable solution and that this would reduce the loss on the Jewish policies by 50%, to NLG 19 million. The companies would – perhaps with one exception – be brought back to a healthy financial

[188] 'Schatting van de bedragen benoodigd voor het herstel van Joodsche Polissen van Levensverzekering, welke ingevolge de verordening no. 54/1943 zijn afgekocht'. AMF, Dir. BGW, 1940-1953 (1964), inv.nr. 211.
[189] Minutes of the meeting of the major insurance companies in the Bedrijfsgroep, 5-9-1946. AV 94/5. Report on the meeting between Bedrijfsgroep and Spier including the opinions of Spier and the Jewish Commission for Restoration, 307-1946. NN archives.
[190] Report on first ministerial meeting, 27-8-1946. NN archives.

position thanks to interest concessions from the Finance Ministry. “In this way the confidence in the life insurance industry would not have to undergo a shock, which under the current conditions of an imminent austerity plan, should be considered of utmost importance.”[191]

*Finance Minister Piet Lieftinck delivering a radio speech in September 1945 (NIOD)*

Van Maarseveen completely disagreed with his colleague from the Finance Ministry. He was not prepared to help in making “the Jews an exceptional case.” He put forward three arguments. In the first place, the Jews should not be placed in an exceptional position as the occupier had done. “We should not make the same mistake. It was right that after the liberation, we took the view that the relevant regulations of the *Reichskommissar* should not have the force of law. This view is consistent with the elementary principles of justice.” Second: “If the insurance companies have been robbed by means of the occupier’s acts and it is in the public interest that restitution should be made, then this should be paid for by the whole population and not a particular group.” Finally, he held the opinion that the deprivation of rights as proposed by the finance minister was tantamount to “expropriation of property without compensation of damage, which is forbidden under the Constitution.” Van Maarseveen also opposed the limitation of the inheritance rights of nephews and nieces proposed by Lieftinck with regard to war policies: “This arrangement particularly concerns the Jews, the family members of the internees in Indonesia and prisoners of war, and therefore is malicious towards that part of our population that has suffered the most.” The memo, personally signed by the justice

[191] Memo ‘Notitie inzake het vraagstuk der Joodsche polissen’, 19-10-1946. AMF, Dir. BGW, 1940-1953 (1964), inv.nr. 211.

minister, closed with a suggestion to the finance minister: "It should also be pointed out that payments to nephews and nieces will not only benefit those concerned, it will also benefit the State, which in this case will receive higher inheritance taxes. This is another reason for the State to come to the aid of the insurance companies, even if only with these extra funds."[192]

When Lieftinck realized that the Cabinet did not support the limitation of inheritance rights, he backed down. The prime minister proposed that the question be put before several reputable jurists once again. After some consideration, Lieftinck felt it would be fruitless to do so as long as the justice minister stood by his opinion. He informed Van Maarseveen by telephone accordingly, saying he would neither continue to push for such a ruling, nor pursue this course of action any longer.[193] This ended all discussion of the limitation of inheritance rights as a means of resolving Jewish war claims.

*The financial arrangement that did not come*

Little came of the promise Lieftinck made in August 1946 to speedily deal with this problem. On 24 October and 5 December 1946, the Bedrijfsgroep reminded the minister of this pledge.[194] A second meeting with the minister took place on 23 January 1947.[195] In this meeting, the problem concerning the Jewish policies was discussed separately from other issues (the 'Indies damage' and the conversion of the interest rate). Lieftinck stood by his earlier objections to an unconditional compensation of the robbery damage. First of all, he felt this would set an unacceptable precedent and secondly, he did not believe all companies needed a full refund. He wanted financial compensation limited to those the companies that truly needed it. The refund could then be linked to a desired reorganization of the life insurance industry by "merging weak with strong insurance companies." The justice minister proposed offering the insurers a refund in the shape of an "interest-free, non-due claim on the State" which the insurers would redeem over the course of several years from their profits. This claim on the State would have to be included in the balance sheets and the companies would not be able to free up any profit dividend until the claim had been repaid. However, the chairman of the Bedrijfsgroep found it unacceptable to list a claim on the State in the

[192] Memo 'Nota van den Minister van Justitie inzake het vraagstuk der Joodsche polissen', 18-10-1946. AMF, Dir. BGW, 1940-1953 (1964), inv.nr. 211.
[193] Memo 'Aantekening van de minister van Financiën voor mr. van der Plas'. 30-10-1946. AMF, Dir. BGW 1940-1953 (1964), inv.nr. 211.
[194] Transcripts of letter from Bedrijfsgroep to ministers of finance and justice, 24-10-1946 and 5-12-1946. AV 96/1.
[195] Memo 'Verslag van de op 23 januari 1947 ten departemente van Financiën gehouden bespreking inzake het vraagstuk der joodse verzekeringen'. NN archives.

insurers' balance sheets, as this would considerably harm public confidence in the insurers. It would be seen as proof that a company was facing financial problems and it would accentuate the differences between the companies' financial position. Moreover, this solution did not address the unfairness of making the companies pay the same sum twice. The Bedrijfsgroep and the Verzekeringskamer decided to jointly submit a proposal for the solution of "the issue of the Jewish insurance policies," based on the principles formulated in the meeting.[196]

Only a month later, on 27 February 1947, the proposal landed on Minister Lieftinck's desk. It recommended that the State pay a basic compensation of 50% of the net war damage[197] to the insurance companies *à fonds perdu* (without obligation for repayment). If an individual insurance company's poor financial situation demanded it, it could receive additional compensation on top of 50% on condition that it repaid the amount by giving the State 25% of its annual profit for a period of ten years, on the understanding that whatever sum remained after 10 years would be waived. In addition, these struggling insurers would not pay out any profit dividend until their premium reserves had reached a set level. The general rule would be that to be eligible for compensation, the companies were required to submit to the Finance Ministry a report, authorized by the Verzekeringskamer, of the net war damage suffered. The payments could be claimed in installments as the extent of the damage became known.[198]

At the next meeting, in April, between the Ministry of Finance, the Verzekeringskamer and the Bedrijfsgroep, Lieftinck raised questions about the need for a general compensation of 50% of the net war damage for all companies, because a memorandum from the Verzekeringskamer stated that not a single company was likely to (initially) apply for the extra contribution. The insurers would do everything possible to avoid applying for an extra contribution as it would be detrimental to their competitive position if it became known to the public. The Finance Ministry concluded that the general contribution was too high and could be regarded as a gift. The ministry now considered making the general contribution as low as possible or even set it at nil, so that any company that desired support had to apply for it. The Bedrijfsgroep and the Verzekeringskamer were asked to work out a new proposal based entirely on need. They were to do so in cooperation with the head of the Finance Ministry's department of Domestic Finance. In this new proposal, Lieftinck was advised to adopt a ruling in which the companies would absorb part of the damage to a certain level, based on

[196] Letter from Verzekeringskamer and Bedrijfsgroep to the finance minister, 27-2-1947. NN archives.
[197] Net war loss, according to this proposal, was the loss in insurance value in case the insured is deceased due to the war, minus the released insurance reserves when the insured is alive (also due to war circumstances).
[198] Letter from Verzekeringskamer and Bedrijfsgroep to the finance minister, 27-2-1947. NN archives.

the actuarial reserve at the end of 1944, before the conversion based on a lower interest rate. Companies in a better financial position were to absorb a larger proportion of the damage. The Dutch state would cover the remainder, 60% of which would take the shape of a special loan that would need to be repaid. The other 40% would not have to be paid back. For companies that had suffered proportionally greater damage, the latter percentage (the part that need not be repaid) would be increased by a certain percentage. Furthermore, the companies would transfer claims against LVVS to the state. Based on this calculation, the damage insurers would have to absorb was estimated at NLG 17 million. The state's contribution would be NLG 43 million; the amount that did not need to be repaid was NLG 18 million, while NLG 25 million would be paid back.[199]

In the end, Lieftinck also dismissed this proposal, though it took more than a year before the Bedrijfsgroep was informed of the decision. In the meantime, the Bedrijfsgroep had sent an urgent letter to the minister on 9 February 1948 with an appendix that contained a chronological overview of the discussions, which the letter called "a true tale of woe." The settlement was still pending while "we for some incomprehensible reason are still waiting for [it], despite the fact that the consultations conducted at your Excellency's instigation led to the formulation of a clear-cut proposal last November, which received full approval from all concerned." According to this letter an arrangement could not be delayed as the insurers had to draw up their balance sheets without a full understanding of where they stood. They could not prepare definitive accounts until it was clear what they could expect in terms of compensation. If the expected compensation had to be kept off the balance sheet, many insurers' annual accounts and balance sheets would require intervention by the Verzekeringskamer. The Bedrijfsgroep predicted that this would badly damage public confidence in the life insurance industry.[200]

In the course of 1948, it became clear that the difference of opinion between the justice and finance ministers was insurmountable. Lieftinck was in favor of the proposed arrangement while the justice minister regarded support to the insurers a gift. In his opinion, an advance that would have to be paid back from future corporate profits would be sufficient to absorb the companies' problems. Arguments supporting his view were that the performance of the insurance companies had improved greatly since the war and the companies could therefore expect high yields in the years ahead. In addition, the interest rate was rising and a larger payment from LVVS could be expected. Beneficiary payments by the insurers, resulting from the restoration of the policies, were delayed due to the

[199] Transcript of draft memo and letter from drs. G.L. Popken to J.W. Holleman, Bedrijfsgroep, 12-11-1947. NN archives and several other documents in AMF, Dir. BGW 1940-1953 (1964), inv.nr. 211.
[200] Transcript of letter from the Bedrijfsgroep to the finance minister, 9-2-1948. AV 94/8.

slow progress of legal redress and the protracted procedure for establishing the death of insured persons that had not returned. Furthermore, he foresaw problems trying to pass legislation through Parliament that included partial donations. In this respect, he referred to a member of the First Chamber of Parliament who had appealed for nationalization of the life insurance companies.[201] Though both ministers continued to exchange letters expressing their arguments, there was little change in the views of Justice Minister T.K.J. Wijers, who had in the meantime succeeded Van Maarseveen. He was prepared to leave responsibility for the preparation of a regulation settling the issue to the finance minister, but he expressly reserved the right to oppose this before the Council of Ministers.[202]

In the fall of 1948, the solvency of the insurers took such a favorable turn that it was clear the proposal of partial donations would not stand a chance.[203] Ten months after its urgent letter, on 28 December 1948, the board of the Bedrijfsgroep was notified by Lieftinck that after repeated consultation with the justice minister, he had concluded that the Bedrijfsgroep's proposed regulation would not be supported. "Such would only be the case, if the item of payment without refund were abandoned."[204] In the end, no regulation was introduced. In 1949 Lieftick submitted an entirely different proposal to the justice minister:

> As you know, according to Art. 879 of the Civil Code, the State steps in as the beneficiary when the last will and testament of rightful claimants of life assurance policies are lacking and if no blood relation of the beneficiary to the sixth degree has come forward as heir. In order to be able to exercise this right, the State would first of all have to have knowledge of the existence of the policies concerned. Secondly, legal redress would have to be demanded by the State as rightful claimant to these policies, which can only be done if it has been definitely established that no heir to the sixth degree has registered within the deadline set by law.
>
> It seems to me that imposing such a ruling would meet with substantial objections and that the execution would not be accomplished without considerable effort and expense. Given that the Verzekeringskamer has roughly estimated that a sum of NLG 3-4 million is involved

[201] Letter from the justice minister to the finance minister nr. 1715, 15-3-1948. AMF, Dir. BGW 1940-1953 (1964), inv.nr. 211.
[202] Transcripts of correspondence between the finance and justice ministers, 30-7-1948 and 16-9-1948. AMF, Dir. BGW 1940-1953 (1964), inv.nr. 211.
[203] Memo, 22-11-1948 Head of Dept. BGW (Interior Finance) to the finance minister. AMF, Dir. BGW 1940-1953 (1964), inv.nr. 211.
[204] Transcript of letter from the finance minister to the Bedrijfsgroep; 28-12-1948. NN archives.

(which the State will most likely not be able to recover completely), it is worth considering that the State refrain from exercising its right in these cases, as it would be difficult to impose. For the insurance companies, this would be equivalent to a net subsidy of NLG 3-4 million.

In my opinion, if this concession is granted to the insurance companies, no further provision need be made for the damage the insurance companies suffered because of Jewish policies.[205]

This proposal did not gain final approval either. However, in 1954 the so-called Veegens agreement was reached. This will be discussed in the next chapter. The agreement recognized the state's right to declare itself the beneficiary of Jewish policies for which legal heirs did not come forward. The state, however, did concede that it would not claim the insured value, but the surrender value from the insurers. Ultimately, we can regard this difference as the state's unofficial financial ruling, the decision for which the insurance companies had waited so long.

[205] Letter nr. 243 from the finance minister to the justice minister, 9-9-1949. AMF, Dir. BGW 1940-1953 (1964), inv.nr. 211.

# Chapter 4

# Postwar legal redress

It was soon clear that, with some exceptions, Jewish rightsholders did not intend to settle the redress amicably in accordance with the guidelines that the insurers had mutually agreed early in 1946, or to wait for a legal arrangement. From the end of 1945, they took their requests for redress to the Judicial Department of the Council for Legal Redress. How did the insurers react and what was their strategy? And how did the judges of the Judicial Department rule?

## The insurers' strategy

In one of the first redress cases handled, the judge dismissed a request from the respondent, an insurance company, to suspend the case while waiting for the government to resolve the issue. This spurred the insurers to vigorously defend themselves against the Jewish claims. At the same time, they tried to gain support for their arguments and to bring these to the judges' attention, both during court cases and in general. It was a bold step to directly address the chairman of the Judicial Department, Cleveringa, at a time when the first cases were already being heard in court. In early April, the Bedrijfsgroep sent him a letter containing a report summarizing the events regarding the robbery of Jewish policies during the occupation.[206] An important objection they raised against the complete redress envisioned in E 100 was that, although this should be done in reasonableness and fairness, the decree laid down no explicit standards. The Bedrijfsgroep also feared that a case-by-case handling of claims by way of individual court rulings would result in the formulation of standards for reasonableness and fairness that were incompatible with what they considered responsible, fair or reasonable from an insurance industry or economic viewpoint. In these matters, certain principles and rules applied "that were inherent to the nature and practice of the life insurance industry." Cleveringa was incensed by the letter and rapped the Bedrijfsgroep hard on the knuckles. In his reply on 12 April, he expressed surprise and disappointment that the Bedrijfsgroep had tried to influence judicial decisions from outside the legal proceedings even as some court cases were already in progress. The Judicial Department did not wish to be part of "this attempt to transgress the most fundamental principles of an orderly and civil administration of justice" and declared that it would "keep its independence and principle of 'listening to both sides of the argument' intact to the full

[206] Transcript of memo, with appendix, from the Bedrijfsgroep to the Judicial Department, 5-4-1946. AV 94/5.

extent of its power."[207] He sent copies of his letter to the chairman of the Council for Legal Redress, Professor S.J. Gerbrandy (formerly prime minister of the government-in-exile during the occupation) and to all members of the Judicial Department.[208]

The Bedrijfsgroep letter had proved counterproductive, annoying both Cleveringa and the Council for Legal Redress. Still, the Bedrijfsgroep hoped to achieve more by using the report to defend the insurers. It sent copies of its report and letter to Cleveringa to its members, along with a circular letter in which it asked the insurers to consider submitting the report in any legal proceedings they might face.[209] The insurance companies heeded this advice and added the report to the official procedural documents in many court cases, hoping that this would result in more favorable rulings.

*Professor Rudolph Pabus Cleveringa, the first chairman of the Judicial Department (NIOD)*

With a few exceptions, the requests for policy redress were all handled by the judge in chambers and full court of the Judicial Department. In its rulings, just as in its reaction to the Bedrijfsgroep's report, the Judicial Department was independent and developed consistent and clear jurisprudence. The most significant rulings, quantitatively as well as qualitatively, were handed down in the period 1946-1949, but cases on policy redress were taken to court into the fifties. The Bedrijfsgroep collected the most important rulings and sent copies of them to the insurance companies so that they could learn from them. For the time being, the companies still used all sorts of arguments that had been rejected

[207] Transcript of letter from Cleveringa to the Bedrijfsgroep, 12-4-1946. AV 94/5.
[208] Veraart, *Ontrechting en Rechtsherstel*, p. 126.
[209] Circular Bedrijfsgroep G/v. 46/46, S 21/46; 10-4-46. AV S94/5.

before. Many objections raised in discussions where insurers tried to hammer out their common views were also employed their courtroom defense. Some reflected points in the report to Cleveringa, such as the complex technicalities of life insurance policies. The insurers, for instance, objected to the restoration of the 'escape policies,' as these were an improper use of insurance. Other objections were related to the status or ground rules established by the Council for Legal Redress, such as the fact that a Council ruling could not be appealed. The insurers argued that too many policy redress cases were heard by the court in The Hague, in which a relatively small number of judges ruled on policy redress. Furthermore, the insurers questioned the authority of the Council for Legal Redress to settle 'war damage.' They considered it unfair that another group of private citizens should pay for this. Another argument was that most policies had been surrendered by the policyholders themselves, albeit involuntarily, but "it would be unreasonable to pass on the damage suffered by people who yielded to pressure exerted by the occupier to the insurance companies who did not pay the beneficiaries due to the same coercion." We also came across the viewpoint that inheritance rights should be limited; insurers argued that only direct heirs should be 'privileged.' The Council resolutely dismissed all such defense arguments.

## 'The light breaks through'

In the spring of 1946, lawyers representing Jewish rightsholders took a major step. It happened during the proceedings of the lawsuit Koppens versus Pensioenrisico,[210] a case which began on 27 October 1945 when Roosje Koppens sent the Judicial Department a request for restoration of a life insurance policy. Until the execution of the Liro regulation, she had received a widow's benefit of NLG 255 per year since her husband's death on 3 November 1940. Based on the regulation of 11 June 1943, the insurer had surrendered the policy to Liro by transferring three-quarters of the actuarial reserve, even though surrender was not possible under the terms of the contract. The widow now demanded that Pensioenrisico restore the contract and pay the expired annuities. After a first hearing on 18 February 1946, the Chamber requested further information from the plaintiff and insurance company's lawyers. On 24 April, the court ruled in the favor of the claimant. The ruling was of direct interest to the dispossessed as the judges had dismissed the insurers' request to suspend the case in anticipation of the government regulation they were lobbying for. The court ruled that a

[210] Judicial Department of The Hague, 24-4-46, NOR 214. N.B.: Part of the rulings from the Judicial Department were published in *Tribunalen van de na-oorlogse rechtspraak* (NOR), 1946-1949. The insurance companies collected unpublished rulings that were of interest to them. They can be found in their archives or the archives the Association of Insurers, as well as in the National Archives (collection *Afdeling Rechtspraak van de Raad voor het Rechtsherstel*).

suspension would be unlawful and that refraining from ruling would be impermissible. Aside from requesting a delay, Pensioenrisico's lawyer also argued that the company's payments to Liro were "discharging payments." He even went so far as to argue that the insurers would be the robbed party if they complied with the demand of full restoration. The judges, however, ruled that the payment had not released the insurer from its liability because the defendant could not submit factual evidence that it had resisted the order to surrender the policy. After the announcement of regulation 58/1943, the insurer had decided to surrender policies without direct coercion by Liro. The insurer also argued that the company feared it would be placed under the supervision of a German-friendly administrator, but the court dismissed this argument as well. In other words, it found the insurer too willing and did not accept that the company was acting under coercion of a more general sense due to the occupation. Moreover, it was not technically possible to surrender the particular policy – an annuity – as this was also stated in the policy conditions. The judge annulled the termination of the insurance policy by the surrender and the transfer of the rights from widow Koppens to Liro, and Pensioenrisico was ordered to restore the insurance contract and pay out all the terms of the widow's annuity as from the surrender date.

Based on this ruling, Sanders penned an article in the *NIW* under the heading 'The light breaks through.' The verdict demonstrated "such a good patriotic spirit and expresses such a clear insight into and repulsion of the injustice which threatens to occur due to the generally willing co-operation of the companies in the envisaged robbery by the enemy, that there is reason to hope for further favorable decisions in a broader context." In his opinion the most important part of the ruling was the additional remark made by the Council with respect to the ruling that the insurer had not been discharged from its liability to pay:

> and all the more so owing to Article 22 of the Decree on redress of legal transactions, because the question is justified whether in this matter as such there was a reason for charging the costs of the predatory actions of the occupier, no matter how unpleasant for the insurers and no matter how much these actions were based on the, in the opinion of the occupier, disagreeable personalities of the insured persons concerned, to their creditors whose rights would not have be restricted by, for instance, an ordinary theft of money that lay waiting in the insurers' office for payment to them, even if it had been the intention of the thief to afflict the insured persons through this action.

Sanders quoted the ruling verbatim as it made clear "how purely the Council for Legal Redress feels the injustice that has been done to us" and because of "the significance of the principle established

for the entire subject we are dealing with." He concluded the article with "and in this way our Dutch Council for Legal Redress revived the policy of this widow (...) and at the same time the hope of hundreds of other victims."[211]

Although the court ruled in this case that no discharging payment had been made, it offered no clarity about the general applicability of the principle of discharging payment, as stated in Article 33 Section 1 of E 100. The matter in question was whether the insurer had been too willing to surrender the policy, and not whether, as the insurer argued, it would be unfair if full redress meant the damage was shifted onto them. In several rulings the year after Koppens vs. Pensioenrisico, however, the courts clarified this issue, which was essential for the restoration of insurance policies. In these other rulings, both for life insurances and annuities, the judges maintained the comparison with an ordinary theft of money ready for payment to the policyholders from the company cash register, which meant that money had been stolen from the insurer and not from the envisaged target, the Jewish policyholder.[212]

The rightsholders also sought restoration for policies that had been cancelled during the occupation due to non-payment of premiums. The policyholders had been unable to continue paying premiums due to the persecution. After these payments had ceased, many policies remained active for some time because the premiums were paid from the policies' accrued reserves. Of course, this depended on whether there were sufficient accrued reserves and whether the insurance contract in question allowed payment of premiums through such a mechanism. Once a policy no longer had any value, it was cancelled, which meant that the legal relationship between the policyholder and the insurers was annulled. In practical terms, the insurance contract no longer existed. As pointed out in Part 1 of this book, cancelled policies had to be reported to Liro and if they still represented any value at the time of the surrender regulation, the insurers were ordered to transfer the value to Liro. Restoration of the contract after the occupation meant that the cancellation was annulled. The insurers objected on the grounds that the Jewish policyholders during the occupation had defaulted by not meeting their obligation to pay premiums. In their rulings on such restoration requests, the judges distinguished between two underlying situations: true force majeure and economic incapacity. In the first instance there was force majeure as the policyholder was literally unable to pay his premiums due to deportation or having gone into hiding. The judges ruled in such cases that the insurance contract had to be restored. The courts deemed as economic incapacity all cases where the policyholder had weighed the interests of paying the premiums against using their money

[211] *NIW*, 10-5-1946.
[212] See Veraart, *Ontrechting en rechtsherstel*, pp. 128-136, for more cases.

for other purposes. These policyholders (or, in many cases, their surviving dependents) had to bear the consequences of this choice and could not appeal to E 100. The judges ruled that the insurers did not need to restore these policies.

One of those whose claim was dismissed by the Judicial Department was the widow of the Jewish doctor F. mentioned in Chapter 2. Due to the occupier's measures, her husband was no longer allowed to treat non-Jewish patients, which resulted in a sharp decline in his income. In this period he stopped paying his premiums, even before he went into hiding. The Council, in its ruling, determined that the doctor had chosen to use his limited income in other ways. In addition, he had changed his mind about a previously expressed intention to make his policy exempt from premium payment, "just because the premium-exempt policy seemed less advantageous to him and it seemed better to him to bear the risk of further premium payment himself after some delay," the ruling read. A few months later, Mrs. F. requested a review of the ruling and once again explained what the financial position of her husband had been, and that he "unlike the ruling assumes cannot be said to have been capable of deciding fully freely whether he would or would not use the financial means at his disposal for premium payment." The restoration judge, however, ruled that these arguments had already been weighed in the previous sentence and dismissed the request once again.[213] F.'s widow was not the only one whose claim was rejected; an investigation in the archives of the Council for Legal Redress in 2002 revealed at least 65 dismissals on the basis of economic incapacity.[214]

It must have been a hard pill to swallow for survivors and dependents to hear that their policies could not be restored for that reason. For how much of a choice did these policyholders really have once the occupier's measures left them impoverished? The restoration judges' rulings were brought up for discussion again in the period after 1997, when legal redress was back on the table. Once again it was the case of the Jewish doctor F. that served as an example, only now it was his son who raised the discussion, as his mother had by this time passed away. Fifty years after the liberation, there were calls for a re-evaluation of the restoration of robbed insurance policies. However, the rulings of the Judicial Department were not 'redone.' After prolonged discussions, the SIVS board rectified its regulations and came up with an arrangement for these rejected policies, which had in the meantime been deemed "unacceptable according the modern-day standards of fairness and unreasonableness."[215]

The restoration of escape policies generally yielded better results for the dispossessed, but

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[213] Rulings 6-7-1948, C-F vs. De Nederlanden van 1845, 28-11-50. Dossier F, SIVS archives.
[214] Grüter, *Strijd om gerechtigheid. Joodse verzekeringstegoeden en de Tweede Wereldoorlog*, p. 274.
[215] Ibidem, pp. 273-279, for the considerations and decisions on this issue.

there, too, the claimants had to overcome resistance from the insurance industry. When an heir asked an insurer for restoration of annuities, he was often told that payment was not possible because the insured person had to be alive. This happened to 21-year old Dick Polak, who had survived the war along with his two younger brothers. His parents, the insured, had been murdered in Auschwitz, and Olveh said it could not pay out the annuity as the insured were no longer alive. In order to get the money back, the Polaks had to take the case to a restoration judge. However, the young brothers could not afford the legal costs as they were struggling to make ends meet. Those who filed suit to recover an escape policy were often successful. The judges ruled that camouflaged agreements had to be respected. The insurers collectively resisted this. De Nederlanden, for instance, argued that upon concluding an 'escape annuity,' there was an understanding that the company was "not obliged to do more than it could." According to the insurers, both they and their clients fully agreed at the time they signed their contract that it was no more than an attempt to save money, so it should not be seen as an obligation for the company to honor the contract in cases where the occupier had taken the money from the insurer. In this respect, they argued, a request for legal redress would be in conflict with good faith.[216] However, the judges dismissed these arguments and restored most escape policies.

*Due or undue payment*

Though the cases dealt with by the Judicial Department were individual cases in which all sorts of variable factors came into play, a clear and consistent jurisprudence developed over time. It offered clarity about whether the payments by the insurers to Liro were due or undue and thus a basic principle was created for the further course of the legal redress.

Where the ruling was 'due,' the claimants did not receive benefits as the insurers had indeed been 'discharged.' This concerned payments that the insurers had made (albeit to Liro) in accordance with the conditions in the insurance contracts. These were related to insurance policies that expired as the contractual benefit date had been reached or as the insured had died and the policy included payment to the beneficiaries. In addition, the running annuity payments had 'duly' been made. The benefits had been paid in accordance with the contracts, except that the payments had been made to Liro and not the beneficiaries themselves. The judges made an exception to this principle when they ruled that the companies had too willingly complied with the German regulations. For all due amounts paid to Liro, the beneficiaries became creditors of the LVVS and the companies did not have to pay again.

[216] Letter from De Nederlanden to R.V. Bakker, 24-6-1947. NN archives.

When the ruling was 'undue,' the policies concerned were in principle those where the insurers had paid the surrender amount to Liro in connection with Decree 54/1943. In cases of a term life insurance policy whose policyholder was still alive, the company had to fully restore the insurance contract. If the policyholder was deceased, the beneficiary or heirs received the benefit. The company obtained the right to restitution of the surrender amounts from Liro. It was not until the end of 1946 that the insurers' right to claim surrender amounts from the LVVS was laid down in the rulings.[217] Having this right did not mean that their claims were immediately honored. Complications with the reconstruction of Liro estate prevented that for the time being. Moreover, the LVVS administrators were frequently unwilling to honor legal rulings ordering the crediting of insurers just like that. I will discuss these and other problems related to Liro/LVVS further on.

In cases of annuity insurances where the insurer had paid three-quarters of the actuarial reserve as a 'surrender sum' to Liro under Decree 54/1943, the judges deemed the payments unduly paid. Consequently, the insurer was not discharged and had to restore these contracts. They received a claim on LVVS. This implied that in cases where the insured person was still alive, the contract would be reinstated and the benefit paid at the time stipulated in the contract. For the annuity payments that had been made before the surrender date of June 1943 (and had duly been paid, albeit to Liro), the rule was that the policyholder received a claim on the LVVS for the value of the benefit payments that had been made in the period between the decrees 58/1942 and 54/1943. As for benefits due after the surrender, the insurer had to pay these to the insured or beneficiary.

When the judge honored a claim, the insurance policy was restored and if there were arrears in overdue premium payments, the rightsholder still had to pay these with interest. This applied not only when the insurance contract was restored, but also when it was paid immediately after the formal restoration. It was possible to deduct the overdue premiums plus interest from the benefit. Payment of interest was sometimes mutual; when the Council ruled that the insurer had defaulted, the insurer had to pay interest on top of the benefit. The Judicial Department's rulings show that an insurer had not defaulted as long as the documents required for the benefit were not present or as long as the ruling had not been pronounced. Certificates of inheritance, death certificates or *attestations de vita* (certificates of life) were recognized as 'required documents.' The judge dismissed claims in which the rightsholders demanded interest payment from the policyholder's date of death or the date of expiration.[218]

The basic principle that followed from the jurisprudence was that an appeal to Article 33 E

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[217] Judicial Department ruling, 21-11-1946, Van Leer contra Hollandsche Sociëteit.
[218] See Grüter, Insurance Report, pp. 162-163.

100 was only honored if the obligation to pay pre-existed the enforcement of the German decrees. This applied both to annuities that were already being paid out and to life insurance policies whose final date and payment obligation pre-existed the decrees.

*Restoration out of court*

Despite their objections, the insurers had to resign themselves to the jurisprudence, and hence the jurisprudence ultimately served as the basis for guidelines the insurers jointly drafted to enable amicable out of court settlements including restoration of policies. As of February 1946, amicable settlements were subject to the limited conditions discussed earlier. These found little resonance with the dispossessed, and in the course of that year it became ever clearer that a government-imposed settlement was a long way off or would perhaps never even materialize, and that the Judicial Department's jurisprudence would provide an unambiguous, consistent course of action for restoration of the 'Jewish policies.' The insurers had to admit that the provisional arrangements announced in February 1946 were inadequate. Moreover, fighting a claim in court proved useless in many instances, as comparable cases had already resulted in rulings against insurers, so the insurers might as well spare themselves the considerable cost of mounting a defense. Though the insurers' Commission on Jewish Insurance Policies [referred to in this chapter as 'the Commission'] deemed the rulings principally unfair, it took the position that the life insurance industry should be pragmatic and accept the reality created by the rulings. On 5 February 1947, the Commission decided to settle out of court whenever jurisprudence made the odds of a successful defense unlikely and to draw up guidelines for the achievement of amicable restoration.[219] This enabled the disputing parties to reach an agreement without a judge's intervention, and, significantly, to reach agreements that were in line with the jurisprudence set by the Judicial Department.

A few days later, the Bedrijfsgroep Support Council issued its first draft of guidelines, which was worked out in detail and presented to all members of the Bedrijfsgroep on 14 March 947.[220] The guidelines became effective on 28 May 1947 via a circular letter.[221] Whenever the restoration judges handed down important rulings that had relevant implications, the Bedrijfsgroep adapted their guidelines. By mid-1948, the guidelines had become so numerous due to expanding jurisprudence

[219] Report from meeting of the Bedrijfgroep's Commission on Jewish Insurances, 5-2-1947. NN archives.
[220] Letter from directors of De Nationale to the members of the Commission, 10-2-1947 with appendix containing draft regulations and an anonymous reaction, Archive NN; Circular Bedrijfsgroep, 14-3-1947. AV 96/1.
[221] See regulations listed in Grüter, Insurance Report, pp. 118-119 .

that they were deemed no longer necessary and cancelled. From this date on, the jurisprudence itself served as the guideline for amicable settlement.

Despite his critical attitude, Heiman Sanders was generally satisfied with the Judicial Department rulings.[222] However, shortly before the insurers began using the guidelines as the basis for amicable restoration, he warned *NIW* readers not to accept the insurers' proposed settlements. He particularly objected to the standard clause that read as follows: "If legal regulations regarding the restoration of liquidated Jewish insurance policies should eventually be enforced, each party has the right to demand revision of the amicable settlement of the insurance policy concerned in accordance with the envisaged regulations." The benefits the policyholder had gained with great effort by going to court could be taken away from them.[223] Some documents found in the insurers' archives show that settlements reached at an early stage, which proved to be unfavorable in view of the later jurisprudence, were revised. But Sanders had rightfully warned to be cautious, as adjustment of an amicable settlement was not always possible. This is illustrated by a Judicial Department ruling in early 1949. The claimant was a person who had reached an amicable settlement with an insurance company in the summer of 1946. The policyholder had made a reservation that he "would like to see the imminent legal regulations regarding restoration applied if this turned out to be more favorable for him." In his claim for restoration in 1949, he assumed that due to this reservation he would not be bound to the settlement. He argued that "the reservation should analogically be extended if jurisprudence might be introduced that was more favorable for him." However, the restoration judge brushed that view aside "as it had apparently been the intention of the two parties to cut off all appeals to judge and justice with the amicable settlement." The claim was dismissed.[224]

It is neither clear how many rightsholders reached a settlement based on what the insurers offered after February 1946, nor is it known how many settlements were achieved on the basis of the 1947 guidelines. Nevertheless, it seems many rightsholders made use of the latter opportunity. Among the documents that show this are the 550 payment files with 'Jewish policies' restored and paid after the war that were preserved in the archives of De Nederlanden van 1870 (later to be known as Generali).[225] These documents pertained to amicable restorations, settlements, conditional

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[222] See *NIW*, 10-5-1946; 21-6-1946; 19-7-1946; 16-8-1946; 25-4-1947 and Sanders' rejection of the criticism from Amstleven's deputy director on the rulings by the Judicial Department regarding the redress of insurances in *Nederlandsch Juristenblad* (1947), pp. 453-462, 532-535.
[223] *NIW*, 2-5-1947.
[224] Judicial Department ruling, 24-2-1949, NOR 1472.
[225] Generali archive, boxes with documents regarding payments, 1945-1955.

restorations which became final when a rightsholder later appeared, and restorations by court order. The documentation relating to Judicial Department proceedings shows that the claimant and company often reached a settlement after all. But whether the case was decided by court ruling or settled, the outcome usually proved disadvantageous for the insurer. What little documentation can be found in other companies' archives indicates that the course of action described here must have been general practice. According to a document dating from late 1949, describing the state of affairs at that time at de Nederlanden of 1845, the company had restored "well over half" of the insurance policies. The company had received hardly any inquiries about policies of low value, but almost all of the large policies had been restored.[226]

The frustrations, worries and troubles of the interested parties must have been substantial. Most met with strong resistance from the insurance companies. Not that all insurers took the same attitude, as is illustrated by a letter from the custodian/heir of several life insurance policies. The policies had been taken out on the life of his family members, from several different insurers. In the letter, the custodian thanked N.V. Levenverzekering-maatschappij 'de Nederlanden' in Amsterdam[227] for its generosity in settling the policy: "Allow me to point out to you that a large number of policies in the name of my father and other family members were surrendered by Lippmann Rosenthal at the time, but that you are the first company that – up to now – has restored a policy. I have duly noted this generosity."[228] The letter is dated almost four years after the liberation, which underscores how painful it was for the dispossessed. Not only did some face great resistance; it could take years before legal redress became effective. In cases where the Council deemed a rightsholder to be entitled to money from the Liro estate, or where there was uncertainty as to when the insuree or the heirs had died, the rightsholder had to wait even longer for actual payment.

*Delaying factors: death certificates and certificates of succession*

For the restoration of insurance policies whose policyholders and/or insured parties had died during the war – which was the case for the majority of the policies – problems arose confirming their death. Thousands of missing persons had not been officially pronounced dead. In addition to the great uncertainty among the surviving relatives, this caused problems in terms of family law and inheritance law. Policies could only be restored once the policyholder or insured party's death and

[226] Letter from De Nederlanden van 1845 to J.E. Bloemers, 4-1-1950. Archive NN.
[227] Although the full name is not mentioned, the company is most likely `De Nederlanden van 1870' in Amsterdam.
[228] Letter from M.J. to N.V. Levensverzekering-Maatschappij 'De Nederlanden', 9-3-1949; Center for Jewish War Claims archives.

date of death had been established. Another problem was that without an officially confirmed death, widows and orphans could not be paid their pensions. Furthermore, under inheritance law, it was of crucial importance to know the dates of death of those involved. If the beneficiary had died before the testator, then the inheritance reverted to the testator's heirs. If the testator had died before the beneficiary, then it was the heirs of the beneficiary who inherited. When both a husband and wife had died, the wife's heirs were beneficiaries in case the husband had died first, and vice versa. If the couple had died on the same day, the inheritance was divided between the heirs of both husband and wife. In short, research into heirs was difficult and time-consuming.[229]

In order to carry out all legal transactions pertaining to the deceased, Dutch law prescribed the submittal of a death certificate drawn up by a Registry official in the municipality where the person had died. If the person in question had died abroad, consular officials drew up the certificate and then the civil registrar could enter it in the records of the last place of residence. After the liberation, a decree dated November 1945 led to the practice that district courts or courts of appeal could draw up death certificates for missing persons. For a while, the decree was thought, by extension, to give civil registrars of the final domicile in the Netherlands the authority to draw up certificates. On 14 January 1947, the Supreme Court ruled the arrangement inconsistent with the law.[230] However, many courts ignored this ruling, so the government prepared a bill to resolve the problems surrounding the death certificates of the missing, particularly those who had gone missing abroad.[231] On 2 June 1949, a new law went into effect: *Wet houdende voorzieningen betreffende het opmaken van akten van overlijden van vermisten J 227* [Act relating to provisions for drawing up death certificates of missing persons]. Under the act, the justice minister, represented by a committee of civil servants created for this purpose, reported the missing person's death to the civil registrar in the deceased's last known domicile. The notice was published in the *Staatscourant* [official gazette]. If no objection was raised within three months, a death certificate was drawn up and recorded in the Register of Deaths. From 1949 to 1951, the names of missing persons for whom death had been registered, were published in the *Staatscourant*. This practice continued in more isolated cases in the years that followed. If the death had already been confirmed at an earlier date by a witness, a written report still had to be submitted before a formal death certificate could be

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[229] See Aalders, *Berooid. De beroofde joden en het Nederlandse restitutiebeleid sinds 1945* (Amsterdam 2001), pp. 91-95 for complicated cases of research regarding inheritance problems, especially the case of the Jansen-De Vries couple, who were murdered in Sobibor, pp. 93-94.
[230] *Nederlandse Jurisprudentie* 1947 nr. 228.
[231] P.H.J. Körver, 'Overheid. Wetgeving inzake onvindbare en onbekende eigenaren', in *Eindrapport Commissie Scholten*, part III, pp. 620-621; Klein, '*Het rechtsherstel gewogen*', p. 57.

drawn up.[232]

Until mid-1949, some other proof of death had to be provided. In these cases, the Netherlands Red Cross Information Bureau played an important role. The Red Cross was able to reconstruct the probable dates of death for those whose names appeared on certain deportation lists. They did so based on witness statements from survivors, data from the Westerbork deportation transports, and what was known about the course of events in the various extermination camps. In this way, officials could determine the probable date of death of many missing persons. Prior to the introduction of the new law on 2 June 1949, many insurers accepted Red Cross statements that a missing person had died.[233] In some cases, the Judicial Department also accepted Red Cross data as evidence of death. On 29 April 1947, for instance, the court in The Hague ruled in favor of the claims of two widows against the Amstleven insurance company. On 30 June 1947, Amstleven sued for an injunction against one of the rulings, arguing that the restoration judge "unjustly established the death of policyholder Philip Pool on the basis of a Netherlands Red Cross letter stating that Philip Pool died in Sobibor concentration camp in July 1943." Amstleven lost again, however, as the presiding judge of the District Court ruled that the Judicial Department was authorized to accept the letter as evidence of Pool's death, all the more so as the defendant had also submitted a report about Sobibor from which it appeared that of the 34,313 deportees who had been sent there, only 19 had returned.[234]

Once the act of 2 June 1949 had become effective, insurers no longer accepted a Red Cross statement as proof of death. They now demanded an official death certificate drawn up by the Civil Registry. With the act in force, no judge would accept a Red Cross statement as sufficient evidence of death and, besides, insurance policies always included a proviso that claimants had to have a death certificate issued by the Civil Registry as proof of the insuree's death.[235] The Bedrijfsgroep advised the members henceforth only to pay claims if they had seen the insured person's name on a statement from the Civil Registry, unless special circumstances called for an exception to this rule.[236]

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[232] *Onderzoeksgids Archieven Joodse oorlogsgetroffenen*, pp. 190-193.
[233] Sentence, The Hague, 20-2-1947; letter from Alg. Friesche Levenverzekering-Maatschappij to the Bedrijfsgroep, 20-10-1949. NN archives; letter from Eerste Nederlandsche to the Bedrijfsgroep's Committee for Jewish Affairs, 28-5-1949. AV, 96/17.
[234] Ruling included in the circular of the Bedrijfsgroep, 29-7-1947. AV 94/7. Compare this with the discussion on this issue between the vice president of Amstleven and Mrs Pool's lawyer, H. Sanders in *Nederlands Juristenblad* (1947), pp. 451-462 and 532-535.
[235] Letter from Eerste Nederlandsche to the Bedrijfsgroep's Committee for Jewish Affairs, 28-5-1949, and letter from Alg. Friesche to the Bedrijfsgroep, 20-10-1949. AV, S96/17.
[236] Letter from Centrale to the BAON Foundation, 27-6-1949 and subsequent correspondence, 20-1-1950 and 23-1-1950; IISG, Centrale archives, inv.nr. 1458.

A private foundation was created to investigate inheritances; it was called *Stichting Centraal Bureau van Onderzoek inzake de Vererving van Nalatenschappen van Vermiste Personen* [Central Bureau of Investigation into the Inheritances of Missing Persons]. The Red Cross Information Bureau played an important role in these investigations, too. The reality, however, was that it sometimes took years before there was clarity about the inheritance, which meant beneficiaries had to wait a long time for payment. Before paying out a benefit from a policy, the insurance companies demanded not only a death certificate but also an inheritance certificate from the rightsholders. It was common for a notary public to arrange the required documents, but the insurer only paid out if the notary could submit an inheritance certificate. In case of payment, the insurer had to be sure that he had been discharged, and that no other as yet unknown rightsholder might come forward to claim the benefit.

*The Liro estate*

For a long time, it was widely assumed that the Liro estate was empty, or nearly so. Even in cases where it became clear that rightsholders and insurers were entitled to funds from the estate, it was still uncertain whether these were still available. Much work had to be done before that would become clear.

As we saw earlier, Liro was placed under receivership after the liberation and its name was changed to LVVS in 1948. The Germans and Dutch Nazis who worked there were either dismissed or arrested right after the war's end, and on 25 May 1945 the chairman of *De Nederlandsche Bank* [Dutch Central Bank] asked Th.P.J. Masthoff and J.D.J. Roos to assume day to day control of the Liro. On 1 September 1947, Masthoff stepped down (though he remained an advisor until 1958) and J.P. Barth was appointed as administrator-executor. In May 1948, a third administrator-executor, the Jewish notary E. Spier, was appointed. They remained in office until the liquidation of the LVVS in 1958. The administrator-executors' first task was to reconstruct the balance sheet as of 25 May 1945 and take inventory of the asset categories available. It took dozens of staffers nearly four years to reconstruct the *Sammelkonto*, which had been created at Liro as of 1 January 1943, after the robbed Jews' personal accounts had been closed. About 375,000 reconstruction memoranda were drawn up and included in the accounts.[237]

The administrator-executors also had to arrange restitution for those who held rights to assets surrendered to Liro during the occupation. The Liro administration was deeply disorganized and held information about insurance policies, securities, jewelry, bank balances and other assets.

[237] See *Eindverslag LVVS*, pp. 7-11 and Aalders, *Berooid,* pp. 73-78.

Only gradually did it become clear after the liberation that the LVVS would be able to meet some of its commitments to the creditors, who by then had contacted the LVVS in large numbers. Those recognized as creditors were told on 15 March 1946, nearly a year after the liberation, that they would receive an advance of up to NLG 1,000 and that in due course, rightsholders would receive restitution of the final benefits ultimately due to them. The finance minister agreed to guarantee any losses suffered by the LVVS as a result of the first payment. There was no realistic basis for the payment of the advances as long as the *Sammelkonto* had not been reconstructed and the accounts had not been verified.[238] It is not known how many of the approximately 11,300 claimants (or executors) who received an advance were Jewish policyholders. The insurance companies did not qualify for a payment. The fight for legal redress and restitution was still in full swing.

As we saw before, the Judicial Department first ruled in late 1946 that an insurance company was entitled to repayment from the LVVS for any surrender amounts the company had paid to Liro. In practice, this meant that the person entitled to restitution of the surrender amount paid to Liro — a sum now held by the LVVS — transferred the right to cash this amount to the insurance company. The rightsholder then signed a deed of transfer and the insurance company restored the insurance contract. This meant that either the rightsholder received the benefit from the insurer or the value of the current insurance policy was restored. The insurer would receive the surrender amount back from the LVVS. However, the LVVS administrators saw things differently. Before making any payment to the insurance company, they checked the policyholder's balance with the LVVS. The reason for this was that during the occupation, Liro had made transfers from the Jewish accounts for a variety of reasons, such as taxes, cost of living, or paying benefits to children of mixed marriage partners. The LVVS informed the Bedrijfsgroep that it would duly note the insurers' right to receive the surrender amounts, but added that payment would only take place if the policyholder in question had a sufficient balance on the LVVS account. An additional problem was that other parties might also be entitled to payment from the LVVS accounts concerned. The LVVS then had to decide how the available balance would be divided among all entitled parties.[239]

It was not until the end of December 1947 that the LVVS changed this policy. In case of an amicable settlement at the joint request of a rightsholder and an insurance company, the surrender amount was deducted from the balance of the rightsholder and deposited in the insurer's account. This also applied retroactively if the rightsholder had earlier signed a deed of transfer following a

[238] *Eindverslag LVVS*, p. 17.
[239] Letter from the LVVS to the Bedrijfsgroep, 9-5-1947. AV 96/1.

restoration court ruling or an amicable settlement.[240] Nevertheless, the LVVS sometimes remained reluctant, as we see from its refusal in late 1949 to recognize the Levensverzekering-maatschappij Ziekenzorg NV as a rightsholder on the restoration contract. The LVVS had already paid the administrator in this case an advance, so it reasoned that should this specific insurance policy be restored, there would then be a negative balance on the LVVS account. The deficit on the account had to be settled before the LVVS would recognize the company as a competing creditor.[241] The company Eerste Nederlandsche also had disputes with the LVVS and twice initiated legal proceedings to establish the unequivocal recognition of insurers in case law.[242] At this point, in 1949, the LVVS did not wish to accept the jurisprudence if it could not foresee the consequences of crediting.[243] In most other cases, the LVVS duly recorded the insurers' right to restitution of the surrender amounts.[244]

To remove the last obstacles preventing the LVVS from crediting the insurers, the Bedrijfsgroep and the LVVS conducted negotiations in the autumn of 1950. The result was an agreement that became effective in December 1950. The LVVS recognized the companies as creditors for the surrender values paid to Liro during the occupation, on the condition it would be indemnified against damages arising from any third party claims to the sums paid to Liro, for which the insurer had already been recognized.[245]

After payment of the NLG 1,000 advance which had been decided in 1946, it took four more years before higher amounts were paid — once again in the form of advances. This was preceded by a problematic six months. The LVVS administrators made their 'offer to creditors' in January 1950. However, this was annulled by the The Hague Chamber of the Judicial Department on 30 March 1950. As a result, the the LVVS had to reconsider its plan for the settlement of its liquidation.[246] This would take time, as many claims had yet to be verified. The Judicial Department, however, wanted the creditors to be given clarity as soon as possible about payment from LVVS. The Dutch Control Agency, the NBI, then determined that creditors would receive an advance of 40% if they submitted a

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[240] Letter with memorandum from the LVVS to the Bedrijfsgroep, 5-12-1947 and 6-12-1947. NN archives.
[241] See letter from Ziekenzorg to Bedrijfsgroep, 16-12-1949 and subsequent correspondence. NN archives.
[242] Letter from Eerste Nederlandsche to the Commission on Jewish Insurance Policies, 3-8-1949 and further correspondence regarding this issue. NN archives.
[243] Minutes, meeting of the Commission on Jewish Insurance Policies, 12-10-1949. NN archives.
[244] Incidentally, it appears that two insurance companies did not register with the LVVS as creditors. Memo 15-7-1954. AMF, Dir. BGW, 1940-1953 (1964). inv.nr. 540.
[245] Circ. Bedrijfsgroep, 30-11-1950, AEGON archives.
[246] See for further information concerning the LVVS offer: Veraart, Chapter 17, 'Effecten' in *Eindrapport Commissie Scholten*, part 2.

request for this. The original account holders and the rightsholders (the widows, widowers and direct blood relatives) were given priority in the payment.[247] For the first time, the insurance companies now received a payment (of 40%) of the sums to which they were entitled. As for the remainder, the creditors received additional percentages in June 1951 and October 1952, and ultimately on 19 June 1956 there was a final payment that brought the total up to 90% of all the claims that been verified and acknowledged at that point in time.[248] In the end, the LVVS repaid NLG 21 million to the insurers.[249]

## Legal redress for 'absentees'

The legal redress enforced by the Judicial Department or achieved 'amicably' based on the jurisprudence was mainly related to policies for which the policyholder, the beneficiary or the heirs had come forward. In many cases, however, entire families had been wiped out and there were no surviving relatives, which meant no one directly involved could come forward for restoration of the policies belonging to these families. Some policies belonging to 'absent people' were provisionally restored thanks to the efforts of administrators appointed by the NBI. In those cases, restoration proceeded in the same way as the restoration claimed by rightsholders who had survived the persecution. The limitation period of five years, counting from the moment of forced surrender that had begun in the summer of 1943, was to run out in the second half of 1948. An arrangement was needed for the policies belonging to 'absent persons'. Someone had to claim restoration on their behalf. The NBI had already created organizations which dealt with the administration of 'orphan inheritances.' The most important one was BAON in Amsterdam, which as I mentioned in Chapter 3 had been established on 29 June 1945. The NBI decided to entrust BAON with the provisional restoration on behalf of the 'absentees,' and on 3 November 1947 it appointed the foundation as executor of all absent persons and enemy subjects whose names appeared in the LVVS policy files.[250] In early 1948, BAON created the Policy Restoration Department to carry out this task.[251]

### *The 'Agreement' between BAON and the insurers*

The Policy Restoration Department needed the insurers' cooperation to facilitate conditional

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[247] According to the NBI orders (ML '276 Da en ML '276 Db) dated 28-6-1950 and published in the *Staatscourant* no. 125, 30-6-1950. See LVVS, 'Statement to creditors', 4-7-1950.
[248] For more details see Grüter, Insurance Report, pp. 123-128.
[249] Eindverslag LVVS, p. 21.
[250] NBI decision 3-11-1947. NA, NBI archives, inv.nr. 2.09.49, folder 445.
[251] NBI decision d.d. 20-6-1948. NA, NBI archives, inv.nr. 2.09.49, folder 445.

restoration of policies for which no beneficiary had come forward. BAON was able to use photocopies of the card index of policies compiled by Liro during the occupation, which the LVVS still had. As a result, BAON had access to the names of the policyholders, the companies where the policies had been concluded and the policy numbers. However, the LVVS did not know which policies had in the meantime been restored.[252] BAON had to contact the insurers for this information. Before they started cooperating, in late 1947, there was some distrust between the two parties. BAON assumed that the insurance companies were still opposed to policy restoration of any kind. Though the insurance companies still had objections in principle to the way the jurisprudence was taking shape, they were prepared to reach amicable settlements for these policies. They saw advantages in cooperating with BAON. In particular, they hoped BAON would support recognition of their claims against the LVVS. In addition, they felt BAON could facilitate coordination with other administrative authorities. The Commission on Jewish Insurance Policies expressed hope that the insurance companies and BAON could reach some sort of *gentleman's agreement* that could serve as the basis for a quick settlement.[253]

The rapprochement indeed resulted in the realization of an agreement between BAON and the Bedrijfsgroep, which represented a large number of insurance companies. For the insurers, the most important advantage of the agreement was the amicable, out-of-court character of the conditional policy restoration. Another advantage was that the insurers did not need to make payments until the conditional redress became definitive, which would occur when a natural person presented himself and could identify himself as a beneficiary. In practical terms, the effect was that the payments were spread over a number of years, which eased the financial impact on the insurance companies. The agreement became effective on 10 June 1948, and nine days later the NBI authorized BAON to conduct amicable legal redress with respect to life insurance policies or annuity insurances.[254]

The rulings for the amicable legal redress were laid down in the agreement. On a questionnaire from BAON, insurers provided information about absent persons' policies that turned up in the LVVS files. If a policy needed to be amicably restored in line with the jurisprudence, the insurers agreed to pay out the benefits to BAON in the event a rightsholder presented himself. If an insurer argued that the jurisprudence for certain policies was unclear, the case could be put to a

[252] AR-BAON, 1950, pp. 2, 7. All references to the accountants' reports: AR-BAON. NA, NBI archives, inv.nr.2.09.49, doss. 80.
[253] Letter from the Commission on Jewish Insurance Policies to the BAON board, 21-1-1948 and report on meeting, 23-12-1947. NA, NBI archives, inv.nr. 2.09.49, folder 445.
[254] Appendix to Bedrijfsgroep circular, 19-6-1948. AV 94/8.

restoration court. If BAON felt an insurer was not acting in the spirit of the agreement, it could present the case for arbitration by the Bedrijfsgroep's Commission on Jewish Insurance Policies. When it came to insurance policies surrendered during the life of the insured (mainly annuity insurances), which could be restored according to the jurisprudence, BAON would do its utmost to see to it that the insurers were credited by the LVVS for the surrender amount.[255]

As we will see later, the Finance Ministry was indirectly involved in the realization of the agreement. State interests were at stake, after all. According to the Civil Code, goods which cannot be claimed by anyone and unclaimed estates revert to the State. As the arrangement between BAON and the insurance companies related to absent persons' policies, it was in the State's interest that the conditional restoration of policies be executed correctly. To ensure this, the Finance Ministry's central accountancy service asked the accountancy firm Nieuwenhuis & Bos to audit the Policy Restoration Department's files. The auditors were asked, "for the time being, only to check the receipts and payments for formal accuracy." Their reports cover the period from 1950 to 1956. According to the 1952 report, the assignment was expanded. The auditors were tasked with assessing the completeness of the initial base of policies to be settled in a year-on-year audit of receipts and payments made and an audit of the work to be carried out by the Policy Restoration Department.[256]

The Policy Restoration Department pursued two routes of inquiry: one with the insurers and another with the LVVS. First of all — independently of the information it received from the insurers — it investigated which policies in the Liro/LVVS files qualified for conditional restoration, in other words which of the original policyholders were 'absent'. The Policy Restoration Department compiled a register based on two LVVS card-index systems (one arranged alphabetically by name of the policyholder, and one numerically by policy number for each insurance company). The policyholders were individually registered with all the policies held in their name. Subsequently, the Red Cross Information Bureau was asked to submit a statement on each policyholder as to whether they were still alive. Policies of the living were disregarded, as were those shown by LVVS records to have been restored or for which restoration was being prepared. All data were processed by two people and thoroughly checked afterwards.[257] For some policy categories, the Policy Restoration Department decided not to pursue conditional restoration, even though they fell under the group of policies for

[255] See full text of the agreement in Grüter, Insurance Report, pp. 135-136 and Appendix 5 of the BAON information form.
[256] AR-BAON, 1950, pp. 1, 5-6 and AR-BAON 1952, pp. 1-2.
[257] Report, C.H.A. Heiser: 'controle polisherstel', 12-3-1954. NA, archive NBI, inv.nr. 2.09.49, doss. 445.

which BAON had been given responsibility. These were policies whose benefit payment was deemed too small in relation to the costs and difficulty of recovery, in particular small policies with little insured value. In these cases, the Policy Restoration Department expected the costs of investigating the complicated inheritance situation to be greater than the benefit. There were also policies whose limitation period was too close to restore the policy. Furthermore, there were policies for which heirs up to six times removed could not be found and for which the State was the directly interested party.[258] In addition, the Policy Restoration Department created a card-index system of heirs in 1949. All the names found in the BAON files were included, as well as the composition of the family. The names of the deceased published in the *Staatscourant* were also included in this card-index system.[259]

In this way, a list was created of policies that qualified for conditional restoration by BAON. According to a general summary from the LVVS in 1947, the number of surrendered insurance policies was 21,010 and the number of policies that had been registered by Liro but not surrendered was 5,730, making up a total of 26,740 policies. However, the director of the Policy Restoration Department assumed there had been at least 30,000 policies.[260] After investigation about 21,000 policies were set aside as they fell outside the scope of BAON's work. These were policies whose policyholders were still alive, or which had already been restored or were in the process of being restored. Consequently, approximately 9,000 policies found in the LVVS records qualified for handling by BAON.

The second route of inquiry focused on the insurance companies. A few days after signing the agreement, BAON sent the insurers a letter with questionnaires in triplicate.[261] BAON also sent the companies lists with policies that had not yet been conditionally restored, based on information received from LVVS. The insurers then indicated for each individual policy why conditional restoration was not required. The reasons for this might be that the insured person was still alive, that restoration had already taken place, or that restoration in accordance with the terms of the policy was not possible under the given circumstances. When it was clear that the policy qualified for conditional redress and the Red Cross had indicated that the rightsholder was no longer alive, the policy was conditionally restored. BAON and the insurers signed an agreement of conditional redress

[258] AR-BAON, 1951, pp. 7-8 and Appendix III of the accountants report.
[259] Annual report and draft balance sheet for 1949, BAON Policy Restoration Department; NA 2.09.49, doss. 445.
[260] An accurate account was not made. See report by C.H.A. Heiser, 'controle polisherstel', 12-3-1954. NA, NBI archives, inv.nr. 2.09.49, doss. 445.
[261] Letter from BAON to Olveh van 1879, 15-6-1948. AEGON archives.

for each of these policies.

According to the procedure laid down in the agreement, the next step by the Policy Restoration Department was to identify the rightsholders, whenever this was feasible. It still happened that rightsholders presented themselves to insurance companies so that policies could finally be restored. The company then paid the benefit to BAON, which arranged payment to the rightsholder. BAON then indemnified the insurance company from further claims from 'natural persons' who could still identify themselves as rightsholders after the payment had been made.

Ultimately, the number of policies that qualified for settlement by BAON was 10,966, well above the first count of 9,000. By the end of 1954, 5,341 policies had been dealt with in one way or another. More than 4,000 of these had been fully restored. There were claims against the LVVS concerning 362 policies, and 903 policies were considered worthless. The latter category were policies that had already been transferred to third parties for settlement, or that were taken out by "policyholders who were still alive." Of the 5,625 policies that had not yet been settled by the end of 1954, more than half had been passed on to the deputy State Attorney. If rightsholders did not present themselves later on, the State would be able to claim these policies. Furthermore, nearly 1,200 policies had been passed on to notaries public for settlement, and for 350 policies conditional redress had in the meantime been agreed upon, according to the LVVS. There was a group of 516 policies whose status regarding settlement was still unclear, and for another 683, the process of reaching a settlement was underway.[262]

For the policies conditionally and then definitively restored, BAON paid almost NLG 6 million to the rightsholders. According to the accountants, an unspecified "large amount" was paid to intermediaries who acted on behalf of the rightsholders. In most cases, this was a notary public who had drawn up a statement of inheritance for one or more heirs that had been found. A small number of subsequent payments went to other intermediaries such as lawyers acting for heirs and to individual heirs who had been given power of attorney by fellow heirs. BAON also made payments to guardians who represented minors, executors who acted on behalf of absentees, and trustees appointed to administer unclaimed estates.[263] BAON did deduct administrative costs from these payments. These consisted of expenses incurred by the notaries public, lawyers and auditors during the settlement of definitive restoration, for which they had charged the NBI. BAON in turn remitted

[262] AR-BAON, 1954, pp. 10, 14-16 and AR-BAON, 1955, pp. 2-4.
[263] The accountants found that BAON sometimes did not notify the interested parties that payments had been made. However, they considered the risk small that rightsholders were not aware of these payments, especially when the payments were made to notaries public. See: AR-BAON, 1952, p. 4 and 1954, p. 12.

these administration costs to the NBI. What this comes down to is that the beneficiaries themselves paid the administrative costs for the definitive restoration of their policies. These came to NLG 170,608 in total.[264]

Overall, auditors Nieuwenhuis & Bos concluded in 1956 that the payment of benefits had progressed satisfactorily and that the financial transactions met reasonable standards. The same could be said about the settlement of policies by the Policy Restoration Department.[265] The agreement between BAON and the insurers had seen to it that policies whose rightsholders had not come forward were conditionally restored and that a large proportion of them were, in time, definitively restored. Thanks to the Policy Restoration Department, it also became clear in 1954 that that there were a few thousand insurance contracts that remained unclaimed. Potentially, the State could claim these. However, the State was not party to the agreement, so a new accord between the State and the insurers would be needed.

*The 'Veegens-agreement' between the Dutch State and the insurers*

During the preparation of the agreement in the first half of 1948, the insurers and BAON had also held talks with civil servants from the Finance Ministry. Both the civil servants and the finance minister were positive about the draft agreement.[266] However, the minister made it clear to the Bedrijfsgroep that the agreement "must in no way be deemed prejudicial to any rights which might accrue to the State." It was not yet known whether the State would lay claim to the value of unclaimed policies, and the agreement must not preclude this in advance. When Lieftinck read the draft agreement, he proposed to the Bedrijfsgroep a change of wording with respect to the required period of limitation.[267] His proposal was not included verbatim in the final agreement, however. Despite the minister's reservations, the chairman of the Commission on Jewish Insurance Policies drew the conclusion that the State had approved the agreement and would no longer consider itself a potential rightsholder.[268]

However, in the months that followed, Lieftinck began to worry about the feasibility of a future claim to the unclaimed estates by the State. He requested that the existing agreement be

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[264] See Grüter, Insurance Report, Appendix 6 for number of payments per annum by BAON.
[265] The accountants reported a lack of clarity with respect to the insurance policies that fell outside the scope of the Policy Restoration Department and BAON. See: AR-BAON, 1956, p. 6.
[266] Report on meeting of the Commission on Jewish Insurance Policies, 23-3-1948. NN archives 1948-1957.
[267] Transcript of letter from the finance minister to the Bedrijfsgroep, 7-5-1948. NN archives.
[268] Minutes, meeting of Large Insurances, Industrial Insurances and Savings Departments, 4-6-1948. NN archives.

adapted to include a guarantee of the State's rights in the document. According to the minister's letter, the agreement only guaranteed that natural persons would not lose their rights upon expiry of the limitation period for legal redress. If the State, however, as a legal person, wanted to lay claim to unclaimed estates in the future, it would be unable to do so after the limitation period had expired.[269] The Bedrijfsgroep replied that the agreement could no longer be altered. However, the model agreement which BAON and the insurers used for every conditionally restored policy could be adapted to include the term 'legal person.'[270]

This reply did not satisfy the minister and further consultation between the Finance Ministry and the Bedrijfsgroep did not lead to a solution. The insurers decided to consult their lawyer.[271] The liaison at the ministry indicated that if the insurance companies were not prepared to cooperate in "an agreement which safeguarded the rights of the State" the Finance Ministry would consider putting "a test case to the Council for Legal Redress in which the State would claim to be a rightsholder." Moreover, the ministry warned that it could not rule out "contesting the validity of the Agreement with the BAON Foundation, as the Foundation was not authorized to conclude this Agreement." The Commission on Jewish Insurance Policies decided to wait and see if the Finance Ministry would exert pressure on BAON to rescind their agreement. They assumed that the State could no longer do anything after the period for requesting legal redress expired.[272] They probably hoped that it would remain quiet, a thought which may have been inspired by the discussions on a financial arrangement between the insurers and the State which at that point were still ongoing.

It remained quiet for a few years, but in the second half of 1952, the State made concrete plans to claim the policies that had not been definitely restored. The interests of the State were represented by the Finance Ministry's State Property Administration Office.[273] A few months later, the Bedrijfsgroep received a letter from the Deputy Solicitor General D.J. Veegens.[274] He had been tasked by the Finance Ministry with seeing to the restoration of the policies not yet restored in the

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[269] Copy of letter from the finance minister to the Bedrijfsgroep, 14-8-1948. AV S 94/9.
[270] Letter from the Bedrijfsgroep to the finance minister, 17-8-1948. NN archives.
[271] Letter from the Bedrijfsgroep to the Commission on Jewish Insurance Policies including a draft letter for the Finance Ministry, 20-9-1948 and minutes of the Commission on Jewish Insurance Policies meeting, 2-10-1948. NN archives.
[272] Report, meeting of the Commission on Jewish Insurance Policies, 21-12-1948. NN archives.
[273] AR-BAON, report covering 1951, but dated 17-1-1953, p. 2, and correspondence between the Director of Administration and the Head of the State Property Department, 22-9-1952 and 20-11-1952. AMF, Dir BGW 1940-1953 (1963), inv. nr. 540.
[274] D.J. Veegens was a lawyer in The Hague who became Deputy Solicitor General in 1936. In the final stages of the war, he had been interned in Poland as a POW. After the war, he represented the NBI in many court cases. See J. Meihuizen, *Noodzakelijk kwaad,* p. 193, n. 293.

context of the BAON agreement. He asked whether the insurers were prepared to grant amicable policy redress to trustees of unclaimed estates. If not, Veegens wanted to know if the companies were prepared to comply with a court ruling in "some test cases, to be determined in mutual consultation, without invoking the limitation or maturity terms that have in the meantime expired."[275] On behalf of the Bedrijfsgroep, lawyer A.E.J. Nysingh informed Veegens that "the response to both questions is negative." The Bedrijfsgroep, now reorganized as the NVBL, informed the insurers about this development and asked to be informed "without delay" of any actions by the State. Should Veegens take such action, the companies were asked to respond in consultation with Nysingh in order to achieve "so desired unity in the defense."[276]

In May 1953, the State set the first test case in motion, demanding payment to the State of a policy held by De Nederlanden van 1870. As the case progressed, it became clear from the correspondence with Veegens that the State in retrospect doubted the legal validity of the agreement between BAON and the insurers because it had not been formally approved by the Finance Ministry.[277] In May and June, other companies also received summons to declare that they were prepared to cooperate with amicable policy redress. If they were not willing to comply, the State would take the case to the Council for Legal Redress.[278] However, the State suspended this move for the time being to enable consultation between Veegens and the insurance companies' legal advisors Nysingh and J. van der Giesen. In the autumn of 1953, Van de Giessen was assigned to open negotiations with Veegens on behalf of the insurers.[279] The NVBL held a survey among the companies to assess how substantial the damage would be if the State were successful in its test cases. The outcome was that 3,777 policies had been conditionally restored by the companies without subsequent definitive restoration. The insured amount was approximately NLG 5.8 million and the surrender value nearly NLG 1.5 million.[280]

After due consideration, the insurance companies united in the NVBL concluded in February 1954 that a settlement with the State would be the best option for them. They were far from certain that a restoration judge would rule in their favor. If the State were to win, the insurers reasoned,

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[275] Letter from Veegens to the NVBL, 9-12-1952. NN archives.
[276] Letter from the NVBL to the members, 23-4-1952. NN archives.
[277] Correspondence about L.M. between De Nederlanden van 1870, Veegens, lawyers and the NVBL, 1953 en 1954. Generali archives, 'black box' and minutes of the Committee on Jewish Insurance Policies meeting, 13-11-1953. NN archives.
[278] Copy of summons. NN archives.
[279] Minutes of the Commission on Jewish Insurance Policies meeting, 1-10-1953. NN archives.
[280] Letter from the NVBL to the Commission on Jewish Insurance Policies, 31-10-1953. Enquête 1953, AV 96/20.

they would probably have to pay the insured value, while in a settlement Veegens would agree with about one quarter of that amount, or the surrender value.[281] The two sides indeed reached a settlement in which the insurers were to pay the surrender value. The difference between the insured amount and the surrender value represented the losses "incurred by the companies due to the extermination of the Jewish section of the Dutch people. The State is prepared to acknowledge this loss by not laying claim to this amount." The principle underlying the whole arrangement was that "the State does not wish to profit, at the expense of the companies, from the extermination of the Jews and therefore does not want to increase the companies' mortality losses."[282] So this gesture by the State could ultimately be regarded as a radically slimmed down version of the compensation arrangement, which the industry regarded as an essential precondition for restoring the Jewish policies in the years following the liberation.

In September 1954, Veegens (who was authorized by the minister) and the chairman and secretary of the NVBL (acting on behalf of 47 companies) signed the 'Agreement for Amicable Legal Redress between the State of the Netherlands and the Dutch Association for the Promotion of Life Insurance.' The agreement provided for the amicable restoration of life insurance and life annuity policies of people whose names appeared in the LVVS records. These policies had either not yet been restored, or, in accordance with the 1948 agreement, had been only conditionally restored — subject to the condition that natural persons were to come forward as rightful beneficiaries. The agreement established how to execute the transfer to the State of uninherited payments on Jewish policies. As a rule of thumb, the insurers should not be made to pay more than they would have had to pay in the event the occupier had not intervened.[283]

Before 1 November 1954, the companies were to notify Veegens what the status was of every surrendered life insurance policy as of 1 October 1954, including any credits received from the LVVS. The insurers were to pay the total surrender value to the State by 31 December 1955 at the latest. In case someone were to come forward as a rightful claimant in the meantime, the surrender value in question would not need to be paid. The amount to be paid to the State was increased by 2.25% simple interest, as of 1 October 1954. On 31 December 1955 at the latest, the State would report to the insurers any other policies in which it claimed an interest. After that date, the State would not validate any new claims.

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[281] General meeting minutes, 16-2-1954 and NVBL circular 35/54, 19-2-1954. NN archives.
[282] Correspondence between J. v.d. Giessen and D.J. Veegens, February 1954 and letter from Veegens to the finance minister, 17-11-1953. AMF, Dir. BGW 1940-1953 (1964), inv.nr. 540.
[283] See the full text in Grüter, Insurance Report, annex 7, and the categories of policies on pp. 151-152. A similar agreement was settled with the Dutch Association of Savings Funds.

The insurers could deduct from payments all sums which they were still owed by the policyholder: unpaid premiums and interest on loans. Moreover, they were not obliged to pay when there were relevant terms in the policy itself which would normally exempt them from payment, such as a suicide clause or a war clause. They would, however, disregard any formal objections, such as a missing policy document or a missing receipt for payment of the last premium. Proof of death was provided by stating of the number of the edition of the *Staatscourant* in which the notice of death had been published. The payments were deposited in a bank account opened especially for this purpose by Veegens. The account would be closed on 31 December 1957, when the balance was transferred to the general State Treasury. If a rightful beneficiary were to come forward subsequently, then the State was obliged to repay the amount received to the insurance company, which then arranged payment to the beneficiary.

As a consequence of the settlement, both the insurers and the Policy Restoration Department had once again to embark on a time-consuming administrative process.[284] Nieuwenhuis and Bos again conducted audits. The insurers sent a list to Veegens with the policies which had been conditionally, but not yet definitively, restored through the BAON Foundation.[285] Conversely, the Policy Restoration Department sent the insurers lists of policies asking why these had not yet been processed. The replies from the insurers provide a clear picture: the policies in question either had no surrender value, had already been transferred to Veegens' special account, or belonged to a living policyholder. In some cases, living policyholders did not request redress. In some cases, the LVVS claim had remained in the name of the policyholder or restoration had already been agreed upon with the executor. Sometimes the policy number was incorrect.[286] The auditors concluded, however, that "in many cases" the insurers paid less than was indicated in the surrender lists from the Liro administration. When the Policy Restoration Department then requested further information from the companies, additional payments came in, but according to the auditors' report for 1956, companies sometimes did not respond to requests from the Policy Restoration Department.[287] This does not automatically mean that the insurance companies messed things up. Amongst those companies was De Oude Haagsche van 1836 which — as recent research at the premises of its

[284] The BAON had been officially disbanded, but letters pertaining to the transfer of surrender values to the State were sent by the Policy Restoration Department, now officially under the NBI.
[285] Letter with attachment from Nationale to Veegens, 28-10-1954. NN archives.
[286] Compare letter with attachment from De Nederlanden van 1870 to the Policy Restoration Department of the NBI. The Hague office, 26-4-1956. Generali archives, box marked 'payments 1956-1958 and to the State', and letter from Nationale to Policy Restoration Department, 23-3-1956. NN archives.
[287] AR-BAON, 1956, pp. 3-4.

successor Tiel Utrecht revealed — had informed the NBI in December 1958 that all eight relevant policies mentioned had been settled. One surrender had already been cancelled in 1943; two policies were restored in 1948 through the intervention of a lawyer; three were restored directly to a policyholder or an heir in 1948 and 1949; one was restored through the intervention of BAON, and one turned out be a life annuity which had already taken effect.[288]

Payments to the Policy Restoration Department were made by transferring the amount due to Veegens' account at the Schill & Capadose Bank in The Hague. The payments were itemized by letter, listing the file number, name and policy number, and the surrender value. Then the interest of 2.25% from 1 October 1954 was added. Conversely, sums were also paid back to the insurers when beneficiaries came forward or were traced. In some cases, a notary public approached the insurance company on behalf of one or more heirs, and the company then requested restitution from the Policy Restoration Department under the terms of the agreement. In so doing, the company had to submit the declaration of inheritance and an extract from the official Register of Deaths to the Policy Restoration Department, after which the documents were returned and the company was informed of the restitution of the surrender value plus interest paid. Then the company proceeded with the settlement. Sometimes the payment was made to the notary public, who completed the settlement. Sometimes BAON deposited payments in Veegens' bank account. These were payments from insurers to BAON in connection with definitive restoration, but partly fell under the Veegens agreement because some heirs could not be traced.[289]

The question as to whether the State received everything to which it was entitled under the agreement cannot be answered with any certainty. There is no clarity about the number of policies whose surrender value was ultimately paid to the State, or about the names of the policyholders.[290] In the summer of 1998, fifty so-called 'Veegens lists' were found in the National Archives in The Hague, but they are not conclusive.[291] At the closing date, surrender values amounting to NLG 697,155.09 (including NLG 376.67 in bank interest) were transferred to the State through Veegens' account.[292] However, surrender values continued to be reimbursed with some regularity until the

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[288] Correspondence between Oude Haagsche and the NBI between 18-4-1957 and 4-12-1958. TU archives.
[289] See Appendix 6, Grüter, Insurance Report.
[290] The accountants' reports do provide figures, but these are unclear and do not cover the full range of policies involved in the BAON/Policy Restoration Department settlement procedure. Moreover, the numerical data given in the accountants' reports represent only a provisional situation.
[291] These lists are incomplete, and probably contain only half the policies that qualified for transfer to the State at a given moment. As they are incomplete, the lists represent only a provisional situation. Many of the policies listed were processed later. Memorandum of 3-6-1998, AMF PTG 98/186N.
[292] Grüter, Insurance Report, Appendix 8 lists the sums by company, as given in the accountants'

1960s. The net total collected by the State under the 'Veegens agreement' was NLG 429,907.96.[293] The value which the insurance companies were allowed to keep was the difference between the total insured value and the surrender amount, which was approximately NLG 1.3 million.

To sum up, we see that the agreement between BAON and the insurers and the so-called Veegens agreement formally concluded the restoration of Jewish insurance contracts surrendered to Liro during the occupation. In view of the BAON's setup, the insurers' cooperation, and guidance of the Council for Legal Redress jurisprudence in amicable settlements, we can assume that the vast majority of so-called absent persons' policies had been conditionally restored. A significant proportion of them were definitely restored when rightful beneficiaries came forward after all. The transfer to the State of the surrender values of unclaimed policies was the final stage of a painstakingly achieved systematic restoration of insurance policies. Fifty years later, it turned out that this final stage would be only a preliminary one.

## 'Redress in redress' in associations and foundations

So far, we have focused on the restoration of insurance contracts lost as a result of the Liro regulations. In Part 1 we discussed that Jewish policyholders or members of burial or cremation associations also lost their rights and insurance policies outside the Liro route. This applied to the members of the Foresters, Jewish burial associations and the Association for Facultative Cremation. The Workers Association for Cremation, or AVVL, did not fall under the regulation against non-commercial associations and foundations, but Jews lost their membership as they could no longer afford to pay their fees as a result of the persecution.

In cases where membership in an association did not include a policy from an insurance company (as was the case for members of the *Facultatieve*), the legal redress of Jewish members followed another route than the restoration of 'ordinary' life insurance policies as described before. In the case of associations that were fully liquidated due to their Jewish (or *Loge-ähnlich* and therefore German-hostile) status, there was 'redress in redress.' This means that the association was redressed first, and that the redress of individual memberships depended on what was repaid of the original estate.

report for 1956.

[293] Memorandum in AMF, afd. FEZ 1940-1979, inv.nr. 683.

*The Ancient Order of Foresters*

The legal redress of policyholders of the Foresters was extremely complicated. The accounting records of the Death Benefits Fund had disappeared and there were practically no financial resources left. Of the original 2,651 policyholders, about 1,900 had been deported and killed, so that the liabilities of the fund amounted to NLG 1.75 million in death benefits alone.[294] Both the Foresters themselves and the Verzekeringskamer concluded that the Death Benefits Fund was no longer viable. The Verzekeringskamer took steps to liquidate the fund according to the 'emergency procedure' described in the Life Insurance Act.

Those who held rights to policies terminated during the war were given the status of 'creditor' of the Benefit Death Fund. However, these creditors could not immediately be paid benefits as it was unclear how much of the robbed property could be retrieved. In 1949, a decision was made to credit claimants with a provisional payment of 25% and to give priority to widows.[295] Only in 1957 was the situation clear enough to determine the final payment of 52.4%.[296] The rightful claimants did not have to pay (overdue) premiums or repay borrowed sums in cases where they had taken out a loan on the policy.[297] Consequently, the emergency procedure served to liquidate the Death Benefit Fund as a legal person and to set the level of payments to rightful claimants with respect to insurance agreements confiscated in 1941.

Eligibility for redress depended on proof that the claimant had been a member of the Death Benefits Fund. As the records had disappeared during the occupation, this led to problems. It had been established that 806 of the members were Jews who were no longer alive. Of the surviving policyholders, 346 were able to prove their membership. For about half of the policyholders, however, little was known. Of this group, 216 policyholders reported their membership but were unable to prove it. A sum was reserved, 52.4% of which would have to be paid to any claimants who

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[294] Memorandum by the Foresters' administrators, December 1946, part 2. ACA, arch. 1248, inv.nr. 403.

[295] Board meeting minutes, 17-11-1949. ACA, arch. 1248, inv.nr. 90.

[296] The entitlement percentage of 52.4% was based on a balance sheet of the Funds' assets (NLG 1,057,161.28) and liabilities (NLG 2,024,252.33) as of December 31, 1955, determined by taking stock of how much money was left in the estate, and checking all claims by individuals known to be former members or their relatives. The sum total of those liabilities amounted to almost twice the amount recovered in the estate. As a result, just over half of the entitlement sum could be paid out, an average of NLG 602.60.

[297] Verzekeringskamer report on the 'Death Benefits Fund of the Mutual Insurance Company of the Subsidiary High Court for the Netherlands and Belgium of the Ancient Order of Foresters in liquidation in Amsterdam, 1958' (further referred to as the Report from the Verzekeringskamer). ACA, arch. 1248. inv.nr. 429. The appendices provide a detailed account of insurance and financial aspects.

could ultimately prove their membership.[298] The archives contain records that demonstrate how difficult it could be to prove one's status as a creditor. For lack of written evidence, a policy or other relevant documents to prove membership, the order accepted a written statement from two members affirming that a person had been a fraternity member in May 1940. Sometimes a photo of a deceased member was requested and shown to surviving members for recognition. Members also received forms from the fraternity asking whether a certain person was known to be a member.[299] It is not clear how many of the 216 reported but initially unconfirmed memberships could ultimately be verified.

After the Death Benefit Fund was liquidated, on 3 October 1957, the Foresters' Assistance and Support Fund took over the fund's rights and obligations.[300] From then on, it dealt with all claims, including the payment of benefits where necessary. In so doing, it maintained the policy of requiring verification from two surviving members that a third person had been a member before 1940. In view of the high death rate of members during the war, this became increasingly difficult as the years went by. This also applied to people who had emigrated after the liberation and who did not find out about some of their entitlements until much later. In many cases, it would have been too late to prove their former membership. However, the Foresters maintained these criteria with respect to evidence of former membership.[301] In the years up to 1976, at least six claims were turned down, only one was honored and in two cases the outcome is not known.[302]

The benefit percentage of 52.4% was far lower than the 90% paid to Jews who had a rightful claim against the LVVS. People who held rights to the Foresters' benefit fund received their payment much later, too. Because of the strict criteria for proving membership, the legal redress process left many people dissatisfied.

*Redress in associations and foundations*

The Council for Legal Redress and the NBI in March 1946 retroactively annulled the disbanding and liquidation of associations and foundations that had taken place during the occupation.[303] After the liberation, the Committee for Non-Commercial Associations and Foundations (CNCV) was placed under the control of the NBI's Bureau of Special Administrations. The accounting records of the CNCV

[298] See Appendix 3 of the Verzekeringskamer report, p. 13 e.v. ACA, arch. 1248, inv.nr. 399.
[299] Documents concerning verification of claims submitted to the Fund; ACA, arch. 1248, inv.nr. 433.
[300] Verzekeringskamer report, Appendix 3, p. 17.
[301] Letter from the Foresters to a claimant in Brazil, 17-2-1967. ACA, arch. 1248, inv.nr. 539.
[302] See correspondence and other documents in ACA, arch. 1248, inv. nos. 539 and 540.
[303] Letter from the Council for Redress, no. 45066, 4-3-1946 and decree NBI, 27-3-1946, T L-N.53691/V 505. NA, NBI/CNCV archives, 2.09.16, inv. no. 631.

were disorganized during the war, and the archives, which were relocated several times by commissioner Müller-Lehning after *Dolle Dinsdag* (Mad Tuesday, September, 5 1944), were largely destroyed by fire. The commissioner himself committed suicide shortly after the liberation.[304] All of these factors significantly hindered efforts to reconstruct the accounting records. Eventually, the CNCV administrators were able to make a final payment of 71.86% to the liquidated organizations in 1959.[305]

The most important parties who held power of attorney on behalf of Jewish associations' estates were the Dutch Jewish Congregation and the Martin J. Polak accounting firm in Amsterdam. They received payments on behalf of the defunct organizations. Jewish organizations which were restored and which appointed their own administration were able to independently file claims with the CNCV administrators.[306] In January and early February 1947 they were informed that the closing date for submitting claims was 31 March of the same year. The NBI was fairly strict in adhering to the closing date and a several-month extension was granted only in exceptional cases. According to NBI guidelines, claims below NLG 100 did not qualify for compensation, which meant that approximately thirty claims by Jewish organizations were rejected. On the other hand, the NBI also accepted collective claims from various associations as long as they jointly amounted to at least 100 guilders. If an association was unable to furnish proof of losses suffered, the claim was dismissed on the grounds that: "Since the entire Commissioner's archives were lost, we are unable to provide the necessary information. Seeing that the burden of proof rests with your Association, the onus is on you to furnish the required details."[307]

Because hardly any archival records on the organizations in question survived, it was practically impossible in the research for this book to reconstruct how the redress of the Jewish funeral associations took place. In The Hague's Municipal Archives, research into the Jewish funeral societies unearthed a letter announcing that NLG 65,800 was available for the Achoesas Kever association[308] in The Hague.[309] It is not clear whether surviving members of the association or their heirs were compensated. The Jewish burial associations in Amsterdam that had been liquidated

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[304] CNCV Administrators report, end of 1945. NA, NBI/CNCV, 2.09.16, inv. nr.631.
[305] Kordes Committee report, p. 51. See also *Staatscourant*, 27-4-1959.
[306] J.M.L. van Bockxmeer, P.C.A. Lamboo, H.A.J. van Schie, *Onderzoeksgids Archieven Joodse oorlogsgetroffenen,* p. 39.
[307] Documents in NA, NBI/CNCV, 2.09.16, inv.nr. 629.
[308] Achoezas Kewer (Hebrew for: 'the possession of a grave') was established in 1907 for the maintenance of the graves under its administration in the two Jewish graveyards in The Hague. See I.B. van Creveld, *Kille - Zorg*, pp. 232-234.
[309] Martin J. Polak, Auditors, to the Dutch Jewish Congregation, 13-9-1948. MA the Hague, NIG 639, inv.nr. 396.

during the war were not revived any more. Their activities were continued by *Het Joodse Begrafeniswezen te Amsterdam* [Amsterdam Jewish Funeral Association].[310] The six former associations were represented by the Martin J. Polak accountancy firm and had an acknowledged claim of more than NLG 237,000 in total.[311] The more than 71% of the claims on the CNCV estate were paid to *Het Joodse Begrafeniswezen te Amsterdam*. As no access to the archives was granted, it was not possible to draw conclusions about the restoration of survivors' individual memberships or compensation given to surviving dependents.[312]

Holocaust Foundation research in the archives of Utrecht's Dutch Jewish Congregation revealed that the 'Gemilath Gasidim' funeral collective had taken out a group insurance policy for its members with the Algemeene Friesche life insurance company. The burial collective paid the premiums and received benefits on behalf of its Jewish members. In 1947, Algemeene Friesche paid NLG 26,429 to beneficiaries of policyholders who had died during the war.[313] From this, we can conclude that funeral associations sometimes turned to a regular insurer for group insurance policies for their members. In these cases, restoration of the policy followed the same route as legal redress of insurance policies surrendered to Liro. The funeral association or its postwar legal heir received restitution, but it is not clear whether there was any redress for surviving rightsholders, and if so how this proceeded.

More information was available on the redress of the two cremation associations. In the Facultatieve's first post-liberation general meeting on 15 December 1945, the association chairman declared that all those whose memberships were cancelled due to the occupation would see their rights restored. All they had to do was come forward, the chairman said, adding that these members would not be required to resume making contributions before 1 January 1946.[314] In the cases of Jewish members who had died during the occupation and been cremated before the deportations began, their surviving relatives would receive a refund of the amount they had been overcharged for the cremations. The association came to this decision after surviving dependents had threatened to ask the Council for Legal Redress for annulment of a cancellation.[315] 'Jewish' policies with the

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[310] Bylaws of the *Het Joodse Begrafeniswezen te Amsterdam*, stamped for approval. NA, Association Archives, Department of Justice, 209.12.01, arch.nr. 51.349.
[311] Registration cards of the funeral societies in question. NA, NBI/CNCV, 2.09.16, inv.nr. 647.
[312] Grüter, Insurances report, Appendix 2: letter from *Joodse Begrafeniswezen* to the Scholten Committee, 22-10-99.
[313] Holocaust Foundation memorandum, 25-11-02, documents for the board meeting dated 23-1-03. In ASS.
[314] *Berichten en Mededeelingen*, LXXI (1946-1) 10,13.
[315] Facultatieve archive, files 13257, 12745, 17795.

Facultatieve Cremation Fund which had been surrendered to Liro by decree were eligible for redress in the manner described above.

The AVVL did not fall into the category of non-commercial associations and foundations, but its members' rights were violated "by no fault of the members concerned and entirely against their own will, namely by being held as prisoner of war, deported, sent into forced labor, or by having gone into hiding."[316] In the summer of 1945, the AVVL placed a public announcement in the daily newspapers saying that anyone whose membership had been cancelled due to the war between 1 August 1939 and 1 May 1945 could restore his membership until 1 November 1945 for the former regular fee. Former members needed to make up for only six months of unpaid fees. In response, 476 people took advantage of this opportunity to recover their membership, which amounted to some 90% of those who were qualified for membership reinstatement.[317] Surviving relatives of members who perished in the war but not had been cremated by the society were offered compensation. This applied only to surviving husbands and wives, children, parents, brothers or sisters who were members of the association. They were exempted from paying fees for life.[318] By this route, 162 Jewish and non-Jewish members' policies were exempted from premium payments as of 1 January 1946 with preservation of all rights. The costs were covered by the released accrued reserves of the memberships terminated during the war.

In early 1946, the AVVL prepared a statement concerning the financial consequences of the loss of members during the war, stating that "the information presented should put an end to any allegations suggesting that our Society has enriched itself at the expense of the deported Jews."[319] The AVVL estimated the number of Jewish members deported during the war who were not expected to return at 1,600. This resulted in the release of accrued reserves totaling NLG 69,000. After deduction of the cost of restoring memberships, a balance of NLG 39,250 remained. According to the statement, these figures showed "that a profit has indeed accrued to our society due to the deportation of Jewish members. (…) However, in view of the fact that the assets of the Society currently amount to more than one million guilders, the additional NLG 40,000 is of limited significance for the final position of our society."[320]

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[316] 14th General Report for the years 1945 and 1946, Amsterdam, October 1947. AVVL archives.
[317] Ibidem. See also Central Committee circular to district secretariats, 17-7-1945. AVVL archives.
[318] Central Committee minutes, 23-9-1945; Circular letter from Central Committee to district management, 28-9-1945. AVVL archives.
[319] Memo, *Enkele bijzonderheden van de afdeling Amsterdam*, 1-2-1946. AVVL archives.
[320] The person who drafted the memo continues to sum up specific expenses incurred by the Society due to the war, e.g. double funeral expenses (the crematorium was closed during the last winter of the war), 100% increase of deaths; major increases in the cost of cremations. As a consequence, the

To conclude, funeral insurance policies that had not been taken out with life insurance companies were less likely to be restored than policies acquired by Liro. The payout percentages were considerably lower than the 90% achieved by the Liquidation of the Sarphatistraat Office, the LVVS. The Foresters paid out 52.4% and the funeral associations and other associations 71.86%. The AVVL and the Facultatieve drew up their own guidelines for the redress of memberships and it remains unclear whether and how individual memberships in Jewish funeral associations actually took place. The AVVL stands out with its credit of nearly NLG 40,000 due to the loss of the Jewish members that were persecuted and killed by the occupier.

## Postwar redress of insurance policies: evaluation and comparison

Any evaluation of the postwar restoration of insurance policies begs the question whether the legal redress of assets in the two other large financial sectors (the banks and the stock exchange) progressed in a comparable manner. The Scholten Commission concluded that when it came to Jewish account holders' bank balances that had been transferred to Liro, legal redress was fairly complete. However, it was a long, formalistic and bureaucratic process, due in part to the chaotic situation at the LVVS.[321] This also applied to the legal redress of insurance policies, but there was a difference between the banks and the insurers. This difference concerned Jewish account holders' bank balances that had not been transferred to Liro but had remained at the bank's disposal. In cases where the account holder did not come forward after the war and could not be traced, these balances were placed in suspense accounts. By law, these balances reverted to the bank after thirty years. So, for absentees' bank balances there was no arrangement analogous to the Veegens agreement which entitled the State to inherit unclaimed policies. Neither the Scholten Commission nor PricewaterhouseCoopers were able to establish how much money had been paid into suspense accounts. However, it is thought to have been a relatively small amount.[322] Due to spotty recordkeeping, other matters were even less clear, which is why so little is known about the overdue rent on bank safe deposit boxes and their contents and the forced sale of diamonds arranged by managing clerk E.A.P. Puttkammer of the Rotterdam Banking Association.

The legal redress of securities is quite a different story and a dark chapter in the history of the stock exchange. Here, the restoration process did not proceed according to the principles laid down

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Society's financial situation was "greatly worsened." Memo, *Enkele bijzonderheden van de Afdeling Amsterdam.*

[321] J.L. van der Pauw, 'Banken', in *Eindrapport Commissie Scholten, part III*, pp. 595-596.

[322] Tielhof, *Banken in bezettingstijd*, pp. 86-87.

by law which implied that "whosoever had deliberately participated in the occupier's theft activities was to return whatever had been robbed to its original owner or to compensate the damage to him." Thanks to *Plan Waarborgfonds 1953* [Guarantee Fund Plan of 1953], the original Jewish owners or surviving dependents ultimately received compensation for 90% of the value of their securities in 1953, plus 90% of the profits lost after 31 December 1941. This was the result of a compromise whereby no accountability would be demanded from stockbrokers who had deliberately traded these securities after their mandatory surrender to Liro. This followed a number of unsavory developments in which the government and the finance minister acted reprehensibly. The *Vereniging voor de Effectenhandel* [Association for the Securities Trade], for instance, by being closely involved in creating the Council for Legal Redress' Securities Registration Department, was able to influence the Council's Judicial Department. Then, at the end of 1945, the finance minister responded to an urgent request from the securities trade by approving the adaptation of the concept 'in good faith' in Legal Act E100 in such a way that it offered legal protection to members of the *Vereniging voor Effectenhandel* from liability for compensation. The Council of State sharply criticized the adaptation of the law, but it was approved just four days before the first postwar session of the States General — a joint session of the First and Second Chambers of Dutch Parliament — and the lifting of emergency public law. In 1952, the stock exchange went on strike after the Council for Legal Redress, independently of the Securities Registration Department, ruled that the securities traders had not acted in good faith. The minister intervened and suspended the legal redress of securities in anticipation of an arrangement which never materialized. It was only the following year that *Plan Waarborgfonds* became effective. Though the 'dispossessed' received compensation, it is clear that the legal redress of securities failed to comply with the principles of legal redress.[323]

In an evaluation for the Van Kemenade Commission, historian P.W. Klein distinguished four phases in the legal redress of assets.[324] The first was the preparation of the legal acts by the government-in-exile in London, whose ambition was to restore the normal legal and asset traffic in the interests of the reconstruction of society. "The key principle of the (private) legal redress of assets was that the 'dispossessed' had to claim his damage from the one who had caused this: that was not Dutch society as such." According to Klein, legal redress in the second phase, from 1944 until 1950, "went rather sloppily at first" and made little progress in the most important sectors. "More or less organized resistance from trade and industry" was one reason for the delay. This resistance was

[323] Veraart, 'Effecten', *Eindrapport Commissie Scholten*, part 3, pp. 249-261 and Klein, *Het rechtsherstel gewogen*, pp. 66-72.
[324] Klein, *Het rechtsherstel gewogen*, pp. 74-75.

not against legal redress as such, but was prompted by fears that legal redress would have adverse consequences. In the third, or execution, phase, between 1950 and 1955, legal redress had become less urgent which meant the process could get bogged down by the weighing of conflicting interests and overly bureaucratic conduct by officials. The fourth phase, after 1955, was the completion of legal redress, which lingered on until the 1970s and then petered out. Klein based this division into phases on an evaluation of legal redress in several financial sectors — mortgages, real estate, (industrial) insurance, bank balances and securities — and the way this process was influenced by the sometimes conflicting relationship between legal redress and the reconstruction. For the insurance sector, a more specific phasing is obvious. There, the second phase runs from 1945 to 1948: drawing up the balance, exploring possibilities for a separate arrangement, and simultaneously building up jurisprudence that was favorable to policyholders. The third phase starts in 1948 with the insurers' acceptance of the jurisprudence and the agreement with BAON for the benefit of the absentees. The fourth phase was the payment of surrender amounts from unclaimed estates to the State between 1954 and 1956 and the ensuing payout of conditionally restored insurance policies which continued until the 1960s. The fifth phase began with the controversy in the United States surrounding Holocaust assets, which is the subject of Part III of this study: a revaluation of the legal redress of insurance policies in accordance with current-day standards.

Both the banks and the insurers compare favorably to the securities trade. Of the two, legal redress in the insurance trade was the more complicated and time-consuming. The restoration of insurance policies proceeded with even greater difficulty than was to be expected given the highly complicated system for legal redress. There were several obstacles to a speedy resolution: technical aspects of insurance, the lack of a special arrangement for the restoration of insurance policies, the insurers' precarious financial position in the early postwar years and the government's unwillingness to guarantee the Liro estate. The insurers were not blind to the needs of the 'dispossessed', but they had insufficient financial reserves to do what restoration required of them, that is to pay rightful claimants what they had already paid to Liro. When there was no sight of a specific legal arrangement, which, indeed, never did materialize, and the LVVS's empty estate offered no prospects for restitution of surrendered insurance sums, the insurers dragged their heels. Klein's judgment, however, was that the insurers

> felt they had to stand up for their interests, which was not only obvious in view of the size of these interests but could also not be avoided in view of the circumstances. In so doing, they used the ways and means at their disposal within the Dutch legal system. Though their actions did contribute to delaying the course of justice, these actions cannot be condemned

> as improper or unlawful. They had every right to demand special treatment for the insurance industry. Similar pleas were made in Jewish circles. Especially after the period 1948-1950, legal redress of insurance proceeded in accordance with the legal arrangements and Judicial Department jurisprudence which was usually favorable for the 'dispossessed'. The insurers complied with this faithfully.[325]

It is clear that the Dutch finance minister ultimately took a different stance towards the insurance industry than towards the stock exchange. The stock exchange represented interests that were more crucial to the economic reconstruction of Dutch society. Finance Minister Lieftinck was prepared to accommodate the stock exchange in a way that, in retrospect, is considered inadmissible. Lieftinck argued that the insurers' problems did not pose such grave risks to economic reconstruction that they required special measures. All the same, he was prepared to limit inheritance law, though the justice minister blocked that move. In Lieftinck's view, guaranteeing the Liro assets was too risky a move, even though both insurance companies and advocates of Jewish interests urged him to do so shortly after the liberation. Had he taken this step, the insurers would have had less reason to drag their heels and the dispossessed would have had less motive to bring their case before a restoration judge. Moreover, they would not have had to wait so long for restitution.

[325] Klein, pp. 75-76.

# Part III Fifty years later: legal redress reconsidered

## Chapter 5
## The Restitution Movement and the Controversy in the Netherlands

Until 1990, Dutch historians, journalists and the public showed little interest in the postwar legal redress of lost assets. In Volume 12 of his extensive historical work '*Het Koninkrijk der Nederlanden in de Tweede Wereldoorlog*' [The Kingdom of the Netherlands in the Second World War] Dr. L. de Jong had dedicated a chapter to the legal redress. H. van Schie, a National Archives specialist, had given a lecture on the subject at a Jerusalem symposium in the early 1980s. A.J. van der Leeuw published several articles about the Nazi theft in the Netherlands.[326] Around the 50th anniversary of the liberation, many people assumed interest in the Second World War would start to wane. Nothing could have been further from the truth. When the World Jewish Congress appealed for the return of unrestituted assets and belongings to Holocaust victims, it triggered a fierce, unprecedented discussion. A few years earlier, in 1992, the Israeli government had asked the WJC to investigate the whereabouts of balances that had not been returned to Holocaust victims. This resulted in the creation of the World Jewish Restitution Organization (WJRO), a lobby that initially advocated the restitution of Jewish community property in the former East Bloc. Several Jewish organizations were represented in the WJRO, the WJC being the most prominent of these. The Israeli government was represented by an observer.[327] The WJRO and WJC would play an important part in the discussion on Holocaust assets that had already begun in the United States. U.S. President Bill Clinton had warm ties with Edgar Bronfman Sr., the powerful Canadian billionaire and CEO of Seagram, who headed the WJC. Clinton supported the WJRO-WJC initiative and appointed the U.S. ambassador to the European Union, Stuart E. Eizenstat, as special envoy on behalf of the State Department. His task was to promote the return of Jewish assets in the former communist countries of Eastern Europe.[328] The

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[326] L. de Jong, *Het Koninkrijk der Nederlanden in de Tweede Wereldoorlog* XII/2, chapter 6; H.A.J. van Schie, 'Restitution of economic rights after 1945', in *Dutch Jewish History. Proceedings of the Symposium on the history of the Jews in the Netherlands. November-December 1982* (Jeruzalem 1984), pp. 401-420; J. Barendregt, *The Dutch money purge: the monetary consequences of German occupation and their redress after liberation 1940-1952* (Amsterdam 1993); several contributions by A.J. van der Leeuw in: A.H. Paape (ed.) *Studies over Nederland in oorlogstijd*, part I (The Hague 1972).
[327] A. Zuckerman, '*The Holocaust Restitution Enterprise: an Israeli Perspective*', in M. Bazyler, R.P. Alford (eds) *Holocaust Restitution*, pp. 326-327.
[328] Stuart Eizenstat, *Imperfect justice*, pp. 23-45.

matter of restitution was much wider, however. It expanded into a worldwide issue that spawned hundreds of national and international inquiries, hearings and lawsuits, though most of the latter were concentrated in the USA. The Netherlands began to feel the effects of these developments in early 1997.

It is beyond the scope of this book to attempt to explain why all these developments occurred, half a century after the end of the war. However, understanding the restitution movement in the USA is key to comprehending the issue of Jewish assets in the Netherlands. Without the restitution movement, the issue of legal redress would not have attracted as much attention in the Netherlands as was now the case. In addition, many archival records and a great deal of knowledge would never have surfaced, and there would probably never have been a revaluation of the legal redress in the Netherlands – or if there had been one, it probably would have proceeded differently. The restitution movement also had a big impact on the situation in the Netherlands in another sense. This has to do with the cultural differences between Europe (in this case the Netherlands) and the USA, and the moralizing role the Americans assumed in the assets issue. In this respect, the contemplations Eizenstat recorded in his memoirs are very interesting. There, he posits a distinction between the moral factor in U.S. politics and the "economic self-interest" of European *Realpolitik*. He links the moral position from Washington to mistakes made by FDR's administration during the war, describing how President Roosevelt failed to act when Polish resistance leader Jan Karski personally briefed him on the murder of European Jews. Eizenstat relates how FDR sent the Pole on to his confidant, Supreme Court Justice Felix Frankfurter, who told Karski: "I am not saying you are lying, but I choose not to believe you." Eizenstat recorded in his memoirs how determined he was not to repeat those mistakes.[329] Of course, it would be too simple to see this as the sole explanation of the USA's moral need to resolve all Holocaust asset disputes. But the moral imperative behind the restitution movement clearly played a big role in the American preoccupation with the looting of European Jewish wealth and the fact that historical information about the legal redress that had in fact taken place was virtually ignored. It is clear that certain financial institutions, the Swiss banks to begin with, had not behaved properly after the war. However, this did not absolve parties in the USA of the responsibility to take account of the facts brought forward by their European 'adversaries,' such as the Dutch insurers. The moralizing attitude of American parties to the dispute played a decisive role in the circumstances that beset the Dutch life assurance companies and the Dutch government.

Around 1990, some 'pioneers' had started to question whether everything Dutch Holocaust

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[329] Eizenstat, *Imperfect Justice*, pp. 3-6, 15-20.

victims and their surviving dependents were entitled to had been returned to them after the war. One of the most prominent of these was historian Gerard Aalders, who in the early 1990s started exploring the Nazi theft and postwar legal redress of Jewish assets. He undertook this study at the request of "some gentlemen in Amsterdam Jewish circles," as he put it.[330] So, he was already studying the issue when the sudden upsurge in interest in legal redress took place. Thanks to the head start he enjoyed in gathering knowledge on the subject and his media-friendly attitude, he acquired the status of a 'war plunder guru.' When he was working as a researcher for the *Rijksinstituut voor Oorlogsdocumentatie*, now known in English as NIOD Institute for War, Holocaust and Genocide Studies, he was asked to conduct research for the Van Kemenade Commission. He published a report and two monographs on the Nazi robbery and legal redress, in 1999 and 2001 respectively.[331] Another early pioneer on the subject was J. Barendrecht, who had published about the robbery and legal redress of securities in a PhD thesis in 1993. Yet another was Mozes Speijer, who had lost many family members to the persecution and was also interested in the assets issue. After his retirement he earned a degree in history and started an investigation into life insurance policies in 1994. As he received little to no cooperation from the insurance companies, he had to rely on documents in the public domain, such as insurers and the Verzekeringskamer's annual reports. As a result, his work contains few new facts; it mainly raises critical questions about the robbery and legal redress and comments on the lack of cooperation from the companies he approached.[332]

The postwar legal redress attracted wider attention in the Netherlands as the issue spread from Israel to Europe. Emotions and unrest in the Jewish community started to run high and the media quoted Jewish spokespeople who mentioned great sums of money that had to be returned. Other parties in the Netherlands — banks, insurers and the government — grew uneasy. How true were these accusations that millions or even billions of guilders had not been returned to Holocaust survivors and the heirs of those who had perished? The risk of reputation damage and the possibility that the controversy would have financial consequences started to sink in.

Over the course of 1998, the Dutch insurers began to follow the situation in the USA with

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[330] Aalders, *Nazi Looting*, p. xi.

[331] G. Aalders, *Bij verordening. De roof van het joodse vermogen in Nederland en het naoorlogse rechtsherstel.* Annex 3 of *Eindrapport van de Contactgroep Tegoeden WO II*, Amsterdam (2000); Aalders, *Roof. De ontvreemding van joods bezit tijdens de Tweede Wereldoorlog*, Amsterdam (1999), English translation: *Nazi looting: the plunder of Dutch Jewry during the Second World War* (Oxford 2004) and *Berooid. De beroofde joden en het Nederlandse restitutiebeleid sinds 1945* (Amsterdam 2001).

[332] M. Speijer, *Rapport Joodse Levensverzekeringen en Pensioenen, 1940-1945* (unpublished manuscript) (Nunspeet 1997). Speijer started his investigation before the restitution movement began.

greater trepidation. The insurance companies Aegon, ING and Fortis had large commercial interests there and had to comply with the state legal requirements of the Holocaust Victims Insurance Act, which had been passed in California, New York and Florida. This meant they had to report in detail to these states' Insurance Commissioners, which are regulatory bodies, on how they had handled the insurance policies owned by persecuted Jews. In addition to state legislation, the U.S. Federal Government also pressed Aegon in particular to join the Eagleburger Commission (or ICHEIC). This commission had been active since the fall of 1998 and began taking concrete action in the spring of 1999. It was especially the WJC, which was represented on the ICHEIC, that exerted pressure on insurers. They targeted German, French and Italian companies, but also set their sights on the three Dutch insurance companies that were active in the USA. The WJC insisted on having a role in assessing the postwar practices of legal redress in the Netherlands, and in apportioning any Dutch-Jewish assets to be repaid. In the WJC's view, not only Dutch Jews residing in the Netherlands or Israel, but also Holocaust victims with no ties to the Netherlands at all, were entitled to a share of the hundreds of millions that Dutch financial institutions were supposed to have taken. Since the spring of 1997, there had been regular meetings on the issue of restitution between the Dutch Association of Insurers and the *Centraal Joods Overleg* (CJO), which was the most important body promoting the Jewish community's interests at the level of Dutch government and in society. In the summer of 1999, they worked feverishly to conclude a final arrangement for the settlement of Dutch insurance assets that had not been paid out. The agreement was presented on 9 November, but the interested parties in the USA were unimpressed. WJC head Elan Steinberg declared: "We cannot be bought." Shortly thereafter, the WJC appealed for a boycott of Aegon. The documentation found in the archives sometimes reads like a historical detective novel as it traces the rising tensions in the summer of 1999 and their peak at the end of that year. From that moment onward, the Dutch Association of Insurers, the CJO and the Dutch government were fully focused on weathering the threat from America. In this way, American agencies and lawyers indirectly gained influence on the policy of Dutch financial institutions.

## Switzerland in the dock

How did things reach this point? In the summer of 1996, several concurrent developments reinforced each other, partly due to media coverage. One of these was the call in the USA to declassify archival documents from the Nazi era. On 3 January 1996, the US House of Representatives and the Senate adopted a joint resolution to open secret archives from the Second World War; this reached fruition two years later, when President Clinton signed the Nazi War Crimes Disclosure Act. Many secret documents about Switzerland's role had ended up in the USA thanks to two U.S. intelligence agencies

active in Switzerland during the war. One was headed by Henry J. Morgenthau, a friend of FDR's and treasury secretary during the war. Morgenthau was also one of the architects of Washington's economic warfare campaign against Nazi Germany. The other was run by wealthy and influential Wall Street lawyer Allen Welsh Dulles, who was ordered by the Office of Strategic Services to open an intelligence outpost in Switzerland in 1942.[333]

Because money was made available to research the restitution issue, many of the secret documents could be made available to the public. At first, the main focus was on the role of the Swiss banks and government. Switzerland was sharply criticized for the role it played as a neutral state. The Swiss banks were accused of having refused to pay money to survivors and rightful heirs of persecution victims after the war as the heirs no longer had any formal documents such as death certificates. Critics also lambasted the Swiss government for its refugee policy during the war. From April 1996 on, the first hearings of the U.S. Senate Banking Committee chaired by New York Republican Alfonso M. d' Amato stepped up the pressure on Swiss banks to be forthcoming about dormant accounts. A month later, in May 1996, the Swiss Banking Association reached on agreement with the WJC to form a committee of inquiry: the Independent Committee of Eminent Persons (ICEP), also known as the Volcker Commission because it was chaired by former U.S. Federal Reserve chief Paul J. Volcker. The ICEP also had three representatives of the Swiss Banking Association and three representatives of the WJC and the WMJO. Its tasks were to identify the dormant bank accounts of Jewish Nazi victims and to assess how the Swiss banks had handled the bank accounts of the persecuted.[334] In October 1996, the U.S. State Department created another commission of inquiry after it was ordered by President Clinton to investigate the business relations between the Swiss banks and the Third Reich. This commission later received additional instructions to determine the whereabouts of assets deposited in Switzerland by Jews who later fell victim to the Nazis.

Switzerland came under considerable pressure from American public opinion and political moves. But the Swiss put up strong resistance. For decades, Switzerland had defended its reputation as a neutral state during the Second World War, though it did have to repair cracks now and then. Now it had to give a serious response to the criticism. This did not happen without a struggle. Those in Switzerland who broke ranks were regarded as traitors. After sociologist Jean Ziegler, who was also a member of Swiss parliament, published several critical studies, some suggested that his parliamentary immunity be lifted so he could be tried for treason.[335] The authorities launched a

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[333] J. Ziegler, *Hitlers bankiers* (Amsterdam 1997) pp. 17-19.
[334] See Ziegler, o.c., p 33; http://en.wikipedia.org/wiki/Volcker_Commission; Commissie Van Kemenade, *Eindrapport van de Contactgroep Tegoeden WO II*, p. 13.
[335] See M.J. Bazlyer, *Holocaust Justice,* Chapter 1 and p. 335 note 4 literature references; J. Ziegler, in

criminal investigation against Christoph Meili, a guard with the *Schweizerische Bankgesellschaft* who blew the whistle on the bank's illegal destruction of documents. He fled Switzerland and was granted asylum in the USA, where politicians and lawyers engaged in the restitution effort welcomed him with open arms.[336] Nevertheless, a law was passed in Switzerland at the end of 1996 that lifted the banking secrecy with respect to World War Two assets for a period of five years. The Swiss federal government then also decided to launch its own international inquiry, led by historian Jean-Francois Bergier. It was ordered to investigate matters such as gold transactions between Switzerland and Nazi Germany and the Swiss government's refugee policy during the war.[337]

A report published by British Foreign Secretary Malcolm Rifkind on 10 September 1996 called Americans' attention to the monetary gold stolen by the Nazis and the wartime role played by the *Schweizerische Nationalbank* (SNB).[338] In response to the report, President Clinton created an inter-departmental Presidential Taskforce on Nazi Gold to be led by Deputy Treasury Secretary Eizenstat. The taskforce issued a report in 1997[339] confirming the main points of the British report: in 1945 value, the National Socialists had taken 580 million dollars in gold from the occupied nations between 1939 and 1945. The Nazis stored between 398 and 414 million of that amount in Switzerland. 77% of the gold robbed from the Netherlands ended up in Switzerland, too. The rest was hidden in other countries including Sweden, Italy, Turkey and Romania. After the collapse of the Third Reich, the Swiss lied about how much gold the Nazis had entrusted to Swiss banks. Ultimately, only part of the gold was returned. It was divided among the countries whose claims to the stolen gold had been acknowledged by the Tripartite Gold Commission (TGC), which was created by the Washington agreement of 1946. The members of the commission were the USA, Great Britain and France. The Netherlands got back 110,174 kg, which was only 49.3% of the total quantity of gold it had claimed.[340]

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*Hitlers bankiers* analyzed the Swiss attitude with regard to the discussion on the restitution movement. He also published *The Swiss, the Gold and the Dead: how Swiss Bankers Helped Finance the Nazi War Machine* (1997).

[336] Meili received American citizenship, studied law in the USA and received several awards. Ultimately, he returned to Switzerland disillusioned in 2009. Also see: http://www.swissinfo.ch/eng/index.html?cid=7330344.

[337] See: Ziegler, *Hitlers bankers*, pp. 32-37 and *Eindrapport van de Contactgroep Tegoeden WO II*, pp. 13-15.

[338] *History Notes. Nazi Gold: Information from the British Archives*, September 1996.

[339] *US and Allied Efforts to recover and restore gold and other assets stolen of hidden by Germany during World War II*.

[340] See: *Eindrapport van de Contactgroep Tegoeden WO II*, pp. 21-43; G. Aalders, *Eksters* (Amsterdam 2002); C. van Renselaar, *Partij in de marge: oorlog, goud en De Nederlandse Bank* (Amsterdam 2005); T. Bower, *Blood Money – the Swiss, the Nazi's and the looted Billions* (Londen 1997).

The creation of commissions of inquiry was only part of what was going on. At the same time, those who promoted the interests of the victims launched investigations of their own. They pored over documents, statistics and demographic data to establish how much had been stolen. They may have decided to do all this because they did not trust the official inquiries. Zabludoff's research, which was discussed in Chapter 1, drew far-reaching conclusions about the wealth of European Jews. He argued that it was, on average, more than 25% greater than that of the non-Jewish population. What is striking about his research is that he focused attention on the robbery and practically ignored the question of whether legal redress had taken place. This is remarkable because WJC investigator Nehemiah Robinson had already long since systematically described the legal redress and compensation that had taken place in European countries, but now the WJC was no longer interested. Politicians and the WJC searched for documents in the National Archives in Washington to support their points of view and to step up the pressure on Switzerland. The information was passed on to the news media, who were eager to publish the revelations from these 'secret documents.' Lawyers now joined the fray, filing claims against Swiss banks demanding unpaid sums to which survivors and heirs were entitled. In public hearings, survivors testified to their unsuccessful attempts to regain possession of their money after the war's end. These hearings led to lawsuits and class actions. M.J. Bazyler, a lawyer whose parents were Holocaust survivors who had emigrated to America, described the American legal system as:

> the real hero of this story (..). It is a tribute to the U.S. system of justice that American courts were able to handle claims that originated more than fifty years ago in another part of the World. The unique features of the American system of justice are precisely those factors that made the Unites States the only forum in the world where Holocaust claims could be heard today.[341]

On 3 October 1996, Edward Fagan and Robert Swift became the first lawyers to file a class action suit against three large Swiss banks. The case at the center of their suit was that of Gizella Weisshaus, a then 66-year-old Romanian-born woman living in New York. She was the sole survivor in her family; all six of her siblings and her parents had been murdered in Auschwitz. On behalf of a group of victims, Fagan demanded that the banks pay 200 billion dollars in compensation for their complicity in Nazi Germany's crimes. Then, Swiss banks were hit by a second class action, this one filed by Michaël Hausfeld, a highly experienced lawyer in these types of cases. The efforts of lawyers,

[341] Bazyler, *Holocaust Justice*, p. xii and xiii.

journalists, and politicians such as Eizenstat eventually yielded results. Swiss banks ultimately agreed to make 1.25 billion dollars available to the Holocaust victims.[342]

After the Swiss banks, European insurance companies started feeling the heat. There was a perception that insurance companies were sitting on 'dormant policies' worth billions of dollars that had never been paid out. Just as there was a general assumption that European Jews were on average wealthier than the non-Jewish population, there was an analogous assumption with respect to insurance policies. Politicians, lawyers and the WJC spurred each other on to finally, fifty years after the injustices had been done, ensure all unpaid insurance balances would be given to their rightful owners: the aging survivors and heirs of those who had perished in the war. In the spring of 1997, Fagan and Swift started the first class action against a European insurance company, Generali. They represented Martha Drucker Cornell and 28 other survivors, each of whom claimed one billion dollars from the firm.[343] A series of class actions and individual suits followed. These civil cases lasted a long time and would not all prove successful at bringing European insurers to their knees. However, the threat posed by these cases was sufficient to mobilize the companies.[344] Another factor was the press, which also closely followed courtroom developments and reported on survivors' harrowing experiences.

## The controversy in the Netherlands

In the Netherlands, several parties started preparing themselves for a discussion on the non-returned assets of Dutch Holocaust victims. In 1996, representatives of a number of leading Jewish organizations concluded that it was necessary to join forces to represent their own interests.[345] On 11 March 1997, they decided to create the *Centraal Joods Overleg Externe Belangen* (CJO) [Central Jewish Consultative body for External Interests]. The CJO was formally established on 19 March 1997.

Only one day earlier, Dutch Finance Minister Gerrit Zalm had created the *Contactgroep Tegoeden WOII* [Contact group on World War II Assets]. This body also came to be known as the Van Kemenade Commission as it was headed by former Education Minister J.A. van Kemenade. Its initial

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[342] Ziegler, *Hitlers bankiers*, p. 35 and Bazyler, *Holocaust Justice*, pp. 1-58.
[343] Bazyler, *Holocaust Justice*, p. 122.
[344] See Bazyler (o.c., pp. 122-131) for further information on class actions, individual lawsuits and their complications. Also an analysis by L. Kill en L. Gerstel, 'Holocaust-era Insurance Claims. Legislative, Judicial, and Executive Remedies' in: M. Bazyler and R.P. Alford, *Holocaust Restitution*, p. 239 ff.
[345] Representing the Dutch Jewish Congregation, the Dutch-Portuguese Jewish Congregation, the Association of Liberal Jews, the Federation of Dutch Zionists, the Jewish Social Work Foundation, the Center for Information and Documentation Israel and Jewish Youth Organization.

mandate was limited to critically monitoring the investigations being pursued in other countries into war assets. Depending on the findings, the commission was to consider whether Dutch citizens could make any claims to the sums freed up as a result of these investigations. Thanks to its monitoring activities, the Van Kemenade Commission could inform Zalm in August 1997 that Eizenstat's team had published a report mentioning that a final payment was to be expected from the Tripartite Gold Commission. Eizenstat's report had concluded that the gold pool held not only riches taken from the central banks of the occupied countries, but also gold looted from concentration camp victims. Thus, the Van Kemenade Commission advised Zalm to consider making the Dutch share of the remaining gold to be returned available to victims of the persecution. The minister then asked the commission to advise him on the settlement of the Dutch gold claim.[346]

In the meantime, the Dutch public had caught wind of developments. The media had reported in March and April 1997 that there might still be unsettled balances with Dutch banks and insurance companies. *De Telegraaf* reported on 14 March that Jewish organizations united in the CJO had asked for an extension of the Van Kemenade Commission mandate in the interest of investigating dormant bank balances. The paper reported that two Dutch banks had paid surviving dependents money that had been held in 'dormant accounts' since the war. The lawyer who had supported these surviving dependents, Herman Loonstein of the *Stichting Federatief Joods Nederland* [Federation of Dutch Jews] estimated that nearly one billion guilders was sitting in dormant Dutch bank accounts.[347] It was not much later that American lawyer Fagan filed a class action suit against six or seven European insurance companies. Though they were not Dutch companies, the question as to what the situation was in the Netherlands with respect to Jewish assets was becoming more and more pressing. It was a worry not only for the boardrooms of Dutch banks, but for insurance companies, too. In April, several Dutch newspapers repeated calls to extend the Van Kemenade Commission's mandate, and wrote that the Dutch Association of Insurers had indicated its willingness to cooperate with an investigation. As will be discussed more extensively in the next chapter, the latter organization, which I will sometimes refer to simply as 'the Association,' had already taken the initiative of asking the NIOD institute to conduct an independent investigation into the insurance assets. The Association's magazine, *Welwezen*, published an article in May 1997 repeating its willingness to cooperate. On 10 April, Minister Gerrit Zalm extended the Van Kemenade Commission's mandate so it could investigate dormant assets held by banks and insurance

[346] *Eindrapport van de Contactgroep Tegoeden WO II*, pp. 6-7. In September 1997, the TGC resolved to pay out a final tranche to the Netherlands of NLG 22.5 million. In 1999, the Cabinet decided to make this sum available for special national and international Jewish projects.
[347] *De Telegraaf* 14-3-97.

companies. For this purpose, a new commission was established, which would report to the Van Kemenade Commission. In turn, the Van Kemenade Commission would include the new commission's conclusions in its report to the minister. This new commission, *Begeleidingscommissie Onderzoek Financiële Tegoeden WO-II in Nederland* [Supervisory Committee on the Investigation of World War Two Financial Assets in the Netherlands] was formally established in July 1997. Chaired by Willem Scholten, a former vice-president of the Council of State, it came to be known as the Scholten Commission. Its task was to investigate the system of legal redress with respect to Second World War financial assets held by Dutch banks and insurance companies. This commission was also given room to look into the role of the government, but it was not to investigate the assets of individual persecution victims. These were explicitly excluded from the research mandate.

In the restitution controversy in the USA, it was difficult to distinguish between the positions of the Swiss banks and the Swiss government. What clouded the situation even more was that the interests of individual rightsholders were also made part of the discussion. That link between the system and individual cases also crept into the public debate in the Netherlands, even though the official investigations were formally intended to explore only the system of legal redress. The news media mixed these two aspects when reporting on Jewish assets. When in May 1997 it became clear that Swiss banks would partly ease their secrecy policy, this led once again to speculation about the amounts of Jewish assets they held; once again people claiming to be rightsholders stepped forward. Loonstein averred that Dutch banks and insurers were also holding the assets of Nazi victims.[348] In an background article about the American restitution debate, *HP-de Tijd* journalist Auke Kok quoted Jaap Soesan, the former chairman of *Stichting Slapende Joodse Fondsen* [Dormant Jewish Assets Foundation], who suggested there were just as many dormant assets in the Netherlands as in Switzerland. "Don't forget: 60% of the Dutch cooperated with the Germans," Soesan said. Kok also quoted the historian Aalders, who explained that he had received many phone calls from people whom he called "theft callers," in other words Dutch Jews who wanted their stolen assets back. "It is all rather overblown," Aalders said. "There was an investigation into Jewish assets in Switzerland in 1963. And if they find more now, which it looks like they will, how do you trace the owners? It is difficult to find them, but in the meantime giant expectations have been created." Aalders sent dozens of people a newsletter warning against the creation of a myth.[349]

There was indeed a substantial risk that various reports would raise unrealistic expectations, and this was reinforced by public statements such as those from the WJC about the discovery of new

[348] Ibidem
[349] Auke Kok in *HP de Tijd*, 2-5-1997.

secret documents. The WJC claimed the assets in question did not amount to $1.4 billion but to $14 billion. The Swiss government was reportedly going to open a Holocaust fund of $130 million. The public was dazzled by reports of millions and billions that in some cases turned out to be unfounded.

Though the media reported in early July that Loonstein had filed suit against the *Rijkspostbank* to claim assets, insurance policies were the focus of most newspaper coverage in the summer of 1997. Some of the articles offered general background information, such as one piece in particular about Mozes Speijer, who had researched the legal redress of life insurance.[350] Journalist Karel Berkhout published a critical article about the postwar legal redress of insurance policies, minister Lieftinck's attitude in the initial postwar period, and the attempts to restrict inheritance law.[351] But most coverage was devoted Israeli businessman H.D. Polak's claim against Aegon. Another insurer, Delta Lloyd, was negotiating with a claimant as well, and was prepared to reach a settlement. Some media reported that the Dutch Association of Insurers had advised insurance companies to investigate their own records. According to Dutch wire service ANP, the banks and insurance companies were cooperating with the Scholten investigation because they wanted to achieve clarity and avoid a "Swiss situation."[352]

The Dutch press widely reported the decision by Swiss banks, in late July 1997, to publish the names of Jewish account holders on the internet and in a large newspaper advertisement.[353] This list also included "dubious names" of Nazis who had opened secret accounts with Swiss banks. Several Dutch "Jewish names" were also on the list. However, not everyone could be traced. *Algemeen Dagblad* reported that Ernst & Young in Basel had been flooded with enquiries from Dutch callers. The company advised callers to wait longer, as a supplementary list of 20,000 names was to be published in October. In reaction, Ronny Naftaniël, CJO board member and general manager of the *Centrum Informatie en Documentatie Israel* (CIDI) [Centre Information and Documentation Israel], called on Dutch insurers to publish a list of unclaimed inheritances.[354]

An even more painful confrontation with the past followed in December 1997, raising the priority of unreturned Jewish assets and property on the political and Jewish community agendas. *De Groene Amsterdammer,* a respected news weekly, revealed the discovery of a missing archive from a former agency of the Finance Ministry. The archive had mistakenly been left behind when the agency left the Amsterdam building where it had been housed until 1968. The discovered records included

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[350] *AD*, 21-7-1997.
[351] *NRC Handelsblad*, 28-7-1997.
[352] ANP July 1997 and several news articles in the Association archives.
[353] Articles in almost all Dutch newspapers, 23-25 July 1997.
[354] *AD*, 25-7-1997.

part of Liro's card catalogue describing possessions taken away from Jews during the occupation. The possessions themselves had been kept by the agency until the 1960s, when they were sold off to agency staff. In some cases, the employees even drew lots to decide who had the right to buy the items.[355] As had happened earlier, Minister Zalm's first response was to create a commission, this one to be led by the former president of the Dutch Court of Audit F. Kordes, to investigate the background of this Liro issue. Thanks to this new controversy, the questions about the handling of legal redress and the treatment of what was left of the Jewish community after the war became a matter for painful soul searching, requiring clear and honest answers. This soul searching was eventually expanded to include the Dutch Indies question, which would be investigated by the Van Galen Commission.

With the insurance companies receiving its first claims, the media reporting intensively on the legal redress of insurance policies, and the Jewish community asking fundamental questions and making their expectations known, the insurers explored how their predecessors had handled the legal redress of their Jewish policyholders fifty years earlier. Fearing reputation damage, but conscious of the matter's moral importance, the Dutch Association of Insurers consulted with representatives of the large insurance companies and developed a policy to deal with "this dossier" as properly it could.

[355] *Groene Amsterdammer*, 10-12-1997.

## Chapter 6
## The Dutch Association of Insurers and the Handling of Claims

In early 1997, concern grew among members of the Dutch Association of Insurers. They reacted by searching for information in the Association's own archives. By that time, the subject of how 'Jewish policies' had been dealt with after the war was terra incognita for practically everyone in the insurance industry. There were no longer any current or former colleagues in the industry who had experienced the period firsthand and could talk about it. Before long, the documents on the 1948 and 1954 agreements were found in the archives. But these were not enough to answer all the questions being asked by the insurers, the Jewish community and the press. Two people in the Association were keeping themselves well-abreast of the assets issue thanks to their backgrounds. One of them was the Association's director, Eric Fischer, who had worked as an economic historian after completing his studies in Economics and Business Administration and had headed the International Institute of Social History in Amsterdam. Later, in January 1999, when the Association was working out its strategy for dealing with war policies, Fischer was appointed special professor of corporate history, 'including its social dimensions,' at the University of Amsterdam. The other person with a unique interest in the assets debate was Willem Terwisscha van Scheltinga, a socio-economic historian. Earlier, when employed by ING, he had been involved in the production of a Nationale-Nederlanden anniversary publication that briefly described the occupation period.[356] He realized at the time that the subject of surrendered war policies was unexplored and would require future attention. He had in the meantime become the Association's spokesman and in this capacity he was involved with the assets dossier from the outset. Together, Fischer and Terwisscha would play an important role in determining the Association's policy on Jewish assets.

### The Dutch Association of Insurers and the insurance companies

The Association realized straight away that the assets issue was fraught with emotion and involved painful questions about the insurers' cooperation in the seizure of Jews' insurance assets during the occupation, "the (shameful) procedures between Jewish owners and the insurers after the war" and "the values of unclaimed policies forfeited to the insurers after the limitation period." The Association knew this was an important issue to Jewish survivors and surviving dependents, but also saw that it could harm the Dutch life insurers' reputation. Fischer was particularly keen to see a solid

[356] J. Barendregt and T. Langenhuyzen, *Ondernemdend in risico. Nationale Nederlanden 1845-1995* (Amsterdam 1995).

historical inquiry. “A sound story from an impeccable and independent source will be able to give a conclusive answer to the questions that are posed,” he wrote. “The starting point is that we will not defend the actions of the insurers from that period in advance, but do everything in our power to give answers to these probing questions.”[357] He contacted the heads of the biggest insurance companies to discuss the policy to be adopted. In late 1996, Aegon was the first company to be confronted with a claim. It was filed by H.D. Polak, whose father had deposited NLG 35,000 in an escape policy with Olveh. Should this claim be honored by Olveh’s legal successor Aegon, this would require a substantial benefit. Aegon board member Paul van de Geijn was concerned, but like Fischer he favored transparency. “Initially, no one knew what the scale of the problem was. How many people were affected? How many policies did it involve? How much money? Some people expected it to be a matter of billions. In the media, in *Centraal Joods Overleg* (….) We said from the outset: we need to know exactly what we’re dealing with and to try to be fully transparent. Towards the surviving dependents, first and foremost, but also in communication with *Centraal Joods Overleg* and the press.”[358]

In March, Fischer contacted Naftaniël, whom he had known since his days as an Economics student in Amsterdam. At an earlier stage, Fischer had approached NIOD director Hans Blom to ask whether his research institute would be willing and able to explore what had happened to Jewish policies during the war and the postwar restoration of policies.[359] The answer was affirmative, and on 13 March, Fischer informed the Association board that NIOD was prepared to do the study. The Association’s senior management instructed the board to agree to “full transparency with respect to the Jewish insurance policies and especially the assignment to the NIOD to investigate this matter.” Fischer also stated that the Association would fully cooperate with “the investigation by the Contact group [Van Kemenade Commission], the Ministry of Finance and the CIDI.”[360] However, the original plan to have NIOD conduct the study was superseded when the government expanded the Van Kemenade Commission’s mandate to examine “the system of legal redress of persecution victims’ financial assets held by Dutch banks and insurance companies.” With this decision, the request for a NIOD study was withdrawn.

In preparation for the expansion of the mandate, Van Kemenade Commission member Tom de Swaan requested a discussion with representatives of *De Nederlandsche Bank* (DNB) [the Dutch Central Bank], *Nederlandse Vereniging van Banken* (NVB) [Dutch Banking Association], and the Dutch

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[357] Memorandum , 13-3-1997. AV 4/3250.
[358] Interviews with P. van de Geijn and R. Naftaniël in *Welwezen*, 33, 2003, nr. 3, pp. 44-48.
[359] Memorandum W. Terwisscha, 18-3-1997. Grüter private archive.
[360] Association memo 13-3-1997, appendix to B-97/36. In AV 4/3250.

Association of Insurers. They discussed the task and composition of the new commission which was to be created. Both the NVB and the Association argued that their scope should be broad enough to ensure an exhaustive investigation. "The quality of the outcome must be such that the subject will no longer be on the agenda for the next 50 years." The parties to the discussion agreed that the commission should be limited in size. All three parties proposed representatives who would be respected, undisputed and "independent."[361] One of those mentioned in this discussion, Rob Hazelhoff, was indeed included on the commission. Others who joined were Guus Zoutendijk and Alexander Sillem.[362] Later on, the composition of the Scholten Commission became a matter of disagreement, especially with the CJO, which I will elaborate on later.

By the time the Scholten Commission was officially appointed – on 13 July 1997 – and it began its study, the Dutch Association of Insurers and the individual insurance companies were picking up steam on their own course of action. On 14 March, the Association's Life Insurance Sector sent a circular letter to the members stating "that some organizations suspect that not all Jewish victims' policies have been restored and that some insurance companies still have paid-up values relating to those policies. In addition, accusations are being made about insurance companies' actions in the postwar years." The Association wanted to evaluate how well-founded these suspicions were and asked the insurers to share their experiences in this regard.[363] In another circular letter, about two weeks later, the board expressed the importance of ensuring "a high quality and – if possible – uniform treatment of individual cases" whenever handling Jewish life insurance policies surrendered by order of the occupier. The Association set up a hotline to support the insurance companies and appointed a liaison to whom they could report recently settled and pending procedures.[364] There was also a point of contact for press enquiries. Coordination in this regard was not only important to the life insurance industry in view of reputational risk, but also because few insurance industry employees understood all the subtleties of the controversy surrounding Second World War assets. Aegon, for instance, contacted retired employees to find out the significance of certain codes on files, but with "precious little" result.[365] In order to fill members in on the facts and possible consequences of the controversy, the Association regularly provided background

[361] Memo for the meeting of 21-4--1997 (DNB, NVB and Dutch Association of Insurers concerning 'Jewish policies'). AV, 4/3250.
[362] Sillem and Hazelhoff had banking careers while Hazelhoff had played an important role in the merger of ABN and AMRO banks. Zoutendijk was a mathematician who had been a top executive at Delta Lloyd as well as a member of the Dutch Senate.
[363] Circular SL-L 97/07, 14-03-1997, AV, collection circulars.
[364] Circular SL-L 97/10, 26-03-1997. AV, collection circulars.
[365] Interviews with P. van de Geijn and R. Naftaniël in *Welwezen*, 33, 2003, nr. 3, p. 44-48.

information in circular letters. Between 1997 and 2000, it also devoted several issues of the members' bulletin *Bondig* to the subject.[366] The Association magazine *Welwezen* published articles about the war assets issue in the years that followed, as well as interviews with the chairman of the Scholten Commission, with Naftaniël, and with the director of the Jewish Social Work Foundation, Hans Vuijsje. In addition, the Association's members regularly received information on the background to media reports, such as stories on the discovery of the 'Veegens lists' in the National Archives, in which newspapers reported that insurers had to pay an amount of "at least 10 million guilders" in unpaid insurance assets.[367]

In May 1998, more than a year after the assets discussion in the Netherlands began, the Association organized an informative session for its member companies' general managers, lawyers and communication specialists. Fischer, NIOD researcher Aalders and JMW director Vuijsje gave presentations on the system of robbery, legal redress, and the Jewish community's perceptions of the assets discussion, respectively. Vuijsje presented two contradictory realities: first, that of the company representatives who were not responsible for the decisions of their predecessors and, second, the emotional reality of the survivors and surviving dependents who had to cope with the substantial losses of the past. He warned the insurers that they would be confronted with emotions that were running high in the Jewish community, such as anger, frustration, pain and distrust. Vuijsje challenged them to be sensitive to these experiences.[368] The conclusion of the discussion following these presentations was that the insurers would not be able to satisfy everyone. The Finance Ministry official present wrote in his report: "From the reply to questions after the presentations it was clear that insurers can practically never do the right thing in the eyes of the victims. This was the conclusion of both the JMW and the insurers. (…) Victims want recognition by means of, among other things, monetary compensation, while (necessary) questions that need to be asked of them about policy numbers don't go down well."[369] The Association was aware of the difficult situation and realized that the individual insurers' attitude was crucial. At an Association members' general meeting on 25 June 1998, Fischer appealed to the member companies to cooperate in an active manner and to help the Association prevent "unpleasant surprises." He ask them to "inform [the association] in a timely fashion."[370]

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[366] *Bondig*, February 1999: special issue with an overview 'Robbery and Legal Redress in the Netherlands', and *Bondig*, special issue, in cooperation with CJO, February 2000.
[367] 'Bericht aan bestuur Sector Levensverzekering SL-B 98/63 en aan bestuur Verbond VB 98/51'. AV 4/3276.
[368] Circular LV 98/42, 8-4-1998 (in: AV 4/3250) and Circular VB 98/51. AV 4/3276)
[369] Meeting report, 25-5-1998. AMF PTG/344.
[370] Overview settlement 'war policies,' October 1998. AV 4/3365.


*Eric Fischer during the informative session in May 1998 (Association of Insurers)*

The Association played an increasingly important role in the whole process. It took the initiative in the life insurance industry and maintained contacts with the individual life insurance companies and external parties on behalf of those companies. The latter included Jewish organizations that presented themselves as sounding boards for victims and surviving dependents, the Finance Ministry and the media. War assets was now on the list of issues on which the Association lobbied the government in the hope of influencing political opinion. The Association regularly informed the Parliamentary Standing Committee for Finance of the insurers' policy decisions and developments in this dossier. The Association also maintained contact with the Scholten Commission. Initially they spoke only with Peter Wolfgang Klein, the Leiden University emeritus professor of Economic History who served as the Scholten Commission's secretary and academic research explorer. Later, they also met with the commission's researchers. The Association introduced the researchers to the insurance companies where they wanted to conduct research and supplied them with the technical information about the insurance business that was essential to a proper study of the problems. When they discovered possibly relevant information in a company's archives, the Association liaison notified the Scholten Commission. This only occurred in 1998 and 1999, as the investigation specifically aimed at the legal redress of insurance policies did not begin until March 1998.

## The handling of claims and enquiries

As noted earlier, the first claim was lodged with Dutch insurer Aegon in late 1996.[371] Israeli businessman H.D. Polak asserted his right to the NLG 35,000 that his father had paid pro forma as a lump sum for an annuity policy (an 'escape policy') with Olveh van 1879, Aegon's legal predecessor. After the war, it became clear that both his parents had been murdered in Auschwitz, but that his two younger brothers had survived. H.D. Polak himself had fled the country and joined the allied forces in France at the end of the war. In Chapter 4, we saw that after his return to the Netherlands, he inquired about the policies and was told they could not be paid out because annuities were only paid if the insured was alive. The diamonds which his father had entrusted to the assistant general manager of the Twentsche Bank were returned to him, and by selling them, he and his brothers had enough to live off for a few months. But "deprived of everything and with insufficient resources my two brothers and I had to waive a procedure that would have been too costly for us," Polak wrote in a letter to Aalders, whom he asked for advice.[372] When the war assets controversy spread from America to Israel, he realized that the policies his father had taken out must have been escape policies, so he decided to lodge a claim. He did extensive research in archives in the Netherlands.[373] Though he did not find legal proof – the policies themselves – he did find an account statement in the archives of the Liro administrators, the LVVS. Research by Aegon employees revealed a list that referred to policies in the name of father Carl Polak valued at 10,000 and 25,000 guilders, as well as information on Carl's brother, who had also taken out an escape policy. Aegon decided that these facts together were sufficient grounds for making what it called a "goodwill payment," but that the benefit amount would have to be negotiated. Aegon was referring in particular to the interest payments on the benefit amount, which the insurer argued it should only be required to pay up until 1955. For the subsequent years, Polak would have to turn to the government, which had received the unpaid assets of the insurers, according to an *NIW* report.[374] Aegon estimated the policy's value to be NLG 50,000, but Polak asserted it was worth between NLG 500,000 and 900,000.[375] When the

[371] See the section on 'escape policies' in Chapter 2.
[372] Transcript of letter from H.D. Polak to Aalders, 19-11-96. AV 75/16.
[373] M. Gerstenfeld, *Judging the Netherlands*, p. 137.
[374] *NIW*, 18-7-1997.
[375] In July 1997, practically all Dutch newspapers reported on Aegon's decision to settle. See especially an article by Karel Berkhout in *NRC* (15-7-1997). A year later, Berkhout published a background article in which he wrote that Polak had found no evidence for his father's insurance policies and that Aegon had paid him a benefit because of "a good story." Polak then sent a letter to the newspaper revealing the evidence: LVVS documents showing the surrender amounts and the amounts that had been paid to the insurance company. See *NRC* 28-10-1998 and 31-10-1998).

two parties reached a settlement in December 1997, the financial details were kept confidential at Polak's request. A press release mentioned only that the payment would benefit "institutions that assist in raising troubled youth in the slum areas of Jaffa, Israel" and quoted Polak as saying "[t]his ultimately fulfills my parents' intentions in taking out this policy during the Second World War, namely that the benefits would be used towards education and studies."[376] Later, in 2000, Naftaniël revealed a few details about the settlement. In an interview with Aegon's corporate magazine, he sketched the background of a controversy in the USA which the insurer was embroiled in and cited the settlement of its first claim as an example of the company's positive attitude. Without mentioning Polak's name, Natfaniël said Aegon had paid out eleven times the value of the policy. He pointed out that a later agreement between the CJO and the Dutch Association of Insurers (see Chapter 8) set the interest factor at 22. "Formally speaking, the claim had been settled, but Aegon quickly announced it would also pay the remainder. That was more than considerate."[377]

Earlier, in the summer of 1997, this spirit of goodwill had not quite taken hold. Following the news in July on Aegon's intended settlement, the media reported that Delta Lloyd and the AVVL had also reached an agreement with claimants. The AVVL had initially dismissed a claim lodged by the widow and son of a deceased AVVL member. This was, in fact, the second time time the AVVL had refused the claim, as the widow had already approached the organization in 1950 to "apply for renewal of a membership on the basis of a membership that already existed before the Second World War." At that time, the AVVL turned her away in strict adherence to the expiry period of surviving dependents' benefit claims. After the second refusal, the son applied to Life Insurance Ombudsman Job de Ruiter. The ombudsman concluded that the dismissal of the claim was not right. As he wrote to the surviving dependents, "[t]he truth is that premiums were paid for your family before and during the war, without compensation from the AVVL." Ultimately, the son and the widow each received a goodwill payment of NLG 500. The son donated his share to Magen David Adom, the Israeli Red Star of David. He donated his mother's benefit to the nursing home where she lived.[378]

In the course of 1997, it became increasingly clear to the insurers that in addition to their own investigations into postwar legal redress and their own role, they would have to give priority to handling enquiries and claims from Jewish survivors and surviving dependents. The first circular letters to the insurers gave scant evidence of concern about the claims, and there were as yet few

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[376] Aegon press release, 6-11-1997.
[377] Interview with Ronny Naftaniël, *InterAegon* nr. 4/2000, pp. 10-12.
[378] Correspondence between the filer of the claim, the AVVL, the Ombudsman and the Association. AV 4/5191.

people who could foresee the consequences of the war assets controversy. After the Dutch Association of Insurers in March 1997 asked their members to share their experiences with respect to legal redress, seventeen written reactions had come in. Some companies reported that they had not existed until after 1945 and therefore had no experience with insurance policies dating from the war period. Others reported that the insurance contracts concerned had been settled after the war in accordance with the agreement with the Dutch State. A third point some insurers made in their responses was that it was not customary to record a 'Jewish insurance' as such, which made it very difficult to trace them. Other factors that played a role in this regard were the legally required document retention period of ten years and the limitation period for insurance claims of five years after expiry. With respect to the limitation period, a number of insurers informally indicated that "if the necessary documents can be produced, the (legal) limitation period is, in many cases, not strictly applied."[379]

The insurers gradually received more claims and in the course of 1997, bringing the total number of claims and information requests received by the Association and individual insurers to over 100. When the Association received requests and claims, it first had to ascertain which company was involved, and then it relayed the letters to them. When a company received a request directly, this meant the claimant or person inquiring had at least some information about the policy in question, though this knowledge was often limited and seldom supported by a policy or other documentation. In principle, the strategy for handling claims was that the insurance companies themselves were responsible for the settlement.

By November 1997, the Association had accumulated more than 90 undocumented enquiries, that is enquiries from people who had no information about a known policy and from those whose assumption a policy existed could not be confirmed. "In order to do justice to the special situation," the board of the Life Insurance Sector decided to bring these requests to the attention of all companies in that line of business. A letter was sent to all life insurance companies listing the personal data of the 93 war victims about whom an undocumented information request had been received. The board requested that all companies audit their own administration and once a policy had been identified, to settle this directly with the person who had sent the request. The Association asked the insurers for the result of their investigation within two months and requested that they report all cases in which they were considering honoring a legitimate claim or making a goodwill payment. This also pertained to claims which had been lodged directly with the insurers.[380] In late

[379] Memo, 20-5-1997. AV 4/3250.
[380] Circular SL–L 97/63, 25-11-1997. AV, collection circulars.

January 1998, the board sent a second list of undocumented enquiries listing 340 names, and in May it sent a third list along with the results of the first two lists. The insurers had sent information on fifteen names to the requesters from the first list, and twelve names from the second. At that point, their actions had not yet led to any payments. In most cases, the company was able to prove that the policy had been settled properly at the time.[381] Between November 1997 and July 1999, the Association sent out five lists with the names of 900 possible policyholders. In some cases, incorrectly spelled names from a previous list were corrected on a subsequent list.

At CIDI's request, the Association sent a separate circular letter asking the insurers to take extra care regarding one particular claim.[382] The claim dealt with three policies recorded in a notebook that had belonged to Salomon Samuel, a Jew who had not survived the war. Between 1939 and 1941, Samuel had taken out three policies worth NLG 5,000 each, for his sons: Leo, Benjamin and Mozes. In the notebook, it was recorded that Mozes had died on 23 November — year unknown — in Mauthausen. The policy numbers had been recorded for the three policies, but not the name of the insurance company. The three brothers' names had already been included in the first list that had been sent, but not the data from the notebook. This time, the Association quoted verbatim the information Benjamin Samuel had found in his father's notebook, and asked its members to find out whether the policy numbers appeared in their administration. The claim had already been handled by Delta Lloyd in 1997, when three corresponding policy numbers had been found at two different legal predecessors of the insurance company, which had only made matters more confusing. Delta Lloyd rejected the claim, since it could not be ascertained irrefutably that Salomon Samuel had taken out the policies with one of these companies. At the same time, Delta Lloyd had promised to reopen the case if more relevant clues were found. The investigation into this matter continued in the archives of the NBI, the Ministry of Finance and JMW while, as mentioned above, the Association asked all companies to search their files for the policy numbers. About a year later, after intensive research, Delta Lloyd honored the claim after all. Information was found from which the company could surmise that "your father most likely took out the insurance policies concerned with Amstleven. However, we do not have information about what happened to the policies during and after the war. There is no longer any relevant documentation present at Delta Lloyd." The sum would amount to NLG 60,000 and was based on the mortality risk cover of the policy on the life of Mozes, who had died in Mauthausen. The accrued value of the other two policies was judged to be nil, as no premium had been paid as of 1943. The level of the benefit was based on an interest factor of 12 as

[381] Circular SL–L 98/35 4 -5-1998. AV, collection circulars.
[382] Circular SL–L98/46 9-6-1998. AV, collection circulars.

advised by the Association. At the very moment when Delta Lloyd had decided to pay, journalist Karel Berkhout mentioned this claim in an in-depth article for *NRC* on 28 October 1998, reporting that the insurers had rejected the claim and that the Association did not provide information about individual cases. The next day the newspaper reported that Samuel's claim had been honored.

*Questions about inheritance law, limitation periods and interest*

The Association's policy was that the insurance companies should handle claims generously. This meant that the insurers were expected to refrain from invoking legal and contractual rules of limitation and rules governing proof of an insurance policy's existence. The Association advised insurers to first investigate whether it could find data on a claimed policy, and only subsequently to explore how inheritance law applied. It was theoretically possible that an applicant was not a rightsholder, and potentially several people might make enquiries about the same person/policy independently of each other. Before any payment could be made, it had to be clear whether there were more possible rightsholders who had not yet claimed the policy concerned. The problem was that identifying the heirs of war victims was time consuming and could run up high notary costs. As a result, the costs of obtaining a certificate of inheritance could outweigh the benefit payment. Most insurers did indeed require a certificate of inheritance before honoring a claim, but in some cases the company paid out a benefit to requesters who were prepared to sign a declaration of indemnity. As Aegon wrote in one letter in which it honored a claim: "Should you possess no such certificate [of inheritance], we are prepared to pay the benefit on behalf of the heirs to you, provided that you indemnify us from any possible claims from other heirs."[383] When at a later stage it became clear that more claims would be honored, the insurers, in cooperation with JMW and the Finance Ministry, sought ways of gaining insight into inheritance law issues without the need for extensive research and all the attending costs that would be incurred. JMW, for instance, agreed to search for certificates of inheritance in the so-called JOKOS files, while the ministry facilitated information requests from the Tax Authority archives in Apeldoorn.[384]

The interest factor was a problem and remained so for a long time. The Association was convinced that interest had to be paid on the benefits, but the factor could only be determined in consultation with the Finance Ministry. This was mainly because the insurers also received claims for policies that had been paid to the Dutch State in the context of the Veegens agreement. The Association assumed that the Finance Ministry, in keeping with the agreements made at that time –

[383] Aegon, letter to requester, 28-9-1998. AV 4/3300.

[384] The Jokos files resulted from postwar claims on Germany regarding stolen household effects.

despite the limitation – would return the surrender values to the insurers whenever they honored a claim. That had been the case until in the 1960s. The question whether the ministry would pay interest and how much was important for the insurers in determining the benefit to be paid. The Association's Life Insurance Sector first raised this matter with the ministry in August 1997, but the ministry postponed its decision as this was an interdepartmental issue and hence all the ministers concerned had to make a joint decision. The ministry stated that this would be possible only after the Van Kemenade and Scholten Commissions had presented their reports.[385]

This meant that for the time being, the insurance industry itself had to determine the interest factor. The Association's Technical Commission on Individual Life Insurance considered the matter as early as the summer of 1997. It proposed not to follow the legal interest rate as "not compensating interest on interest over such a long period would yield unreasonable results." The factor would have to be based on the short-term interest rate, which was available on a daily basis. Using a publication from *Centraal Bureau voor de Statistiek* (CBS) [Statistics Netherlands], the Technical Commission composed a table of the average interest rate on three-month cash loans. This enabled them to create a table with interest factors as of 1940 based on the compound interest for several periods by which the assets to be paid could be multiplied. According to this table, a factor of 12.0782 applied for benefit payments in 1942 and a factor of 11.6204 for benefit payments in 1945.[386] In practice, the insurers initially determined the interest themselves while sometimes mentioning in letters to claimants that the interest factor was still uncertain and might be adjusted in the future. As a result, the benefit they had approved could be higher. Sometimes they also told claimants that they had decided to honor the claim, but that the actual payment was still pending a decision on the interest factor. It never came to this, because after the Technical Commission studied the problem, the Association board — in the interests of arranging payment as quickly as possible — advised members to provisionally apply the "Association model for interest payment" pending the Finance Ministry's decision.[387] In practice, the insurers calculated an interest factor of 12 in this phase, even though those present at a January 1998 association board meeting discussed the fact that the insurance industry considered an interest factor of 12 "on the low side."[388] It would take several years before the insurers and the Association heard the Finance Ministry's position on interest compensation and the return of the Veegens assets.

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[385] This matter will be addressed in the next chapter.
[386] Memo TCLI, 4-9-1997 and circular TCLI 97/58 2-10-1997. AV 4/3250.
[387] Circular SL-B 98/15. AV 4/3250.
[388] Report on Association board meeting, 21-1-1998. AV 4/3250.

*Mediation and interventions*

CIDI director Ronny Naftaniël was also a CJO board member. In March 1998, he joined the board of the newly created *Centraal Meldpunt Joodse Oorlogsclaims* (CMJO) [Central Contact Point Jewish War Claims]. He had a good relationship with the media, which regularly gave him a podium to air his views on the war assets problem and his criticism of banks and insurance companies. He acquired the role of mediator for claimants, and his involvement regularly persuaded companies to have a second look at a claim and reach a different conclusion. In Micha Kat's article in *Amice*, '*De Juridische Tweede Wereldoorlog*' ['The Legal Second World War'], Naftaniël and the Hague-based lawyer R. Kiek revealed their experiences in discussing claims regarding forced labor, stolen art and claims against banks and insurance companies. They agreed that threatening to take a story to the media had a positive impact on companies' decisions to pay. "The PR departments always trump the legal departments," Kiek said. This was also true of insurance claims; the possibility of bad press helped put pressure on the insurers.[389]

One example of this was a claim from the son of a survivor who in 1997 had contacted the insurer that his father had corresponded with — to no avail — about the restoration of his policy after the war. Restoration had not taken place and the surrender amount had not been returned, as the insurer at the time did not wish to state to the LVVS that it would no longer claim the surrender amount. As a result, the policyholder could not reclaim the amount from the LVVS. The policyholder had in the meanwhile died, and now his son claimed the surrender amount from the insurer. However, the insurer advised the claimant to apply to the Finance Ministry, arguing that it was a policy whose surrender value had been paid to the State. The son then contacted CIDI. Naftaniël wrote to the insurer in February 1998: "Mr [X] was a client of your company. He had nothing to do with the bank Lippmann Rosenthal & Co. The surrender of his policy was imposed on your company by the Germans without informing Mr [X]. It is therefore logical that his son is now approaching your company to have the amount of NLG 44.06 plus interest, paid out. You, in turn, can try to reclaim this amount from the State." The request was to pay NLG 44.06 x 21 (representing compound interest from 1943 until the present date). The total amounted to NLG 925.26. Although it was completely unclear at that time whether the Finance Ministry would indeed restitute the amounts paid out to the insurers, the company decided to pay the policyholder's son after all. Two factors influenced this decision. One was simply care for a former client, while the other was the company's wish to avoid bad publicity. Naftaniël informed the company that both CIDI and the claimant were pleased with the

[389] *Amice*, 2, nr.1, 1999.

insurer's decision.[390]

CIDI kept the Association abreast of its mediation efforts. In December 1997, for instance, CIDI sent the Association a copy of a letter it had sent to an insurer concerning a claim in which CIDI had mediated:

> CIDI is stunned by your reaction in this matter. You write that the policies, in as far as you can ascertain, were cancelled some time ago. Clearly, you have made no allowance for the circumstances under which this occurred. We request that you investigate this matter again for the benefit of Mr. B. We wish to point out that in case of payment of the policies, you will have to allow for compound interest.

A little over a month later, Naftaniël expressed his gratitude for the good arrangement.[391] Naftaniël also mediated in a dispute involving the former artist Chapon, who lived in France. It was a complicated and protracted matter, accompanied by a protracted investigation, which Naftaniël criticized in the *NRC* newspaper.[392] Clarity was finally provided by an inheritance statement documenting the payment of taxes on the claim. It was clear the policy had long since been settled and the claim was rejected in early 1999. The dispute was also discussed in regular consultations between CJO and the Association, and on 12 January 1999, both parties concluded that Nationale-Nederlanden had handled the claim correctly.[393] Naftaniël informed the company that he fully agreed with how the history of this life insurance policy had been presented. "I herewith wish to express my gratitude for the many hours of research which the two of you have done to clear up this matter," he wrote.[394] He also felt the background to the insurer's decision deserved media coverage, but the outcome – and the fact that the insurer got it right – was never reported in the newspapers.

Sometimes, dissatisfied claimants contacted the Association. As a matter of formal policy, the Association did not pass judgment on individual companies' decisions and dissatisfied claimants were told they could apply to the Life Insurance Ombudsman. Nonetheless, the Association sometimes did play a mediating role. In late December 1998, a claimant wrote a letter to Director Fischer, requesting that he "look into this matter."[395] The "matter" in question was the history of a policy

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[390] Letter from CIDI to the insurer, 16-2-1998. In AV 4/3250.
[391] Claim B-C: Letter from CIDI to the Association and the insurance company; transcript of Naftaniël's letter to AMEV ,19-12-1997 and 21-01-1998. AV 4/3250.
[392] *NRC Handelsblad*, 28-10-1998.
[393] Report on meeting between CJO and the Association, 12-1-1999. AV 75/2.
[394] Letter from Naftaniël to NN, 1-2-1999. AV 4/3365.
[395] Letter of L. B. to Fischer, Association, 29-12-1998. AV 4/3365.

taken out by the claimant's father; it was raked up by the war assets controversy. "Having started with inspection of the Liro archives and then having received an LVVS account statement from Jewish Social Work, I have discovered that there was still a policy in my father's name with the Nationale Levensverzekering Mij." The company had surrendered the policy and paid the surrender amount into the Liro account on 20 July 1943. According to the claimant, the LVVS had repaid the surrender amount to the insurer in 1951. "The policy [was] therefore again in force and in my opinion it was already the Nationale's duty at that point to trace the surviving policyholders after the war and to inform them." In 1955, the amount accrued NLG 1.57 in interest and was remitted to the State in keeping with the Veegens agreement.

> Of course, I can no longer find out why my father (who died in 1986) did not request legal redress at the time, but perhaps he never even knew that legal redress was possible (was it communicated sufficiently at the time) or, if he did know about it, he was unable to pay all the 'unpaid' premiums plus 4% (sic) interest. The point is that father had debts to repay because he'd had to take out a big loan to pay for our hideout during the war!!! Maybe, as he was the sole survivor of his family, he couldn't cope with this emotionally after all the bitter encounters he had with government agencies and other institutions after the war.

The letter's author had contacted Nationale-Nederlanden, the original company's legal successor, for repayment of the surrender amount. He came away empty-handed. "As [name of policyholder] survived the war, it was his responsibility to request legal redress upon payment of the unpaid premiums. We are unable to ascertain why this did not take place," the insurer replied. "As we cannot reclaim the surrender value in this specific case from the Dutch State, we advise you to contact the Ministry of Finance if you wish to receive payment of the surrender value."[396] The insurer's underlying argumentation was that payment would only have been possible if the policy had been restored. This would have required payment of the overdue premiums from 1943 until the time of the policyholder's death in 1986. The overdue premiums would have been many times greater than his benefit. In his letter to Fischer, the son wrote that he had indeed contacted the ministry. The coordinator of the World War II assets project group emphasized that the State was not a party to this matter and therefore could not, and should not, have any influence on a decision regarding legal redress. Nevertheless, he decided "in this remarkable case" to contact the insurer. However, the company adamantly stuck to its guns. The letter's author drew the conclusion that:

[396] Transcript letter Nationale-Nederlanden to claimant L.B., 16-7-1998. AV 4/3300.

> the advice the Association of Insurers gave its members amidst so much media hoopla, to be forthcoming and generous and to avoid red tape in handling all war policies, has been totally ignored and flouted, in any case by Nationale-Nederlanden. To the outside world, they shed crocodile tears, but in fact nothing has changed so many years after the war.

The Finance Ministry had in the meantime asked the Association what the next steps should be and the Association had again spoken with the insurance company, which in turn insisted it would stand by its position.[397] Fischer made a phone call to the letter writer, and later confirmed in a letter of his own, that he had spoken to the insurers and that the company had promised him it would review the insurance contract again. He expected that he would be contacted at very short notice. Furthermore, Fischer sent the claimant a publication he and some colleagues had produced for the Jewish Historical Museum "as a small consolation for all the inconvenience (…) I hope that you will browse through it with pleasure."[398] Things turned out well. Before long, the claimant received a letter from Nationale-Nederlanden stating that it had reconsidered the claim and would make a goodwill payment of NLG 725.[399] In hindsight, the insurance contract was probably one of the group of policies put aside by the BAON Policy Restoration Department because the costs of determining who the rightsholders were would far outweigh the benefit, as described in Chapter 4.

*Formalism and flexibility*

Some insurers were rigid in dealing with these new claims, but the Association's strategy for dealing with claims and enquiries was clearly more flexible. This is evidenced not only by the strategic memorandums and the tone taken in written responses to claimants and others, but also by notes taken down and letters written by claimants and others, often describing the interactions as "pleasant telephone conversations" or in other, similar, wording. Some insurers did indeed show empathy. Some of them even extended the lenient approach advocated by the Association not only to life insurance policies, but also to personal accident insurance.[400] Sun Alliance, a British insurer that also operated on the Dutch market, received a letter in late 1997 asking whether the letter's author might still derive some rights from his father's policy. He brought up the matter after hearing Fischer say in a news program that the insurers should adopt a flexible approach. His father owned a

[397] Association memo 17-11-1998. AV 75/16.
[398] Letter from Fischer to L.B., 5-1-1999. AV 4/3365.
[399] Copy of letter from Nationale-Nederlanden to L. B, 6-1-1999. AMF PTG 344.
[400] Correspondence between CIDI, Association and Klaverbladverzekeringen, 1997-1998. AV 4/3300.

greengrocer's before the war and in October 1936, he had taken out personal accident insurance with Sun Alliance's parent company, London Guarantee & Accident Company, against the loss of income due to an accident. But he had been deported to Mauthausen and murdered on 13 July 1942. The insurer asked for a copy of the reverse side of the policy, as the policy conditions had been printed there, and informed the son that it was trying to determine whether Sun Alliance was indeed the London company's legal successor. Furthermore, the insurer pointed out "in order to avoid unwarranted expectations" that "it is and was customary for this type of personal accident policy, unlike life insurance policies, to exclude war risks. As long as we do not have access to the specific conditions of this insurance policy, we cannot ascertain whether this exclusion applies to the policy concerned." The claimant then sent a copy of the requested policy conditions and confirmed that war risk had been excluded. "In reaction to this I would like to indicate that "murder" is not included in the exclusions. Dying in a bombing raid, during fights as a soldier are, in my opinion, a different story than being taken away because you are Jewish and then being killed," the claimant wrote in his reply. Nine days later, the insurer informed the Association that it had decided to settle "considering the fact that we believe there is much to be said for Mr [X]'s viewpoint that the death of his parents was not a direct consequence of war." This was the first settlement of a personal accident insurance claim, and therefore the Association wanted to discuss this in a somewhat broader context.[401] This did not result in a specific strategy for accident and non-life insurance policies; the insurers judged the few claims made in this category on their own merits.

The examples in this chapter illustrate how letters to claimants varied substantially in tone. Some insurers communicated in highly legalistic language, projecting a very formal image. The strategy was indeed formal at times, as we have seen. In an interview with *NRC* reporter Karel Berkhout, Naftaniël commended the Association's attitude, but said the insurers' attitudes were diverse. He was satisfied with companies such as Aegon, Reaal and Hooge Huys, as they moved swiftly to make payments when they were convinced of a claim's validity. He was less positive about Nationale-Nederlanden and Delta Lloyd, among others. Yet, "thanks to our mediation", a rejected claim was reconsidered, he said, referring to Salomon Samuel's claim with Delta Lloyd. When Berkhout asked why some companies were so formal, Naftaniël gave his view.

> They do not wish to distinguish between Jews and non-Jews by making a payment to Jews that other claimants would not have received. In fact, this is the same overly bureaucratic

[401] Letter from Sun Alliance to claimant, 29-12-1997; letter from claimant to Sun Alliance 3-1-1998; fax from Sun Alliance to Dutch Association of Insurers 12-1-1998. AV 4/3250.

> attitude the insurers had shortly after the war. They forget this is a very specific group of people who in many cases didn't even know their parents owned an insurance policy. (…) For me it's about common decency … and what are we talking about: a few hundred thousand? A few million? Just compare that to the billions in profits in the insurance industry.[402]

Naftaniël forecasted that after the peak in claims at the time of that interview (October 1998), their numbers would dwindle to a few per year after 2000. He felt all claims should be handled individually and not under a general surrender settlement.

That some insurers responded to claims with leniency and empathy is plain to see. Aegon, for instance, did so in a September 1998 reply to a claimant, explaining that its drawn out investigation of the relevant insurance policy was still inconclusive.

> Our investigation of the matter continues, but it is not clear that we will ever be able to say with certainty whether the policy covered the situation you have described, whether there was any previous correspondence about this policy, and why no claim was submitted before the limitation period expired. We realize that this uncertainty is unacceptable for you and your mother and we feel that neither of you should have to wait any longer for the outcome of further research. Notwithstanding all the formal objections that we might apply, we have therefore decided to pay the insured sum plus compensation for lost interest (an amount of NLG 90,000 in total) to the heir (or heirs).[403]

The company gave the reasons for its decision, stating that it was not just to end the uncertainty, but that "it also expresses our basic principle with respect to war victims' insurance policies; each claim is seriously examined and if, as is the case in this event, there is any doubt that it was handled correctly, we proceed with payment after all."[404]

It is clear by now that the insurers – especially in the early days – were not unanimously lenient towards claimants as the Association had recommended. When insurers took a bureaucratic tone, this was undoubtedly influenced by the personality of the employee who handled the claim and by the fact that many insurers had the claims dealt with by lawyers. Not all lawyers are equally good at setting aside the professional jargon and formality they've been trained to restrict

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[402] Karel Berkhout, interview with R. Naftaniël. *NRC Handelsblad* 29-10-1998.
[403] Aegon to claimant, 25-9-1998. AV 4/3300.
[404] Ibidem.

themselves to. Another factor for the larger companies may have been the fear of facing a large number of claims; perhaps this prompted them to cover themselves with a legal approach even while attempting to adhere to the principle of leniency. The bandwidth offered by this leniency approach left room for thorough examination (as conducted by Nationale-Nederlanden, for instance, in the Chapon case), while at the same time facilitating decisions to simply proceed with payment where the claimant's story appears to be truthful despite the lack of confirmation (as in the example of Aegon's September 1998 letter to a claimant).[405] All things considered, however, a dynamic process had been set in motion; the interaction between insurers, the Association, Jewish interest groups and the media had triggered an unprecedented restoration operation. Media interest and CIDI's unrelenting efforts and occasional interventions, especially by Naftaniël in person, kept the companies that wanted to thoroughly examine each claim on their toes. It is clear that their approach was not solely centered on the company's (former) clients, but also on concerns about their own reputation.

### Cooperation with Jewish organizations

The CJO was an important consultation partner who the Association regularly met with from 1997 on. Their discussions focused not only on individual claims, but also topics such as the CJO's request for access to company archives. The Association objected to the latter, arguing that it had to protect privacy and that granting access would set a precedent for other interested parties who sought access to insurance archives. Another matter of discussion was the Association's request that it be alerted by the CJO before the Jewish organization criticized the handling of claims in the press. That would enable the Association either to mediate or to resolve any "clumsiness" or misunderstandings. "Should such an intervention not lead to satisfactory results, the CJO would of course be at liberty to act as it saw fit. CJO promised to do so," according to the minutes of a November 1998 meeting.[406] Despite the initially critical tone of Naftaniël's statements in the press, the meetings between CJO and the Association gradually showed signs of increasing trust. Despite their divergent interests, both parties also shared the goal of seeing a proper settlement of the insurance assets dossier in the Netherlands. This sometimes required tough negotiations, but both sides realized that focusing on the differences would lead nowhere. Moreover, it gradually became clear on the Jewish side that the

[405] The fact that Aegon's general communications manager was Jewish might have contributed to Aegon's lenient attitude, and a former high ranking Aegon executive, Jaap Peeters, was a member of the Van Kemenade Commission. See Gerstenfeld, *Judging the Netherlands*, p. 137.
[406] Report on meeting between CJO and the Association, 27-11-1998. AV, 75/2.

insurers sincerely wanted to resolve the issue and demonstrated that by handling claims leniently. The Association, in turn, came to see that the CJO were not hell bent on getting their way at all costs and were willing to acknowledge the facts insurers presented. In this regard, it was helpful that insurers had on a number of occasions jointly examined some difficult cases with Naftaniël. They discovered that he was not a blind advocate of the Jewish cause, but an economist who understood business administration and, increasingly, insurance underwriting. It was a cooperative problem-solving effort, and the fact that both sides took this attitude enabled them to reach a final settlement of the insurance assets dispute. Chapter 8 addresses the achievement of that accord.

Naturally, Jewish organizations supported survivors and surviving dependents in their claims for unpaid assets and their information requests. As we have seen, CIDI — in many cases represented by Naftaniël — often mediated for individual claimants. In a broader sense, CIDI also acted as a lobby in its ongoing contacts with the Ministry of Finance, politicians, financial institutions and journalists. JMW, thanks to its social function in the Jewish community, was also an important point of contact for survivors and surviving dependents. The discussion had opened up old wounds for many people. Many questions arose, and not just regarding insurance policies, but about all kinds of property that was thought to have been looted from people's parents, grandparents and other relatives. Many people, especially the elderly, called on JMW for support. The organization's social workers assisted them in making enquiries and searching through the Liro cards discovered in December 1997 and the LVVS account statements. JMW put out a newsletter to inform those who were interested in the archives.[407]

JMW also contributed to investigations in support of claims and enquiries received by insurance companies. The Association sent circular letters listing names to JMW so the Jewish social work organization could systematically cross check them against the names on LVVS account statements.[408] Of the 333 names on the Association's list on 4 May 1998, 23 appeared on LVVS statements. Only two of these were accompanied by mention of an insurance policy. The other 21 names (with the stated address) were passed on to the Association for further investigation.[409]

The Association also contacted the JMW whenever a policy surfaced as a result of active investigation in insurers' files in response to an Association appeal.[410] Insurance companies that still had archive material in their possession took action in many ways, including the digitization of some or all of their records. The policies that Centrale employees had 'hidden' during the occupation were

[407] JMW Newsletters, December 1997 and February 1998. AV 4/3250.
[408] Circulars listing names, sent on 9-3-1998. AV 4/3250; and 17-9-1998. AV 4/3300.
[409] Letter from JMW to the Association, 7-9-1998. AV 4/3300.
[410] Association board meeting report, 18-2-1998. AV 4/3250.

rediscovered during an audit of legal successor Reaal's archives. With regard to those 'lost policies,' Fischer wrote a letter in October 1998 to the directors the JMW, CIDI and CMJO that research was needed to establish whether any rightsholders could still be found. He suggested that this could be done by a notary, but that it was important to assess the cost and benefits of doing so. And what should be done if no payments to rightsholders were possible? Would JMW be the most appropriate organization to receive the benefits?[411] At the end of November they discussed what approach to take and soon afterwards, JMW received the list of lost policies to check against the LVVS account statements.[412] That took JMW some time because the organization had a heavy workload and prioritized requests from possible rightsholders received directly from CMJO, as in these cases there were people waiting for a response. By cross checking the list of 'lost policies' with the LVVS archives, JMW found several original policyholders and certificates of inheritance.[413]

In addition to all of this, JMW kept a close eye on the insurance assets discussion, as it saw itself as a stakeholder in cases where policies could no longer be disbursed to individual rightsholders. There was a historical basis for this. Between 1956 and 1959, the government had given JMW control of several sums, including the so-called Westerbork claims (Liro assets used by the occupier to maintain Westerbork transit camp) and the balances of Liro accounts lower than NLG 500 for which no rightsholders had come forward. These sums were deemed too small to cover the cost of having a notary track down heirs. Royal Decree 29, of 30 October 1959, arranged the transfer of this money, NLG 944,000 in total, "for the support of needy members of the Jewish population," on the condition that those who later came forward and could prove rightful ownership would receive a disbursement after all.[414] The government also gave JMW additional money in 1961 and 1969 totaling approximately NLG 650,000, and another NLG 670,000 in 1985. The final payment came as a result of a change in the Consignment Office Law of 1980, which cut back the limitation period from sixty to twenty years. Moreover, interest would no longer be paid for amounts below NLG 100. The consignments largely consisted of Jewish assets without heirs; these would fall to the state treasury in 1992. There was opposition to this in Jewish circles, and JMW and three Jewish religious groups presented themselves as 'moral heirs.' After some tug of war and interference from MPs, Finance Minister Ruding decided to turn the money into a NLG 2,000,000 contribution to the Jewish

[411] Letter from Fischer to JMW, CIDI and CJO, 2-10-1998. AV 4/3300.
[412] Meeting between the Association, Vuijsje, Naftaniël, Sanders at JMW, 27-11-1998 and list with names sent to JMW, 8-12-1998. AV 4/3365.
[413] Letter from JMW to the Association, 20-5-1999. AV 4/3429.
[414] See: J.L. van der Pauw, 'Banken. Particulier geldelijk vermogen' in *Eindrapport Commissie Scholten*, p. 592-593.

community, to be equally divided by JMW, the Jewish Historical Museum and the three religious groups.[415]

Based on the precedent set by these earlier 'collective' benefit payments to Jewish Social Work, JMW director Vuijsje in mid-1999 presented the Association with a claim on the policies from the LVVS list that were as yet unrestored, minus the surrender amounts already in JMW's possession.[416] However, this claim was rendered null and void by an agreement concluded later that year between the Association and CJO, in which JMW was also represented.[417]

*Central Contact Point for Jewish War Claims*

To properly manage the handling of claims and requests for information, CJO decided to create the *Centraal Meldpunt Joodse Oorlogsclaims* (CMJO) [Central Contact Point for Jewish War Claims], which was formally established on 16 March 1998. The CMJO was supported by an expert from KPMG who handled operational management and supported the hotline in streamlining the handling of claims.[418] H.T.J.C. van der Well, who had been working with the *Stichting 1940-1945* [1940-1945 Foundation) was seconded to CMJO. As CMJO board member and treasurer, Ronny Naftaniël was able to put his extensive experience and knowledge to use in assisting claimants.[419]

The creation of the CMJO offered Jewish stakeholders a liaison for their claims and enquiries. Advertisements were placed in the *NIW* to raise awareness that claims could be submitted. The CMJO team coordinated, took inventory of, investigated and – where possible – documented all queries received, and then relayed them to the responsible parties. The organization dealt with questions about all sorts of assets including bank and securities balances, as well as possessions taken away by the occupiers and never returned: jewelry, art objects and the contents of safe deposit boxes. In the first months of CMJO's operations, 35% of the 274 claims were related to life insurance policies.[420]

More than a year later, it was decided that the Association would forward all requests to the CMJO. There, the team sorted all enquiries and put aside all of those with no chance of being resolved. The researchers compared the remaining requests with earlier requests presented to the

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[415] For details see: J.L. van der Pauw, 'Overheid. Consignatiekas en Dienst Domeinen' in *Eindrapport Commissie Scholten*, pp. 603-605,610-611 and Aalders, *Berooid*, pp. 95-101, 374-376.
[416] Letter from Vuijsje JMW to Fischer, 10-6-1999. AV 4/3492.
[417] Letter from the Association to Vuijsje, 21-1-2000. AV 4/5196.
[418] KPMG Accountants Progress Report to CJO (Naftaniël), 4-6-1999 and letter from CJO to the Ministry of Finance, 24-6-1999. AMF PTG 476.
[419] Letter from CMJO to the Association, 13-03-1998. AV 4/3250.
[420] Memo, 7-4-1998. AV 4/3250.

insurers. Requests that were undocumented and those "for which no explanation is provided" were no longer handled by either the Association or the CMJO. The 850 undocumented requests sent to the CMJO were, however, included on a sixth and final list presented to the insurers on 7 October 1999. For this list, the same procedure was followed as for the first five lists.[421]

In the process of screening, investigating, and, wherever possible, documenting claims, the CMJO actively searched for information or processed information that had in the meantime become available. From the moment the discussion began in 1997, people from several organizations had searched frantically for relevant archives and were still doing so. In addition to records from JMW's archives, the National Archives contained information from the NBI. The Finance Ministry's archives held relevant data, too. The newspapers reported in late June that a large number of Dutch Jews' policies had been found in the National Archives. These reports were not entirely accurate, however; only lists of policy information had been discovered, not the policies themselves. The find appeared to consist of fifty lists of data recorded by the government during the execution of the Veegens agreement. This meant about half of the original lists had now been retrieved. They contained names, policy numbers and names of insurance companies. Some of the lists gave details about the insurance assets, mostly the insured capital, and in some cases the policyholder's date of death. The discovery was significant not only because it comprised half of the lists, but also because it was a snapshot in time, as policies had been restored after the composition of the lists. The CMJO put the data from the lists in an Excel sheet and arranged it by name of former insurance company. For each company name, several different notations were adopted.[422] The Association asked the companies to ascertain if their name or that of a legal predecessor appeared on the Veegens list and to report this; it also requested that the insurers make copies of any possible evidence and submit them to the Association. The Association asked the companies to reply by 1 November at the latest.[423]

So we see that the cooperation between the Association, the insurance companies and the CMJO was intended to facilitate the handling of the claims and enquiries, and, in a broader sense, to make information accessible so it could be used as efficiently as possible.

*The results of claims and enquiries*

As 1999 drew to a close, the CMJO sent a progress report to all claimants who had approached

[421] Memo, 17-5-1999, AV 4/3429 and circular SL-L 99/83, 7-10-1999. AV collection circulars.
[422] For instance, De Nederlanden van 1870 was named N70; N.V. Levensverze. Mij. De Nederlanden v. 1870; Ned 1870 etc.
[423] Circular 98/67, 2-9-1998. AV collection circulars.

them.[424] Until that moment, the contact point had received nearly 5,000 applications and more than 3,000 telephone calls concerning all sorts of financial assets, furniture, objects of art, businesses, jewelry, diamonds and securities. About 1,500 enquiries had been handled in total, while 2,400 were still being processed by the organizations they had been forwarded to. Of all the claims regarding insurance policies, 400 had been handled and 1,000 were still being processed by insurers and pending an outcome.

According to the progress report, claimants in dozens of cases had been given information about the settlement of their policy after the liberation. When the report was drafted, the results of the sixth list sent to the insurers at the CMJO's request in November 1998 was not yet known. Furthermore, the Centrale policies that legal successor Reaal had found in its recent archive search were still being examined. To date, approximately thirty policyholders and surviving relatives had been traced. In addition, the report mentioned that the inheritance certificates found in the Tax Authority's central archives had provided useful information and that these archives would soon be made more readily accessible.

A questionnaire sent to insurers at the Scholten Commission's request provided some numerical insight. Insurance companies had by that point agreed to handle 1,285 claims and enquiries. As of 1 September 1999, 44 claims had been honored and 32 were pending. The majority had been rejected. In some cases, the insurance company was able to demonstrate that the policy had been paid, but most often evidence was too scant to justify honoring the claim.[425] In addition, the Ombudsman for Life Insurance had by that time handled four complaints about the treatment of claims; three of these were concluded with a satisfactory settlement for the complainant. The Ombudsman did not mention anything about war claims in its annual report for 1999.[426]

Most the claims and information requests were rejected as they were undocumented. Many people who submitted a claim or made enquiries did so on the assumption that a family member had possessed a policy. In some cases, they had overheard family discussion of a policy at some point in time. The fact that many people had no concrete information about a policy was partly due to the difficult circumstances of the occupation; Jews were unable to carry much with them when they were transported to Westerbork or went into hiding. Another reason people had little information on insurance policies in the late 1990s stemmed from the silence that descended on surviving but deeply traumatized Jewish families after the liberation. The passage of time was yet another reason;

[424] Letter from CMJO to the Association, 28-12-1999. AV 4/3545.
[425] Letter from the Association to the Scholten Commission, 28-10-1999. Private archive, Grüter.
[426] Ombudsman for Life Insurance's 28th annual report (1998).

children could no longer ask their parents whether a policy had ever been paid or restored because their parents were no longer alive, and documents – if they had existed at all – had been thrown out or had gone missing. The rejection of undocumented enquiries and claims was inevitable, yet painful for many. The principle that all rulings by the Council for Legal Redress were to be upheld, was also painful to some claimants. This was especially true when it came to issues on which public opinion had in the meantime shifted, such as the Council's position on 'economic incapacity', as described in Chapter 4, which led to the rejection of restoration claims. Another matter on which the public's views had changed was the fact that under the Veegens agreement, Jewish policyholders' financial assets had ended up partly in the public coffers and partly in the possession of insurance companies. The Association now felt that such policies had to be paid to rightsholders who could substantiate their claims. The Ministry of Finance was not yet ready to take this step.

## Chapter 7
## The Ministry of Finance and the insurance companies

In March 1997, after the American polemic about unpaid assets of Jewish Holocaust victims spilled over to the Netherlands and critical voices made themselves heard in the press, Finance Minister Gerrit Zalm's reaction was to establish the Van Kemenade Commission. That was followed by the creation of the Scholten Commission, and, after the painful discovery of the Liro cards in December 1997, the Kordes Commission.

Despite these initiatives, the Ministry of Finance realized it would have to do more than launch commissions of inquiry if it wanted to resolve the war assets problem. The ministry's own civil servants also have to get involved. For one thing, the commissions would need the ministry's support. And even if it was still a long way off, it was clear that the finance minister would have to take a position and take further measures once the commissions presented their conclusions and recommendations. This would require thorough preparation. Moreover, the ministry itself had been receiving questions from citizens from the very moment the first reports emerged about dormant bank balances in Swiss banks. Most were from Jewish survivors and surviving dependents of victims who wanted clarification of several issues, including dormant bank accounts, the Consignment Office, insurance policies and the contents of safe deposit boxes. They also questioned whether inheritance tax and other taxes paid since the war had been excessive.

Enquiries about the assets and postwar treatment of war victims were a concern for other government ministries, too. The Ministry of Education, Culture and Science (OCW), for instance, had to address the issue of stolen art. The Goudstikker case received particular attention in this regard.[427] OCW and the government called for a broad study of the return and reception of repatriated Dutch survivors of the Second World War. To conduct the study, an independent foundation, *Stichting Opvang en Terugkeer Oorlogsgetroffenen* (SOTO) [Foundation for the Research of Repatriation and Relief], was created in July 1998. A large team of historians and other scholars compiled and analyzed the experiences of returnees. They studied the treatment of Jewish, Roma and Sinti survivors, forced laborers, political prisoners, prisoners of war, and migrants and repatriates from the Dutch East Indies.[428] The Ministry of Health, Welfare and Sports (VWS) faced questions about the 'Indonesian Assets.' Several ministries were involved in advising national and international funds tasked with dividing assets from the gold pool. And led by the Ministry of Foreign Affairs, civil servants attended

[427] See Aalders, *Berooid*, 253 ff and http://nl.wikipedia.org/wiki/Jacques_Goudstikker.
[428] See Chapter 3, note 140.

international conferences about war assets, such as the one held in Washington in December 1998. The government kept itself abreast of developments concerning war assets by creating the Ministerial Ad Hoc Commission on World War II Assets. This body met approximately every two months, and finally prepared the Council of Ministers' decision in 2000 to make a 'gesture' to the various groups of war victims. On this ad hoc commission, the ministers of Finance, VWS, OCW, Justice and Foreign Affairs could discuss the political and social sensitivities of the relevant issues, hammer out the wording of letters to parliament, and prepare ministerial decisions.[429] An interdepartmental working group including civil servants from these ministries was created to prepare the ad hoc commission's meetings. The working group prepared drafts of ministerial letters to parliament and provided memorandums to the ad hoc commission offering advice and agenda points which would ultimately lead to the formulation of policy and cabinet decisions.

Parallel to these interdepartmental working connections, the ministries had their own administrative consultation structures feeding information to the interdepartmental working group. Early on in the discussion of war assets, the Ministry of Finance mobilized some civil servants to search for historical data on the postwar legal redress. Particularly the question of whether Jewish assets had remained in the hands of state financial institutions was an imperative one for Minister Zalm. He ordered an investigation to see what the Finance Ministry's archives would reveal about this difficult postwar period. To this end, he installed the Project Group on World War II Assets in the summer of 1997. This administrative project group consisted of civil servants from the different directorates within the ministry. Christiaan Ruppert, originally a historian, was fully released from his duties with the Inspectorate of Government Finances so he could become project manager. Overseeing the operation were the heads of the directorates of *Binnenlands Geldwezen* (BGW) [Domestic Monetary and Financial Affairs], and *Wetgeving, Juridische en Bestuurlijke Zaken* (WJB) [Legislation, Legal and Administrative Affairs].

By the end of the year, fifteen to twenty Ministry of Finance employees were dealing with this issue for the project group. All of this "took more time and manpower than we had initially anticipated," Ruppert remarked in an interview with the Ministry of Finance staff magazine.[430] He described the project's objective first of all as the retrieval of archival documentation "to find out about the history of the postwar legal redress" and to investigate "what role the Ministry of Finance had played at the time in property claims concerning robbed possessions." The search for data would

[429] Memo and letter from Minister of Finance to the Ministerial Ad Hoc Commission, 30-1-1998. AMF, PTG 323.
[430] Interview with Ruppert, *Wij van Financiën*, August/September 1997.

be extended to other ministries, too, and pensioned civil servants would be consulted. One of the people Ruppert had contacted, for instance, was J.W. Kersten, who had left behind a manuscript entitled 'Theory and practice of the postwar legal redress and control' when he retired in 1987.

Over time, the project group became an administrative consultation body which ran parallel to the policymaking consultation groups and provided them with information and advice. To deal with questions of law, a legal working group composed of the ministry's own lawyers was established. Some of them were also on the project group. And thus, a network was created of civil servants who dealt with the war assets problem. At the higher administrative and ministerial levels, this network extended to the Council of Ministers and all ministries involved. The project group whose activities were coordinated by Ruppert also dealt with the most basic issues the ministry was facing, as it was tasked with responding to the information requests about postwar legal redress. Its responses would be at least partly based on documentation found in the archives. These questions that the project group had to answer were from Jewish interest groups, individual citizens and financial institutions such as the Dutch Association of Insurers.

### 'Broad consultation' and other contacts with the insurers

Shortly after the assets project group was created, the ministry invited the organizations dealing with the assets problem to a meeting on 13 November 1997. This would be the first of several 'broad consultations' for the purpose of sharing information and discussing all related issues. Initially the NVB, DNB, Dutch Association of Insurers, CJO, researchers from the various commissions and the ministry met to discuss the letters the ministry had received from individual stakeholders. Later on, more parties joined, including CMJO and SOTO. In its invitation to the Association, the ministry indicated the need for a more detailed inventory of the assets issue. What sorts of questions had come in, and what specific points raised? Which procedures had been followed in handling claims, and what would be the best way to have information passed on to the commissions of inquiry? What did the public expect from these commissions? And how should 'letters from citizens' be answered?[431]

Important functions of the 'broad consultation' meetings were to share insights about the postwar legal redress and to disseminate information about recently surfaced archival materials and other documentation. The project group had done its own research and gathered information from other ministry experts. Data specialists drew up memorandums providing information about the

[431] Letter from Ministry of Finance to the Association, 18-10-1997. AV 4/3250.

institutions that committed the theft and provided the legal redress. They also catalogued archival records — not only those still controlled by the Ministry of Finance, but also records that the various ministries had in the meantime transferred to the National Archives. These included the NBI's records, which included 35,000 files detailing Jewish victims' unmanaged inheritances. The participants in the broad consultation received this information, as well as a 'flow chart of unmanaged inheritances' and information about the State Property Department and the Consignment Office.[432] Such information was needed because various stakeholders and journalists were also searching for information and sometimes finding it. The significance or context of these discoveries was not always clear as illustrated by how the media portrayed the discovery of the Veegens lists (see previous chapter). The need for an investigation by the ministry itself was also related to political accountability. Members of parliament were closely following developments and the finance minister was regularly called before the Standing Parliamentary Committee for Finance to answer questions.

The regular consultation meetings offered Ruppert a way to informally keep a finger on the pulse. How was the handling of claims against banks progressing? What was the current thinking in the CJO and how well was the CMJO functioning? Were there any problems the ministry could help resolve? Ruppert was also able to informally monitor the progress of the commissions of inquiry. He was thus receiving information through a channel that ran more or less parallel to the formal lines between the secretaries of the commissions of inquiry and the project group, and at a higher level, between the the inquiry commission secretaries and the Secretary General of Finance (SG) or the minister himself. The broad consultation sometimes enabled parties to nip potential problems or disruptions in the bud; this occurred, for instance, when Jewish organizations expressed a lack of confidence in the Scholten Commission, as discussed in Chapter 8.

While a useful exchange of information was taking place in broad consultation, the Association also had specific questions for the ministry. The Association had to wait a long time for a substantive answer to its question about limitations and interest, as I will describe below. But in the meantime, insurers had other matters to discuss with the ministry. The head of Aegon's Legal Department, for instance, had already posed questions to the Tax Authority on 30 September 1997 about the gift tax. This was an urgent matter, as Aegon intended to disburse a payment "for reasons of moral obligation and decency" relating to a deposit that had been 'disguised' as an immediate

[432] Information sent by Ruppert to members of the 'broad consultation', 21 July and 13 August 1998. AV 4/3250.

annuity.[433] The Tax Authority forwarded the letter to the Ministry of Finance, as the matter was of broader policy concern. Aegon received a reply after nine months, stating that no gift tax was due in cases of a deposit agreement.[434] Another question that had been topical in the latter half of 1998 in connection with the investigation of a particular insurance policy, concerned an insurer's request to examine the inheritance statements controlled by the Central Archives of the Tax Authority in Apeldoorn. Nationale-Nederlanden asked the Ministry of Finance for permission to inspect these archives, as they contained documents that might supply missing evidence as to whether or not certain policies had been paid.[435] It was generally common practice for insurers to destroy all data on financially and administratively settled policies after a mandatory ten-year retention period. In handling recent enquiries and claims, some companies concluded that the insurance policy in question must have been paid because they were unable to find any data about the relevant contract. However, this also meant the insurers were unable to explain to the claimants how the insurance policy had been settled or even to indicate to whom the payment had been made. Under tax law, all insurance payments above a certain sum had to be reported by both the insurer and the beneficiary to the Tax Authority Inspector of Registration and Succession. The information stored in this registry had been decisive in handling the Chapon claim mentioned in Chapter 6. Association director Fischer also asked the Tax Authority Directorate General for access to the archives on behalf of all insurers. This was "in the interest of reconstructing, with utmost decency and care, the postwar handling of insurance policies, and consistent with the interests and wishes of all concerned (both the insurer and the person requesting information)," Fischer wrote.[436]

Access to the inheritance statements was not gained without a struggle, but in the course of the following year the ministry came to an arrangement with the insurers and CMJO. Due to the sensitivity of the information, insurance company employees and CMJO were not allowed to personally inspect documents in the archives, but had to submit a request for each name. This request had to be attended by a statement of consent from the heir/claimant confirming that the requesting party was allowed to receive the data. The request had to be submitted through the ministry, whose civil servants passed them on to Apeldoorn. At a certain point, it became clear that some requests had been lost along the way.[437] But despite these teething pains, the information

[433] Letter from Aegon to the Tax Authority director, 30-9-1997. AMF PTG 274.
[434] Letter from the Consumer Tax Section at the Ministry of Finance to Aegon, 6-7-1998. AV 4/3276.
[435] Request from Nationale-Nederlanden to Ministry of Finance, 28-10-1998. AV 4/3365.
[436] Letter from Fischer to Ministry of Finance, 24-11-1998. AV 4/3365.
[437] Report on 'broad consultation, 9-7-1999. AV 4/5190 and report on meeting addressing problems regarding inheritance statements, 14-10-1999. AV 4/3545.

from these archives would prove highly valuable in the handling of the Chapon case and other claims involving individual insurers and the CMJO and the Holocaust Foundation for Individual Insurance Claims (SIVS), which was created at the end of 1999.

### The 'Veegens policies' and the Association's questions

For insurers who had decided not to invoke the limitation period for policies claimed by survivors and surviving dependents, a fundamental question was how to calculate the interest. The Association and the insurers assumed that the State (particularly the Ministry of Finance) would return the surrender amount to the company for 'Veegens policies'. The Association wished to know the ministry's position on this. As we saw in Chapter 6, the director of the Association's Life Insurance section raised the matter of limitation and interest with the Finance Ministry's director of Domestic Monetary Affairs in August 1997. He reported that some insurers had by then received claims on a Veegens policy, and added his presumption that "from a moral and social point of view, limitation was not a matter of discussion in these cases. (…) As the State made a commitment at the time to reimburse the sums to insurers in appropriate cases, we would like to know how the interest concerned will be included in the reimbursement." A speedy reply would be desirable, he wrote, so the insurers could determine the terms under which they could respond to the claims. He also expressed hope that the interest would be calculated in coordination with the banks.[438]

Shortly thereafter, it was reported in board meetings of the Life Insurance sector and the Association at large that a meeting would soon be arranged between the Association, NVB and the ministry to resolve the issues of limitation and compensation of interest. The ministry was to take the initiative, but had already indicated that limitation in particular would be a thorny issue from the government's standpoint because of the danger of setting a precedent.[439] Just before Christmas 1997, the Association again reminded the ministry of the promise to discuss the compensation of interest and referred to the draft interest compensation model it had submitted to the ministry on 13 November. The letter repeated the need for a reply, as interest compensation was the most substantial part of the payments. It also emphasized that this was a highly sensitive matter.[440] A month later, the Association board wondered out loud what it should do, since it had still not received a reply from the ministry. The board felt it was "somewhat over the top" to raise the matter

[438] Letter from P.H. Kremer, Life Insurance sector director to J.J.M. Kremers, Ministry of Finance, 22-8-1997. AV 4/3250.
[439] Reports on Life Insurance sector board meeting, 10-9-1997 and the Association board meeting, 19-11-1997. AV 4/3250.
[440] Letter from the Association to the Ministry of Finance, 23-12-1997. AV 4/3250

with the minister himself. At its next meeting, the board apparently still expected a request from the ministry on short notice for technical consultation. It was thought the ministry was prepared to compensate interest in the case of jewelry; this might set a precedent for insurance policies, the board reasoned.[441]

It was not until March 1998 that a reply came, and in its letter the ministry stated that it could not provide clarity before "a decision has been made about the question whether the State is prepared to reimburse the insurers for the surrender amounts received on the basis of the past agreement…" The limitation period and the calculation of an interest factor were matters that applied to other asset issues, as well, which meant other ministries had to be consulted on the decision. Moreover, the ministry wrote, its decision might take into account the final reports of the commissions of inquiry. Finally, the ministry emphasized that the state's position differed from that of a corporation: "The principles of sound administration require careful consideration." The letter expressed the hope that the ministry could count on understanding from the insurers.[442]

Due to the Ministry of Finance's slow decision making on this essential issue, the Association had no choice but to continue on the road taken; they advised the insurers to apply compound interest at a factor of 11 to 12. Though some insurers initially referred claimants to the ministry, they eventually paid out the surrender sum that was still, in theory, 'deposited' at the ministry when the claim was granted. In so doing, the Association was getting too far ahead of the troops.

*Official deliberations about the limitation period and interest*

In the meantime, civil servants in the Finance Ministry grappled with the Association's question, which was addressed at several levels of ministerial consultation. The ministry now had to consider an answer that could have far-reaching legal, financial and political consequences. It needed historical and legal insight if it was to formulate a sound and politically acceptable policy. The Project Group on World War II Assets got to work on it. As this policy was being developed, its authors, co-readers and commentators, both in the Finance and other ministries, were kept busy by a long list of draft memorandums, final memorandums, and memorandums that had been adjusted, halted or sent back to the drawing board by senior civil servants.

In April the project group had on its agenda the discussion of a draft memorandum with the civil servants' recommended reply to the Association's questions. The draft reply stated that it would

[441] Report on Association board meeting, 18-2-1998. AV 4/3250.
[442] Letter from Prof. J.J.M Kremers of Ministry of Finance to Director P.H. Kremer of the Association Life Insurance sector, 20-3-1998. AV 4/3250.

be reasonable for the State to compensate the same amount of interest on the insurance assets to be restituted as it would have paid in other cases. The recommended course of action was for the State to pay simple interest for immediately claimable credit balances, such as applied by the Consignment Office. If the insurers objected to this, they should consider the fact that they were by no means entitled to interest anyway, compound or otherwise. The draft also contained arguments of a non-businesslike nature, including that "the State is also doing much for the victims of the persecution" and that "insurers should be able to absorb a minor setback, considering the profits being made by the life insurance industry." In another telling phrase, the memorandum noted that "the public would not have pity with the insurers." In later draft replies, these passages no longer appeared. In an appendix, the civil servants addressed the question whether, in 1998, either insurers or the ministry "are obliged to pay" anything at all. The draft pointed out that under the Civil Code, there was no such obligation. "In view of the publicity surrounding Jewish assets, however, it is practically impossible for the insurers to reject, exclusively based on the limitation period, a reasonably substantiated claim. Public opinion would no doubt turn against them and such a move would be unwise from a commercial point of view. Morally and commercially speaking, there certainly is an 'obligation'." It would be politically unwise for the State to invoke the limitation period, but the author of the draft memorandum realized that if the State encouraged insurers to show leniency towards claimants, the State itself could not hide behind formal arguments. By not invoking limitation, the ministry would set a precedent that would affect other ministries, too. Therefore, the memorandum stated, a decision must be made at interdepartmental level.[443]

After discussion and 'bilateral consultation' with the memorandum's author, the document was adapted and now the recommendation was indeed to return the assets to the insurers "for political and social reasons," despite the lack of legal obligation either to return the assets or pay interest. The compensation would include simple interest based on the short-term interest rate. The memorandum was sent "into the organization," but it got stranded. A handwritten note on the first page read: "Memorandum stopped by the SG [Secretary General]. First await result of the Scholten Commission and the Kemenade Commission."[444] In interdepartmental consultation, it had in the meantime become clear that no policy statement about the limitation period and interest could be made public for the time being, and that it would be necessary to await the final reports of the commissions of inquiry and the Kordes Commission in particular. The representatives of the

[443] Draft memorandum BGW 6-4-1998, to be discussed in the Project Group on 14-5-1998. AMF PTG 333.
[444] Memo management BGW, 7-8-1998. AMF PTG 10.

ministries of VWS and OCW were not pleased. They indicated that the formulation of a position must not take too long, given the Goudstikker case, which was by then highly publicized in the media due to a lawsuit against the State. The international governmental conference on war assets, held in Washington in November 1998, would devote ample attention to this case.[445]

The Deputy Secretary General called a meeting with the civil servant who had drawn up the memorandums about limitation and compensation of interest and called his superior in to discuss the documents. The SG and Deputy SG both felt the time was not yet ripe to let the finance minister take a position on interest and limitation. They foresaw that the Kordes Commission would "tend to take the view that the State will have to invoke limitation!" and that it was not desirable for the minister to pull out the rug from under the Kordes Commission by staking out a position at this stage. The civil servant countered that the Association had already asked for a reply in August 1997 and that the Scholten Commission's final report, which might also have a bearing on limitation and interest, was not going to be ready for quite some time. Nevertheless, the Deputy SG felt it would be premature to put the memorandum and draft reply to the Association on the agenda of the final coordination meeting of the interdepartmental working group. "This is despite the fact that the interdepartmental working group was created especially for this purpose and and that this issue has, in a general sense, already been brought to the ministerial commission's attention," the civil servant remarked.[446] And thus, a formal reply from the ministry one year after receipt of the Association's questions, was off the table for some time to come. Needless to say, the civil servant's disappointment is palpable if one reads between the lines of the memorandum.

Despite this setback, the issue remained on the civil servants' agenda. Once the commissions of inquiry were to present their final reports, the government would have to make decisions and explain these to all stakeholders and the electorate. Therefore, the civil servants continued gathering the background information they needed to determine the ministry's 'own' position on limitation and interest.

*Financial aspects*

Among the consequences of deciding not to invoke limitation was that the Ministry of Finance would return to the insurers or claimants the surrender values received by the State after the war for the Veegens policies that the insurers paid out in that period, possibly with interest. This meant that in

[445] Report on interdepartmental meeting, 15-6-1998. In AMF PTG 319; see also: Aalders, *Berooid*, p. 259.

[446] Memorandum for BGW, 13-8-1998. AMF PTG 326.

addition to legal considerations, the decision also had a financial dimension. The first question was how much the financial promises dating back to the Veegens agreement would actually cost the ministry. Another question concerned the financial conditions and execution of the 1954 agreement. The ministry had a positive balance of NLG 430,000 as a result of the Veegens agreement, but perhaps other important information could be found about the financial settlement of that accord. In October 1997, the ministry asked the public prosecutor whether information at the level of individual insurance policies could still be found at Schill & Capadose, where Deputy Public Prosecutor Veegens did his banking. In December, it became clear that research at the premises of legal successor Mees Pierson had not yielded any results.[447]

The secretary of the project group listed all "promises already made with respect to the World War II assets" in a memorandum to the finance minister in January 1998. His conclusion was that the government risked suffering a significant financial loss if it returned assets on the basis of the Veegens agreement with interest. Similar interest issues were a concern at the Ledger Accounts Department and the Consignment Office.[448] Six months later, it was estimated that the commitments would amount to NLG 29.5 million. Compensation of interest on the insurance policies would cost another NLG 4.5 million, though that financial setback would probably not be felt until 1999. The BGW decided to back up that estimate by having a study done by an external party.[449] At the same time, the BGW asked the SG of the Finance Ministry to order inspections of other archives containing insurance policy information. The idea was that the missing Veegens archives could be reconstructed on the basis of other records kept in the National Archives. But first it would be necessary to establish the cost of doing this, because if it were to exceed the balance to be paid out (about NLG 4.5 million in case compound interest was paid, and over 1 million in case of simple interest), there would be no need for a reconstruction and the ministry could simply set the amount per insurer. In that case, the ministry would pay every reasonable claim by insurers until "his balance has been exhausted."[450] One month later, the Secretary General agreed to order an investigation.[451] However, it proved impossible to reconstruct the Veegens archives. An inventory of the various collections revealed that the BAON archives had been destroyed and information at individual policy level was lacking.

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[447] Correspondence between Ministry of Finance, the public prosecutor and Mees Pierson bankingfirm, 9-10-1997 and 7-12-1997. AMF PTG 93.
[448] Memo from PTG for the minister, 27-1-1998. AMF PTG 71.
[449] Ibidem, 16-6-1998. AMF PTG 71.
[450] Memo from BGW to SG, 3-6-1998. AMF PTG 10.
[451] Memo from State Property Department, 14-7-1998. AMF PTG 10.

The minister now wanted to know how his ministry normally dealt with limitation in a general sense. Did the ministry disburse payment when heirs presented themselves with a valid claim? He was told that in cases where limitation was the only obstacle, the Directorate of Financial and Economic Affairs paid claims against the Consignment Office at the usual simple interest rate. Before long, the CJO would publish a list of consigned amounts on the internet and it was expected that claims would be received.[452] The director of the State Property Department explained the usual procedure for paying out unmanaged inheritances; they were first deposited in an interest bearing account by a notary or curator. Ultimately, the inheritance fell to an heir or, if there was no known heir, to the State. In cases where an heir later stepped forward after all, the State paid out the amount received from the notary, but it paid no interest for the period when it was managed by the State.[453]

At the minister's request, civil servants took inventory of all unmanaged inheritances accepted by the State Property Department between 1940 and 1946. To estimate the amount in 'Jewish inheritances' forfeited to the State, the Jewish names were combined with data on date and place of death, and the conclusion was that 1207 Jewish inheritances had been recorded in the Unmanaged Inheritances Section. A total of NLG 2.9 million had been forfeited to the State, more than NLG 1.3 million of which had later been disbursed to rightsholders. More than NLG 1.5 million remained. According to the Civil Code, this was legal. "However unlawful, painful and sensitive the history of the Jews with respect to the Second World War may be, the State had not unlawfully profited," the State Property Department wrote, explaining that at present, inheritances were still handed over if a rightful owner presented himself. The department's recommendation, therefore, was to continue this policy.[454]

It was clear that for certain types of State-managed assets, the ministry did not invoke limitation against rightsholders who claimed an inheritance. In some cases, the ministry offered no compensation of interest, while in others it paid (simple) interest. Now, it was up to the Kordes Commission to provide further clarity. In a meeting with Ruppert in mid-October 1998, Kordes had asked for an overview of the specific files at the Ministry of Finance which addressed limitation and interest. Confidentially, Ruppert sent "an outline of the ministry's provisional policy regarding a few files for which we are not yet publicly adopting a position, in anticipation of your commission's recommendations." He was referring to six files, three of which were related to general

[452] Memo from FEZ to WJB, 21-10-1998. AMF PTG 326.
[453] Memo from State Property Department, 22-10-1998. AMF PTG 326.
[454] Memo from State Property Department, 2-11-1998. AMF PTG 333.

arrangements (ledger accounts, the Consignment Office, unmanaged inheritances). The other three concerned the postwar legal redress (LVVS balances transferred to JMW, the Veegens assets and the securities).[455] In the conversation, "it appeared the Kordes Commission is leaning towards a recommendation to apply limitation."[456] When the Kordes report was made public in December 1998 it became clear that the information sent by the ministry had not changed the commission's thinking in this respect. The report pointed out that the government had always denied claims lodged after expiry of the relevant limitation period. The Kordes Commission therefore concluded that, based on the principle of equality, individual claims by World War Two victims should be denied.[457] However, the legal working group at the Ministry of Finance found this reasoning incorrect. Basing their own conclusion on the principle of equality and the demands on reasonableness and fairness, the working group argued that limitation should not be applied.[458] They concluded that, when it came to the issues of limitation and interest compensation, the Kordes report was of no use to the Ministry of Finance. To formulate a policy and make political decisions, the ministry still had to await the reports from the other commissions.

*Legal aspects and questions for the public prosecutor*

There was still one more party the ministry could ask for advice: the public prosecutor. In the spring of 1999, the WJB director wrote, in a memorandum to the public prosecutor:

> This memorandum is aimed at developing a coherent policy on the types of cases in which, and the conditions under which, the government will be prepared to refrain from invoking limitation, on the grounds of reasonableness and fairness, with respect to claims stemming from the Second World War on artworks and financial assets. This requires careful demarcation and wording for the sake of legal certainty and the avoidance of setting any undesired precedents with respect to other types of cases. In these matters related to World War II, it is particularly vital to prevent any confusion, misunderstanding or unfounded expectations.[459]

The memorandum outlined the background of postwar legal redress and the forfeiture of

[455] Memo from Ruppert to Kordes, 26-10-1998. AMF PTG 326.
[456] Memo for members of the legal working group, 27-10-1998. AMF PTG 333.
[457] Second report of the Kordes Commission, p. 18-19.
[458] Report by legal working group, 15-12-1998. AMF PTG 322.
[459] Letter from WJB directorate to the public prosecutor, 22-4-1999. AMF PTG 504.

unmanaged inheritances to the State, and described the practice of their disbursal to rightsholders, reflecting how this was done in cases through the 1960s and following more recent claims. With respect to life insurance policy surrender amounts, the memorandum contained a brief summary indicating that "the State had undertaken to reimburse the surrender amounts to the insurers as long as the insurers remained liable to honor the claims of any rightsholders who later come forward," and that restitution in this sense had indeed been practiced into the 1960s. Neither the insurers nor the State had, at that time, invoked limitation even though that "would have been possible in most of these cases, to the best of our knowledge." The memorandum did acknowledge that it was debatable whether the insurers would be contractually obliged to pay claims.

> If the insurers are not obliged to pay out, the State in its turn can take the position that it is not obliged to repay the surrender sums it received from the life insurance companies. However, the life insurers are counting on the State to show as much leniency towards them as they, in the spirit of compensation encouraged by the government, have shown towards rightsholders. In view of (…) the policy adopted in the 1960s and the requirement to show good faith towards the insurers in this matter, the State should repay the surrender amounts concerned to the insurers. For the State, this would come to a maximum of approximately NLG 430,000.

The document did not make any recommendations with respect to the compensation of interest, stating that the issue fell outside the scope of the memorandum.[460]

The public prosecutor's reply with respect to insurance policies was anticlimactic; he stated that it was a matter of how the agreement was interpreted. In a decision on 13 March 1981, the Supreme Court had ruled that "in the interpretation, the main denominators are the meaning that the contract parties could mutually assign to each other's statements and actions, and what they could in fairness expect from each other." He added that it would make a strange impression if the insurers decided to restore and pay out the policy benefits while the State took the position that it was not obliged to reimburse those life insurers for the corresponding surrender amounts.[461]

The public prosecutor's thinking largely confirmed the ideas that had been laid down in the project group's first official memorandums. And with his response, the Ministry of Finance completed its exploration of whether it should restitute the insurance assets that fell under the

[460] Draft memo, 22-4-1999. AMF PTG 504.
[461] Reply from public prosecutor, 29-10-1999. AMF PTG 504.

Veegens agreement. Its policymaking on limitation would ultimately apply to the entire dossier of World War II assets.

*The Association receives no answer*

Throughout the troublesome process of determining a policy on limitation, there was regular contact between the Ministry of Finance and the Association. This took place at several levels, not only through the previously mentioned broad consultation meetings and the enquiries specifically dealing with inspection of the inheritance statements or the gift tax. In a telephone conversation in early January 1999, Association spokesman Willem Terwisscha pressed for an informal meeting between Association director Eric Fischer and the SG to discuss some matters of principle that were cropping up in the regular meetings between the Association and the CJO. For one, the CJO had asserted that it should be paid the difference between the Veegens assets' surrender values and their insured values. Fischer wanted to discuss these issues and to know when the government would respond to the Association's questions. In response, Ruppert suggested that an informal discussion with the chairman of the Finance Ministry legal working group would make more sense.[462] Despite this objection, a meeting was set for 19 January 1999 between the SG, Fischer and Association chairman Sam Jonker, one day ahead of a scheduled working visit to the Association by Finance Minister Zalm. The war assets issue was discussed during that visit.[463] In the preparation for the preceding meeting on the 19th of January, the BGW recapped the Ministry's viewpoints in a memorandum. It repeated that the ministry foresaw increasing pressure on the State to pay the insurers, due to the fact that the Veegens assets were a regular topic of discussion between the Association and the CJO. The memorandum also stated that the government felt the insurers should handle claims leniently and acknowledged that it was therefore "understandable that they expected the government in turn to repay (individual) amounts which insurers paid the State on the basis of the Agreement for amicable legal redress [the Veegens agreement] and are currently paying out." But the memorandum cautioned that the Kordes report had advised the State to invoke limitation and refrain from paying interest, though the other commissions would probably take a more lenient stance. The message to the Association would therefore be that the Ministry had no choice but to await publication of the other reports.[464] A few months later, there was again high-level contact when the Association and the SG discussed holding an introductory lunch with the new SG, Geert van Maanen. The

[462] Telephone memo Ruppert, 7-1-1999. AMF PTG 339.
[463] *Bondig*, 28-1-1999.
[464] Memo from BGW to SG, 14-1-1999. In AMF PTG 10.

memorandum proposed the following approach:

> The insurers can conclude an agreement with the CJO. This agreement would have to stipulate that the insurers will pay the CJO the total insured amount, including the surrender amounts paid to the State on the basis of the Agreement for amicable legal redress. The State awaits these commissions' reports, and, based on them it will decide on possible compensation to the insurers.

The idea behind this approach was to avoid setting a precedent in terms of the State's obligations and to ensure the Ministry did not get ahead of itself with the commissions' recommendations still pending. "The approach described above means that any individual claimants who come forward would have to report to the CJO. Should they receive payment, the State will have to pay the corresponding surrender amount to the original insurer." This memorandum's constructive tone was nullified, however, by a handwritten note scribbled on the first page: "For the time being, the line is that the Association of Insurers will not agree to take any action without first consulting the Ministry of Finance."[465]

The Association never did receive a concrete reply. It was not until the summer of 2000 that official consultations within the Finance Ministry came to a decision that "the two letters from the Association regarding the interest to be paid by the State on surrender amounts to be disbursed in connection with the so-called Veegens agreement will **not** be answered. This is because, according to Jewish calculations, the State has paid the benefit of the surrender amounts by way of the NLG 400 million gesture to the Jewish community. From this perspective, the State has no more funds available to repay the surrender amounts." Ruppert would informally communicate this to Association spokesman Terwisscha. If the insurers nevertheless returned to the issue of restituting surrender amounts and interest, the ministry would "act appropriately in view of the circumstances." It was unnecessary to inform the minister of this, "now that there are no policy consequences for the time being."[466]

In summary, we can conclude that rather soon after receiving the Association's questions, the civil service came around to the view that the State would have to repay the surrender amounts to the insurers if the insurers decided to pay out the benefits on Veegens policies. The State could not invoke limitation, as it had not customarily done so in the past in response to claims on assets

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[465] Memo from PTG, WJB and BGW to SG, 25-5-1999. AMF PTG 10.
[466] E-mail from BGW to Ruppert and other civil servants , 11-7-2000. AMF PTG 345.

forfeited to the State. In addition, invoking limitation could not be justified for social and moral reasons if the insurers did not do so in their handling of claims. According to the civil servants, simple interest would have to be compensated, but not the compound interest rate the insurers had applied.

The SG had already intervened in the summer of 1998 by stating that the ministry had to await the final reports from the commissions of inquiry before giving the insurers a decisive answer. This had to do with policymaking and decision-making; it was a political matter. It would eventually become clear that in the Ministerial Ad Hoc Commission and the Council of Ministers, the Veegens assets were no longer a specific issue solely of interest to the insurers. They had been subsumed into the general issue of war assets and were therefore subject to an overall decision that needed to be made. This decision came in the spring of 2000, when the government and the CJO agreed to a payment of NLG 400 million as "recognition of the moral obligations."[467] The civil servants in the project group, the legal working group and the interdepartmental working group all wrote their memorandums, but it was the top echelon of the ministry and the politicians in office, who were jointly responsible for political decision-making, that had the final say.

The complicated trail of memorandums that passed through the Ministry of Finance office bears an uncanny resemblance to what happened in the years 1945-1948, when the NVBL waited for Minister Lieftinck's decision on whether the government would offer financial support to ease the financial losses the insurance industry had suffered due to the war. The problem 'solved itself' at the end of 1948, partly thanks to the insurers' improved financial position as a result of growth in the insurance market. The insurers did not receive support from Lieftinck even when this was deemed necessary by the government supervisor of the industry, the Verzekeringskamer. In 1948, the Minister of Justice refused to cooperate with a financial arrangement. The government considered it a favor that the insurers only had to pay the surrender amounts of the unmanaged inheritances to the State in 1954 and were allowed to keep the difference between the insured value and the surrender value as compensation. When the Association, forty-three years after the Agreement on Amicable Legal Redress, informed the government that it expected repayment of the surrender amounts after all and requested information about the related calculation of interest, it took three years before it received an answer. And it was not much of an answer. The government once again left the insurers in the lurch. The insurers did not get back the surrender values of the payments they had made on Veegens policies since 1997. The 1954 agreement had stipulated that the State would repay the surrender value to the insurer should a natural person come forward as a rightsholder. It

[467] See Chapter 8.

was a matter of rights; though limitation was formally applicable, invoking that limitation was morally, socially and even legally unsustainable, as there were other dossiers in which the Ministry of Finance had not resorted to the instrument of limitation. Moreover, the State had returned the surrender amounts to the insurance companies concerned in comparable cases until some point in the 1960s. In view of his own reaction to the ministry, the public prosecutor would probably have considered this state of affairs 'peculiar.' Needless to say, that would be an understatement.

## Chapter 8
## The Agreement between the CJO and the Association

As the years 1998-1999 wore on, it became increasingly evident that the vast majority of the Jewish policyholders' assets had been restored during the first phase of legal redress after the war and that the Veegens assets had remained in the hands of the government and insurers. In the USA, however, there was an overwhelming perception that European banks and insurance companies had bluntly refused to return assets to the beneficiaries they had been stolen from. That may have been true of some countries, but not the Netherlands. The Dutch state had introduced complicated legislation for legal redress. Specifically on the subject of insurance policies, it can be stated that what happened to the assets under the Veegens agreement in the 1950s was not illegal. However, during the discussion initiated by the WJC appeal in 1995, it became clear that people's thinking on the subject of legal redress had changed. In the Netherlands, perceptions had shifted about the way in which legal redress had been settled after the war. In the Jewish community and among politicians and journalists, questions were asked about the detached, formalistic approach taken by the government and the insurers. Many people felt the Jewish community were the rightful owners of the Veegens money and all other traceable assets held by the government and financial institutions. This change of mentality could be seen within the Association, too. The idea sprung up that the Jewish community should be considered the moral heir of all unpaid balances that could not be disbursed to the actual beneficiaries.

This idea took root in the consultations between the insurance industry and the CJO. But at the same time, there were other encounters that play at least as important a role in shaping people's perceptions. Foremost among these were the contacts between Dutch insurers and the people who approached them with claims and enquiries. Unlike the USA, where the parties often sought confrontation, trying to force financial institutions to pay by means of new legislation and litigation, the Netherlands had a climate that proved conducive to resolving the issue. To be sure, emotions ran high in the Netherlands, too, and angry accusations were made, but at the same time there was a clear willingness both in Jewish circles and among insurers to tackle the problems together. A good investigation into the early phases of legal redress contributed to that atmosphere of cooperation.

Part of the explanation for this willingness to work out a solution can probably be found in the structure of Dutch society which developed a strong tendency towards institutionalized consultation in the decades after the Second World War. Regular negotiations between the three 'social partners' — the employees, the employers and the government — had become customary

after the establishment of the Social and Economic Council in 1950. Interest groups and supervisory authorities were also part of this consultation economy, which was increasingly referred to as the 'polder model.' Practice proved that by acknowledging common interests, maintaining a certain respect for each other's responsibilities, and seeking broadly supported compromises, the Netherlands was able to find solutions for many economic and social problems. While history has also shown that the polder model is not an economic or social panacea, we can see in the case of war assets that this deeply embedded practice of consultation to resolve conflicting interests had an impact on the course of events. For the insurers, this particularly manifested itself in the creation of the Dutch Association of Insurers in November 1978. This came after a difficult period of consultation between the life insurers (the NVBL) and the Union of Non-Life Insurers. The life insurers and other companies in the industry had an inward focus by tradition. In the early years of the Social and Economic Council, the insurers were rarely represented or heard. But as Dutch society became more open, the insurance industry evolved and its Association took a growing interest in 'consumerism,' PR and lobbying with partners such as the banking sector and the government.[468] The Jewish community had also discovered the benefit of promoting its interests by means of political struggle and negotiation. Jews in the Netherlands frequently found themselves divided by internal partisan conflicts, but the successful efforts to get legislation passed for war victims in the early 1970s served as proof to the community that consultation was worthwhile.[469] The time was right for a resolution to the war assets discussion; it happened to coincide with Prime Minister Wim Kok's social/liberal coalition governments (1994-1998 and 1998-2002), which is regarded as the period when the polder model was at its peak. The favorable economic climate in those years will certainly have contributed to that.

What were the interests of the two parties at the negotiating table, the CJO and the Association? What were their aims and what problems did they encounter while working towards an arrangement? Did the Ministry of Finance play a role in this? The State was involved by virtue of the Agreement for Amicable Legal Redress that it signed, along with the insurers, in 1954. And what was the ultimate result of the negotiations?

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[468] See B.P.A. Gales, *Het Verbond van Verzekeraars in Nederland 1978-1988. Een geschiedenis van vrijheid in gebondenheid van het Nederlandse Verzekeringswezen, Den Haag (1988)* .
[469] See for example H. Piersma, *De drie van Breda* (Amsterdam 2005); H. Piersma, *Bevochten recht. Politieke besluitvorming rond de wetten voor oorlogsslachtoffers* (Amsterdam 2010); E. Touwen-Bouwsma, *Op zoek naar grenzen. Toepassing en uitvoering van de wetten voor oorlogsslachtoffers* (Amsterdam 2010).

## Growing confidence

The CJO had presented itself as the umbrella of Jewish organizations in the Netherlands. Therefore, the Association regarded the CJO as the party with whom it wanted to resolve the unpaid insurance balances problem. Sitting at the negotiating table on the CJO's behalf were Ronny Naftaniël, JMW [Jewish Social Work] director Hans Vuijsje and Joop Sanders, who was secretary of both the CJO board and the NIK [Dutch Jewish Congregation]. The CJO later created an advisory committee and eventually Avraham Roet also joined CJO meetings. Roet lived in Israel and chaired the *Stichting Platform Israël* (SPI) [Foundation Platform Israel], and as such he represented the Dutch Jews in Israel on behalf of the Platform. Moreover, he had close ties with WJC executive director Steinberg and Israeli government representatives in the WJC. The Association was represented by Fischer and Terwisscha, who were sometimes accompanied by a policy adviser or expert. They regularly called on Nationale-Nederlanden lawyer Wouter Kalkman. Fischer and Terwisscha needed a sounding board within the Association and had to consult all companies with a stake in the war balances issue. They needed these companies' support for key decisions. The sounding board task was given to the *Commissie Tegoeden WOII* [Commission on WWII Assets],[470] which the Association established in its board meeting on 20 January 1999. The commission's members were representatives at executive board level, under the chairmanship of Aegon executive Van de Geijn. The new commission was tasked with making strategic decisions on how to handle problems related to war assets while keeping in mind the importance of upholding the insurers' reputation.[471] The commission had an advisory function for the Association board, which was responsible for final decision-making. The commission monitored discussions with the CJO, the settlement of claims, the work of the commissions of inquiry, and the sporadic consultations with the Ministry of Finance. Over the course of 1999, the commission's focus shifted increasingly towards developments in the USA and the agreement being pieced together with the CJO.

In Chapter 6, we saw that Fischer had met with the JMW and CIDI directors in October 1998 to discuss what should be done with unpaid balances for which no rightsholders could be found. Was the JMW the appropriate organization to receive these balances? The CJO would consider this matter.[472] An explicit answer to this question was not found in the archives, but the consultations

[470] Referred to in the footnotes as CTW.
[471] Chairman: Van de Geijn (Aegon), members: Brands (ING), Heus (Generali), Van Olphen (SNS Reaal), Tesselhoff (Delta Lloyd) and Wijminga (AMEV). Fischer and Terwisscha van Scheltinga represented the Association. See Association board meeting report, 20-1-1999 and CTW meeting report, 8-2-1999. AV 04/3520.
[472] Letters from Fischer to Naftaniël and Vuijsje, 2-10-1998 and letter from Vuijsje to Fischer, 20-11-

between the Association and the CJO in the ensuing months reveals the lines along which they were thinking. A meeting on 27 November 1998 can be seen as the beginning of the structural negotiations that would lead to a final settlement for the unpaid insurance balances.

Two key topics were addressed in this meeting. The first was the Veegens assets and the fact that the difference between the insured values and the surrender values had remained in the hands of the insurance companies. This was the most prominent category of assets that needed to be resolved. From a moral perspective, the CJO regarded the Jewish community as the rightsholder to these funds. The CJO did acknowledge that the insurers had sustained severe damage due to the war which had weakened their position, but Naftaniël insisted that the CJO now wished to receive the entire insured value of these Veegens assets. After all, the insurers had concluded the Veegens agreement with the State, but the Jewish community had not been a party to it. The insurers had to figure out for themselves how to get back the surrender amounts from the government, the CJO felt. Fischer found the claim to the amount of 430,000 guilders on moral grounds to be reasonable, but he saw the argument that the Jewish community had nothing to do with the deal as "cherry picking."[473] Nevertheless, the two parties agreed to jointly approach the Ministry of Finance. The second issue they raised at this meeting was the dispute over the interest factor that should be calculated. So far, the insurers had added an interest rate based on short-term bonds, which came down to a factor of 12, while Naftaniël had calculated a factor of 22 based on long-term bonds. Both issues would come up again in the next meeting, after both the Association and the CJO had put their thoughts on paper.[474]

In the spring of 1999, two other important points were brought to the table. One was technical in nature: the ratio between the insured value and the surrender value. There was an initial estimated ratio of 1 to 4 (the surrender value is one-fourth of the insured value), which was subject to further consideration. The other point, which led to more discussion, was the time frame within which the substance of the agreement should be decided. After the discussions with the CJO in late 1998, Fisher had heard from the SG at the Finance Ministry that the government would not be deciding on the Veegens assets and the interest rate until it had received the big picture on war assets from the commissions of inquiry. Fischer shared this in the Association's meeting with the CJO in March. The Association itself was hesitant to unilaterally breach legitimate agreements and therefore wished to postpone taking a stance on the compensation of interest and the insured value

1998. AV 75/2.

[473] CJO report on the meeting of 27-11-1998. Sanders' archive, folder Verzekeringen I.

[474] Report on CJO-Association meeting 27-11-1998. AV 75/2.

until after publication of the Scholten report.[475] A tripartite consultation between the Association, the CJO and the government would then have to take place, the Association argued. In the meeting with the CJO, Fisher also repeated the ministry's suggestion that the surrender values might not be restituted to the insurers because the insurers had the right to invoke limitation periods and were therefore not legally required to disburse benefits. Naftaniël insisted that this was a matter for the insurers and the government, and repeated that the CJO was considering lodging a written claim with the Association for the Veegens assets.[476] By the time the parties met for their May 1999 consultation, the Association had not yet received a written claim from the CJO. However, insurers had expressed a willingness to pay the insured value minus the surrender value to the CJO.[477] The CJO stated that it would claim the surrender value from the State if the insurers remained unwilling to pay the full value. The CJO wanted to speed up the process and come to an agreement before the publication of the final Scholten Commission report. They indicated that the problem was sufficiently clear.[478]

### Complicating factors: the Scholten Commission and the WJC

As to why the CJO suddenly wanted to reach an agreement before the publication of the final report of the Scholten Commission, there are two particularly relevant developments to consider. There was some commotion about the first report from the Scholten Commission, and at the same time the CJO was beginning to feel the pressure being applied from America by the WJC. These two factors were interrelated. The contents of the first Scholten report, which was released in December 1998, caused concern at the Ministry of Finance, among the Association of Insurers, in Jewish circles and within the WJC. The Scholten report's main focus was on legal redress by the banks, and it expressed a generally positive opinion about how that had been handled. This was not what the Jewish community had expected, and the community's confidence in the Scholten investigation (and by extension the CJO's trust in the commission) plummeted. One of the key criticisms of the report was that the banks investigated were given anonymity, which made it impossible to verify the contents and conclusions. The situation escalated at one of the broad consultation meetings at the Finance Ministry when the researcher behind the banking report reacted to the outcry about anonymity. He answered that, to his knowledge, anonymity for the banks had been the matter of a gentlemen's

[475] Preparatory notes for meeting with CJO 3-3-1999. AV 75/2.
[476] Report on CJO-Association meeting, 3-3-1999. AV 75/2.
[477] Report on CJO-Association meeting, 18-5-1999. AV 75/2.
[478] Memorandum 'Hoofdlijnen overleg CJO-Verbond 18/5/99'. AV 75/2.

agreement when the commission was established.[479] This contentious suggestion turned out to be untrue; there was no gentlemen's agreement. Fischer, in a later explanation to the Commission on WWII Assets, said the anonymous reporting of data was "a consequence of the agreements made upon the creation of the commission." According to Fischer, both the NVB (Netherlands Bankers Association) and the Association had "insisted on care with respect to the companies that supplied data. These were especially banks and insurers that had kept documentation about robbery and legal redress purely on a voluntary basis, as there was no legal obligation for them to do so." The commission had acknowledged the risk that the report might contain unfavorable references to companies without them having been given a right of reply, thereby punishing them for a data retention policy that enabled the reconstruction of the robbery and legal redress. As the investigation was not targeted at individuals or individual companies, the commission had promised not to mention company names in its report. [480] The Association explained this in the meeting with the CJO.[481] This had been discussed in all openness in preparatory meetings when the Scholten Commission was being assembled, the Ministry of Finance confirmed.[482] The problem of anonymity was nipped in the bud for the insurance investigation. The Association wanted the facts contained in the final report to be verifiable and to avoid any impression of being secretive. On 22 March 1999, Van de Geijn, Fischer, Sam Jonker and Terwisscha had a discussion with Guus Zoutendijk of the Scholten Commission and the main researcher [the undersigned]. The Commission on WWII Assets agreed to waive anonymity.[483] The banks did the same.

The publication of Aalders' book *Roof* (Robbery) on 8 May added fuel to the fire; he was far more critical of the banks' role during and after the war, and about the amounts stolen. However, those who read the book carefully will have noted that *Roof* focused on the role of securities traders, a subject that had not yet been dealt with the first Scholten report. The final report would devote a separate section to this topic.

The commotion surrounding the first Scholten report should have given the commission's chairman pause for thought about the need for his researchers' inquiry to have wide support and the necessity of improving his commission's reputation. Nothing could have been further from the truth. The CJO and the *Israel Instituut voor Onderzoek naar Verdwenen Nederlands Joods Bezit tijdens de Holocaust* [Israel Institute for Research into Dutch Jewish Possessions Lost during the Holocaust]

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[479] Report on broad consultation, 15-1-1999. Grüter archive.
[480] Comments in Appendix 5, CTW-news 99/01, 2-2-1999. AV 4/3520.
[481] Report on CJO-Association meeting, 18-5-1999. AV 75/2.
[482] Resolutions PTG, 2-3-1999. AMF PTG 527.
[483] CTW news 99/07, 9-4-1999. AV 4/3520.

criticized the banking report in a publication about the Kordes and Scholten reports, but the Scholten Commission ignored the publication.[484] Chairman Scholten felt that a response to the criticism in the final report would be sufficient and that the researchers should not react to the commotion. Hans van der Pauw, chief researcher of the report on the banks, was, however, permitted to respond to an editorial in *de Volkskrant* after Naftaniël had criticized the banking report in the same newspaper.[485] The reluctance to engage with the public outcry had much to do with Scholten's own rigid attitude. He had displayed this in an interview with *NIW* journalist Elise Friedmann in late 1997, indicating an unwillingness to be open with the media about insurance assets. "This is a very heavy commission. Do you even know who's in it? People should just have faith in them," Scholten said. His tone did not go down well.[486] It was in Finance Minister Zalm's interest that public confidence be restored in the commission and its work. The CJO had offered its counter report to the Second Chamber of Parliament and Zalm, and it had informally pushed MPs to submit a motion to include Jewish community representatives on the Scholten Commission. In addition, the CJO demanded that the investigation focus on the robbery and not primarily the legal redress, and that the report include full acknowledgement of the sources. The CJO also insisted that the banking archives be made public under the authority of the state archivist.[487] In the end, that did not happen. Instead, Minister Zalm invited Scholten to discuss his difficult relationship with the CJO. In reaction to a question from the Standing Parliamentary Committees on Finance and Welfare, Public Health and Sports, Zalm stated that he had "already urged Mr. Scholten to ensure good communications with the CJO. Mr. Scholten agreed to heed this advice." Expanding the commission to include Jewish community representatives was, in the minister's opinion, not advisable as the commission had been created in August 1997 with the Second Chamber's approval and was due to publish its report in October.[488] There were talks to improve the communication between the Scholten Commission and the CJO. The discussion on 23 June, which included the full commission and all its researchers, began in an icy atmosphere, Ruppert reported to the minister. Scholten accidentally referred to the CJO as the "Jewish Council" a few times, causing deep irritation on the Jewish side [and embarrassment among the researchers,

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[484] *Interim-reactie Centraal Joods Overleg*, Amsterdam februari 1999; *Hiaten en Onduidelijkheden in het Eerste Rapport van de Begeleidingscommissie Onderzoek Financiële Tegoeden WO II in Nederland*, mei 1999.
[485] *Volkskrant*, 14-5-1999 and 19-5-1999.
[486] *NIW*, 19-12-1997. External communications were Scholten's task, but he had little experience that area. His attitude sometimes hindered his own researchers in their outreach to Jewish sources who potentially had information which could aid the inquiry.
[487] Memorandum 'Enkele actuele ontwikkelingen', 17-5-1999. AMF PTG 321.
[488] Report from the Standing Parliamentary Committees for Finance and VWS , 27-5-1999. In: *Handelingen Tweede Kamer der Staten-Generaal, vergaderjaar 1998-1999. Nr. 25 839.*

RG], “but despite the obvious friction, the conversation ended up better than expected. When asked, everyone present said their confidence in the commission had been restored, though Mr. Naftaniël remains an unpredictable factor.”[489] Later discussions between the researchers and the CJO took place in a much improved mood and this largely dispelled the suspicion. The two sides discussed all the matters at hand, including the CJO’s criticism of the first report. These talks gave the CJO an opportunity to get some impression of what the upcoming final report would include, except for the recommendations, of course, which were up to the commission members themselves. All in all, confidence in the Scholten Commission was “somewhat restored” and “the integrity of the researchers was not in doubt,” the CJO said,[490] although some of the damage could not be undone.

The first Scholten report and the publication a few months later of Aalders’ book had not gone unnoticed in the USA. There, the Netherlands was now in focus. At the end of April, *Algemeen Dagblad* and *Trouw* newspapers reported that California Insurance Commissioner Chuck Quackenbush, a Republican, planned to ban more than 100 European insurers from doing business in his state if they did not disclose how they had handled the insurance policies of Holocaust victims before 12 May 1999. *Trouw* cited Naftaniël who felt it was “unjust” to tackle negligent European insurers via American laws. In his opinion, it was unfair to place German insurers such as Allianz and the Italian Generali on the same footing as the Dutch insurers who had already made payments in the 1950s. The WJC, in turn, did not appreciate the fact that Naftaniël had stood up for Dutch insurers.[491]

Now the WJC went from pressuring Dutch insurers, to pressuring the CJO as well. That this organization wanted to exert influence across national borders on the issue of Jewish assets in general had already become apparent in the Netherlands in the previous year. In a conversation with a delegation of Dutch civil servants in the spring of 1998, the WJC and the WJRO had shown great interest in the division of the Dutch gold pool assets. “They feel excluded by the CJO on this issue and wish to be more closely involved. With Secretary General Singer as spokesperson, the WJC considers itself as much an heir to these assets as the few Dutch Jews who survived the Nazi persecution. All the more so because most Dutch Jews who survived ended up outside the Netherlands.” Singer indicated his wish to come to the Netherlands on short notice and meet with the government, Jewish groups and the commission which was to rule on the division of the gold pool worth 20 million, Ruppert wrote in a memo. “Singer’s intention is not to ignite a dispute with the Netherlands, he

[489] Report on the CJO-Scholten Commission meeting, 23-6-1999 in memorandum from Ruppert for Minister Zalm, 25-6-1999. AMF PTG 362.
[490] Report on CJO-Association meeting, 23-7-1999. AV 75/2.
[491] *Algemeen Dagblad*, 30-4-1999 and *Trouw*, 1-5-1999.

emphatically stated, but he wants a seat at the table. (…) In conclusion, he indicated that he wished to be involved in the various research commissions."[492]

Based on the first reports from the Kordes and Scholten commissions, as well as Aalders' book, the WJC claimed that the Dutch government and banks still owed the victims of the persecution two billion guilders. According to Steinberg, only a few million guilders of this total had been paid out. He announced that the WJC was going to take on the banks in the Netherlands.[493] The WJC was basing its claims partly on a "secret report" dating from 1946, which had recently surfaced in the National Archives in Washington. The document described the LVVS's financial situation as of early that year – which did not represent the legal redress that had taken place.[494] Hence, the WJC formed an opinion of the legal redress in the Netherlands based on incomplete information and snapshots. It ignored the context of the Dutch situation, despite having received information about this from the Netherlands. The WJC accused European Jews of being too complacent. According to a Ministry of Finance memorandum, Steinbergs' statements were making the CJO feel compelled to take a firmer stance.[495] The WJC indeed tried to influence the European representatives of the Jewish communities in several countries. *NIW* reported that this effort had led to a dispute with the Jewish community in France, who intended to reach a settlement with the banks. President Hajdenberg of the *Conseil Représentatif des Institutions Juives de France* (CRIF) was quoted by *NIW* as saying that "the WJC must not think that it can tackle the French banks in the same manner as the Swiss banks."[496] Weeks later, the same publication reported that the European Jewish Congress, in which Sanders represented the Dutch Jews, had determined that the WJC should not take action in Europe without consulting the local Jewish communities. However, the WJC did not always honor this demand because it felt European Jewish organizations were too passive, according to an informative memorandum from Ruppert to Zalm.[497] On 23 April, *NIW* reported on rumors — later denied by Steinberg — that the WJC intended to claim damages from Dutch banks. When the Association consulted Naftaniël about these reports, he said Steinberg had spoken about the claims in a hearing in New York. Naftaniël said the WJC had its eye on European countries and had now turned its

[492] Ruppert's report to Zalm on meetings of the Dutch official's delegation in the USA, 14-5-1998. AMF PTG 333.
[493] ANP, 12-5-1999.
[494] Stanford Schewel (Vice Consul & Economic Analyst): '*History and present status of Lippmann, Rosenthal & Co, Sarphatistraat, Amsterdam, the Nazi Agency for the Confiscation of Dutch-Jewish Property' (April 7, 1946).*
[495] Ministry of Finance memorandum, 17-5-1999. AMF PTG 321.
[496] *NIW*, 2-4-1999.
[497] Memorandum from Ruppert to Zalm in preparation for a meeting with MPs (27-5-1999), 26-5-1999. AMF, PTG 437.

attention to the smaller countries. He added that the CJO disapproved of the WJC's approach to attaining its goals by means of class action suits. The CJO, he said, wished to reach an agreement within the framework of existing relations in the Netherlands.[498]

In their joint consultation in March, the Association had raised questions about agreements the CJO had with the WJC.[499] The Commission on WWII Assets received a detailed response to these questions from the CJO, in a document ahead of the meeting of 7 May. In short, the CJO could not make any guarantees to the insurers with respect to the WJC. The CJO assumed that an agreement with the Association would also be respected outside the Netherlands and felt that a good agreement was the best way to prevent foreign intervention. The CJO believed the WJC would only take action if no adequate arrangement was made at a national level. The Association, in turn, felt it had no alternative to its consultations with the CJO. Starting negotiations with the WJC itself was not an option as this would deviate from the Dutch consultative tradition which had led to the current talks between the government, banks, insurers, commissions and CJO. "The CJO insists that it has the right to consult and that the Association assume the CJO will coordinate with the WJC.'[500] Since there was no choice but to carry on in the current configuration, pressure from the USA continued to mount on the insurers and the CJO. Both parties began to feel a sense of urgency thanks to American insurance commissioners' aggressive approach and the WJC's criticism of the state of affairs in the Netherlands.

### Negotiations are accelerated

In the summer of 1999, the Association was caught between a rock and a hard place. In the USA, the insurance commissioners and the WJC were stepping up the pressure on Dutch companies operating there (Aegon, ING and Fortis) to resolve their problems as members of the Eagleburger Commission. Moreover, Aegon needed the approval of California Insurance Commissioner Quackenbush for its intended takeover of Transamerica. The situation was becoming precarious, and it was clear that an agreement with the CJO would smooth ruffled feathers. However, the Finance Ministry still insisted no agreement should be reached until the commissions of inquiry had published their reports, particularly because this would set precedents both for the State and the banks. The ministry did acknowledge that the insurers were under duress. To ensure they did not succumb to international pressure, the ministry offered "to support them in their dealings with the financial commissioners in

[498] CTW news 99/8, 19-4-1999. AV 4/3520.
[499] Report on CJO-Association meeting, 3-3-1999. AV 75/2.
[500] CTW news 99/10; documents for the CTW meeting on 7-5-1999. In AV 4/3520.

the USA," for instance. If necessary, the ministry could initiate talks between the finance minister or secretary general and the boards of the big enterprises.[501]

While they understood that the Association needed to await publication of the Scholten report before reaching an agreement, the CJO strongly preferred to make haste. To begin with, their base was becoming impatient. The CJO's constituents stood by and watched as large settlement amounts were frequently tossed about in the media; but while it was clear the CJO was standing its ground, there were no results to show for it. Moreover, there was no certainty as to "whether the government is willing to award the 'compensation for pain and suffering' that Kordes has calculated," Naftaniël wrote in an internal memo for the CJO board. "The multiplication factor [interest factor, RG] that will be used, is even more uncertain. Reaching a rapid agreement with the insurers creates a precedent. We can also reap the benefits from that in the negotiations with the banks. To some extent, the banks belong to the same enterprises as the insurers." As for international developments, it made little sense to wait for the Eagleburger Commission. There was no reason to assume they would quickly decide on an interest factor, and if they did, it might be lower, Naftaniël reasoned. Finally, he saw a risk "that the case of the Veegens balances will be internationalized. Now, the World Jewish Congress is also trying to pressure Aegon to join the Eagleburger Commission. For this reason, both we and the insurers are eager to reach a settlement soon."[502]

The situation was too serious to wait and do nothing. The discussions quickly moved from the probing of the previous months to concrete action. Substantive proposals were brought to the table. Firstly, these concerned the factor to be calculated for the compensation of interest.[503] One of the models calculated by the Association had resulted in a number favored by the CJO, namely a factor of 22.[504] However, both parties to the talks were still internally divided over this question. The different proposals ranged from 18 (by the Association) to 24 (by the CJO). Naftaniël and Fischer agreed to check with their respective constituents to see whether a factor of 22 would be acceptable.

Subsequently, on 17 June, Naftaniël sent Fischer a concrete proposal for a "final settlement between the Jewish community and the life insurers of the Association."[505] The proposal was limited

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[501] BGW memorandum for Zalm regarding the meeting with Jonker and Fischer on 26-5-1999 concerning the Veegens agreement, 11-6-1999. AMF PTG 10.
[502] Proposal for an agreement with the insurers, 14-6-1999. Sanders' archive, folder Verzekeringen II.
[503] Fax from the Association to Naftaniël, 11-6-1999. AV 75/2.
[504] This was based on the assumption that the insurers had profited from the investment of undisbursed funds in long-term state loans between 1954 and 1999 and cash loans in the period 1942-1954. According to CBS indexes, this would amount to a factor of 22.
[505] Memorandum from Naftaniël: 'Voorstel voor een overeenkomst met de verzekeraars', 14-6-1999. Sanders' archive, folder Verzekeringen II; letter from Naftaniël to Fischer, 17-6-1999. AV 75/2.

to insurance policies that were part of the Veegens agreement, while non-life, pension, burial and small insurance policies were outside its scope. It called for the insurers to transfer to the CJO the insured value of the Veegens assets minus the surrender values, multiplied by a factor of 22. The amount to be paid under this proposal would be 30,610,800 guilders in total.[506] According to the document, the Association and the CJO would then try to persuade the government to make the Veegens assets still held by the State available to the Jewish community under the same conditions. Part of this money would be managed by the CJO and remain available for payment to individual rightsholders who later came forward with a claim based on a Veegens policy. The CJO would indemnify the insurers for these policies. A factor of 22 would also apply to any such future payments, but the payment would consist only of the insured value minus the surrender value as long as the State had not transferred the surrender value to the CJO. The insurers themselves would have to deal with all claims not related to the Veegens group, to which the factor of 22 would apply. Rightsholders who had recently received payments with interest compensated at a lower factor would receive a supplement bringing the total amount compensated to a factor of 22, if in their settlement with the insurer a clause had been included stipulating later adjustment of interest. Furthermore, the proposal stated that the CJO would distance itself from any international attempts to have additional collective claims apply to war policies or other related compensations.[507]

On 23 June, the Commission on WWII Assets studied both the proposal and an initial analysis of the proposal, which was drafted by a working group of specialists from three large insurance companies.[508] The working group pointed out a number of pros and cons. They considered it favorable for the Association that the CJO had offered to join forces after the conclusion of the agreement to inform international circles about the settlement of Dutch insurance assets. They also praised the CJO's willingness to exclude surrender value from their claim. A negative point, however, was that the CJO proposal could merely be considered a provisional agreement as it covered only the Veegens assets and the interest factor. This left several other categories that would still need to be agreed upon, such as the small insurance policies, burial insurance policies and unpaid policies that the insurers had discovered themselves. Additionally, it was as yet unclear whether the Scholten Commission would uncover incidental or structural mistakes in the postwar legal redress and whether there were structural problems with the way non-life insurance policies had been handled.

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[506] Proposal from the CJO and letter 17-6-1999. AV 75/2.
[507] According to the CJO's calculations, the ratio of surrender value to insured value was 1 : 4.092. The total insured value was NLG 1,391,400 (1,841,400 minus 450,000). Multiplied by 22, this came to NLG 30,610,800.
[508] Appendix 1 to the agenda for the CTW meeting of 23-6-1999. CTW news 99/22. AV 4/3520.

Now it was up to the Commission on WWII Assets to advise the Association board on the vexing question of whether it was desirable to seek a quick settlement on the issues of interest compensation and the Veegens assets, as the CJO wished. After all, the same board had earlier decided it was impossible to reach an agreement until after publication of the Scholten report. Although the Association had always held this view, it was now feeling pressure to abandon their stance. At the same time, however, it still wanted to honor the wishes of the Finance Ministry, the insurers' 'mother ministry.' A good relationship with the Ministry of Finance was important to the insurance industry for a variety of reasons, not just because of war assets. The dilemma came up again thanks to a telephone conversation in which the new secretary general of Finance, Van Maanen, told Association chairman Jonker about a difficult conversation that had recently taken place between Minister Zalm and the CJO. In that talk, there was a difference of opinion about "the CJO's insistence that it be considered the sole legal heir." The CJO wanted to determine where the money, if it were released, would end up. The secretary general exhorted Jonker not to conclude an agreement before October, when the Scholten report was expected, if it could be avoided. "[T]he agreement was reconfirmed that we will not take steps until after consultation," Jonker wrote in a memorandum.[509]

All in all, the commission meeting revealed there was little support for a quick settlement that sidelined the government. The Association would communicate to the CJO that the government had to be involved somehow and that the insurers intended to await the Scholten Commission's conclusions in any event.[510] After the meeting, Fischer called Naftaniël and informed him of these conclusions, confirming them in a letter the next day, stating that the commission strongly preferred reaching a final settlement and not just a provisional agreement about the Veegens assets. "It will be detrimental to both the CJO and the Association if after a few months new problems emerge that cannot be foreseen now." The Association also considered it important to have joint consultation with the government and the CJO as the government was a party to the Veegens agreement, Fischer wrote.[511]

Naftaniël made his displeasure over Fischer's response clear in a telephone call with Terwisscha. He dismissed the idea of a tripartite consultation with the government because Zalm would not want to make any commitments until after publication of the Van Kemenade report. Naftaniël saw this as no reason to endlessly postpone an agreement. After the phone call, Terwisscha

[509] Memorandum from Jonker, 21-6-1999. AV 75/2.
[510] Report on CTW meeting 23-6-1999, CTW news 99/27. AV 4/3520.
[511] Letter Fischer to Naftaniël, 24-6-1999. AV 75/2.

noted that "the CJO is willing to limit its claim to the remainder of the insured value, but only if there is a fast settlement. Otherwise it will claim the entire amount." Naftaniël's remark that he had "spoken with an 'excellent lawyer' (Bernstein) from Miami who saw a good possibility of getting the (Veegens) claim on the insurers honored (through a procedure outside the Netherlands)" must have felt downright threatening.[512] Terwisscha and Fischer wanted to make sure the discussions with the CJO did not become deadlocked and sent the Commission on WWII Assets a memorandum stating that the CJO had reached the point where it needed clarity. Any further delay in working towards an agreement would jeopardize the Association's good ties with the CJO. The crux of the problem was that the Commission on WWII Assets, as urgently requested by the Finance Ministry, had decided that an agreement should wait until publication of the Scholten report "due to the spillover effects [an agreement would have] on the position of the State." The result might therefore be a cooling of ties with the CJO, bad press, a negative signal to international sister organizations, and the withdrawal of agreements reached in the meantime on interest compensation and the Veegens assets.[513] Shortly after Terwisscha's phone call with Naftaniël, however, Nationale-Nederlanden executive board member D. Brands had emphasized in a letter to Fischer that his ING bank colleagues and the ING Netherlands board did not want to conclude an agreement in advance of the Scholten report. They absolutely did not want to cross the government.[514] The dilemma would be discussed at the following meeting of the Commission on WWII Assets on 28 July, a few days after the next meeting with the CJO.

In that CJO-Association meeting, on 23 July, it became clear that the CJO did not want to run any risks with regard to the 'non-Veegens claims' and was therefore only interested in reaching a fast agreement on the Veegens assets. However, the Association wanted to facilitate a broader agreement for all war assets, and thus wanted the 'non-Veegens claims' quantified in order to cover any possible risks in the agreement. Therefore, the Association proposed the creation of a fund for this purpose, which would assume the insurers' liabilities. This fund would have two cash flows: one for collective purposes and one for the settlement of individual claims. The time period for submitting individual claims would be limited to ten years. After that point, the remainder would flow into the collective fund. The aim would be to reach an agreement shortly after publication of the Scholten report. It was agreed that Fischer would draft a concrete proposal and submit it to the CJO for comments within a few days. The proposal would include a request to Ernst Numann (CJO

[512] Notes Terwisscha, 7-7-1999. AV 75/2.
[513] Appendix 1 to the documents CTW-meeting of 28-7-1999. AV 4/3520.
[514] Letter from Brands to Fischer, 13-7-1999. AV 3492.

chairman, judge and newly appointed member of the Supreme Court), Job de Ruiter (former justice minister and life insurance ombudsman) and a third person of their choosing to lay the groundwork for the creation of a fund.[515] On 26 July, Fischer sent his *Hoofdlijnen Stichtingsconstructie* [main outlines for the foundation structure] to the CJO and he received feedback that very day, first by telephone and later by fax. The most important remark from Naftaniël and Sanders was about the risk that the funds would appear to contain insufficient balance to make the individual payments. In their opinion, this could be dealt with by means of excess of loss reinsurance[516] or a guarantee from the insurers that they would make additional payments if this should prove necessary.[517]

*CJO chairman Ernst Numann (Association of Insurers)*

On 28 July, the Commission on WWII Assets expressed a positive opinion on the progress of the negotiations with the CJO and decided to work out the finer details of the chosen policy. This would entail the creation of two foundations — one for individual claims and the other for collective compensation; the Association was not to be represented on the board of the latter foundation. In the foundation for individual claims, the board could include a person proposed by the Association (this was indeed De Ruiter). The Veegens list would be used as the basis for calculating the total amount to be paid to the Jewish community. When determining the amount in the fund for the individual claims foundation, a safe margin had to be built in. Furthermore, regulations were needed

[515] Report on CJO-Association meeting, 23-7-1999. AV 75/2.
[516] Excess of loss reinsurance is a type of reinsurance in which the reinsurer indemnifies the primary insurer for losses that exceed a specified limit.
[517] Memorandum from Fischer for Naftaniël, Sanders and Vuijsje; reply from Naftaniël and Sanders, both 26-7-1999. AV 75/2.

for the settling of these claims, including a closing date. Two possibilities being considered were 2007 and 2009.[518] The commission agreed to apply a factor of 22 for pending claims, rather than 13.[519] On 30 July, the Commission on WWII Assets asked the Association's general management and board for permission to prepare a draft agreement and to advise the Association's member companies that were handling 'solid' individual claims from Holocaust survivors (and the legal heirs of both victims and survivors) to apply a factor of 22 instead of 13.[520] In its 18 August meeting, the Association's board gave its fiat and further negotiations could proceed.[521]

A stalemate had been averted and by early September, an agreement appeared to taking shape. It was not a moment too soon. At the bar mitzvah celebration for Hans Vuijsje's son, Fischer heard CJO board members who were not directly involved in the talks with the Association expressing negative feelings about the course of events. Fischer did his best to convey the integrity of the arrangement to be made, but he noticed people were especially suspicious of the fact that the insurers did not want to conclude an agreement ahead of the Scholten Commission's report. Roet, who was also at the party, had told Fischer that through his own connections he had been able to prevent trouble in the USA by assuring them that an agreement with the Dutch insurers would take a matter of weeks rather than months. "He now regrets this. He said that lawyers in the USA are ready to get involved. Jews in Israel are deeply distrustful, partly because they are not being fully informed," Fischer said.[522]

Avraham Roet took a seat at the meeting held on 7 September. It was good news for the CJO that the Commission on WWII Assets and the Association's board had approved the dual foundation structure and the Veegens component of the emerging agreement. But there was a setback, too. The CJO had heard that morning in a meeting with the Scholten Commission researchers that the report would again be delayed a few weeks. It would not become clear until early October when the report would be published. The parties agreed that the Association would draft a memorandum on amounts to be kept in reserve for the other insurance categories in the individual payments fund, allowing these categories to be included in the agreement. A separate arrangement for the burial policies in

[518] 2007 would correspond with legislation in the USA and 2009 would be 10 years after concluding the agreement.
[519] Report on CTW meeting 28-7-1999. AV 4/3520.
[520] Memorandum from Commission on WWII Assets and the Association management to the Association's board, 30-7-1999. AV 4/3520.
[521] Appendix 2, 15-10-1999, part of the meeting documents on CTW meeting of 20-10-1999. AV 4/3520.
[522] Memorandum from Fischer to Terwisscha and Van de Geijn, chairman of the Commission on WWII Assets, 6-9-1999. AV 75/2.

kind was not necessary because it was agreed that Fisher would ask the umbrella organization directly whether it was prepared to participate in a general settlement.

The CJO also had an unpleasant surprise for the insurers; they called it 'delayed interest.' This was related to amicable settlements reached after the liberation in which insurers had not paid the rightsholders any interest, even though they had claimed interest compensation on the payment of overdue premiums. Naftaniël drafted a memorandum seeking to clarify this issue.[523] The Association disagreed, pointing to a previous agreement with the CJO that the two parties would not question the postwar legal redress. With an allocation of tasks for drafting the legal agreement, including the development of articles of association and enlisting international legal expertise, it was agreed that the draft agreement had to be ready by 1 October.[524]

The parties now accelerated the tempo of the negotiations. At the next meeting on 22 September, the parties again discussed delayed interest. The CJO assumed that the insurers had "endlessly put the brakes" on disbursing payments after the liberation, which made the withholding of interest on late payments especially difficult for the rightsholders who were already struggling to return to normal life again. The non-payment of interest was legal, but morally indefensible, Naftaniël said. The CJO calculated that it could claim 1.9 million guilders for the unpaid interest, which, by applying a factor somewhat lower than 22, would result in an extra amount of 40 million.[525] The Association denied that the insurers had deliberately delayed the disbursements of these benefits by putting on the brakes. It pointed out that the insurers had honored the jurisprudence set by the Council for Legal Redress in the amicable settlement of claims. This was a matter of principle.[526] To check the validity of this new claim, Terwisscha and Nationale-Nederlanden lawyer Wouter Kalkman went to the National Archives and consulted rulings handed down by the Judicial Department of the Council for Legal Redress between 1945 and 1949. They came to the conclusion that the insurers were not at fault. They had followed the jurisprudence, and according to the Council's rulings, payment of interest was only due from the moment all evidence for redress or payment had been submitted to the insurers. This often concerned death certificates and certificates of succession. Reversing this would come down to repeating the act of legal redress, and both parties had already agreed at a much earlier stage that this was definitely not their intention.[527]

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[523] Letter with memorandum from Naftaniël to Sanders, 14-9-1999. Sanders' archive, folder Verzekeringen II. It is not known whether this was sent to the Association.
[524] Report on CJO-Association meeting, 7-9-1999. AV 75/2.
[525] Letter from Naftaniël to Fischer, 27-9-1999; Memorandum 'Hangpunten overleg CJO-Verbond' (no date, but considering its content, probably from autumn of 1999. AV 75/2.
[526] Report on CJO-Association meeting, 22-9-1999. AV 75/2.
[527] Memorandum from Kalkman, 1-10-1999. AV, 75/2.

The issue of delayed interest caused a stalemate that had to be resolved. The CJO took a step in that direction by conceding that the insurers had acted correctly in a legal sense. However, they did feel the insurers should make a gesture to acknowledge the difficulty Jews had after the war to submit the right documents and the financial hardships they suffered as a result. In the meeting on 7 October, the CJO presented the Association with two options. The first was to suspend the discussion until after publication of the Scholten report. The second was to agree, in "this very difficult and sensitive discussion," to an alternative. "Ethical principles are hard to capture in figures, but the choice could be made to finance an internet research project as an immaterial gesture. This would be the fourth pillar of the agreement." Fischer would receive a proposal from the CJO about this and present it to the Commission on WWII Assets on 20 October. During this meeting the parties reached an agreement in principle about the other three components, on which the amounts the insurers would release were based: the Veegens assets (30 million), the non-Veegens policies that had remained outside the surrender and/or redress process (5 million) and the small insurance policies (10 million). The CJO had sent Fischer a letter proposing the division of the total sum between the individual and collective compensation foundations. The individual foundation would have 15 million and the collective 30 million. The insurers would have to promise to top up the individual compensation fund if it appeared the amount was too low – which was thought possible, for instance, due to individual claims from abroad. If there was a surplus after ten years, the proceeds could be divided between the Jewish community and the Association.[528]

After a summer of hard work, the two parties had hammered out the financial substance and the structure of the agreement by the second half of October. The bulk of the legal work had also been completed. The law firm Boekel De Nerée had drafted the deed creating the *Stichting Individuele Verzekeringsaanspraken Sjoa* [Holocaust Foundation for Individual Insurance Claims] and Nationale-Nederlanden's lawyer Kalkman had drafted the regulations for the foundation to be established.[529] Numann and De Ruiter had expressed their willingness to sit on the board of the foundation for individual claims. They had also jointly proposed a third board member, R.M. Wijnholt, a former Supreme Court counselor and president of the District Court in The Hague. But not everything was complete. The Association's Commission on WWII Assets had not yet given approval to the alternative for the delayed interest proposed by the CJO. The proposal entailed the

[528] Letter from Naftaniël to Fischer, 27-9-1999; report on CJO-Association meeting, 7-10-1999. AV 75/2.
[529] Letter with first draft by Boekel De Nerée to Kalkman, CJO and the Association, 24-9-1999 and adjusted draft, 30-9-1999; letter containing draft regulations from Terwisscha to CJO and Boekel De Nerée, 24-9-1999. AV 75/2 and 4/3520.

*Monument Joodse Gemeenschap* [Jewish Community Monument], which Professor I. Lipschits had devised under CJO supervision. The aim was to collect data about the Jewish community, individuals and families and present these data on the internet as a digital monument. This monument could be based on the information that had been unearthed in the preceding years through inventory-taking and the research of archival documents about the robbery and postwar legal redress. Moreover, relatives would be able to supplement the online database with data in their own possession. The idea was to have a digital monument that preserved the memory of all Jews in the Netherlands at the time of the Shoah. The CJO made an urgent appeal to the insurers to finance this project as an addition to the payments of unclaimed war assets. The project would be an immaterial gesture by the insurers to survivors and surviving dependents, in acknowledgement of the Jews' struggle to pick up the pieces after the war. The project was projected to last three years and the costs were estimated at 3 to 4 million guilders. If the insurers agreed to this, they would be credited as the project's exclusive funders. In addition to a decision on this CJO proposal, the agreement was still awaiting the final touches on the legal documents, whose drafts were sent back and forth a few more times.

As American pressure on the Dutch insurers with business interests in the USA increased by the day, the Association asked the CJO "if an agreement was reached, to make this pubic as soon as possible, possibly before the publication of the Scholten report." The CJO board was prepared to do this under two conditions. One was that they wanted the Minister of Finance to be informed beforehand. They also wanted a verbal pledge from the Association that if the Scholten Commission uncovered substantial new facts, the two parties could reopen discussions.[530] The CJO was also at risk of seeing its reputation damaged internationally if it did not act quickly, so the group decided to present the agreement on 9 November after it was approved by the Association board. The CJO and the Association would jointly inform Minister Zalm of the outcome – preferably in a conversation.[531] That left just one important issue, which the CJO had raised on 15 October: the inclusion of an "open-ended guarantee" in case the Scholten Commission raised issues that had not been covered by the agreement. In the meeting minutes, the parties included a gentlemen's agreement that in case the Scholten report contained any surprises that could not be ignored without adverse effects, the two sides would remain open to consultations on the matter. After further discussion, however, they took another approach. Fischer sent a letter to the CJO on 10 November asserting that both parties "jointly hold the opinion that the financial resources of the Foundation are amply sufficient to honor

[530] Appendix 2, 15-10-1999, documents for the CTW meeting of 20-10-1999. AV 4/3520.
[531] Memorandum from the Association to the Commission on WWII Assets, 19-10-1999. AV 4/3520.

individual insurance claims." Should it become clear over time that, despite the precautions taken, the Foundation has insufficient funds, the Association would see to the continued settlement of individual claims until the Foundation's activities are terminated.[532]

The Association board agreed with the 'final arrangement' on 20 October 1999.[533] The two sides could now begin concrete preparations for the signing, the press release, and dividing the financial burden of the fifty million guilder settlement. To complete the last of these tasks, the Association drafted a breakdown based on the percentages the insurance companies had paid to the State in the years after the Veegens agreement was concluded. At the end of October, the Association informed the insurers of this and in early December they received a letter from Fischer including the final statement of their financial contribution to the agreement.[534] They received a proxy drafted by the law firm Pels Rijcken along with a request to sign this document. Naturally, they also received an invoice. The chairman of the *Vereniging van Natura Uitvaartverzekeraars* (VNaV)[Association of In-Kind Burial Insurers] informed Fischer that they had decided at their general meeting to jointly contribute 250,000 guilders to the agreement.[535]

## The final arrangement

The substance of the agreement reflected the points raised in the negotiations, as described earlier. The document began with a preamble in which the CJO and the Association laid down the considerations that led to the agreement: the thorough, but slow and bureaucratic process of legal redress after the liberation; a succinct historical overview of the redress process; information about

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[532] Letter from Fischer to CJO. Sanders' archive, folder Verzekeringen II.
[533] Report from Commission on WWII Assets meeting, 20-10-1999. AV 4/4133.
[534] Letter from Fischer to the insurance companies, 6-12-1999. AV 89/1. Their financial contribution were:

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|---|---|---|
| Zwitserleven | 0.15% | 76,346 |
| Achmea | 0.08% | 40,654 |
| Conservatrix | 0.15% | 75,807 |
| Goudse verzekeringen | 0.05% | 26,528 |
| Onderlinge 's Gravenhage | 0.82% | 410,955 |
| SNS Reaal | 6.87% | 3,435,645 |
| Levob | 0.27% | 132,609 |
| ING Groep | 35.57% | 17,783,261 |
| Generali | 4.71% | 2,356,860 |
| Delta Lloyd | 12.39% | 6,195,420 |
| ASR | 0.25% | 123,307 |
| AMEV | 14.19% | 7,092,673 |
| Aegon | 24.38% | 12,188,447 |

[535] Letter from VNaV to Fischer, 28-10-1999. AV 89/1.

the Veegens agreement and the joint investigation since 1997 of unrestored policies; the recent payments of claims including interest and forgoing limitations. Then, the preamble stated both parties' conviction that 45 million guilders was a sincere and realistic estimate of potential unpaid insurance assets (excluding the surrender values paid to the State and including interest for the period 1943-2000). It added that the Jewish Community Monument, for which an extra 5 million guilders was made available, was "a tribute from the insurers to all Jewish persecution victims."[536] In conclusion, the Association affirmed that it "supported the CJO's position that the surrender values of unclaimed insurance policies, held by the State, should on moral grounds benefit the Jewish community."

Subsequently, the agreement listed 19 articles on the specific points negotiated: the agreement's objective, the parties to the agreement and who they represented, and the insurance categories to be referred to. The 45 million guilder payment was subdivided into 25 million for the collective claims foundation and 20 million for the foundation settling individual claims. The Jewish Community Monument project and the collective claims foundation were not mentioned beyond this point in the document, as the insurers did not wish to have any further involvement in these two aspects of the settlement.

The articles related to the *Stichting Individuele Verzekeringsaanspraken Sjoa* [Holocaust Foundation for Individual Insurance Claims] described this Foundation's role as point of contact for the reception and assessment of insurance policies and the payment of benefits, which was to begin its work on 9 November 1999. Next, the agreement listed the regulations and composition of the three-member board. The Association was given responsibility for administration costs, which would be jointly determined each year by the CJO and the Association. The closing date for claims was set at 1 January 2010 "or at whatever later date subsequently agreed upon by the parties to this agreement." As stated in the agreement, after the closing date any remaining balance would be divided between the two parties, with two thirds to be transferred to the *Stichting Joodse Tegoeden* [Jewish Assets Foundation] and one third to the Association.[537]

*Last minute hitch: a preliminary injunction*

The CJO and the Association had selected a significant date for the signing of their agreement: Tuesday 9 November, the anniversary of the Kristallnacht (Night of the Broken Glass) in Nazi Germany. The press release was ready and a joint press conference was scheduled in the

[536] Now called 'Het Joods Monument': https://www.joodsmonument.nl/.
[537] Copy of the signed agreement. AV 75/2.

parliamentary press center Nieuwspoort at 10 a.m. The agenda for that day included a late-afternoon informative meeting for MPs. But the weekend before the signing, a complication arose. The lawyer for the *Vereniging Belangenbehartiging Vervolgingsslachtoffers* (VBV) [Association for the Promotion of Persecution Victims' Interests], A. Israëls, requested clarity about the method whereby the funds for the collective foundation were to be divided. The explanation he and VBV chairman Flory Neter had received from Naftaniël and Fischer had not eased their suspicions.[538] The press release was adapted to make clear that in addition to CJO-affiliated organizations, specific victims' groups would also be represented in the Jewish War Assets Foundation, and that a referendum would be held to give Jewish war victims a say in the allocation of the Foundation's financial resources. "The funds can go to individual war victims or to Jewish causes, to be determined by the victims by means of this referendum," the press release now stated.

It was not enough to dispel doubts. The afternoon before the signing ceremony, the Association and the CJO received a summons for a preliminary injunction at the Amsterdam District Court, set for 9 November at 3 p.m.[539] The CJO and the Association had little choice but to postpone the signing until after the court hearing. The press conference and the informative meeting for Members of Parliament went ahead as planned.

Israëls represented four clients: the VBV, *het Auschwitz Comité* [Auschwitz Committee], *de Pressiegroep Afwikkeling Joodse Oorlogsclaims* [Pressure group for the settlement of Jewish war claims] in Dokkum and *Comité Ex-Nederlandse Vervolgden uit de Bezettingstijd* [Committee of formerly Dutch people persecuted during the occupation], a non-profit organization established in California. According to the summons, they had serious doubts as to "whether the division of the 45 million guilders promised by the Association is in good hands with the CJO, at least as far as the allocation of these funds is concerned. The associations [Israëls clients, RG] believe that these funds must be divided amongst people who sustained material damage in the Second World War and their direct descendants, while the CJO itself probably intends for them to be used for 'purposes to be determined by the Jewish community'." The summons questioned whether the foundations to be created would be sufficiently representative of the survivors and Jewish descendants represented by Israëls' clients. They wanted the signing suspended so they could negotiate "for guarantees for the interests the associations represent." If the CJO and the Association did not suspend the signing, they would cause serious damage to those represented by the claimant associations and would be acting

[538] Faxed letter from CJO to Israëls, 7-11-1999. Sanders' archive, folder Verzekeringen III.
[539] Faxed letter from Israëls to Fischer and CJO including the draft summons, 8-11-1999. Later that afternoon, Fischer and CJO received the actual summons. AV, 75/2; 4/4133.

unlawfully, the summons read.[540]

In court, it became clear that the Auschwitz Comité had withdrawn its name from the group of claimants at the last moment. On the day the court handed down its ruling, 11 November, yet another client appeared to have withdrawn: *de Pressiegroep Afwikkeling Joodse Oorlogsclaims*. Israëls' written plea to the court expressed the VBV's discontent with the CJO, calling the organization "imperious." It derided the plans announced in the press release for a CJO-organized referendum in the Jewish community, as it was probably going to be open to all 30,000 Dutch Jews, while Israëls' clients felt that "only those born before 8 May 1945 should decide what happens with these assets. They witnessed the misery, they sustained material damage that was not fully compensated by the legal redress," Israëls wrote. His clients, he added, were fearful "that the CJO has a hidden agenda."[541]

From the written pleas by R.A. Kiek and J.B.M.M. Wuisman, representing the CJO and the Association respectively, it is clear the claimants could have known about the discussions between the CJO and the Association. In order to build the widest possible support for their course of action on the war assets issue, the CJO had created an advisory body in the spring of 1999 which, in any case, included the VBV.[542] In addition, Kiek argued that the JMW was an important organization for victims of the Shoah in the Netherlands and that it was represented in the CJO. "The CJO, and as a consequence its members and supporters, were regarded in the past and are still regarded by the government as representative and as a point of contact for the Jewish community in the Netherlands." Any damage done to the victims would be caused by not signing the agreement, Kiek argued.[543]

To make a long story short: the District Court's interim presiding judge made an early ruling on 11 November. He dismissed "VBV & co.'s claim" and the claimant parties were ordered to pay the costs of the legal proceedings.[544] He ruled that the signing the agreement did not "unlawfully curtail" the rights of the war victims represented by Israëls' clients. The interests of the policyholders and their descendants were guaranteed by the deposit of 20 million guilders in the individual claims foundation, the judge ruled, adding that the CJO had honored the wishes of surviving war victims in the allocation of the financial resources. The judge specifically cited the referendum announced in

[540] Summons, written pleas and the Court ruling: AV, 75/2.
[541] Written plea by Israëls. AV, 75/2.
[542] From the notes of the CJO board meetings, it appears the VBV had withdrawn from the CJO advisory body. Sanders' archive, folder Verzekeringen II.
[543] Written pleas, Kiek and Wuisman. AV, 75/2.
[544] The intended date for the ruling was on Monday, 15 November 1999.

the press release to underscore this point. “VBV and co. have provided no facts that could justify doubt about whether the CJO will honor these commitments. CJO has also made it sufficiently plausible that it can represent the Jewish community in the Netherlands in a broad sense and is, therefore, the most appropriate organization to make the agreement concerned with the Association of Insurers on behalf of this community.” That there was no mention of the referendum in the actual agreement was not sufficient reason to declare the signing unlawful, the judge argued.[545]


*Press conference announcing the agreement between CJO and the Association of Insurers. From left to right: Willem Terwisscha van Scheltinga, Eric Fischer, Ernst Numann, Ronny Naftaniël, Joop Sanders. (Association of Insurers)*

The CJO and the Association signed the agreement that same day, 11 November. But in the meantime, on 10 November, there had been a new development. The Association received letters from *De Verenigde Joodse Instellingen van Liefdadigheid* [The Union of Jewish Charitable Institutions] and *Stichting Joodse Kindergemeenschap Cheider* [Jewish Children’s Community Cheider Foundation]. They insisted that before signing the agreement, the Association should give “us and other Jewish organizations that wish to do so” the opportunity to explain that the CJO did not represent the entire Jewish community. The two groups threatened to take legal action if the Association did not confirm that it intended to accede to the stated demands before 5 p.m. that

[545] Court ruling. AV, 75/2.

same day. After having consulted Wuisman, the Association's lawyer, Fischer wrote back to both organizations that the Association could not comply with their request and that it would continue to await the court's ruling. After receiving the judge's decision, Fischer wrote again to verify that the agreement had been signed and that the two organizations should consult with the CJO about the division of collective financial resources.[546] Nationale-Nederlanden lawyer Kalkman advised Terwisscha and Fischer to continue emphasizing in their contacts with Naftaniël that the CJO should hold constructive talks with these groups (insofar as they represented surviving victims). Otherwise, Kalkman warned, Naftaniël risked being slapped with a new preliminary injunction due to unlawful actions towards these groups. In this respect, Kalkman cited specific paragraphs from the 11 November ruling.[547]

### Reaction of the Ministry of Finance and the government

The Finance Ministry had been kept regularly informed of both negotiating parties' intentions and had been clear in its response. There should be no agreement before the Scholten Commission had published its final report. At the same time, the ministry understood the position both parties were in due to pressure from the WJC and American insurance commissioners. The Ministry of Finance had offered in the summer of 1999 to support the insurers in the USA,[548] but by the time Special Envoy F.A.M. Majoor began lending diplomatic support, the agreement was nearly signed. Now that the agreement was a *fait accompli*, the insurers and the CJO wanted to explain the agreement to the ministry – preferably in a personal conversation with Minister Zalm. Terwisscha had already sent a memorandum to the Ministry of Finance in late October in which he described and explained the broad outlines of the deal with the CJO. He wrote that the announcement had at first been scheduled for after the originally planned publication date of the Scholten report. Now that the report had been delayed and the CJO-Association agreement concluded, both parties considered any delay in announcing the accord irresponsible, partly due to the risk of a leak. In addition, Dutch insurers were facing increasingly far-reaching demands from U.S. legislators and officials. "Insurers expect the agreement with the CJO to considerably bolster the position of Dutch insurers in the USA," Terwisscha wrote in a memorandum.[549] The conversation with Zalm took place on 4

[546] Letters from Fischer to Verenigde Joodse Instellingen van Liefdadigheid and Stichting Joodse Kindergemeenschap Cheider. AV 75/2 and Sanders' archive, folder Verzekeringen III.
[547] Fax from Kalkman to Fischer and Terwisscha, 15-11-1999. AV 75/2.
[548] Memorandum from BGW to Minister Zalm after meeting with Jonker and Fischer regarding the Veegens agreement, 11-6-1999. AMF PTG 10.
[549] Memorandum from Terwisscha to Van Maanen, 29-10-1999. AMF PTG 10.

November. Ruppert and Secretary General Van Maanen accompanied the minister, while Numann, Naftaniël and Sanders represented the CJO, and Fischer and Terwisscha spoke on behalf of the Association. From a report that Sanders wrote afterwards, we get a picture of the atmosphere. He describes how Fischer began by explaining the basic principles of the agreement and explicitly stating that the insurers recognize the CJO and/or the Jewish community as the moral heirs of assets that could not be disbursed to the legal rightsholders. Then, Fischer explained the decision to publicize the agreement right away. He pointed out that the CJO and the Association were already engaged in discussions before the Scholten Commission started its work, and reminded those present that the publication of the Scholten report had been postponed while international developments were making things increasingly urgent, particularly the threat that insurers could see their licenses to operate in the USA suspended. Announcing the agreement would ease the pressure from American insurance commissioners, Fischer said. Zalm reacted with "moderate enthusiasm," but also said he disagreed with the "issue of the moral heir." Nevertheless, Zalm revealed that the State would not invoke the limitation of claim periods. It appeared to be news to Zalm that Naftaniël had offered to hold a referendum; the minister indicated that he found it interesting. The CJO then expressed its claim to 430,000 guilders, representing the value of the Veegens assets left in the hands of the Finance Ministry at that time. "As we were bringing up this claim, the minister was already fiercely shaking his head no. The State was not involved in the CJO's agreement with the insurers. He says he is not authorized to give an answer. This will have to be a cabinet decision. (…) however, it is evident that the government will come up with something (which has been referred to as a gesture)."[550]

The government was indeed desperately awaiting the reports, and the CJO and the Association wanted to know if any surprises were in store that were not covered by their agreement. The Scholten Commission published its final report on 15 December 1999. It concluded that the legal redress had generally been successful, albeit drawn out and bureaucratic. However, the report sharply criticized the legal redress of securities in particular. This point attracted the most media coverage and attention from the various political parties. The insurance investigation was overshadowed, especially because the report held no unexpected facts that were not covered by the CJO-Association agreement. There was, however, an unpleasant surprise in the report for the Association. The Scholten Commission had recommended that the Insurance Chamber have an audit taken of the insurance companies' administrations to trace any remaining unrestored policies.[551]

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[550] Memo 'Gesprek met Minister Zalm op 4 november 1999'. Sanders' archive, folder Verzekeringen III.

[551] Scholten Commission final report, p. 17.

The government had to await another report, from the Van Kemenade Commission, before it could react. That report was going to formulate an assessment of the overall problem of Jewish war assets. In addition, the ministers intended to decide on a gesture towards the Dutch East Indies community and the Roma and Sinti. Officials from several ministries had spent the preceding few years engaging with the question of how the government could meet the wishes of several war victims' groups without 'repeating' the process of legal redress or setting undesirable legal precedents. The key question was in what formal and legal shape the funds to be disbursed could be molded. After all, the State was and remained the rightful heir of the inheritances that had not been paid to the rightsholders. The concept of "moral heir," which had been embraced by the Association, was a hard pill for the government to swallow. When the government and the CJO finally announced on 21 March 2000 that they had agreed on an amount of money the state would release to the Jewish community, the disbursement was not referred to as 'compensation' or a 'financial gesture,' but as "acknowledgement of moral entitlements." Preceding this announcement, the CJO and the government had negotiated on the amount of money to be paid, which had initially been set at 250 million guilders. The Van Kemenade Commission had recommended that amount as "reimbursement," while the Kordes Commission had recommended 48 million as "compensation" and the Scholten Commission spoke only of a "gesture of a few million guilders."[552] The CJO and the Platform Israel did not agree with the 250 million; it eventually became "an amount underpinned item by item and based on the price index of 399.4 million guilders." The basis upon which the parties arrived at this figure was laid down in a Paardekooper & Hoffman report. The total amount, when rounded off, came to 400 million guilders.[553] This sum included the Veegens assets plus accrued interest.

*The Maror foundations*

The amounts made available to the Jewish community totaled 764 million guilders [346.8 million euros]. This amount consisted partly of public funds (from the government), partly private (from the financial institutions). The division was as follows:

| | |
|---|---|
| Government: | 400 million guilders |
| Association of Insurers: | 50 million guilders |

[552] The final reports of the Van Kemenade Commission (p. 108), the Kordes Commission (pp. 9-10) and the Scholten Commission (p. 17), respectively. See also Ph. Staal, *Roestvrijstaal. Speurtocht naar de erfenis van Joodse oorlogswezen*, Delft (2008), p. 248.
[553] CJO Annual Report 2000; Ph. Staal, *Roestvrijstaal*, pp. 233-289.

| | |
|---|---|
| Netherlands Banking Association: | 50 million guilders |
| Amsterdam Stock Exchange Association/AEX: | 264 million guilders |

The funds released by financial institutions were partly reserved for collective payments and partly for the payment of claims that might be honored in the future. Foundations were created to handle individual claims against banks and securities traders. These were modeled after the Holocaust Foundation for Individual Insurance Claims and were entirely separate from the organization that would arrange collective payments to the Jewish community. They handled the claims and enquiries submitted by survivors and their descendants. To acknowledge the suffering that the Jews had experienced as a result of the banks' slow legal redress, a plaque was affixed to the former Lippmann Rosenthal building. The stock exchange publicly apologized to the Jewish community.[554]

The money meant for the collective fund was entrusted to the *Stichting Maror-gelden* [Foundation Maror Funds Foundation], which was established in the second half of 2000. *Maror* is the Hebrew word for bitter herb, or horseradish, a key symbol in the annual ritual celebration of Pesach, the commemoration of the Hebrews' exodus from Egypt. But the word maror was also meant as an acronym for the Dutch phrase '*Morele Aansprakelijkheid ROof en Rechtsherstel*' [Moral Responsibility for Robbery and Legal Redress]. To distinguish between private and public funds, there were, in fact, two foundations: *Stichting Individuele Maror-gelden* (SIM) [Individual Maror Funds Foundation] and *Stichting Maror-gelden Overheid* (SMO) [Government Maror Fund Foundation]. In a first round of disbursements after December 2000 they paid out 352 million guilders (159.7 million euros) to all Jewish survivors or their 'substitutes' who met the established criteria. There was a second round of payments in May 2002 and a final payment in 2003 in which the remainder of the money was disbursed. The beneficiaries received a total of over 268 million euros. Part of the money in the Maror Fund was intended for the collective benefit of the Jewish community in the Netherlands and Israel. Applications could be submitted as of 2006 and this were still accepted as of 2019.[555] As determined in the CJO-Association agreement, the insurers had no part in this division.[556]

[554] *NIW* 4-8-2000.
[555] See: www.maror.nl.
[556] For information on the Maror Foundations see: Ph. Staal, *Roestvrijstaal,* pp. 291- 350.

## Epilogue

Now that there was a final agreement between the CJO and the Association, the Holocaust Foundation for Individual Insurance Claims (SIVS) could begin preparations to carry out its responsibilities. This process formally began on January 1, 2000. The organization already had a board of directors, so an office was set up and a provisional team was appointed. The SIVS had a website built and ad campaigns were run in the USA, Israel and the Netherlands, providing information about the information request procedure. The SIVS opened a telephone hotline and in early April it posted data on approximately 750 unpaid policies online. Starting at the end of February, the office had begun mailing thousands of Dutch and English-language brochures to individuals who had indicated their interest. From that moment until the end of May, the SIVS received 1,200 information requests. In addition, the Association, individual insurance companies, the Central Contact Point for Jewish War Claims (CMJO) and Meldpunt Israël handed over to the SIVS all information requests that they had already received. This brought the total number of requests to 3,500. As of July 1, Henk van der Well was appointed Secretary-Director and the research team was expanded.[557]

Although the final agreement between the CJO and the Association was the first such accord both in the Netherlands and internationally, the disputing parties in the United States showed no interest in the 'Dutch method' of settling unpaid policies. Representatives from the Association and the CJO traveled to the USA in December 1999 to inform the parties about the November 1999 agreement. In addition, they handed the Americans reports on the historical background to the restoration of rights in the Netherlands. However, the WJC and the Eagleburger Commission were unimpressed by the information. As we saw in Chapter 5, the WJC had been pressing Dutch insurers active in the states to comply with US regulations. The Association was not the only Dutch party opposed to this; the CJO also had strong reservations, particularly to the WJC's method of threatening Aegon with a boycott. The CJO was convinced that this company had been doing all it could to correctly and generously settle claims to unpaid insurance assets. Besides, Aegon had also contributed a substantial proportion of the SIVS's compensation fund. The CJO felt that caving in to the WJC's demands would jeopardize the agreement reached with the Association.

In the meantime, another issue that had arisen was the possible Dutch membership in the Eagleburger Commission. Aegon and the Association were in doubt as to whether they should take a seat on the commission as well. This would mean they would have to pour millions of dollars into the

[557] https://stichting-sjoa.nl/annual-reports/activity-report-2000-2001/?lang=en

ICHEIC compensation fund, the humanitarian fund and the commission's operating costs, while the Dutch insurers themselves had created the SIVS and their compensation fund. In an attempt to show the US parties how the SIVS was handling the assets issue, the Association invited two American delegations to visit the Netherlands: one representing California insurance commissioner Quackenbush and another representing the ICHEIC. The delegations visited in February 2000 and met with the Association, the SIVS and the Finance Ministry. On its own, the delegation from the Eagleburger Commission also visited the CJO and the Verzekeringskamer. Both delegations said they were impressed by the way the Dutch had handled the matter.

In their meeting, the ICHEIC representatives and the Association discussed the creation of an observer's chair on the Eagleburger Commission to be occupied by someone on behalf of all cooperating Dutch insurers. The Association named three conditions for such a membership: all claims against Dutch insurers should be handled through the SIVS; no payment should be required into the Eagleburger humanitarian fund; and the Association would be required to contribute no more than a reasonable amount to the ICHEIC's operating costs. After the delegations returned home, a correspondence began between Association director Eric Fischer and Eagleburger. Association advisor Frank Mankiewicz, who worked for the American PR firm Hill & Knowlton was also involved in this dialogue. In addition, Chairman Avraham Roet of Platform Israël mediated between the Association and the WJC. His talks with Singer, Steinberg and Becker revealed that the WJC was willing – informally at first – to agree to the Association's membership in the ICHEIC, on condition that the Association were willing to contribute to the commission's operating costs. Then, on March 24, Fischer sent Eagleburger a letter formally proposing Association membership in the commission. A reply did not come until early April, when Terwisscha and Fischer traveled to the states for discussions with Hill & Knowlton, various US insurance commissioners and European insurers, as well as talks with Eagleburger and the WJC. That very week, the US Senate Foreign Relations Committee held a hearing on the restitution of stolen art and unpaid insurance assets; the Eagleburger Commission convened as well. In the Senate hearing, WJC General Secretary Singer expressed praise for the Dutch approach. The Eagleburger Commission, along with the insurance commissioners and the WJC, decided in their meeting to accept the conditions listed in Fischer's March 24 letter. Aside from formal approval by the Dutch parties, one more question had to be dealt with before Association membership in the ICHEIC was a fact: who would bear the financial burden of contributing to the Eagleburger Commission's operating costs? After Terwisscha's and Fischer's return to the Netherlands, the Dutch parties gave their formal approval to Association membership in the ICHEIC and the three Dutch insurers active in the USA – Aegon, ING and Fortis (Amev) – agreed

to share the Dutch portion of the Eagleburger Commission's operating costs. They would ultimately contribute NLG 7.5 million in all.

As an ICHEIC member, the Association remained the first point of contact for all parties in the USA with regard to the 'Dutch system.' The main priority was now to see to it that the Dutch standards agreed upon for the SIVS's handling of claims were accepted in the USA as well. At this point there were still discrepancies between the ICHEIC and SIVS standards with regard to the handling of claims, the channels of appeal and audits — issues which the ICHEIC had not yet resolved in its own procedures, incidentally. The WJC also questioned why the Dutch deviated from the ICHEIC standards of proof and the interest factor to be calculated when compensating claimants. ICHEIC representatives visited the SIVS in October 2000 to discuss these differences.

Despite the WJC's opposition to the exceptions granted the Netherlands within the ICHEIC, Chairman Eagleburger insisted that the SIVS be allowed to maintain its standards for the settlement of claims. He agreed to the interest factor used by the Association and the SIVS, which meant that in the spring of 2001, the only outstanding matters of dispute were the need for an appeals procedure and an accountant's audit. The commission decided that the audit, which had been recommended by the Scholten Commission in its final report, would be carried out in consultation with the ICHEIC. After SIVS chairman Meindert Wijnholt indicated in March 2001 that the foundation would introduce an appeals procedure, the Eagleburger Commission and SIVS reached an accord. This was signed in the summer of that year. The ICHEIC could then begin sending claims submitted in the USA against Dutch insurers to the SIVS for handling. And thus ended the deadlock that began in late 1999 when the American parties refused to accept the Dutch agreement. The Association had joined the Eagleburger Commission on its own terms, on behalf of all Dutch insurers, easing the pressure that Aegon, ING and Fortis (Amev) had been under.[558]

Since then, the SIVS has continued handling claims and researching unpaid policies. In 2004, the details on another 1,369 policies were added to the list on the internet. Completely paid policies were removed from the list, and newly discovered policies were added. At the end of 2018, there were still approximately 2,000 policies listed online. The remaining requests were mostly in the category 'undocumented requests,' i.e. information requests from people who did not know whether a policy owned by their relatives was listed in any insurance company's files. In order to meet these requests, the insurers were given lists of these individuals' names which they could cross check against their own administrative records. The SIVS, in the meantime, searched the archives of other

[558] These developments are described in detail in Chapters 10 and 11 of *Strijd om gerechtigheid*, the original Dutch-language version of *Fighting for Justice*.

organizations where information on Jewish policyholders might be stored. The insurers were also asked to search for 'Jewish policies' that were not yet known of at the time of the Scholten Commission's study. An important result in this respect was the discovery of the archives belonging to the Noord-Hollandsche van 1891 insurance company, which contained a large number of policies representing a small insured value. The SIVS took on the responsibilities of the Noord-Hollandsche's legal successor, VIVAT/REAAL, seeing to the task of checking and advising on the claims related to these policies. In keeping with the November 1999 agreement which stipulated that archives containing data on wartime policies should be preserved, the Generali archives – which were among the most complete and accessible in the Netherlands – were turned over to the SIVS in 2011. A considerable proportion of the Nationale-Nederlanden policy records – which likewise held a substantial amount of data – were made accessible and digitalized by SIVS staff.

The result of all these efforts was, in some cases, following extensive research, the awarding of claims. In other cases, when it was proven that the policies had already been paid out, the claims were dismissed. When it could not be established that a policy had ever existed, the claim was dismissed as well. The following statistics, taken from the 2018 annual report, include claims sent on to the SIVS by the Eagleburger Commission, and represent the state of affairs as of the end of 2018:

| | |
|---|---|
| Number of claims submitted | 22,021 |
| Number of claims handled | 21,264 |
| Number of policies paid out | 2,086 |
| Number of beneficiaries | 12,834 |
| Total paid out | € 8,312,148 |
| Number of claims via ICHEIC | 1,756 |

The number of claims received by the SIVS since its inception clearly shows that there was a great need for a channel through which such claims could be submitted — a need which was met, thanks to the 1999 agreement. Originally, the SIVS was mandated to exist for ten years. However, because descendants were still submitting claims to the foundation nearly a decade later, the Association and the CJO considered it unthinkable that the SIVS would be disbanded in 2010. While the Eagleburger Commission ended its activities in 2007, a decision was made in 2009 to extend the SIVS's life until 2015. Later, another extension was added, bringing the end date to January 1 2020. In the meantime, it has been decided that the foundation should continue its work until 2025. The policy introduced by the Association in 1997 to strive for a dignified conclusion of the restoration of insurance assets not only satisfied a need in the Jewish community, but it also provided a badly needed opportunity for

Dutch insurance companies to come clean about the past. The November 1999 agreement finally, decades after the liberation, ensured the restitution of Jewish insurance assets that had been left untouched by the postwar restoration of rights.

Regina Grüter, October 2019

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