

DOCUMENT 16

[UNDATED] Confidential Memorandum from the State Department Member, SWNCC,
Subject: Hungarian – Jewish property found in Austria – so called “Hungarian gold train.”

In this document, the U.S. recognizes and explains the illegality of its conduct as well as the economic motivation behind its unlawful actions. This document is one of several so-called “smoking guns.”

“Delivery to the IGCR under Article 8 is inappropriate because the origin of this property is known. Since the property belonged to Hungarian Jews, it can and should be devoted specifically to the rehabilitation of Hungarian Jews rather than to the more general purposes specified pursuant to Article 8 [of the Paris Agreement]”

The secret memorandum also explains that turning over the property to the IGCR ***“would be a breach of faith with the Hungarian Government since this government promised in its memorandum of June 14 to return identifiable displaced property removed under duress from Hungary subsequent to October 15, 1945.”***

CONFIDENTIAL

Memorandum from the State Department Member, SWNCC

Subject: Hungarian - Jewish property found in Austria - so called "Hungarian gold train".

Reference: SWNCC 204/12

THE PROBLEM

1. To instruct CG, USFA with respect to the disposition of a train load of household goods and valuables looted from Hungarian Jews and now in the possession of U.S. Forces, Austria.

FACTS BEARING ON THE PROBLEM

2. The U. S. Forces found in Austria and now hold in the Military Government warehouse in Salzburg a train load of household goods and valuables described by cable from U.S.F.A. P 9355 (Appendix A).

3. The history of this property is set forth in identical letters dated July 12, 1946 from the American Jewish Joint Distribution Committee and the Jewish Agency for Palestine (letter annexed as Appendix B). The two organizations request that the property be turned over to them jointly for use in the relief and rehabilitation of Jewish victims of Nazi persecution on the same basis as heirless property under Article 8 of the Final Act of the Paris Conference on Reparation.

4. Article 8 of the Final Act of the Paris Conference on Reparation provided that "all the non-monetary gold found by the Allied Armed Forces in Germany" should be "allocated for the rehabilitation and resettlement of non-repatriable victims of German action". The five-power agreement of June 14, 1946 executed in implementation of Article 8 allocated "non-monetary gold" with other assets to the Intergovernmental Committee on Refugees for distribution to appropriate field organizations, and by an agreed letter to the Director of the ICGR designated as the appropriate field organizations to receive 90% of the proceeds the American Jewish Joint Distribution Committee and the Jewish Agency for Palestine. As originally drafted, it is doubtful whether Article 8 included Hungarian Jews among beneficiaries of the fund. By an interpretation agreed at the five-power conference victims of Nazi action nationals of other members of the Axis are included. This will

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become effective if no objection is sent to the French Government before September 1, 1946. (Report of the U.S. Representative, Document No. 4.) The Department has prepared a proposed directive to the U. S. Commanders in Europe with respect to turning over "non-monetary gold" to the IGCR, which is submitted along with this memorandum. The proposed directive includes "valuable personal property found which represents loot seized or obtained under duress from political, racial or religious victims by the Nazi Government or its satellite governments" found in the European Theater of Operations, but only if such property cannot be restituted to a government under the directives of this government because determination of national origin is impractical.

5. It appears from the letter of the Hungarian Prime Minister annexed to Appendix B that the Hungarian Government approves the use of these assets to serve the "social and financial restitution of Jews who fell victims to the above persecutions". This property was not discussed by the Hungarian Prime Minister during his recent visit to Washington to obtain the restitution of Hungarian property from Germany and Austria. It was apparently discussed in Berlin by the Hungarian Under Secretary Nyaradi; it appears from USPOLAD's 1661 from Berlin of July 5, 1946 that Nyaradi there proposed that assets of the "gold train" be turned over to a Jewish rehabilitation agency in Hungary.

6. The memorandum delivered to the Hungarian Prime Minister by the Under Secretary of State on June 14, 1946 stated, inter alia:

"Instructions are being issued to the American commanders in Germany and Austria to proceed with the restitution to Hungary of identifiable displaced property removed under duress from Hungary subsequent to January 20, 1945. The United States Government will instruct its commanders to expedite the return of such property and to advise without delay, for the information of the Hungarian Government, of their plans for the scheduling of the return of rolling stock and other transportation equipment. The United States Government will also give urgent consideration to the possibility

of issuing new directives authorizing the return of similar Hungarian property removed under like conditions between October 15, 1944 and January 20, 1945."

7. The property is subject to restitution to the government of Hungary under SWNCC 204/12 and does not appear to come within the exception: "Household goods, valuables, art objects and other personal property owned and removed from a country by refugees who left that country for religious or racial reasons and who choose not to return to that country, will not be subject to restitution." This exception was in fact designed to cover this particular case and failed to do so because of inaccurate information. Some of the owners are probably refugees, but they did not remove the property and it is doubtful that identification can be made. The property is not included in any lists thus far submitted by the Hungarian Government. By WARK 93185 of July 1, 1946 USFA was advised that pending further instructions restitution should not be made of property itemized in P 9355 (Appendix A.).

8. A State Department representative who recently inspected the property in the Salzburg warehouse advised under date of 3 July that it is not and probably cannot be adequately guarded, and makes a number of recommendations with respect to disposition. He recommends that a detailed inventory be made and reports that property is so commingled that identification of ownership if not impossible is administratively impractical. (See Appendix C.)

9. The Jewish population of Hungary has been estimated at 400,000 in 1939 and 200,000 in 1946. (Report of the Anglo-American Committee of Inquiry, April 20, 1946, Appendix III.) Of the missing, some are dead and some have emigrated. There is a steady flow of emigres from Hungary, most of them desiring to reach Palestine.

DISCUSSION

10. There are three possible courses with respect to this property: restitution to the Hungarian Government pursuant to SWNCC 204/12, delivery to the IGOR pursuant to Article 8 of the Final Act of the Paris Conference

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on Reparation, or delivery directly to the American Jewish Joint Distribution Committee and the Jewish Agency for Palestine by directive of this government.

11. The last possibility most nearly fits the equities of the situation. The property should in justice be returned to its rightful owners, and if that is not possible, is most fairly devoted to the succor of their people who have similarly suffered. If the two organizations agree so to use it, this objective can be directly attained, because they will make expenditures for Jewish purposes and are free to do so inside and outside Hungary. If restitution is made to the Government of Hungary, there is no assurance that it will be used for rehabilitation of Jews in view of the unstable financial position of the government and the pressures to which it is subjected; and in any event it will not aid Jews no longer in Hungary.

12. Delivery to the IGCR under Article 8 is inappropriate because the origin of this property is known. Since the property belonged to Hungarian Jews, it can and should be devoted specifically to the rehabilitation of Hungarian Jews rather than to the more general purposes specified pursuant to Article 8. It should be noted, however, that if this Government directs that restitution be not made under the directive relating to restitution to Hungary, the property then could fall within the proposed directive on "non-monetary gold".

13. The objections to delivery directly to the two organizations are:

a. This government and its representatives deal only with governments in matters of restitution. This principle is based on pragmatic considerations rather than considerations of justice. It is impractical to deal with a host of private claimants. There is no violation of the rationale of the principle in dealing with the two organizations which for financial purposes may be considered to represent the Jewish people. The exceptional situation of Jews who have been deprived of nationality or of its benefits has already occasioned exceptional treatment on an international level in many instances. It may be that certain types of property such as

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industrial and transportation equipment are a part of the national resources of a country so that the government may have a claim paramount to that of any private owner. If so, it can hardly be said of personal and household goods which are the object of private ownership under every system of government and which ordinarily go with a change of domicile.

b. To do so would be a breach of faith with the Hungarian Government since this government promised in its memorandum of June 14 to return identifiable displaced property removed under duress from Hungary subsequent to October 15, 1945. The Department is satisfied that the Hungarian Government has given sufficient indications that it would not so consider it.

(1) The Prime Minister gave to the Jewish Agency a letter requesting it to use its influence to the end that the assets might serve the social and financial resituation of Jews who fell victims to Nazi persecutions. That can most fully be accomplished by transfer to the Jewish organizations.

(2) The mission to the United States led by the same Prime Minister did not discuss this particular property although well known and of substantial value compared with other known collections.

(3) The property is not included among any claims filed by the Hungarian Government.

The Department is further satisfied that it would be impolitic to request further assurances from the Hungarian Government because the economic distress and the anti-Semitism prevailing in Hungary would make it politically impossible for the members of its government to surrender unequivocally and in writing any property to which it has a possible claim.

14. This paper assumes that the facts stated in the communications from the two organizations are demonstrable. It will be the responsibility of USFA to satisfy itself that the origin of the property is as stated before making delivery under its directive.

CONCLUSION

15. As a matter of policy, property found in Austria which USFA is reasonably satisfied was looted from Hungarian Jews should be delivered

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promptly to the American Jewish Joint Distribution Committee and the Jewish Agency for Palestine for use in the rehabilitation and resettlement of Hungarian Jews within and outside Hungary in the same manner as assets made available pursuant to Article 8 of the Final Act of the Paris Conference on Reparation, upon the conditions set forth in the draft cable to the CG, USFA annexed hereto as Appendix D.

RECOMMENDATION

16. It is recommended that the message annexed as Appendix D be forwarded to JCS for dispatch to CG, USFA.

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APPENDIX D

Draft cable from JCS to CG, USFA.

1. This is a further amendment WX 99226 on restitution to ex-enemy countries.

Reference your cable P 9355 of 4 June 1946. You will deliver promptly property there described which upon consideration of all facts known to you you are satisfied was looted from Hungarian Jews, together with any property held by you of like origin, to the accredited representative or representatives of the American Jewish Joint Distribution Committee and the Jewish Agency for Palestine on the following conditions:

a. That the organizations undertake to use the property for the rehabilitation and resettlement of Hungarian Jews in and outside Hungary in the same manner as assets made available pursuant to Article 8 of the Final Act of the Paris Conference on Reparation. This shall not be interpreted to require the earmarking of specific assets or the proceeds therefrom but will be satisfied by the devotion to such objects of an equivalent expenditure.

b1. That the organizations undertake to restitute to private owners specific identifiable property upon appropriate proofs of ownership to the extent administratively practical.

c. That before turnover of the property to the organizations an inventory be made by them with the participation or under the general supervision of your representative or representatives, which shall be certified by your representative or representatives as correct to the best of his or their knowledge and belief and shall form part of the receipt.

2. You will permit the property to be removed from Austria or if you and the organizations so desire, to be sold therein against a foreign currency, notwithstanding any laws or regulations to the contrary.

3. Without delaying execution of this directive, you will communicate the substance thereof to the Commanding General of the French Zone of Occupation in Austria and you will express to him the hope of your government that his government will see fit to give him substantially similar instructions with

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respect to assets of like origin found in the French Zone of Occupation
in Austria.

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