

Congress of the United States
Washington, DC 20515

October 19, 2020

Mr. Jeffrey B. Wall
Acting Solicitor General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Acting Solicitor General Wall,

We write to express concern about the recently filed brief of the United States regarding *The Federal Republic of Germany v. Alan Philipp, et al.* While we are not taking a position on this case, we write to emphasize the long held, bipartisan Congressional actions related to Holocaust-era artwork restitution, the timeline of the Holocaust, and the scope and nature of genocide.

We were concerned to read that the United States' brief for this case supports a German position that suggests that the sale of the cultural artwork collection in question was not forced based on the year of the sale. Germany has also argued that this forced sale of art to the Nazis does not count as "expropriation," or as an instance in which a right of property is made illegitimate when the country in question has violated international human rights law, as was true of Germany during the Holocaust. Germany ignores the fact that, by 1933, Jews had been eliminated from German economic life and that by then Adolph Hitler and the Nazi Party had complete control of Germany. This argument is at odds with facts and with decades of Congressional action. Support for this argument is antithetical to American policy and values.

According to the U.S. Holocaust Memorial Museum, laws passed by the Nazi Party in 1933 curtailed the rights of Jewish citizens and excluded them from German life; these laws would become the foundation for the Nuremberg Race Laws of 1935. To reject the actions of the Nazi Party before 1935 is to ignore the economic and societal pressures that threatened Jewish families.

In 2017, Congress passed the Justice for Uncompensated Survivors Today (JUST) Act. We applaud the Secretary of State's July 2020 report mandated by this law, where he stated: "*The Holocaust was also one of the largest organized thefts in human history. The Nazi regime's confiscation, seizure, and wrongful transfer of the Jewish people's property were designed not only to enrich the Nazi regime at the expense of European Jewry but also to permanently eliminate all aspects of Jewish cultural life.*" These conclusions have a direct bearing on the case at hand.

In 2016, Congress amended the provision of property recovery in the Foreign Sovereign Immunities Act. This legislative act specifically raised the availability of claims for Nazi looted

art. Additionally, in 2016 the Holocaust Expropriated Art Recovery (HEAR) Act ensured that Holocaust-era art claims are to be decided on the merits.

In the 2017 Elie Wiesel Genocide and Atrocities Prevention Act, Congress clarified the scope and nature of genocide, when it included “subject[ing] the group to conditions of life that are intended to cause the physical destruction of the group in whole or in part.” The United States’ brief instead echoes the German position noting that genocide is understood as involving infliction of physical killing and harm, but not economic crimes.

We request that your office consider amending your brief and look forward to your response.

Sincerely,



Grace Meng
Member of Congress

/s/ Ted Deutch
Member of Congress

/s/ Brendan F. Boyle
Member of Congress

/s/ Gregory W. Meeks
Member of Congress

/s/ Bradley S. Schneider
Member of Congress

/s/ Max Rose
Member of Congress

CC: Secretary of State Mike Pompeo