Chapter Nineteen

The Claims Resolution Tribunal

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A. Introduction

The Claims Resolution Tribunal ("CRT") in Zurich, Switzerland is among the most unusual international tribunals in history. What started as an international claims process to resolve Holocaust bank claims became an international judicial body working under the supervision and control of a United States federal court. For all practical purposes, the CRT became a Special Master of Judge Korman of the Eastern District of New York. Any awards it rendered required judicial certification, and any monies paid were through settlement funds deposited by the Swiss banks under a settlement agreement reached with the plaintiffs in federal class action litigation. Thus, the CRT is the principal, perhaps only, example of an international tribunal that fits a "Special Master Model" of international adjudication.  


2 Alford, Federal Courts, op. cit., at 760–772. With the Special Master approach, a national court utilizes the expertise of an international tribunal to assist in resolving certain questions with respect to liability or the distribution of assets under a settlement. Under Article 53 of the Federal Rules of Civil Procedure, the traditional role of special masters in the United States is to address judicial limitations or shortcomings in the adjudicatory system, such as time constraints, lack of expertise, or lack of skill in certain roles. The historical function of special masters has been ministerial, such as accounting or the calculation of
In May 1996, the Swiss Bankers Association and the World Jewish Congress established the Independent Committee of Eminent Persons to appoint an independent auditing company to audit the Swiss banks and to establish an international tribunal to resolve claims to dormant Swiss bank accounts. Although established by a Memorandum of Understanding between private parties – the World Jewish Congress, the World Jewish Restitution Organization, and the Swiss Bankers Association – it clearly had the imprimatur of the Swiss and Israeli governments. The purpose of the Claims Resolution Tribunal was to “establish an expeditious judicial process, working under liberal rules of evidence that would fairly and objectively determine the legitimate owners or heirs of the assets in dormant accounts identified by the auditors.” Reflecting the intended independence of the tribunal, Paul Volcker opposed the filing of the class action litigation in federal court by Holocaust victims against the Swiss banks, stating that it would cripple the resolution process being conducted by the Volcker Commission. However, the independence previously maintained between the tribunal and the New York class action litigation changed in 1998, when, with the court’s approval, the parties agreed, that any awards rendered by the tribunal would be used to reduce the amount owed under the U.S. $1.25 billion settlement. This change in the CRT’s mission is reflected in its procedures.

B. CRT I Procedures

The tribunal has had two distinct phases in its adjudicative process. During the first three years of its existence, under the CRT I procedures, the tribunal

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