

No. 23-867

**In the Supreme Court
of the United States**

REPUBLIC OF HUNGARY, ET AL.,
Petitioners,

v.

ROSALIE SIMON, ET AL.,
Respondents.

**On Writ of Certiorari To The United States
Court of Appeals For The D.C. Circuit**

**Amici Curiae Brief of The 1939 Society,
Bet Tzedek, Center for the Study of Law &
Genocide, and Loyola Justice for Atrocities
Clinic In Support of Respondents**

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BRIEF OF *AMICI CURIAE*

Amici The 1939 Society, Bet Tzedek, Center for the Study of Law and Genocide at LMU Loyola Law School, and Justice for Atrocities Clinic at LMU Loyola Law School submit this brief supporting Respondents Rosalie Simon et al.¹

INTEREST OF *AMICI CURIAE*

The 1939 Society, formed in 1952 as The 1939 Club, is one of the oldest and largest organizations of Holocaust survivors in the United States. Its members and officers have included Jews that appeared on Schindler's list, including former president Paul Page, a survivor of Schindler's factory who convinced Thomas Keneally to write the book *Schindler's List* and Steven Spielberg to make the film based on it. In 1978, the organization created the very first chair in Holocaust studies in the United States at UCLA (now called The 1939 Society Samuel Goetz Chair in Holocaust Studies, named after one of our former presidents who pioneered Holocaust education in the United States). Like tens of thousands of other Holocaust survivors, Page died while awaiting some measure of compensation for the wrongs he suffered.

With all the original members now deceased, and the remaining survivors in their golden years, the Society now consists of children and grandchildren of survivors and their supporters.

¹ No counsel for a party authored this brief in whole or in part. No person or entity other than Amici, their members, or counsel made a monetary contribution for preparation or submission of this brief.

Its primary mission is to develop Holocaust remembrance and education, and counter increasing Holocaust denialism.

Bet Tzedek (Hebrew for “House of Justice”), located in Los Angeles, California, is a nonprofit public interest law firm founded in 1974 to achieve full and equal access to justice for all vulnerable members of its community, and is an internationally recognized force in poverty law. Bet Tzedek is widely respected for its expertise on Holocaust reparations and has represented over 5,000 survivors and their families in reparations claims, free of charge. Bet Tzedek’s Holocaust Survivors Justice Network, a national coalition of law firms, corporate legal departments and Jewish social services agencies that was assembled to provide vital legal aid to Holocaust survivors, received the ABA Pro Bono Publico award.

Bet Tzedek has also litigated various Holocaust-era restitution cases, including the landmark *Grunfeder v. Heckler*, 748 F.2d 503 (CA9 1984), and has been amicus in many Nazi-looted-art cases, including *Republic of Austria v. Altmann*, 541 U.S. 677 (2004), and *Von Saher v. Norton Simon Museum*, 897 F.3d 1141 (CA9 2018) and No. 18-1057 (U.S. 2019).

The **Center for the Study of Law and Genocide** at LMU Loyola Law School, Los Angeles was inaugurated in 2008, the 60th anniversary year of the adoption of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention). The Center is uniquely the first of its kind at any U.S. law school

to focus on legal aspects of, approaches to, and solutions for genocide and mass atrocities. Through coupling intellectual research and practical advocacy, the Center focuses on the remedies and victims of genocide and mass atrocities, aiming to help survivors achieve justice.

Through partnerships with NGOs, prosecutors, tribunals, and advocates, the **Justice for Atrocities Clinic at LMU Loyola Law School**, Los Angeles seeks to hold perpetrators of mass atrocities legally accountable and work toward reparations for victims and survivors of international atrocity crimes—genocide, crimes against humanity, war crimes—and serious human rights abuses. The LJAC engages students in claims-based legal work in a wide range of domestic and international tribunals.

SUMMARY OF ARGUMENT

Ensuring justice for Holocaust survivors means that Rosalie Simon and those like her must be able to pursue cases in the United States, which is the only viable venue for such matters. Hungary's efforts to avoid responsibility and its attempt to legally destroy the expropriation exception must be rejected. Property theft from Hungarian Jews played a key role in the Holocaust in Hungary. The amicus brief from Germany should be discounted as an attempt to avoid taking responsibility for its own actions as the architect behind the holocaust in Hungary. The amicus brief from the United States is a surprising abdication of America's historic leadership role in obtaining redress for Holocaust victims.

ARGUMENT

With utmost respect for this Court, *amici* express their candid views. Our language is strong, but is meant to express our shock and anger at the arguments being made by defendant Hungary and *amici* Germany and the United States.

I.

NEITHER HUNGARY NOR ITS SUPPORTERS, GERMANY AND THE UNITED STATES, HAVE DEMONSTRATED GOOD FAITH HERE

Amici first address the deplorable positions taken by Hungary, Germany, and the United States.

A. Hungary Seeks to Legislate the Expropriation Exception Out of Existence by Judicial Fiat.

Amici are incredulous over the formalistic—and incorrect—hair-splitting scrutiny of the Foreign Sovereign Immunities Act’s (“FSIA”) expropriation exception that Hungary, a successor state to one of the Axis countries allied with Nazi Germany, hopes this Court will apply.

Just three years ago, in *Federal Republic of Germany v. Philipp*, this Court unanimously reaffirmed that the expropriation exception of 28 U.S.C. § 1605(a)(3) can apply to Holocaust takings.² *Philipp* remanded to the lower courts for only one question: Whether the plaintiffs had adequately pled that they were non-nationals of

² *Fed. Republic of Germany v. Philipp*, 592 U.S. 169, 185, 187 (2021).

Germany [and Hungary] ³ at the time of the takings. ⁴ That question was answered in the affirmative in this case. Plaintiffs-Respondents have cleared the citizenship hurdle and the D.C. Circuit has allowed those plaintiffs to finally be heard in the United States. The issue of non-nationality, therefore, is not before this Court.

But now, 14 years after the complaint was filed, and a decade after the district court ruled on Hungary's initial motion to dismiss based on subject matter jurisdiction, Hungary has come up with yet another set of supposed hurdles that must be cleared for this case to go forward under the expropriation exception. Despite Hungary's claims to the contrary, the circuit courts are more than capable of resolving—and the court below has resolved—these highly technical and increasingly arcane arguments that, if accepted, would legislate the FSIA's expropriation exception virtually out of existence by judicial fiat. ⁵ It is high time that Hungary stop dragging its heels in this litigation and face Plaintiffs' claims.

³ *Republic of Hungary v. Simon*, 592 U.S. 207 (2021) (argued and decided together with *Philipp*).

⁴ *Philipp*, 592 U.S. at 187.

⁵ *Amici* understand that a split in the Circuits is a reason for this Court to grant certiorari in order to provide uniformity in the judiciary's application of the statute, and that here there is a split between the D.C. and Second Circuits. However, the split is only on the showing required to meet the (a)(3) commercial nexus requirement, and it is *amicis'* contention that the D.C. Circuit got it right and the Second Circuit got it wrong.

**B. Germany Refuses to Take Responsibility
as the Architect of the Holocaust
in Hungary.**

Our outrage is multiplied by the fact that the Federal Republic of Germany, the legal successor state to Nazi Germany—which itself has paid billions of dollars in reparations to Holocaust survivors and has consistently admitted its wrongdoing as the Holocaust’s architect—would file an amicus brief supporting this bald attempt by Hungary to avoid accountability.

In its brief, Germany relies on procedural arguments to obscure the real issue, hiding behind legal formalities. Notably, it never mentions “the Holocaust,” “Jews,” “Nazis,” or “Hitler,” or the horror of the Holocaust in Hungary: 565,000 Hungarian Jews massacred in just three months, and their property systematically looted by German and Hungarian authorities before their deportations to SS-run death camps in German-occupied Poland.⁶

As organizations that have worked on behalf of and helped Holocaust survivors for the last 72 years, *amici* say to Germany: *You* started this and you made it happen. Take responsibility. Solve the problems created by your own actions. If you do not believe this suit belongs in U.S. courts, *you pay* for the significant loss of property stolen by the German and Hungarian Nazis, instead of doing

⁶ See *infra* Section II; see generally, Germany Amicus Brief for the Petitioners, *Republic of Hungary v. Simon*, 144 S.Ct. 2680 (2024) (No. 23-867).

everything in your power to foreclose the last available opportunity open to plaintiffs to do whatever they can to obtain the compensation to which they are rightfully entitled.

**C. The United States in its Amicus Brief
Abdicates Its Historic Leadership Role in
Obtaining Redress for Holocaust Victims.**

Amici's sense of outrage is no less directed at the U.S. government. After being the lead country for the last 80 years working for restitution to Holocaust survivors for the massive losses they suffered (going all the way back to the American Zone of post-war occupied Germany), to still today having a Special Envoy for Holocaust Issues in the State Department ("SEHI"), it is shameful to now side with Hungary's attempts to wriggle out from having the elderly survivors in this case finally get their day in court in the United States. *Amici* as U.S. entities are ashamed and dismayed to see this.

The United States says in its amicus brief that the reason it supports Hungary on certiorari is to promote a domestic remedy; i.e., a final resolution of this case in Hungary.⁷ But we all know that Hungary will not provide a domestic remedy to the 84-year-old plaintiff, Rosalie Simon, and her fellow elderly plaintiffs, or even pay them a pittance for all the property that they lost. If Hungary in fact

⁷ U.S. Amicus Brief for the Petitioners at 2, *Hungary v. Simon*, 144 S.Ct. 2680 (2024) (No. 23-867) ("The United States has a paramount interest in ensuring that its foreign partners establish appropriate domestic redress and compensation mechanisms for Holocaust victims and seeks to prevent litigation in U.S. courts that could undermine that objective.").

had any available domestic remedy, it would have been applied in the last 30 years since Hungary became free from communism and SEHI would have been working on it.

Since the end of World War II, both Congress and the Executive have consistently and uniformly passed laws and promoted policies aimed at providing a measure of justice for the mass thievery of the Holocaust. As Ambassador Stuart Eizenstat, Special Adviser on Holocaust Issues to Secretary of State Antony Blinken,⁸ has reminded us repeatedly, the Holocaust was “probably the gravest crime against humanity in recorded history and history’s greatest robbery—robbery of personal effects, art, property, insurance, the right to compensation for labor, and, ultimately, dignity.”⁹ Ambassador Eizenstat rightly describes the United States as the leader on post-war Holocaust restitution that has “provid[ed] the bench for future battles,” noting that for the first time—because of lawsuits brought in U.S. courts—“systematic compensation was

⁸ Ambassador Eizenstat has been appointed by every U.S. president since President Clinton to facilitate, negotiate, and plead the case for the return of property stolen from Holocaust survivors. He is a former Deputy Secretary of the Treasury, Under Secretary of State for Economic Affairs, Under Secretary of Commerce for International Trade, and Ambassador to the European Union, and is currently with the law firm of Covington & Burling. His biography is available at <https://www.state.gov/biographies/stuart-eizenstat/>.

⁹ Stuart E. Eizenstat, *Address at the 12th and Concluding Plenary on the German Foundation*, U.S. DEPT OF STATE: ARCHIVE (July 17, 2000), https://1997-2001.state.gov/regions/eur/holocaust/000717_eizenstat_german.html.

sought and achieved for individual civilian victims for injuries sustained by private companies as well as by governments—for everything from forced labor to lost property rights arising from bank accounts, insurance policies, artworks, and other physical property.”¹⁰

The truth of the matter is that the United States has been the *only* country where, for at least the last 30 years since the fall of communism, Holocaust survivors have been able to go to court to obtain a measure of justice for their material losses.

Even more, this Court has endorsed the use of U.S. courts by Holocaust survivors and their heirs to obtain redress by recognizing in *Republic of Austria v. Altmann* that the FSIA is a retroactive law that covers thievery that occurred during World War II. ¹¹ *Amici* respectfully remind the

¹⁰ Stuart E. Eizenstat, *Imperfect Justice: Looted Assets, Slave Labor and The Unfinished Business of World War II*, 343 (Public Affairs 2009).

¹¹ See *Republic of Austria v. Altmann*, 541 U.S. 677 (2004). Early on, the Court recognized that “[o]n its face, the language of the statute is unambiguous. The statute grants jurisdiction over ‘any nonjury civil action against a foreign state . . . with respect to which the foreign state is not entitled to immunity.’” *Verlinden B.V. v. Cent. Bank of Nigeria*, 461 U.S. 480, 489-90 (1983) (internal formatting and citation omitted). In *Verlinden*, the Court held that Congress validly “exercised its Art. I powers by enacting a statute comprehensively regulating the amenability of foreign nations to suit in the United States.” *Id.* at 493. Indeed, “Congress was aware of concern that our courts might be turned into small ‘international courts of claims[,]’ . . . open . . . to all comers to litigate any dispute which any private party may

Court that in *Altmann*, the United States similarly filed an amicus brief supporting Austria, another Holocaust perpetrator, to argue that the FSIA is not retroactive—a view which the Court rejected.¹²

have with a foreign state anywhere in the world,” and “protected against this danger.” *Verlinden*, 461 U.S. at 490. Thus, as long as “an action satisfies the substantive standards of the [FSIA], it may be brought in federal court” *Id.* at 490-91.

¹² See U.S. Amicus Brief for the Petitioners, *Republic of Austria v. Altmann*, 541 U.S. 677 (2004) (No. 03-13).

II. PROPERTY TAKINGS WERE INSTRUMENTAL IN THE GENOCIDE OF HUNGARIAN JEWS

This case is not a case of confiscated property from Jews by Nazi Germany and Nazi-allied Hungary. Rather, this is a case of the plan by the regimes of Nazi Germany and Nazi-allied Hungary to annihilate over six million Jews of Europe including 560,000 Jews in Hungary.

When the Nuremberg Laws were passed by Adolf Hitler and the Nazi Party in Germany in the 1930s, Jews were defined by German law as “*untermenschen*” (subhuman). Two-thirds of the Jews of Europe and one-third of world Jewry were annihilated as a matter of German or Hungarian law because Jews were not considered human beings, but rather they were alien beings, a Jewish “cancer” on German and European civilization.

In the words of Pulitzer Prize-winning Holocaust historian Saul Friedländer:

“[T]he pioneers of National Socialism . . . regarded ‘the Jew’ as the incarnation of evil itself, the archnemesis of Aryan humanity, who had to be combatted to death. The outcome of this apocalyptic battle was uncertain: a victory for the Jew would mean the death of Aryan humanity, while a victory over the Jew would be Aryan humanity’s salvation. Nazi antisemitism therefore did not just

aim to rid itself of Jews as individuals (first through expulsion and later through annihilation), but to extinguish every trace of ‘the Jew.’ Every area of human existence had to be cleansed: ancestry, everyday relations, public activities, the economy, spiritual and artistic life, and so on. Even religion needed to be subjugated to this new doctrine of salvation: converted Jews shared the fate of their ‘racial brethren,’ the Bible was Aryanized, and Jesus was recast as the Aryan savior of an Aryan Christendom.”¹³

As part of this process of Nazi Germany and Nazi Hungary, Jewish real and personal property was “legally” confiscated by the Nazi government of Germany and Hungary, from Jews. That would maximize the economic benefit to Nazi Germany and Nazi Hungary of annihilating the Jews in Europe.

A. Virulent Antisemitism in Hungary Began Long Before War Broke Out.

Antisemitism in Hungary had been growing since the end of World War I. In 1919, the Treaty of Trianon ended the war between the Allied Powers and Hungary, and with it, the Austro-Hungarian Empire—costing Hungary 67 percent of its former territory and nearly 60 percent of its former

¹³ Saul Friedländer, *A Fundamentally Singular Crime*, 36 J. HOLOCAUST RESEARCH 39 (2022).

population, who were fragmented into other nations.¹⁴

Hungary's Jewish population, an obvious minority, seemed to be suitable scapegoats.¹⁵ The fact that World War I had "enriched primarily Jewish suppliers of the war industry,"¹⁶ also rendered the Jewish population particularly vulnerable to being blamed for Hungary's losses at the end of the war.

The inter-war years did not improve matters, especially in light of the worldwide economic depression that plagued the 1930s.¹⁷ Between the 1920s and 1933, when Hitler came to power in Germany, antisemitism was reinforced in Hungarian universities and encouraged by professors and university authorities, thereby integrating hatred into the systematic framework of society to flush Jewish presence out of the higher-class jobs through Jew baiting and beatings.¹⁸ Arguably these teachings, combined with young professionals' "fierce and brooding chauvinism—another fatal gift of the Hungarian school system—predestined them for a marriage of

¹⁴ Gábor Kádár & Zoltán Vági, *Self-financing Genocide: The Gold Train, the Becher Case and the Wealth of Hungarian Jews*, 6 (Central European Univ. Press 2004).

¹⁵ *Id.*

¹⁶ *See id.*, at 7.

¹⁷ *See* Michael J. Jordan, *The Roots of Hate*, 27 *World Policy J.* 99, 103-04 (Fall 2010), <https://www.jstor.org/stable/40964063>.

¹⁸ János Kovács, *Neo-Antisemitism in Hungary*, 8 *Jewish Social Studies* 147, 151 (1946), <https://www.jstor.org/stable/4464719>

true minds with the Nazis of Germany without impediment.”¹⁹

On May 29, 1938, the Hungarian governing party instituted Act XV, called “Concerning the More Effective Safeguarding of a Balanced Social and Economic System,” which established two new professional chambers to limit Jewish ratios to 20 percent of the workforce for lawyers, doctors, engineers, press, theaters, and other white-collar jobs.²⁰

Later in 1939, Act IV, called “Concerning the Restriction of the Participation of Jews in Public and Economic Life,” went into effect, extending the criteria of the definition of “Jew,” prevented civil service, excluded Jews from the Parliament’s upper house, and marked the start of expropriation of Jewish owned farms.²¹ The Hungarian governing party passed several other laws to reinforce the “dejudification” of Hungary such as “Concerning the Protection of the Race” (Act XV, 1941), which prohibited inter-religious marriage; “Concerning the Jewish Congregations” (Act VIII, 1942), which deprived Jews of state subsidies and prevented Jewish conversion; and Act XIV, 1942, which prohibited military service and youth involvement in the Parliamentary Levente.²² These subsequent acts served to legally strip from Jews as a matter of

¹⁹ *Id.*

²⁰ *Id.* at 154-55.

²¹ *Id.* at 154.

²² *Id.*

law basic human rights afforded to Hungarian citizens.

Thus, at the onset of World War II, Hungary lay perfectly prone to Adolf Hitler’s ideologies—particularly entranced by Hitler’s promise that Hungary “recover the lands it had lost” and his “repudiat[ion of] the hated Trianon process and the rapacious reparations that accompanied it.”²³ Consequently, in 1940 Hungary forged an alliance *with* Hitler’s Germany,²⁴ and thereby *against* the Jewish people.

**B. Looting, Thievery, and Deportations
Leading to Mass Murder Erased Jewish
Existence in Hungary.**

For most of World War II, Hungary remained unoccupied by Nazi Germany, and its Jewish population remained largely intact. Unlike in the rest of Europe, original property takings in Hungary before 1944 were not methodical and regulated.²⁵ Property takings rather relied on pandemonium unified only by a common goal—to create a “greater Hungary”—while the means of achieving this goal blurred the ability to track

²³ Jordan, *supra* n.17, at 103-04.

²⁴ *Id.*

²⁵ See KÁDÁR & VÁGLI, *supra* n.14, at 85 (noting that governmental efforts to “collect and re-inject the enormous Jewish wealth into the Hungarian economy ended in an almost total failure”).

property and economic exchanges both domestically and abroad.²⁶

Everything changed on March 19, 1944, when the Wehrmacht officially occupied Hungary.²⁷ Shortly thereafter, Hitler sent Adolf Eichmann and his notorious *Sondereinsatzkommando* to Budapest.²⁸ With this, the looting and full-scale deportations in Hungary commenced with astounding speed.

The forced ghettoization of Hungarian Jews began on the first day of Passover in April 1944.²⁹ This ghettoization served as a dual-purpose tool: displacing the Jewish population while facilitating the mass appropriation of their homes, businesses, and personal belongings.³⁰ Jews were permitted to take only 50 kilograms of luggage with them, while the remainder of their possessions—furniture, valuables, food, and livestock—were quickly seized by the authorities.³¹ This method of expropriation ensured that Jews were not only removed from their communities but also left without any

²⁶ Raz Segal, *Beyond Holocaust Studies: Rethinking the Holocaust in Hungary*, 16 *J. of Genocide Research* 1, 4 (2014), <https://doi.org/10.1080/14623528.2014.878111>.

²⁷ Saul Friedländer, *Nazi Germany and the Jews 1939-1945: The Years of Extermination*, 613 (Harper Collins 2008).

²⁸ *Id.*

²⁹ Randolph L. Braham, *The Politics of Genocide: The Holocaust in Hungary*, 167 (Wayne State Univ. Press 2000).

³⁰ See Kádár & Vági, *supra* n.14, at 100; Dean Martin, *Robbing the Jews: The Confiscation of Jewish Property in the Holocaust 1933-1945*, 348 (Cambridge Univ. Press 2008).

³¹ See Martin, *supra* n.30, at 346.

material means to save themselves, making their eventual deportation and destruction all the more efficient and dehumanizing.

The systematic confiscation of Jewish property reached its peak in the spring of 1944, as Hungarian Jews were forced by the Nazi-collaborator Hungarian government to surrender *all* their valuables including gold, jewelry, wedding rings, and other family belongings.³² The scale of this theft was enormous: 800,000 Jews stripped of their possessions and 565,000 murdered.³³ Many of these stolen valuables were then meticulously cataloged and loaded on what became known as the Hungarian Gold Train (“the Werfen Train”), a convoy destined to transport this wealth westward. The wealth amassed on the Hungarian Gold Train was not just an accumulation of material goods, but a devastating symbol of the erasure of the former vibrancy of Jewish life, culture, and identity during the Holocaust.³⁴

³² Presidential Advisory Commission on Holocaust Assets in the United States, *Progress Report on: The Mystery of the Hungarian "Gold Train" 2* (1999).

³³ *Id.*

³⁴ See Zoltán Vági, László Csösz & Gábor Kádár, *The Holocaust in Hungary: Evolution of a Genocide*, 188 (Alta Mira Press 2013) [hereinafter *The Holocaust in Hungary*] (describing an extensive “inventory of [plundered] items in a Jewish apartment of Újkécske,” which included among many other items: “2 pcs wooden bed with mattress, . . . 1 pc chandelier with 4 lights, 5 pcs oil painting, 29 pcs picture frame with glass . . . 61 pcs book . . . 2 pcs soup dish . . . 1 pc milk pail”) (citing “Inventory of items in a Jewish apartment

The looting of Jewish possessions continued and even intensified in ghettos and collection camps.³⁵ During these final searches, not only were remaining possessions confiscated,³⁶ but Jews were stripped of their very identity.³⁷ Personal documents such as identification cards, diplomas, and military-service records were frequently destroyed—erasing from Jews their past lives and reducing them to nonpersons in the eyes of the Hungarian and Nazi authorities.³⁸ This final stage of looting exemplified the complete dehumanization of Hungarian Jews, as they were reduced to objects of exploitation.

Even Jewish bodies were reduced to a mere commodity during this time. For example, under Eichmann’s “Blood for Goods” plan, it was proposed that the Nazis would exchange a million Jews for 10,000 trucks, tea, coffee, and other goods to be sent to the Hungarians—i.e., the sale of Jewish human beings, their bodies, in exchange for

of Újkécske, May 23, 1944, Archives of Bács-Kiskun County, V-386, box 14”).

³⁵ The Holocaust in Hungary, *supra* n.34, at 105 (2013); Kádár & Vági, *supra* n.14, at 107.

³⁶ Kádár & Vági, *supra* n.14, at 106 (describing how Gendarmes used violent methods to confiscate any last possessions, even prying wedding rings from the hands of men and women with files and pliers, often cutting into their fingers in the process).

³⁷ Braham, *supra* n.29, at 137.

³⁸ *Id.*

material, non-living objects, to further their persecution and destruction.³⁹

**C. Seized Property of Hungarian Jews
Was Used to Fund Hungarian Economic
Development, as well as the Jews' Own
Genocide.**

The looting of Jewish properties served two financial purposes for Hungary.

First, the Hungarian government planned to use confiscated Jewish valuables to “support” the general Hungarian social welfare during the war: to “elevate the social standard[,] . . . help improve [Hungarian] public health, promote economic development and brotherly cooperation, which are needed throughout the entire Hungarian world.”⁴⁰ In turn, elite Hungarian officials plundered confiscated Jewish wealth for their personal use. Civilians followed suit, breaking into Jewish apartments and storage facilities, despite warnings not to. Indeed, “official pronouncements in the matter were partly ineffectual because it had become clear to everyone that the representatives of the authorities were leading the way in the plunder.”⁴¹

³⁹ Holocaust Historical Society, *Joel Brand - Blood for Goods* (Feb. 6, 2021), <https://www.holocausthistoricalsociety.org.uk/contents/naziseasternempire/joelbrand.html>.

⁴⁰ The Holocaust in Hungary, *supra* n.34, at 203 (referencing Andor Jaross, Minister of the Interior Speech at Nagyvárad (May 18, 1944)).

⁴¹ The Holocaust in Hungary, *supra* n.34, at 341.

Second, and most critically, confiscated property from Hungarian Jews subsidized their mass deportation and slaughter. In this manner, “Hungarian” national wealth would be relatively untouched throughout the genocidal pursuit. Indeed, the Hungarian government did not have to invest much into the “Jewish Problem.”⁴² The “Problem” would take care of itself by taking a self-financing form:

“The 1944 anti-Jewish campaign was indeed ‘self-financing.’ No independent budget existed for the plunder, ghettoization, and deportation [of the Jews]. The Ministry of Finance’s account (number 157.880) at the Postal Savings Bank partially covered the costs and was replenished from the sale of Jewish assets. This account also indirectly covered the daily salaries of the gendarmes, as well as ‘transportation costs’ for the deportees and the expense of building fences around the ghettos.”⁴³

That the Hungarian Jews financed their own “transportation” to death camps with their looted goods is not a detail to be forgotten. Indeed, the Hungarian State Railways (“MÁV”) widely collaborated with the Hungarian government.⁴⁴

⁴² See Martin, *supra* n.30, at 346.

⁴³ The Holocaust in Hungary, *supra* n.34, at 327.

⁴⁴ *Simon v. Rep. of Hungary*, First Amended Class Complaint, 2011 WL 11924164 (D.D.C. May 6, 2011).

It is not surprising, then, that similarly, plaintiffs' alleged that a majority of their property was confiscated at train stations, by Defendant MÁV authorities, or en route to the camps and ghettos.⁴⁵ Unsurprisingly, the confiscated property of the complaint matches property takings aboard the notorious Hungarian Gold Train and many of the takings conducted by senior officers replicate the unethical takings by Hungarian Authorities.⁴⁶

Notably, property confiscations were so paramount to the national Hungarian economy that seemingly no means of torture to obtain property from Jews was off limits.⁴⁷ It is no anomaly that as the German occupation in Hungary intensified, sanctioned takings of Jewish property expanded in terms of type of property seized and in terms of how such possessions were taken "legally"⁴⁸—not that the shadings of the law particularly mattered in practice during this era in Hungary.⁴⁹ Nevertheless, political intent and

⁴⁵ *Id.*

⁴⁶ Kádár & Vági, *supra* n.14, at 302.

⁴⁷ *See id.*, at 103-07; *see* The Holocaust in Hungary, *supra* n.34 at 191-95.

⁴⁸ *See* Kádár & Vági, *supra* n.14, at 88-89; *see* The Holocaust in Hungary, *supra* n.34, at 177-98.

⁴⁹ *See* The Holocaust in Hungary, *supra* n.34, at 202-04 (referencing Andor Jaross, Minister of the Interior Speech at Nagyvárad (May 18, 1944)) ("Our goal cannot be to protect the law at all costs. . . . In public administration procedures, I am not interested in whether a certain law has been followed. What I am interested in is whether through the implementation of laws, I have elevated the social standard, whether I have helped improve our public health.").

motivation can be demonstrated through such choices. Markedly, “the summer of 1944 marked one of the all-time moral low points in Hungarian history: The state sent its officials to brutally search little girls’ vaginas in search of ‘the national wealth’ they might have hidden there.”⁵⁰ Indeed, the economy and war efforts depended on this plundered Jewish wealth and no method, not even the violent assault of young girls’ genitalia for a small valuable, was unthinkable. Rather, it was prescribed.

D. Secondary Takings of Hungarian Jewish Property Prevented Traceability in the Post-War Period.

By the time the war had ended, a majority of stolen Jewish valuables and properties in Hungary had been sold.⁵¹ New owners of these Jewish valuables refused to return their newly acquired goods or rather resold the goods, blurring traceability. This dichotomy between a violation of Jewish rights because of a lack of property restitution versus a legal offense of non-Jews forced to return property they “viewed as their own” fueled already prevalent tensions in Hungary and abroad over property restitution.⁵² Similarly, the reselling of goods further amplified the complexity

⁵⁰ The Holocaust in Hungary, *supra* n.34, at 195.

⁵¹ *Simon*, 2011 WL 11924164 (D.D.C. 2011); Borbála Klacsmann, *Neglected Restitution: The Relations of the Government Commission for Abandoned Property and the Hungarian Jews, 1945–1948*, 9 *Hungarian Hist. Rev.* 512, 521 (2020), <https://www.jstor.org/stable/26984147>.

⁵² *Id.* at 520.

of property identification and the commingling of wealth into the greater economy and beyond.⁵³

Thus, the Jews that already had lived through the initial taking of their property by the Hungarian government now faced a double or secondary theft as a result of government action.⁵⁴

III. CONCLUSION

The pursuit of justice for Holocaust survivors and their heirs is a solemn obligation. Rosalie Simon and the other plaintiffs have availed themselves of U.S. courts as they pursue the only viable avenue of relief available to them. Hungary's efforts to avoid responsibility for its actions, bolstered by Germany's and the United States' specious, bewildering, and just plain wrong submissions, must not be accepted.

Accordingly, *Amici* urge this Court to remand for further proceedings on the merits.

Respectfully submitted,

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⁵³ *Id.* at 521.

⁵⁴ *Id.* at 525.

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