

2. A professional organization for provenance researchers should be set up and they, like any other professionals, should be required to adhere to a code of ethics.
3. Governments should publish a simple how-to pamphlet to help claimants initiate cases. These could be widely distributed by the relevant agencies and concerned organizations.
4. The massive research that has already been done by commissions and independent researchers and in private litigation should be collected and made available, at the very least, to professional provenance researchers. Endless time and funds are wasted by repetition of research. Legal decisions in restitution suits should be published and explained, including the reasons for settlements. To protect privacy the exact amounts of any funds exchanged could be redacted. This would provide a body of precedents for future actions and guarantee more consistency in results. The present reliance on media reports on these cases is not acceptable as they are often inaccurate and, depending on who was interviewed, may distort the actual result.
5. In order to protect the rights and reputations of current good faith owners, previous claim settlements should be carefully analyzed and not voided frivolously. Current good faith owners deserve the same respect as claimants. After seventy years, we should find ways to compensate good faith owners or, at the very least, protect them from defamation.
6. The revised principles, or declaration, should condemn any distortion and exploitation of the events and emotions of the Holocaust for political or financial gain.

To conclude, I think we must realize that it is our responsibility to be fair and avoid compounding injustice. The revival of restitution has done tremendous good and righted many wrongs. It will continue to do so as long as it remains honest. This good must not be undone by narrow agendas, excessive greed or false morality. Seventy five years after the beginning of the Nazi era, it is time to work out sensible solutions.

► **Jean-Pierre Bady**

CIVIS, FRANCE

RESTITUTION AND COMPENSATION IN FOUR COUNTRIES OF WESTERN EUROPE: BELGIUM, FRANCE, LUXEMBURG AND THE NETHERLANDS

This summary first reviews the key provisions introduced in each of the above countries in order to provide restitution of, or compensation for, spoliated works of art. Second, it provides an overview of the current perspectives, which are often shared by the countries in question.

I. GLOBAL SUMMARY

A) ANALYSIS BY COUNTRY

BELGIUM

The investigation, identification, restitution, and compensation process was conducted in several phases.

General Information

A Study Commission, chaired by M. Buysse, carried out research on the assets belonging to the victims of the persecution of Jews. As a result of the Study Commission's conclusions, which were included in its final report, an Indemnification Commission was established. Following negotiations with the Belgian Jewish Community's National Commission, the amounts identified and updated by the Study Commission were deposited by the State, the banks and the insurance companies into a special account of the National Bank of Belgium and made available to the Indemnification Commission in order to compensate the victims or the heirs up to third generation descendants. The Indemnification Commission was set up by the Act of December 20, 2001 which also governs its activities. Its fundamental purpose was to make restitution to the victims in the form of compensation for the assets identified by the State, the banks and insurance companies. The compensation is not intended to cover the value of the assets in the condition that they were in on the eve of WW II.

The mandate of both of the above commissions was limited in time. The work of the Indemnification Commission was completed at the end of December 2007, after having dealt with 5,210 cases in a total value of EUR 35.2 million. The Act of December 20, 2001 provided that the non-allocated amounts should be transferred to a charitable foundation for the benefit of the Jewish Community.

Cultural Assets

Both the Study Commission and the Indemnification Commission contributed to the resolution of the cultural asset issue. The Study Commission investigated the spoliation of these assets

together with the largest cultural institutions, and published its findings and its results. In some cases, the assets were actually returned. On the basis of the reports issued by the "Restitution of the Spoliated Jewish Cultural Assets" unit, the Indemnification Commission, in many cases, granted financial compensation for the works of art which had been sold in the postwar period for the benefit of the Public Treasury.

The investigations and the restitutions have not yet been fully completed, and the research of the cultural assets continues under the guidance of the SPP Science Policy's "Restitution of the Spoliated Jewish Cultural Assets" unit, whose activities are similar to those of the former Office for Economic Recovery. The most important federal cultural institutions fall within the competence of the SPP Science Policy.

In the 1950s, the retrieved cultural assets which had been spoliated were registered in the inventories of the relevant (federal cultural) institutions.

FRANCE

General Information

In 1997, the public authorities set up a "Study Mission on the Spoliation of the Jews of France" chaired by M. Mattéoli. This body investigated the spoliation suffered by the Jews during WW II, and recommended the establishment of a compensation commission under the name of CIVS (Commission for the Compensation of Victims of Spoliation pursuant to the anti-Semitic legislation in force during the Occupation). The CIVS provides compensation for all tangible and financial assets spoliated

(apartments, workshops, businesses, bank accounts). To date, about 26,000 cases have already been examined, the overall value of which is EUR 420 million. The CIVS has, therefore, been given a very broad mandate, namely the power to make compensation for all of the spoliated assets. No deadline has been provided for the submission of applications, no limitation of funds was planned in advance, and the mandate of the Commission is also unlimited in time. Every month, the Commission receives about eighty applications from individuals with a more distant degree of relationship than that accepted in Belgium.

Cultural Assets

Regarding the restitution of the spoliated works of art, France has been trying since the end of the war to find the owners of the works of art found in Germany. Out of 65,000 works of art retrieved, 45,000 were returned, 15,000 secondary works of art were put on sale by the Property Management Office, and 2,000 of them were given a special MNR status. The “*Musées nationaux Récupération*” (National Museums Recovery Program) includes works of art retrieved from Germany following WW II which could not be returned to their legitimate owners and which were entrusted by the Office of Private Goods and Interests to the Administration of the Museums of France. It also includes works of art proceeding from the trade in objects of arts. The French legislation stipulated that the above works of art are not included in the heritage and have a different status. The French state is not the owner, but instead solely a “holder” of these assets. These MNRs (2,000 works of art) have been subjected to an in-depth study and, since 1950, it has been possible to reconstitute more than 200 of them. For such restitutions, it is sufficient to have an order issued by the Minister of Foreign Affairs; they are therefore relatively easy due to their special status.

At present, France’s research focuses above all on the works of art with a MNR status, and it has recently launched new initiatives (the exhibition at the Museum of Art and History of Judaism and the international symposium held in 2008) to find the owners of these works. A list of these works is available both in hard copy and on a website.

The CIVS was asked twice to recommend the restitution of very important works of art (Picasso, Vernet) and has proposed mediation regarding a major work by Braque; compensation was awarded to the beneficiaries who agreed that the painting could remain at the *Musée National d’Art Moderne*. However, its key role is related to *the compensation* of the dispossessed owners whose works of art were not found. When reviewing individual applications, the CIVS either *finalizes* the compensation already granted by the German government (the BRÜG Act), or *provides full compensation* on the basis of the value of the relevant works at the time of spoliation. Although the number of works of art dealt with by the CIVS is relatively small (1 percent of all of the cases), the amount of the relevant compensation is very high (EUR 25 million to date).

LUXEMBOURG

The number of works of art spoliated was relatively limited. On the basis of testimonies from the postwar period, it was possible to establish a list of some forty paintings that had belonged to Jews. Most of these works were created by Luxembourg painters, mainly by Guido Oppenheim, who was himself deported to Auschwitz at the age of 82. None of these paintings were found. The Luxembourg Office of Economic Restitution (OREL) has reported that some paintings were found in Germany but due to

inexistent documentation, no information on this research is available. Most of the works of art were confiscated in the residences of the Grand Ducal family and in the homes of the members of the government in exile. All of the works which could be found, thanks also to the cooperation of the occupying powers in Germany, were taken to Luxembourg and restituted. A painting by Cranach, sold by its owner to a Dutch merchant Kajetan Mülhman, had ended up in Herman Göring's collection. As this sale was considered illegal (no permission had been granted according to Luxembourg or German law), the government recovered the painting as a national asset and entrusted it to the National Museum of History and Art.

In general, we can say that recovery of and/or compensation for the spoliated works of art has not yet caught the attention of either the public or the government. The major issues of the post-war period were reconstruction (one third of the country having been devastated by the Battle of the Ardennes), supplies (Luxembourg depended largely on Belgium as they were joined in an economic and monetary union) and repatriation (of 4,000 persons forcibly relocated to Silesia, 4,000 political deportees, 10,000 young people forcibly enrolled in the German army, and 50,000 refugees, out of Luxembourg's total postwar population of 290,000 people).

Moreover, the War Damage Compensation Act excluded all "luxury" goods such as works of art. However, a few years ago, the Grand Lodge of Luxembourg was able to recover its archives, which had been found in Moscow.

An exposition on the spoliation of cultural assets, organized by the Museum of History of the City of Luxembourg in 2005 (The Great Spoliation) presented this issue to a very interested

audience but it was impossible to persevere with the research. No painting by a grand master belonging to a Luxembourg citizen disappeared during the war. Although the issue of the refugees, namely Jews, still remains open, the relevant documentation is unfortunately insufficient.

THE NETHERLANDS

General Information

In the Netherlands, the public authorities have opted to grant the same compensation to all victims of Nazi persecution for assets or possessions lost or spoliated. The selection of such a policy has enabled the authorities to pay special attention to research on and restitution of confiscated cultural assets.

Cultural Assets

In relation to the cultural assets, the "*Herkomst Gezocht*" Commission, better known as the "*Ekkart Commission*," has conducted extensive research and provided advice to the Minister of Education, Culture and Science as to the policy to pursue. Its research was focused on the NK works and on the cultural assets which have been transferred to the (Royal) Museums of the Netherlands. The spoliated goods which have been retrieved but which it has not been possible to return are owned by the State and are "lent" to the museums.

The opinions of the *Ekkart Commission* were followed and the government set up an independent advisory committee to evaluate individual restitution requests. According to the choice of the parties, this Committee expresses an opinion, either binding or not, on an

application for restitution of a spoliated cultural asset. About 600 to 650 works of art have already been restituted in this way.

Similarly to France, exhibitions have been organized displaying some of the works of art spoliated during WW II. Reports have also been published in hard copies, on CD-ROMs, and also on websites. The Netherlands are actively trying to find the heirs.

A new program focused on the research of the provenance of works of art has been envisaged for the period 2009–2012. It will be led by the “*Vereniging van Nederlandse Musea*,” will cover the period between 1933–1948, and will focus on museums other than the royal museums.

There is a question of whether this system, aimed at verifying the alleged provenance of the assets spoliated in this period, can be recommended to other countries. The success of such research depends largely on the organization, operation, and co-operation of the museums in terms of facilitating the access to the available inventory and checking its reliability.

B) BRIEF COMPARATIVE STUDY

SIMILARITIES

- ▷ General intensification of work since the Washington Conference (1998);
- ▷ Preliminary historical research due to the establishment of specialized commissions;
- ▷ Pro-active restitution policies;

When restitution is not possible, an individual or collective compensation policy is adopted (by allocation of funds to organizations such as foundations) (Belgium, France).

DIFFERENCES

- ▷ The “ad hoc” responsibility of the Commission is either large (France: all confiscated goods, Belgium) or limited to works of art (the Netherlands);
- ▷ Different status assigned to recovered works whose owner(s) has not yet been identified:
 - A special status: France (MNR);
 - Added to national collections (Belgium, Luxembourg, the Netherlands);
- ▷ Different length of time spent on the investigation of the cases: no limit (France), a set deadline (Belgium), with the option of a later introduction of the individual cases of works of art;
- ▷ Different bases for compensation:
 - Belgium (third generation);
 - France (all generations);
 - The amount of the compensation is assessed either at the historical value (France), or at the current value of the work (Belgium).

II. CURRENT OUTLOOK

The four European countries which were the subjects of this review are facing very similar problems, although their solutions may be different due to the differences in their respective national legislations.

At present, the above countries are facing the following issues:

INVESTIGATIONS INTO THE PROVENANCE OF CULTURAL ASSETS WHICH HAVE FALLEN INTO THE PUBLIC DOMAIN OR ARE PART OF PRIVATE HERITAGE (STUDIES OF PROVENANCE)

- ▷ The identification of assets “owned” by the State (national museums, etc.) raises the question of provenance of a specific work of art and of the terms and conditions of its purchase. *How should such investigations be conducted and how to should the field of research be defined? Which period should be reviewed? When can the price be considered to be inadequate?*
- ▷ Identification of assets which are part of private heritage. *To what extent can we investigate this field (in art galleries)? What are the possible objections in terms of practice and legislation?*
- ▷ Public awareness. *Is it sufficient just to organize expositions and publish catalogues in a more systematic way? What new initiatives can be taken?*

STATUS OF THE CULTURAL ASSETS IDENTIFIED

There are several possible alternatives:

- ▷ Cultural assets that are identified as being in the public domain, yet we know with certainty that they were spoliated from members of the Jewish Community, and their owner at the relevant time is known: *restitution is possible and necessary. What legal formalities are necessary to change their status from public domain to private property?*
- ▷ Cultural assets that are identified as being in the public domain, we know with certainty that they were spoliated from members of the Jewish Community, and their owner at the relevant time is not known: *Which status should be attributed to such works? Should we consider a change of the status already attributed?*
- ▷ Cultural assets that are identified as being in the public domain, are of doubtful origin, for example because of the date of their purchase, but it is not certain they were spoliated from members of the Jewish Community: *Is it necessary to invite the relevant museums to perform systematic research of the provenance themselves, even if it means that it would challenge their status, or should they instead wait for the results of the investigations conducted by the applicants themselves? Could both of the above approaches possibly be combined to enable smooth and efficient cooperation?*

SPECIAL QUESTIONS

To date, other questions have been raised as well:

- Should the possibility of reviewing the limit of the degree of kinship be considered, e.g., such as the third generation limit in Belgium? Should such a limitation be introduced in France (CIVS)?
- Should a deadline be defined within which the heirs must submit a claim? Is it necessary to introduce in France the same deadline as in the other countries?
- What should be done with recovered property if compensation has already been granted? Should property that has finally been found still be returned if the compensation already received is paid back? What authority should then receive that returned compensation?

Conclusion

The conference held in Prague in June 2009 should help to further improve the understanding of the various restitution or compensation schemes introduced by the four Western European countries discussed above, evaluate the solutions they have envisaged, and investigate possible improvements in the activities which are at present undertaken by their leaders. Finally, we should consider whether the solutions adopted by these countries are transferable to other European countries.

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FRITZ GRÜNBAUM'S STOLEN ART COLLECTION: LEGAL OBSTACLES TO RECOVERY¹

Fritz Grünbaum was a famous Jewish cabaret performer and radio and film star in Vienna, Berlin, and Munich.

Fritz Grünbaum was born in Brno, Moravia on April 7, 1880. He was arrested on March 22, 1938 by the Gestapo and put into the Dachau Concentration camp. He died in Dachau, penniless, on January 14, 1941. His wife was deported to the Minsk death camp and died in 1942. Grünbaum amassed a collection of 449 artworks, including 81 Schieles, among them Egon Schiele's famous *Dead City*.

Today, *Dead City* is at Austria's Leopold Museum in Vienna. Fritz Grünbaum's Schieles are now at New York's Museum of Modern Art (the MoMA), the Morgan Library, the Art Institute of Chicago, Oberlin College, the Estee Lauder Trust, and concealed in many private collections. Austria's Albertina museum has a number of Grünbaum's Schieles. The Leopold has at least thirteen of Grünbaum's Schieles.

Despite the efforts of New York District Attorney Robert Morgenthau, who seized *Dead City* at the MoMA in 1998, and teams of researchers and lawyers in numerous countries, none of Fritz Grünbaum's works have been returned to his heirs. Austria has

¹ Documentation: <http://artstolenfromfritzgrunbaum.wordpress.com>. Sources: Lillie, Sophie. "A Legacy Forlorn: The Fate of Schiele's Jewish Collectors". Printed in: The Ronald Lauder and Serge Sabarsky Collections, Neue Galerie 2005.

violated Article 26 of its 1955 Austrian State Treaty with the United States by failing to return property stolen from Jewish victims of Nazism. Without Austria living up to its 1955 promises, the victory over Nazism will remain a sham. Without Switzerland and the USA renewing and making a reality the Clinton-era commitment to restitution of stolen property, the Washington Principles will remain empty promises.

Below, I have taken examples from the Grünbaum case to illustrate legal and practical obstacles to claimants of property stolen by the Nazis remaining in 2009.

- ▷ Inaction and Stonewalling
- ▷ Concealment and Cost
- ▷ Blaming the Victims
- ▷ Deception or Evasion
- ▷ Privilege
- ▷ Denial of Criminal Acts
- ▷ Laundering
- ▷ Confidentiality
- ▷ Holocaust Denial

Austrian Obstacles

The seizure by D.A. Robert Morgenthau at New York's Museum of Modern Art of Grünbaum's *Dead City* and Schiele's *Portrait of Wally* and the Washington Conference are considered to be the impetus for the legislative reforms enacted in Austria in the late 1990s. Article 26 of the 1955 Austrian State Treaty requires Austria to return all property taken from Jews as a result of Nazi persecution. Austria's failure to return property to victims of Nazism is a breach of this Treaty, which is Austria's very constitutional foundation. After 59 years of Austria treating its commitment with contempt, it is clear that there is no political will within Austria to return property stolen from Jews.

Austria has perhaps in other cases recently engaged in restitution. Austria has made research efforts (unfortunately published only in the German language) and according to various reports has taken hesitating steps towards restituting stolen property. But in the Grünbaum case, Austria has violated the Austrian State Treaty and merely put up a pretense of restitution. In the many years of the Bush/Cheney Administration following the Washington Conference, Austria has done nothing to reconstitute Grünbaum's works to his heirs.

Inaction and Stonewalling

One obstacle the Grünbaum heirs have encountered is a simple lack of action or cooperation from authorities. Despite claiming that it was going to research its collections and return stolen artworks, Austria has failed to do so. The Albertina museum has never even responded to a claim by Fritz Grünbaum's heirs for the return of Grünbaum's Schieles. Nor has Austria issued provenance reports on the Schieles in Austria's Albertina museum.

Deception or “Evasion”

Another obstacle to recovery of artworks stolen from Fritz Grünbaum is Austria's creation of the “private” Leopold Museum, which is owned in the form of a foundation. By placing stolen assets into a foundation that it owns and claiming that the foundation is “private,” Austria has so far evaded its obligations under the Washington Principles.

Article 26 of Austria's State Treaty forbids the Republic of Austria from owning artworks looted from Jews. By creating the Leopold Foundation to conceal its ownership, Austria has violated the treaty. Austria purchased a 50 percent interest in the Leopold Museum. Upon the death of Leopold and his wife, Austria will own 100 percent. Austria has exempted Leopold from a law requiring the return of stolen property.

Switzerland has simply turned its back on the issues of art looting and restituting artworks to the Jews and other Nazi victims from whom they were looted.

Laundering

Switzerland has been used as a place to launder stolen art. On January 5, 1943, the Allied Powers warned Switzerland that transactions in property from Nazi-occupied territories would not give the acquirer good title. Swiss art dealers continued to avail themselves of a law that permitted an art dealer to acquire stolen property and to acquire good title after five years of the property being held in Switzerland. Shortly after the Allies vacated Vienna in 1955, the Swiss market was flooded with artworks stolen from Jews.

In 1956, 80 percent of Fritz Grünbaum's Schiele collection was sold in Switzerland by Eberhard Kornfeld, who knew that *Dead City* was owned by Grünbaum. Kornfeld purchased the stolen Grünbaum works only weeks after selling a major part of the Albertina's collection from Abertina director Otto Benesch. Switzerland has failed to investigate Kornfeld. Swiss legal experts still claim that Switzerland's five year statute of limitations on laundering stolen property still applies. Apparently, the Swiss have changed this statute of limitations, but Swiss legal experts are still urging its application to Nazi looted artworks.

Concealment and Cost

It is impossible to gain access to original provenance documents without the consent of the Swiss art dealers. Thus, when our handwriting experts found “massive doubts” regarding the handwriting in Eberhard Kornfeld's provenance documents, our experts were effectively blocked from inspecting the originals by Kornfeld's refusal to have handwriting experts from the Viennese police inspect the documents in Switzerland. For handwriting experts to compare original documents in Vienna and Switzerland it is necessary to transport them and their equipment (microscopes and scanners) at enormous cost. Given the blocking, even if we were willing to meet the cost, we were unable to obtain definitive proof of forgeries acceptable to a US court.

US Obstacles

US museums, auction houses, and owners of Nazi-looted artworks have failed to live up to the Washington Principles. Under the Bush/Cheney Administration, the USA failed to create a restitutional commission, has permitted government-subsidized museums to cloak their activities in privilege and secrecy, and

has failed to compel museums to publish provenance and research collections.

Government-subsidized and tax-exempt museums have sued Jewish claimants seeking declarations of title to stolen Holocaust-era artworks in their collections. During and after World War II, US museums went on a spree of buying stolen Nazi-looted art. Despite such purchases of stolen property being considered a crime in the USA, the museums have failed to take responsibility for these crimes or to retribute the proceeds of these crimes. For the most part, the Department of Justice and local criminal investigators have done almost nothing to assist the victims of these crimes.

Privilege

US museums claim to be “private” in ownership when they wish to conceal information. They claim to serve the “public” trust when they reject claims to stolen property in their collections. They are generally tax-exempt entities and usually receive outright subsidies from the state or federal governments. Museums use the claim of “attorney client privilege” to conceal their research into the provenance of their collections. They hire outside lawyers. They then conceal this research from the public. This has happened in the Grünbaum case, particularly with Oberlin College’s research into the provenance of Schiele’s *Girl with Black Hair*. If claims are made, museums will often research and resolve the claims behind a wall of secrecy, meaning that the public will not receive any understanding of the scholarship in which they engage.

Confidentiality

Auction houses claim that the identities of purchasers and sellers of Grünbaum’s artworks are “confidential.” Thus, when served

with a subpoena, Sotheby’s, Christie’s and the Galerie St. Etienne obtained a court order blocking revelation of who was trafficking in the Schieles stolen from Grünbaum. These blanket assertions of confidentiality have made Grünbaum’s collection impossible to trace.

Falsification

US museums, colleges and auction houses routinely publish incomplete or falsified provenances. For example, we all know that Egon Schiele was an Austrian artist. We know that Eberhard Kornfeld, Rudolph Leopold and Jane Kallir have all said that the contents of Kornfeld’s 1956 Schiele sale came from Grünbaum’s collection. This was documented by Sophie Lillie many years ago in the scholarly literature. Yet a visit to Oberlin College’s website lists the earliest provenance as “Berne 1956.” A visit to the MoMA’s website shows “Gift of Otto Kallir” as the earliest provenances of other Schieles stolen from Grünbaum. Museums and colleges routinely publish these false and incomplete provenances of works entering the US after 1933 that were created before 1945. This falsification is rampant and violates the Washington Principles.

Legal Defenses: Statute of Limitations or Blaming the Victim

Museums in the USA have taken to blaming the victims of Nazism for asserting claims belatedly and use statutes of limitation to avoid resolution of claims on the merits. Certain US jurisdictions require heirs to act within a “reasonable” time from discovering their losses. Such requirements impose unreasonable burdens upon descendants of Holocaust victims. In the case of Fritz Grünbaum, most of his immediate family was murdered. His sister lived in the Czech Republic under Soviet Communism that did not

permit private property claims to be pursued in multiple jurisdictions. Imposing legal defenses based on limitations is unfair, inequitable, and runs contrary to the Washington Principles, which urge that matters be resolved on the merits of whether or not the property was stolen.

Equitable Defense: Laches or Denial of Responsibility for Receiving Stolen Property

During World War II and immediately afterward, US museums were warned by the US government against acquiring artworks from Europe that did not have clear provenances¹. Throughout the USA, purchasing stolen property is a crime. Thus, US museums purchasing or accepting as gifts artworks without provenance documentation were committing a crime or facilitating criminal actions after being warned not to do so.

In certain cases, US museums directly financed the Nazi war machine by buying through Nazi authorized dealers such as Karl Buchholz and Curt Valentin in New York, or indirectly through Theodor Fischer, August Klipstein or the FIDES Treuhand (a subsidiary of Credit Suisse) in Switzerland. The consequence of these criminal museum actions was that from 1945–2009, two generations of owners of property have been deprived of their rightful belongings.

Rather than accepting responsibility for these criminal actions and taking steps to remedy such actions by engaging in restitution, US museums have claimed that they hold stolen artworks as a matter of “public trust” and that such “public trust” requires them to hold stolen artworks if claimants do not prove

100 percent airtight evidentiary cases. Rather than serving the public trust, the museums, by asserting laches defenses, compound the injury to Holocaust victims and their survivors by continuing to display stolen works to the US and international public. Exhibiting stolen art and hiding provenances teaches the viewing public Holocaust denial and continues the decades-long deprivation.

Equitable Defenses: Holocaust Denial

US museums and holders of stolen property argue that they were good faith purchasers of artworks stolen from Fritz Grünbaum. Many of Schiele’s major collectors were murdered Jews. Schiele was virtually unknown outside Austria prior to WW II. During World War II and in its aftermath, government warnings, press reports, and general public consciousness of Nazi massacre and looting, in particular art looting, were widely reported. Yet museums and others argue that they were “good faith purchasers” when buying undocumented European artworks during and after WW II.

Auction houses such as Sotheby’s propagate the myth that the Holocaust and art looting were unknown in the USA until the mid-1990s when Lynn Nicholas published *The Rape of Europa*. In fact, government and news reports during and immediately following World War II clearly outline the vast looting of European Jews’ property. In 1947, *The New Yorker* published an extensive three-part series by Janet Flanner documenting the Nazis’ encyclopedic art looting activities. Hence, to claim that US museums and other purchasers were unaware of Hitler’s looting activities and particularly that, after 1947, a good faith purchase of un-provenanced European artworks was possible is a form of Holocaust denial.

¹ See, e.g., London Declaration of January 5, 1943; US State Department Bulletins.

Importations of Foreign Legal Defenses

Museums and other holders of property stolen from Fritz Grünbaum hire foreign legal experts who claim that the Washington Principles should not be applied, that defenses such as Swiss and Austrian statutes of limitations should bar any claims to property stolen from Fritz Grünbaum in the United States. For example, Swiss attorney Alexander Jolles testified that once a lawsuit exists, the Washington Principles are not relevant under Swiss law. Thus, US museums and others claim that the unavailability of restitution remedies in Austria, Switzerland or Germany should bar restitution in the United States.

Systematic Extortion

Museums who know that they do not have title to artworks often turn to US courts to avoid the question of restitution. We have seen this in the recent case of *Boston Museum of Fine Arts v. Seger-Thomschitz*. In that case, the judge avoided the question of whether Otto Kallir's acquisition of a Kokoschka in February 1939 from a Jewish man in Vienna gave Kallir legal title to the artwork. Rather than looking to the merits, the judge relied on technical defenses and dismissed the case.

In other cases, museums will pay money under a threat of subjecting the claimants to a total loss and huge legal fees. This is known as extortion.

Conclusion

Austria cannot be permitted to continue to violate the 1955 Austrian State Treaty. Without substantial commitments from governments to restitute stolen artworks and providing without

providing expedited restitutional remedies, the promise of the Washington Principles to return stolen art that is now in the world's museums is an empty one. If Austria, Switzerland and the United States continue to avoid their obligations, the property stolen from Fritz and millions of other Jews will never be located and given back.

Feedback: Cooperation of Respective Entities Towards Provenance Research

► **Shauna Isaac**

SAGE RECOVERY, UK

TECHNOLOGY AND THE ACCESSIBILITY OF INFORMATION

At the Washington Conference on Holocaust-Era Assets, there was a breakout session that focused on the identification of art, archives and databases and which emphasised the role of technology. There was a great deal of excitement about being able to post information on the internet so that it would be accessible to everyone. Museums, archives and government agencies committed resources to making the information that they held available online. Many of these organizations succeeded at this and there are several websites that contain valuable information about Holocaust Era looted cultural property.

However, many of the websites have not been updated since they were first constructed in the late 1990s or the beginning of this century. Technology has come a long way in the last decade and new digital initiatives need to take advantage of this. This paper will provide a brief overview of what is currently available online, from early to more recently built websites; what information still needs to be made publicly available; and current digital projects that will be very useful for the restitution community. The second part of the paper will focus on the creation of a Central Information Portal.

An early example of a looted art database is the French MNR website. The MNR, or *Musées Nationaux Récupération*, database lists 2,000 items that were looted from France, but the owners of the artworks are unknown, and the objects have been left in the custodianship of the French government. The website was launched in November 1996 and was the first online database to post looted art. At first, there was only a written description for each item, but the data improved to include provenance information and images.

Websites evolved from this early model to include sites that are more user friendly and contain free text searches, such as the Dutch Origins Unknown website. The project began in 1998 as an initiative of the Dutch Ministry of Education, Culture and Sciences and the site lists items from the Dutch NK collection, which, like the MNR site, shows objects held by the Dutch State, whose owners and heirs are unknown. Several items have been restituted since the website went online.

The Central Registry of Information on Looted Cultural Property 1933–1945 was launched in 2002 under the auspices of the Oxford Centre for Hebrew and Jewish Studies. It contains an object database and an information database that is a useful resource for finding laws, policies and archival information with regard to looted cultural property.

The German website,¹ which is run by the *Koordinierungsstelle* in Magdeburg, contains missing items from families and objects looted from German institutions. It also contains objects housed in various institutions throughout Germany. Claimants can register missing items as well. Although the website was launched

¹ See: <http://www.lostart.de>.

in 2000, it has been continually updated and includes useful research information such as a list of collectors and information on forced sales.

The search engines for all of these sites work fine, but technology has improved since they were first built and search engines have become more sophisticated. One example of this is the Trace Looted Art database, which was launched in 2006. Trace is a global, online registry of stolen valuables that is freely available to the public and its database contains over 45,000 looted items and allows free text searches. Claimants can register looted items as well. One of the most interesting features of Trace is its image matching technology, which allows comparison, search and retrieval of photographic images. The image search can enable matches even if images are at different angles and under different lighting conditions. This is very helpful if images of the same object differ slightly and if an artist's name is spelled differently or if an object has been reattributed.

There are many other websites that contain valuable information about looted cultural property, and the amount of data that has been published online makes finding information much easier than it was just a couple of years ago. However, there is still a great deal of valuable information that is not yet widely available.

Some of the key documents that would be very useful to the restitution community if they were digitised include dealer records and forced sale auction catalogues. Dealer records would be a tremendous resource when conducting research, and although lists of records are available it would be very useful if the actual records were placed online and made available to the public, especially those of prominent pre-war dealers such as Adolf Goupil and Paul Rosenberg. There are also hundreds of forced sale auction

catalogues located in libraries throughout Europe that could be digitised. Sage Recovery has been working with the Holocaust Claims Processing Office (HCPO) and other organizations to start digitising the records of notorious wartime auctions such as those run by Paul Graupe, Rudolph Lepke and Hans Lange.

Any time archival records are digitised and made publicly available, it is extremely useful. To that end, it is very exciting that the National Archives in Washington, DC will be digitising their microfilmed records that relate to Holocaust-era assets, which should be available by the middle of 2010. They have partnered with the British National Archives and the Bundesarchiv in Koblenz, who are also working to digitise their records.

Another useful project is the digitisation of the ERR records which Patricia Grimstead is working on in conjunction with the Claims Conference. Also of note is that the Austrian Commission for Provenance Research are completing a database that will cover all auction catalogues from Vienna 1938–1944. The database is currently an internal tool for members of the Commission and it is not known if the database will be made public.

More information regarding Nazi looting is being published online all the time. This is a great thing, but it is difficult to keep track of everything that is available. One way to resolve this is to create a portal where visitors can retrieve information from participating websites.

An example of a web portal for looted cultural property comes from the American Association of Museums, who launched the Nazi-Era Provenance Internet Portal (NEPIP) website in September 2003. The goal of the portal is to provide a searchable registry of works of art in US museums that changed hands in Europe

from 1933–1945. The portal has over 150 participating museums with over 26,000 objects.

The portal is a great way to bring together data from museums that have different standards for displaying information. The search results display basic information about a given object. In order to obtain complete provenance information about an object, the user has to go to the actual museum website, and from there either navigate to the object or contact the museum, instead of linking directly to the page that the object is on.

There have not been any other portals specifically dealing with looted art, but there are some very impressive portals for art libraries and the cultural sector that have been launched in the last two years and show how quick and easy it is to search multiple websites. One example is the Virtual Catalogue for Art History,¹ which is a European catalogue of art libraries. *Artlibraries.net* was launched in 2007, prior to that it was known as the VKK or Virtual Catalogue for Art History. *Artlibraries.net* contains access to more than eight million records including books, periodicals, exhibition catalogues and conference papers.

Artlibraries.net simultaneously searches information from over two dozen online art libraries around the world. Results are listed by libraries with links to the titles of the books. Clicking on the link will take the user to the book reference on the originating library's website. This is very useful and saves researchers a great deal of time. They do not have to search several library websites and could very likely find the information that they were looking for on a website that they did not even know existed, but is part of the *Artlibraries* network.

¹ See: <http://www.artlibraries.net>.

A relatively new portal is *Europeana*, whose prototype was launched at the end of 2008. *Europeana* is a website that searches over two million items from over 1,000 cultural organizations across Europe, including the Louvre, the Rijksmuseum and the British Library. It provides direct access to digitised archives, books, paintings, photos, manuscripts, and audio and video material. Participating cultural institutions are able to take advantage of *Europeana*'s features, but still retain complete autonomy over their content.

With *Europeana*, visitors can carry out a single search from different collections in several European cultural institutions without having to visit multiple sites. The data is not stored on a central computer, but is culled from the member institutions' websites. A search yields an image and the name of the institute from which it came. Searches can be refined by language, country, date, and provider. Clicking on an image will give the user basic information about the item, list related content, and provide a link to view the item in its original context, which gives complete details about the item on the provider's website.

Europeana uses personalisation and web 2.0 features as well. A user can log in, save searches, tag searches, share information, and see what new content has been added. *Europeana* will soon be adding groups for visitors to join and discuss common interests. All of these features help to create a sense of community because a user can actively participate and share his or her thoughts and interests with visitors around the world.

These impressive portals were built within the last couple of years and were able to take advantage of the improvements in search technology. This kind of technology can be used to create a Central Information Portal for Holocaust-Era Looted Cultural

Property. Washington Conference Principle VI states that “Efforts should be made to establish a central registry of such information. The best way to establish such a registry would be to create a portal for new and existing websites to join so that all sites could be searched in a single place.”

It would have been difficult to have a discussion about this type of portal even five years ago because there were not the abundance of websites devoted to looted cultural property and search technology was not as well developed as it is today. But now that there are so many websites devoted to this subject, and the technology is available, the time is ripe to create a Central Information Portal for Holocaust-Era Looted Cultural Property.

I have helped to create two international databases, one for the Central Registry of Looted Cultural Property and one for Trace Looted Art, so I have a good understanding of the issues involved with creating a single universal database. I believe that a portal with member websites would be a better solution than putting all available information into one website. One of the main issues when developing a single centralized website is that organizations have already spent time and effort creating websites, and not everyone is happy to put their information into another website since the data is already available and because they feel that it would be duplicating their efforts. In some cases, organizations are given funding specifically to carry out looted art digitization projects and would not want the funding to be taken away from them by entering the information into a single website. It is extremely important to make information available in one place, especially now that there are so many sources for information.

Another issue is dealing with different standards from information providers and then collating them into a single standard.

There are also different national laws about data protection, copyright and use of images. Creating a Central Information Portal is a nice way to get around these problems. As part of a portal, these issues will already have been dealt with by the member websites. The portal would cull basic information from each website and present it in a standardised way, but site and national standards will remain intact in the member websites.

A portal can be a way to display information from all available looted cultural property websites in one place without having to build an entirely new database. The portal does not need to be limited in the type of information that it displays. Organizations that have information about looted cultural property would be asked to become members of the portal, and when new sites are built, they would be invited to join the portal. The effort that existing websites would need to put forward to make their data work with the portal would be minimal, since the search technology on the portal would be able to draw out existing information. The portal would search information from relevant object oriented databases, museums that list provenance information, digital libraries and archives that have pertinent records, sites that list claimant information, restitution laws, and collector information.

The portal will not replace current websites with their unique features and services, but on the contrary, should render them more visible and efficient within an association of cooperating partners, particularly if a search query lists what website the information came from. The search results could be filtered in a variety of ways, including by object, provenance, collector, date, language, country and originating website. The portal could also list content related to a specific search as well as what the most common searches are, which would provide unique insight into what kind of information people are researching.

If object information from every site is displayed, then this will become a valuable tool for the art market. Dealers and auction houses can use the portal to search items before they go up for sale and catch items that may have been looted.

The portal can also feature social networking, which would be helpful for both families and professionals who are seeking information. Families could talk to one another about successes and pitfalls they have encountered. They could also form interest groups that range from genealogy to claimant resources. This would give them a community to discuss issues with like-minded individuals.

Another advantage of social networking is that professional researchers would have an international environment in which they can share information. Oftentimes research is solitary, but it is much more useful if a researcher could get tips from other professionals in the field. Users could form specialist groups such as restitution laws, looting in Poland, etc. This could have a secondary effect of creating an international restitution community that can communicate on a regular basis in which anyone is welcome to participate.

In terms of governance, the Central Information Portal should be run as a not-for-profit organization and be a neutral body, so that there are not any conflicts of interest with claimants or the art market. A small staff would be needed to manage the build and maintenance of the site. This could be run in conjunction with the proposed Terezín Institute.

As a not-for-profit organization, funding could come from governments or from private foundations. The way that the portal is built, the lists of partners, and the way that it obtains information should

be entirely transparent and the organization running the portal should publish regular reports about the information that it has acquired, highlights and statistics about how many people are visiting the website, and the organizations that are sponsoring the site.

There will be issues that arise when creating a portal, the biggest one being securing and sustaining funding. However, this is a great way to centralise information while also letting participating organizations retain autonomy and control over their content. Creating a portal specifically for Holocaust era looted cultural property will fulfil Washington Conference Principle VI and make finding information much easier and more accessible.

► **Mečislav Borák**

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**IDENTIFICATION OF WORKS OF ART BELONGING
TO HOLOCAUST VICTIMS AND THE POSSIBILITY OF
RESTITUTION TO THE ORIGINAL OWNERS**

I would like to enumerate the possibilities for identifying works of art belonging to victims of the Holocaust that have been kept thus far in the collections of certain museums and galleries. I will base my remarks on the experiences of the Silesian Regional Museum (*Slezské zemské muzeum*) in Opava and I will cite several specific examples that have led to a work of art being found and successfully restituted.

Ten years ago, when the Czech Ministry of Culture ordered museums and galleries to ascertain whether they possessed items

originally belonging to victims of the Holocaust, the resulting inspections yielded mostly negative results. Things were no different in the Silesian Regional Museum in Opava, and no such items were found in the Museum's collections. It is extremely difficult to prove the origin of these items if there is no obvious evidence of Jewish culture or ritual objects, or if they are not part of art collections belonging to well known collectors. Records in acquisition books for the Museum's collections from the Nazi era (if they have been preserved at all, in view of wartime events) usually do not mention the specific origin of an item. Similarly, post-war records of confiscations conceal their actual origin, because a number of cases concerned not German property, but works that were plundered or confiscated by the Nazis.¹

Finding connections between "suspicious" items in museum collections and their original owners requires comprehensive archive research, which is appropriate to the specific conditions of the museum in question. Because the territory of Czech Silesia was not part of the Protectorate of Bohemia and Moravia during the war, but was another border area of the Czech Lands directly affiliated with the German Reich, there is little chance of successfully finding period documents in the central archives of Prague and Brno. Despite losses sustained during the evacuation of the authorities' offices at the end of the war and fierce battles during the liberation of Silesia, a considerable portion of official documentation from the Opava government district of Reichsgau Sudetenland was preserved in the Regional Archive (*Zemský archiv*) in Opava. A particular source of valuable information in

this archive is the collection of the *Supreme Financial President for Opava (Vrchní finanční prezident Opava 1938–1945)*, which contains hundreds of boxes of taxation and pricing records as well as other financial files. For example, the financial documents include lists of payers of Jewish tax, fragments of Gestapo correspondence concerning confiscated Jewish property, and lists of the assets of Jewish inhabitants from the entire Opava government district, who were deported to Terezín or to extermination camps in the eastern part of the Reich.² The extensive correspondence of the Supreme Financial Presidium documents in detail the official mechanism for the transfer of Jewish assets into German hands. Whereas gold and jewels belonging to Jews deported to the ghetto in Terezín and extermination camps were sent directly to Berlin, other confiscated property was stored in depots. The director of the *Reichsgaumuseum* in Opava, Dr. Werner Kudlich, asked the Supreme Financial President for confiscated works of art "of Jewish and Czech origin" to be given to the Opava museum, particularly items of "national historical and geographical value."

In the correspondence that has been preserved, there are also letters that allowed for requested Jewish assets to be specified in concrete terms.³ The first of these concerned the assets of the Löw-Beer family from Brněnec (then Brünnlitz), who owned a small textile factory in the town that later became famous around the world. This was the place where Oskar Schindler established a grenade factory at the end of the war. He employed Jewish prisoners and thus saved them from extermination. Besides artisanal furniture and a clock, the museum's director also requested a

¹ Borák, Mečislav. "Some Possibilities for the Museum Identification of Items Belonging to Holocaust Victims" ("Některé možnosti muzejní identifikace předmětů patřících obětem holocaustu"). In *Last Heritage (Ztracené dědictví)*. Contributions from "roundtable" discussions on the documentation, identification and restitution of cultural property belonging to victims of World War II. Ed. Mečislav, Borák. Prague: Tilia, 2006, pp. 76–82.

² Borák, Mečislav. "Sources on Transportations to Terezín from the Opava District of the Reichsgau Sudetenland" (Prameny k transportům z opavského obvodu Sudetské župy do Terezína). *Terezínské listy (Terezín Journal)*, 33, 2005, pp. 36–44.

³ Opava Regional Archive (Zemský archiv Opava), collection of the Supreme Financial President of Opava (Vrchní finanční prezident Opava) 1938–1945, box 2077.

picture by the painter Franz von Lenbach. The second request that was found concerned the confiscated property of the Pam family from Lanškroun. Apart from a musical clock with a motif of Karlštejn Castle, Dr. Kudlich primarily requested pictures – a still life by Josef Wimmer, several watercolors by Karel Geiger, Friedrich Frank and Strof (all with Viennese themes) and an oil painting by Alois Schön (*Banquet in a Viennese Suburb – Hostinec na vídeňském předměstí*). The third request concerned a rare bible with engravings by F. X. Scheidt and a Chinese picture on glass from the house of the Konstant-Bred family of Jewish entrepreneurs from Opava. All other references to efforts to obtain confiscated pictures and works of art for the museum were too general. Consequently, it was not possible to use them to explicitly identify requested works (e.g., they concerned collections of pictures from the Fulnek chateau and from Opava's Minorite monastery, pictures belonging to the owner of the Hoffmann textile factory in Moravská Chrastava, etc.). Other correspondence indicated that the Supreme Financial President accommodated the museum's requests and recommended that the Reich's Ministry of Finance should deal with them in an affirmative manner. Unfortunately, the archive collections do not enable us to discover whether items were eventually transferred to the museum's collections or to ascertain the extent to which this took place.

Discovering at least some specific data about works of art facilitated the second phase of the investigation – making an attempt to find them in the collections of today's Silesian Regional Museum. Nevertheless, searching in the acquisitions book from the time of the war did not uncover any of the items. It was only when the registration book of postwar confiscations was studied that the first success story was finally recorded – a signed picture by Franz Seraph von Lenbach was found (a portrait entitled *A Girl's Head – Dívčí hlavička*). Lenbach was a well-known

ladies' salon portraitist from the end of the 19th century and he was also famous for his portraits of the German chancellor Bismarck. This is undoubtedly one of the pictures confiscated from the Löw-Beer family in Brněnec, which was mentioned in the museum director's letter. This is also indirectly confirmed by a note added in pencil to the column stating the origin of the work, that is, the word "*Finanzpräs.*," which probably documents the transfer of the picture to the museum by way of a decision taken by the financial president for Opava.

Immediately afterwards, three further pictures were identified, which were mentioned in correspondence found in the archive. In all probability, these probably originate from the property of the Pam family of Lanškroun. They are *Still Life with Fruit* (*Zátiší s ovocem*), an oil painting on canvas signed by Josef Wimmer, and two signed gouaches by Friedrich Frank from around 1910 – the Viennese square *Am Hof* and the Viennese street *Kärtnerring*. The other pictures mentioned – by Karl Geiger and Alois Schön – were not located. Similarly, no traces were found of the Chinese picture on glass and other property belonging to the Konstant-Bred family.

This was followed by the third phase of the entire process – finding the original owners and beginning restitution proceedings. Before the war, the factory in Brněnec belonged to three brothers from the Löw-Beer family, which has now branched out widely. With the aid of Michaela Hájková, the curator of the Jewish Museum in Prague, contact was established with the grandson of Alice Löw-Beer, Mr. Ivan Koenig from London. Jacob Löw-Beer, the great-grandson of one of the owners, got in touch from the United States. Together with other members of the family, Margaret König from Great Britain also came to a conference on restitutions held in Český Krumlov in 2005. She declared that the

picture that had been located was all the more valuable to the family because it is now the only thing that has been found from their collection, which was confiscated by the Nazis.

With the aid of archivists and museologists from north Moravia, traces were also found of the Pam family from Lanškroun. At the end of the 19th century, they established a paper mill in the town, which is still operating today. In 1938, part of the family managed to emigrate to Great Britain, but Max Pam was imprisoned by the Nazis and he perished in the Dachau concentration camp. Today, the family's descendants live in France, Australia and Canada. Liselotte Fisher-Pam, the ninety-year-old granddaughter of the founder of the Lanškroun factory, came from the latter country this year to look at the pictures that had been found. Restitution proceedings are still underway, but there is no doubt that they will be resolved in favor of the descendants of the original owners of the pictures.¹

Recently at the Silesian Regional Museum in Opava, on the basis of an analysis of newly found archive materials, more pictures and works of art were identified which very probably belonged to victims of the Holocaust. Some records have been preserved of meetings at the Reich Museum in Liberec at the headquarters of the Reichsgau Sudetenland, where Kudlich, the museum director, travelled from Opava. At the meetings, decisions were made about which acquisitions would be taken to Opava and which ones would remain in Liberec. The objects and pictures concerned were quite well described so it was possible to begin searching for them in the collections of the Museum today.

¹ Kalus, Jaromír. Restitution of Art Belonging to Holocaust Victims in the Context of the History of the Silesian Museum in Opava. In *Restitution of Confiscated Art Works – Wish or Reality? Documentation, identification and restitution of cultural property belonging to victims of World War II*. Edited by Mečislav Borák. Prague: Titlva Publishers, 2008, pp. 235–245.

The minutes of the meetings were compared with the records of collection acquisitions and records of confiscations. So far, two purchases of pictures by Dr. Kajetan Mühlmann, the Reichskommissar for occupied Dutch territory in The Haag, have been proven with relative certainty – *A Scene from the Harbor (Scéna z přístavu)*, an oil painting on wood by Norbert Grund, a leading rococo painter who originally came from Prague, and *Still Life with Snails (Zátiší s hlemýžďi)* by Georg Flegel from Olomouc, one of the founders of still life painting in German art. A tapestry with motifs of fantastical fauna and flora, which presumably originated in Flanders in the 16th century, was also acquired for the Reichskommissar in The Haag. This was recorded in the collections at the Museum as “old museum property.” We therefore have extremely suspicious wartime acquisitions for collections, but we cannot prove with certainty that they belonged to victims of the Holocaust or even identify their original owners. It would perhaps be possible to do this in cooperation with colleagues in the Netherlands or possibly France, Belgium, or Germany.

We expect other similar finds. For example, an inventory from the time of the occupation corresponds to a Renaissance tin pot dating back to 1579 from the town of Liebenthal (now Lubomierz) in Lower Silesia. In the Museum's acquisitions book for collections from the time of the occupation, there are some very suspicious purchases in auction houses and auction rooms, which also arranged the sale of Jewish assets, e.g., Hauswedell in Hamburg, Heinrich Hahn in Frankfurt am Main, Lempertz in Cologne, Dr. Weinmüller in Munich, Versteigerungshaus Gerhard Harms and Haus Krüger in Berlin, Kunst-Auktionenhaus “Kärntnerstrasse” and Dorotheum in Vienna as well as Stieglitz Salon in Krakow. Purchases were also made very frequently in Amsterdam with the firms Van Dijk, Wincent Klepman, Mossel, and Vecht. So far, however, no specific evidence has been found that would

prove that any of the purchases belonged to victims of the Holocaust. Other suspicious transactions, for example, could include the purchase of porcelain with a memo that it comes from the Petschek collection, a reference to the prepared purchases of part of the Mannheimer collection in The Haag, or all transfers of pictures arranged by financial authorities.

In conclusion, I would like to express my conviction that even in regional museums and galleries possibilities also exist for the identification and restitution of works of art belonging to Holocaust victims.¹ Nevertheless, this remains contingent upon a thorough and expertly qualified examination of all available archive resources, including atypical sources (e.g., financial documents), comparing information from central and regional archives, perhaps even from archives that are a considerable distance from where the collections have been deposited, rigorous and repeated checks of records of collection acquisitions and postwar confiscations as well as comparisons of records with period archive materials, and the identification of all suspicious acquisitions, their registration, and public accessibility. This would facilitate the search for sought-after works and their original owners on an international level.

¹ Borák, Mečislav. "Identifying the Items of Holocaust Victims in the Collections of Museums and Galleries in the Czech Republic." (Identifikace předmětů po obětech Holocaustu ve sbírkách muzeí a galerií ČR). *The Silesian Regional Museum's Magazine (Časopis Slezského zemského muzea)*, series B, 55, 2006, pp. 285–287.

► **Anna Rubin**
HOLOCAUST CLAIMS PROCESSING OFFICE, USA

**PRESUMPTIONS: APPLYING LESSONS
LEARNED FROM COMPENSATION PROGRAMS**

Good afternoon, Friends and Colleagues:

Thank you for the opportunity to appear before you today. Those in the field of restitution are aware that even extensive research cannot always provide a complete provenance for artworks looted during the Holocaust. As Director of the Holocaust Claims Processing Office (HCPO), I would like to share with you our experience working with numerous international restitution organizations and to suggest that practices of other restitution processes could provide valuable guidelines with respect to filling provenance gaps.

In the late 1990s, disputes over Holocaust-era dormant Swiss bank accounts and unpaid life insurance policies focused international attention on myriad issues concerning unresolved claims for assets lost during the Holocaust era. As a result, numerous agreements allocating funds for restitution were reached, and processes to disburse payments were established.² However, no

² Take for example the Holocaust Victim Assets litigation in the US District Court for the Eastern District of New York, Chief Judge Edward R. Korman presiding, and the Claims Resolution Tribunal (CRT); the Washington Agreement between the United States and France and the Commission for the Compensation of Victims of Spoliation Resulting from the Anti-Semitic Legislation in Force during the Occupation (CIVS); the Memorandum of Understanding, between European insurers, United States insurance regulators and others, and the International Commission on Holocaust Era Insurance Claims (ICHEIC); the Foundation "Remembrance, Responsibility, and the Future" (German Foundation) and the Property Loss Claims Commission as well as Slave and Forced Labor programs; the Washington Agreement between the United States and Austria and the General Settlement Fund (GSF); the Enemy Property Claims Assessment Panel (EPCAP); and the Belgian Jewish Community Indemnification Commis-

roadmap existed to guide the newly created restitution organizations in setting parameters by which they could accomplish their missions. Thus a network of frequently overlapping claims processes developed and was so complex that it became nearly impossible for an individual claimant to proceed unaided.

New York State, which has been at the forefront of efforts to obtain just resolution for the theft of property during the Holocaust, recognized the need for an agency to assist individuals attempting to navigate the emotionally charged maze of Holocaust-era asset restitution. As a result, in June 1997, the Holocaust Claims Processing Office was established as a division of the New York State Banking Department. Though initially intended to help individuals hoping to recover assets deposited in Swiss financial institutions, by the end of 1998 the HCPO expanded its mission to assist in the recovery of assets held in non-Swiss banks, proceeds from Holocaust-era insurance policies, and works of art that were lost, looted, or sold under duress between 1933 and 1945.

The HCPO is currently the only government agency in the United States that assists individuals, regardless of their background and current residence, with a variety of restitution processes worldwide. Claimants pay no fee for the HCPO's services, nor does the HCPO take a percentage of the value of the assets recovered. As such, the HCPO is able to pursue a claim regardless of the value of the object, and successful resolution is not dependent on the item's recovery. The goal of the HCPO is to advocate for claimants by helping to alleviate any cost and bureaucratic hardships they might encounter in trying to pursue claims on their own.

sion. These are but a few of the agreements and claims processes which were created at the end of the 1990s and early 2000s.

Since its inception, the HCPO has received claims from nearly 4,800 individuals from 45 US states and 38 countries; of these claimants, 155 individuals from 19 states and 10 countries are seeking to recover missing works of art. To date, the combined total of offers extended to HCPO claimants for bank accounts, insurance policies and other material losses amounts to over USD 138 million, and 36 works of art have been restituted to HCPO claimants or were the subject of settlements between HCPO claimants and current possessors.

Over the past 12 years, the HCPO has worked closely with nearly all restitution and compensation agencies in existence today, acquiring extensive knowledge of multiple restitution processes and their submission and processing guidelines. This unique experience allowed the HCPO to develop a multifaceted approach to handling claims, as claimants frequently sought the recovery of more than one asset, and research for one item often led to the discovery of another.

The agencies with which we work share the same goal – to resolve claims for Holocaust-era looted property fairly; however, the methods for achieving the common goal of a just resolution are as varied as the organizations involved. Through experience and observation, the HCPO has identified specific practices – Best Practices – that reliably accomplish this objective. No single claims processor utilizes all of these practices, but all claims processes share the use of relaxed standards of proof for Holocaust-era claims, because they acknowledge that the passage of time and ravages of war left many individuals without documentation to substantiate their claims. Thus, this evidentiary standard was incorporated into present-day restitution agreements and further developed in the resulting claims processes procedural guidelines.

For example, under the Processing Guidelines of the International Commission on Holocaust Era Insurance Claims (ICHEIC), claimants were allowed “to provide non-documentary and unofficial documentary evidence for assessment,” while companies were “not to demand, unreasonably, the production of any document or other evidence which has likely been destroyed, lost, or is unavailable to the claimant.”¹ Similarly, the standard adopted by the German Foundation Property Loss Claims Commission did not require claimants to submit the stringent evidence that a court of law would demand; instead, claimants were only expected to “credibly demonstrate” what they were asserting.²

The Claims Resolution Tribunal (CRT) established and continues to utilize a plausibility standard where “[e]ach claimant shall demonstrate that it is plausible in light of all the circumstances that he or she is entitled in whole or in part, to the claimed Account.”³ Other examples include, but are not limited to, the law⁴ establishing the Austrian General Settlement Fund (GSF) and the Washington Agreement⁵ between the United States and

France which, respectively, stipulated that the GSF Claims Committee and the Commission for the Compensation of Victims of Spoliation Resulting from Anti-Semitic Legislation in Force During the Occupation (CIVS) investigate and consider claims on the basis of relaxed standards of proof.

Though the definition of “relaxed standards of proof” differs from one entity to the next, they fundamentally all endorse the same principle: a claim cannot be rejected on the grounds that the claimant lacks complete documentary evidence. This does not suggest that proof is unnecessary: claimants are still required to demonstrate that they are entitled to inherit the asset as an heir to the original owner, that the property was owned by their predecessor in interest at the time of its loss, and that the owner was subject to Nazi persecution. However, the application of relaxed standards of proof protects the claimant from unreasonable demands for documentation that is impossible to obtain or may simply no longer exist.

In applying relaxed standards of proof compensation organizations adopted certain *presumptions*. A presumption requires that in the absence of substantial evidence to the contrary, if one fact can be established then another may be derived from it. Examples in the milieu of Holocaust-era asset claims include the CRT’s adoption of presumptions to govern joint accounts, certain closed accounts, and values for accounts with unknown or low values; and ICHEIC’s use of a “deemed date” of confiscation, creating the presumption that after the specified date any payment on a policy was made into a blocked account or confiscated.

Unlike Holocaust-era bank, insurance, and other material loss claims, claims for looted art do not lend themselves

¹ “Holocaust Era Insurance Claims Processing Guide, First Edition—June 22, 2003.” International Commission on Holocaust Era Insurance Claims. <http://www.icheic.org/pdf/ICHEIC_CP6.pdf>. For additional information on ICHEIC’S Relaxed Standards of Proof please see “Standards of Proof, July 15, 1999.” International Commission on Holocaust Era Insurance Claims. <http://www.icheic.org/pdf/ICHEIC_SP.pdf>.

² “Supplemental Principles and Rules of Procedure.” Property Claims Commission. German Forced Labor Compensation Program Remembrance, Responsibility and Future. <http://www.compensation-for-forced-labour.org/content/PCC_rules_e_final.pdf>.

³ “Rule Governing the Claims Resolution Process (As Amended).” Holocaust Victims Assets Litigation (Swiss Banks). Claims Resolution Tribunal. <http://www.crt-ii.org/_pdf/governing_rules_en.pdf>.

⁴ “Rules of Procedure of the Claims Committee.” National Fund of the Republic of Austria. General Settlement Fund. <<http://www.en.nationalfonds.org/sites/dynamic.pl?ln=&id=news20070111003410005>>.

⁵ Agreement between the Government of France and the Government of the United State of American Concerning Payments for Certain Losses Suffered during World War II, January 18, 2001, USA-Fr., annex B. <http://untreaty.un.org/unts/144078_158780/12/3/4519.pdf>.

to comprehensive, centralized settlements. Nonetheless, the best practices learned from financial and material loss compensation programs, specifically the use of relaxed standards of proof and presumptions, could be applied to art claims. For example, analogous to the “deemed dates” established by the CRT and ICHEIC, unless proven otherwise, the date on which the Third Reich gained control over the art collector’s country of residence could be established as the date on which the art collector conceivably lost control over his/her property due to persecution by the Nazi regime.

The application of presumptions is a longstanding element of international jurisprudence, and adopting a presumption of duress based on “deemed dates” for Holocaust-era looted art claims is not new in this context. On the contrary, the Allies not only intended for such a presumption to be implemented when assessing a claim for restitution, they included it in postwar restitution laws.

Article 3 of Military Government Law No. 59: Restitution of Identifiable Property in the United States Area of Control of Germany (“MG Law No. 59”) established a presumption that specified that transactions involving the sale of personal property made after January 30, 1933 by a resident of Germany persecuted under the Nazi regime was an “act of confiscation” and required all persons, including purchasers in good faith, to return confiscated property to the original owners.¹

¹ The restitution laws for the Western Zones and sectors of Berlin were all fairly similar. In the French Zone Decree No. 120, based on French legislation regarding the same matter, was passed. A law similar to that in US Zone was enacted in the British Zone and was also called Military Government Law No. 59.

Article 3

Presumption of Confiscation

1. It shall be presumed in favor of any claimant that the following transactions entered into between 30 January 1933 and 8 May 1945 constitute acts of confiscation within the meaning of Article 2:
 - (a) Any transfer or relinquishment of property made during a period of persecution by any person who was directly exposed to persecutory measures on any of the grounds set forth in Article 1;
 - (b) Any transfer or relinquishment of property made by a person who belonged to a class of persons which on any of the grounds set forth in Article 1 was to be eliminated in its entirety from the cultural and economic life of Germany by measures taken by the State or the NSDAP.²

Restitution laws enacted in the immediate postwar period in other countries adopted similar presumptions to MG Law No. 59. For example, under the 106th Federal Act of May 15, 1946 Concerning the Annulment of Legal Transactions and other Legal Acts during the German Occupation of Austria, any legal transactions or acts as of March 13, 1938 that were carried out in an attempt to despoil individuals of their property rights were deemed null and void.³

² United States. Courts of the Allied High Commission for Germany. “Court of Restitution Appeals Reports.” Nuremberg, Germany: United States High Commission for Germany, 1951. <<http://pds.lib.harvard.edu/pds/view/6347670?n=1&imageSize=600&jp2Res=0.25>>.

³ BGBL No. 106/1946 §1 Nichtigkeitsgesetz. <http://www.ris.bka.gv.at/Dokumente/BgblPdf/1946_106_0/1946_106_0.pdf>.

A successful modern-day application of this presumption is illustrated by the case of Jan Wellens de Cock's *Flight into Egypt*, which was originally owned by the Düsseldorf art dealer Dr. Max Stern.

The 70-year journey of this painting, from Stern's collection to its return to his Estate is (as are all cases) a unique and interesting story. In August 1935, less than a year after Dr. Stern inherited Galerie Julius Stern from his father, he was prohibited from buying and/or selling art by the Reich Chamber for the Visual Arts (*Reichskammer der bildenden Künste* or RKbdk), a sub-chamber of the Reich Chamber of Culture.

Just two weeks later, the Nürnberg Laws of September 1935 were passed, which deprived German Jews of their citizenship rights thereby reducing their status to "subjects" in Hitler's Reich. More than 120 laws, decrees, and ordinances were enacted after the Nürnberg Laws, which further eroded the rights of German Jews. Consequently, Dr. Stern began to liquidate his gallery stock and started making arrangements to leave Germany to establish a new life in exile.

Dr. Stern's efforts to overturn this prohibition were futile, and on September 13, 1937, he received the final irrevocable order that he was forbidden to deal in cultural property and immediately had to sell the gallery's remaining inventory through a Nazi-approved RKbdk dealer. In compliance with the September 1937 order, Dr. Stern consigned and liquidated over two hundred pictures with *Kunsthaus Lempertz* ("Lempertz") in Cologne. The November 13, 1937 Lempertz sale of Dr. Stern's paintings was a forced "Jewish auction," in which his paintings sold for a fraction of their fair market value.

Based on extensive research conducted at the Netherlands Institute for Art History (*Rijksbureau voor Kunsthistorische* or RKD)

the HCPO confirmed that Dr. Stern owned *Flight into Egypt* in February 1936. Unfortunately, the destruction caused by the war and the passage of time left unclear the fate of the painting from the time Dr. Stern inquired with the RKD in 1936 to when it appeared in Christie's June 26, 1970¹ auction.

Since 1970, the painting was exhibited once in 1971 and, as best we could reconstruct, resurfaced on the art market three times: in 1992 under a different attribution, again in 1993 reattributed to de Cock; and most recently, when Christie's traced the painting's provenance back to 1936 with links to the Galerie Stern. Upon this discovery, Christie's notified the consignor, the HCPO and Dr. Stern's Estate at which point negotiations for the return of the de Cock commenced.

The undisputed known facts of the provenance of *Flight into Egypt* clearly placed the painting in Dr. Stern's possession after the beginning of his persecution by the Nazi regime. Despite exhaustive efforts to provide a complete ownership history of the painting, its whereabouts between 1936 and 1970 remained enigmatic. However, based on the facts at hand and without evidence to the contrary, both parties acknowledged that Dr. Stern lost possession of this painting under duress, thus fulfilling the intention of Allied restitution laws. In so doing, through candid, reasoned dialogue the parties cordially reached a settlement.

While restitution laws in the immediate postwar period included language that clearly articulated specific presumptions, present-day programs rely on the notion of relaxed standards of proof and leave defining those standards and any resulting presumptions

¹ Christie's auction entitled "Highly Important Pictures from the collection formed by the late Chancellor Konrad Adenauer; the property of Heinz Kisters, Esq. and others," June 26, 1970, London.

to the creators of the claims organizations. In line with contemporary compensation programs, the drafters of the Washington Conference Principles on Nazi-Confiscated Art ("Washington Conference Principles") understood that a complete accounting of a work of art's ownership history may not be possible.

Documenting the prewar ownership, wartime loss and a claimant's postwar entitlement to an object is one major hurdle we face as part of the looted art claims process. This problem is compounded by the fact that some claimants seek the return of items that may be of great emotional and/or spiritual meaning to them, but of low monetary worth or historical significance. After all, Nazi spoliation was not limited to museum quality pieces but included works by lesser-known artists, decorative arts, and Judaica. This often means that research materials referencing these items can be scant to non-existent, and like the objects themselves, have often ended up scattered across the globe.

Even under ideal circumstances, provenance research is a difficult task for a number of reasons: attributions, titles, and even dimensions can change over time creating confusion in tracking documentation; the same artist may have authored multiple, highly similar works on the same theme; objects are bought and sold anonymously; past owners die without disclosing where they obtained the works in their collections; and the records of dealers and auction houses can be incomplete. Few cases are well documented, and often, even after considerable research has been done, there are gaps in the provenance of any artwork.

The fourth point of the Washington Conference Principles explicitly calls attention to the fact that at this point in time, decades after the Nazi spoliation of property occurred, certain facts will

remain unknown, and this should be taken into account when evaluating the ownership history of a work of art.

"In establishing that a work of art had been confiscated by the Nazis and not subsequently restituted, consideration should be given to unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era."¹

This point suggests that relaxed standard of proof similar to those utilized by restitution organizations should be applied in evaluating claims for Holocaust-era looted art. Practice, however, has been somewhat different. Point IV notwithstanding, gaps in ownership history, even those that occur after the loss took place, often cause a delay in reaching a settlement or lead to a stalemate in negotiations. This is not unexpected, as present possessors, who are more often than not good faith purchasers and so the second victims of Nazi spoliation, grapple with learning the dubious history of works in their collections.

In keeping with the Washington Conference Principles, the "General considerations" that the Restitutions Committee² of the Netherlands takes into account when assessing claims specifically address the issue of information lost to time and establish a relaxed standard of proof.

"The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained,

¹ Bindenagel, J. D. (ed.). "Washington Conference Principles on Nazi-Confiscated Art." Washington Conference on Holocaust-Era Assets November 30 – December 3, 1998, Proceedings. 1999, pp. 971–972. <<http://www.state.gov/www/regions/eur/Holocaust/heacappen.pdf>>.

² Advisory Committee on the Assessment for Items of Cultural Value and the Second World War.

that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.”¹

In addition, similar to the processing guidelines of the CRT and ICHEIC, the Ekkart Committee’s² advice to the Dutch government on restitution policy dated April 26, 2001 articulates a presumption in accordance with the notion of relaxed standards of proof. That being:

“The Committee recommends that sales of works of art by Jewish private persons in the Netherlands from 10 May 1940 onwards be treated as forced sales, unless there is express evidence to the contrary. The same principle should be applied in respect of sales by Jewish private persons in Germany and Austria from 1933 and 1938 onwards, respectively.”³

This presumption establishes a “deemed date” for the Netherlands. Therefore, as per the definition of a presumption, unless proven otherwise, sales by Jews in the Netherlands are deemed forced sales as of May 10, 1940, the day the Nazis began their invasion of the region.

¹ “General Considerations.” 9 Feb. 2009. Advisory Committee on the Assessment for Items of Cultural Value and the Second World War. <<http://www.restitutiecommissie.nl/images/stories/algovw-eng.pdf>>.

² The Ekkart Committee, chaired by R.E.O. Ekkart, supervises the provenance research of objects in the NK collection and also makes recommendations to the Dutch government.

³ The Origins Unknown Agency. “Interim Report III.” Feb. 2002. <<http://www.originsunknown.org/download/deelrapp3.pdf>>.

The restitution of J.S. van Ruysdael’s *Wooded Landscape with Herd Near a Pond* to the heirs of Markus Meyer (aka Max) Rothstein exemplifies the positive effect that the application of relaxed standards of proof and a nationally endorsed presumption of duress could have on a claim for Holocaust-era looted art.

The Ruysdael painting originally belonged to Max Rothstein, a Berlin banker and art collector. In 1937, after four years of depredation at the hands of the Nazis, Mr. Rothstein was forced to resign from his position as co-managing director of the Willy Rosenthal Jr. & Co. bank and in 1938, the Rothstein family fled Germany for Amsterdam. Not long thereafter, the Nazis occupied the Netherlands and the Rothstein family once again had to flee persecution. To support his family, subsidize their life in exile and fund their emigration first from Germany and then the Netherlands, Mr. Rothstein was forced to sell some of his artwork.

Research carried out by the HCPO revealed that Mr. Rothstein consigned some of his artworks to Dr. Heppner, an art dealer, in Amsterdam in 1939 and again in the spring of 1940. Further investigation confirmed that the Ruysdael was among these. The HCPO subsequently searched the Origins Unknown Agency’s database of the *Nederlands Kunstbezit-collectie* (“NK Collection”) and discovered *Wooded Landscape with Herd Near a Pond* among the works listed. The provenance of the painting as reconstructed by the Origins Unknown Agency revealed that painting had been with Rothstein in February 1939 and then sold by Heppner to Goudstikker/Miedl on July 18, 1940, more than two months after the Nazis occupied the Netherlands.

After discovering that the Ruysdael was part of the NK Collection, the HCPO, on behalf of the Rothstein heirs, submitted a

restitution claim to the Minister for Education, Culture and Science of the Netherlands ("Minister") who in turn referred the case to the Restitutions Committee for advice.

In the case of the Ruysdael, the Restitutions Committee's recommendations conceded that Rothstein owned the painting at the time of its sale to Miedl in 1940 and applied the Dutch national policy, articulated in the third recommendation of the Ekkart Committee mentioned above, of presuming that the sale was made under duress as it occurred after May 10, 1940. Based on these recommendations, the Minister honored the Rothstein heirs' restitution request and returned the painting.

The Rothstein case demonstrates how a relaxed standard of proof combined with a formally established presumption of duress based on a "deemed date" could resolve claims without placing an undue burden on claimants.

As the preceding suggests, stated public policy strongly supports efforts to right the wrongs of the Holocaust and to provide restitution to victims of Nazi persecution, who not only suffered unspeakable acts of discrimination and brutality, but were also stripped of their livelihoods and property. Consequently, as seen by the use of relaxed standards of proof by numerous compensation organizations, public policy encourages measures that facilitate restitution of Holocaust-era looted assets.

In the case of art restitution, widespread adoption of relaxed standards of proof and presumptions could enable the resolution of claims where research cannot provide a complete ownership history. While a gap in provenance does not necessarily suggest that a painting was lost under duress, equally the same gap does not indicate that a painting was legitimately acquired.

The inevitability of provenance gaps coupled with the events of the Holocaust and the Second World War — during which many claimants lost everything and everyone, entire communities perished, cities were demolished, and both systematic and opportunistic looting were commonplace — require that inferences be drawn based on available information. The acceptance of relaxed standards of proof by all parties could enable the resolution of Holocaust-era looted art claims that are mired in disputes over fragmentary provenance information.

As seen from the experience of organizations handling claims for financial assets, universally accepted relaxed standards of proof and a presumption of duress could not only provide a missing piece of the puzzle but could ease the path for Holocaust victims and their heirs to resolve claims swiftly and amicably.

► Miriam Friedman Morris

DAVID FRIEDMANN ART, USA

ARTIST DAVID FRIEDMANN: A DAUGHTER'S SEARCH FOR LOST AND STOLEN ART

The media has publicized the enormous amount of art looted by the Deutsches Reich. Great attention has been focused on the loss and return of Old Masters and million-dollar lawsuits by heirs of prosperous art collectors and art dealers. Neglected are the obscure Jewish artists who achieved a measure of fame. They were stripped of the opportunity to become world renowned; their promising careers were cut short and their fates changed forever because of the Deutsches Reich. The Nazis did not necessarily destroy their art unless they

deemed it “degenerate,” but permitted works by Jewish artists to be sold or auctioned until at least 1942, although art dealers were prohibited from advertising these works.¹ This paper presents an example of the immense undocumented theft and possible hope of finding art of lesser-known artists; however, there is no support from European governments for this effort. After all there exist only the barest of details, no titles of artwork, nor records of the confiscation. A search entails considerable expense for the heirs and there is no significant market value if the art is returned to pay costs. My passionate quest is the chance to right a terrible wrong and to triumph against great odds. One such case is that of my father, David Friedmann, and my unrelenting pursuit to find his lost and stolen art: of the belief in justice.

David Friedmann was born in Mährisch Ostrau (Moravská Ostrava) in 1893 and moved to Berlin in 1911. He was a student of Lovis Corinth and Hermann Struck and established his studio in 1914, creating mostly portraits, nudes, and still lifes. With the onset of World War I, he volunteered for the Austro-Hungarian Army, serving from 1917–1918 as a battle artist. His commission entailed drawing battle scenes at the Russian Front and he was decorated for producing sketches very close to the actual fighting. Thereafter, he portrayed the distinguished generals and soldiers. Returning to Berlin, he resumed his career and achieved acclaim as a painter known for his live portraits. He exhibited at the Akademie der Künste, the Berliner Secession, and numerous galleries throughout Germany and Czechoslovakia.

¹ Source: N.N., Zur Entwicklung der Kunstversteigerungen während des Krieges, 30. 3. – 20. 7. 1942, pp. 3854–3856. In: Mitteilungen aus dem Reich 1938–1945, Bd. 10 Researcher, Angelika Görnandt.

Two surviving works were found published in the 1919 Jewish newspaper *Schlemiel*.² *Aus einer Folge “Pogrom”* depicts a terrified Jew, one of 12 etchings from this lost series reflecting his social commentary and deep compassion for his fellow human being. Outraged by the *pogrom*, the progression of violent attacks against Jews in Eastern Europe, he hoped to bring attention to this organized massacre. He never would have believed that his work would foreshadow the world’s worst *pogrom* and that he himself would become an eyewitness to this annihilation and mass destruction.

His quick sketching ability led to an additional career as a freelance artist for Berlin’s great newspapers associated with *Ullstein Verlag* and with the weekly radio program magazine for all German listeners, *Der Deutsche Rundfunk*. He produced hundreds of portraits of famous contemporary personalities, such as Albert Einstein, Arnold Schönberg, Szymon Goldberg, Yehudi Menuhin, Thomas Mann, Max Brod, Emanuel Lasker, and many others. My father’s talent for portraiture played a central role throughout his career and later saved his life during the Holocaust.

David Friedmann writes to Yehudi Menuhin, December 6, 1962:

“... Besides painting and working in the art of etching, I also kept myself busy as a newspaper sketch artist between the years 1923 and 1933. My specialty was portraits drawn from life of famous personalities from the Arts, Music, Theater, Sports, Politics, etc. However, my greatest affection was for the violinists. I played the violin since I was seven years old, but only received my formal training when

² *Schlemiel, Jüdische Blätter für Humor und Kunst*, Berlin, June 1919 – July 1920. Edited by Max Jungmann and Menachem Birnbaum. Collection of the Leo Baeck Institute, New York.

I was twenty-seven and of course, only up to a certain point, since one cannot serve two arts at the same time.”

When Hitler came to power in 1933, David Friedmann's prewar career ended. In December 1938, he fled with his wife Mathilde and infant daughter Mirjam Helene to Prague, escaping with only his artistic talent as a means to survive. He intended to document the terrifying unfolding history for an album. He writes in 1973:¹

“... Between 1939 and 1941, I drew and painted almost everything in Prague, especially many portraits of prominent Jews and personalities, such as the president of all the Jewish Congregations in Czechoslovakia, [František] Weidmann,² the vice-president Jakob Edelstein,³ and many others. I also drew many portraits of officials from the Palestine Office. Some of these photo reproductions came into my possession once again in 1946. However, every artwork that was produced until 1938 in Germany, and later in Prague until 1941, was lost.”

Since childhood, I watched my father paint with intensity and passion. I was intrigued by his prewar life and the unknown fate of his art confiscated in 1941 by the Gestapo in Berlin and Prague under the auspices of the Deutsches Reich. There was little evidence of a collection that numbered 2,000 etchings, lithographs,

¹ *The Short, But True Story of the Artist David Friedman.*

² Weidmann, Dr. František (1910–1944) Chairman of the Jewish Religious Congregation of Prague. Deported to Ghetto Theresienstadt on Jan. 28, 1943, and then to Auschwitz-Birkenau, Oct. 28, 1944.

³ Edelstein, Dr. Jakob (1903–1944) Prominent Zionist and director of the Palestine Office, who became deputy chairman of the Jewish Religious Congregation of Prague. In Ghetto Theresienstadt, the Nazis appointed him “Elder of the Jews,” the first chairman of the Judenrat (Jewish Council). Deported to Auschwitz, Edelstein and his family were shot to death on June 20, 1944.

drawings, and paintings. I still recall the words he proudly said upon receiving photographs of a portfolio found in the Ostrava Museum. “You see Miri, I was really a famous artist before the war. I was known for these portraits of chess masters.” Together we viewed his photo album of works from Berlin and the captivating portraits of the officials of the Palestine Office and the Jewish Community of Prague. I felt sad that there was little to show for his past recognition. This fueled my passion to find these works and to rescue his reputation from oblivion. David Friedmann lost his works three times: before, during, and after World War II. Thus, my pursuit evolved into a simultaneous search for art created during his incarceration in the Łódź Ghetto, the Auschwitz sub-camp Gleiwitz I, and works lost when fleeing from communist Czechoslovakia to Israel.

My father fought for compensation for his art, the inventory of his apartment and studio, and other possessions plundered by the Gestapo “In the Restitution Case of the Artist David Friedmann versus Deutsches Reich” (*In der Rückerstattungssache des Kunstmalers David Friedmann gegen das Deutsche Reich*). The paltry sum of 1,300 DM (German Marks) was awarded by the “Regional Court” in Berlin just days after our arrival in America in November 1954. It took more than six years for “The International Supreme Restitution Court” in Berlin to adjudicate an upward adjustment. This was not much for some of his best works and, of course, the award did not take into account the damage inflicted on his professional growth as an artist and the persecution he endured because he was a Jew.

Announcements of the award appeared in several major German newspapers: *Der Tagesspiegel*, *Telegraf*, *Der Kurier*, and *Berliner Morgenpost*. The following translated article was published in *Der Tagesspiegel*, February 18, 1961:

"Berlin: The International Supreme Restitution Court in Berlin has adjudicated to the artist David Friedmann, now living in New York, compensation [in the amount of] 17,500 DM for the confiscation of his artwork during the Nazi-time by the "Gestapo". Friedmann, who was a resident in Berlin at that time, was persecuted as a Jewish citizen. He was a student of Lovis Corinth. Due to the confiscation, he lost his studio furniture and materials, a great amount of oil paintings, watercolors, drawings, etching prints, and lithographs. The whereabouts of the artwork[s] are unknown."

I remember the excitement of the day. It was not about the monetary award after an exhausting and bitter case. It was because David Friedmann had finally received recognition for his plundered artwork. He had proved his case. The compensation could not touch what was taken from him, but might help to vindicate to some extent the irreplaceable loss.

As an adult, I was fascinated with the court case and thus retrieved copies of his files from the *Wiedergutmachungsamt*. After liberation, survivors needed to provide evidence of their identity, prove ownership with detailed accounts of their property and its confiscation. Few survivors had documentation and the whole procedure of filing claims was frustrating and emotionally unsettling. My father found witnesses and obtained documents to recreate his past for the judge and jury, the German courts. An example of this complex process is the following document from Jakob Steinhardt, a famous artist and colleague from Berlin, who had escaped the Nazis by emigrating to Palestine.

Sworn Testimony

With this oath I certify, that the artist Mr. David Friedmann exhibited a number of his watercolors and prints in the year 1925 in the Spring Exhibition at the Berliner Secession, of which I had been a member since 1917.

Jakob Steinhardt
Director of Bezalel, School of Arts and Crafts
Jerusalem¹

I was disappointed that the documents yielded no clues about the whereabouts of the artworks, but this I had expected. I was impressed with the defiant tone of my father's letters, his ability to write about painful and tragic experiences with conviction and dignity. He placed the blame for his losses squarely on the *Deutsches Reich*. The file revealed interesting new facts.

The court attempted to disparage David Friedmann, putting his fame on trial, clearly to award him less money. Thus, once again, German authorities — after having deprived him of his property, his livelihood, his family and nearly his very life — were now trying to deprive him of his reputation as an accomplished artist simply for the sake of reducing his restitution claim. Initially, they were only willing to compensate for the loss of his painted canvases and art materials. They sought to prove that David Friedmann was an artist of no consequence, although he exhibited at

¹ Author's translation.

the Berliner Secession and is listed in *Dresslers Kunsthandbuch* and *Allgemeines Lexikon der Bildenden Künstler*. In his defense, then-director of the Jewish Museum in Berlin, Dr. Karl Schwarz, testified that David Friedmann was a good representative of Lovis Corinth and his school. Dr. Schwarz's esteem signified great praise indeed, since he was a well-known art critic and art connoisseur in Germany.

Because he was a Jew, my father was prohibited from selling his art to anyone but another Jew after 1933, and certainly not for a "normal" price. From 1930–1933, he sold 70 to 80 works per year. To the Compensation Courts, he gave an estimate of the value of his property at 1938 prices, a time at which no one was permitted to buy from a Jew. David Friedmann was denied the opportunity to reach his earning and artistic potential. No one can say what price his art could have fetched or how famous he would have become.

The Friedmann family resided at Paderborner Strasse 9, Berlin W 15. His art studio for 19 years was located a few blocks away at Xantener Strasse 23, in the same house as Felix Nussbaum.¹ In 1933, he was forced to close his studio. Shortly after *Kristallnacht*, November 9, 1938, he made plans to flee. My father's brother Adolf was entrusted with the apartment, which included the artwork, for safekeeping. This was my father's life's work, all that he had created since 1911. Sixteen paintings and other valuables were brought to the Wielandstrasse 29 apartment of Mathilde's father, Prof. Dr. Maximilian Fuchs and his second wife, Frieda. Czech passports in hand, the family fled to Prague on December 26, 1938. He brought an album

of his sketches to show his work and find new commissions in a strange city.

Rent was paid through a bank in Prague in the hopes of returning to Berlin. When this proved impossible, he gave up the apartment in February 1940. Adolf was instructed to store the apartment contents in a *lift*² with the shipping firm Silberstein & Co., Kurfürstendamm, to follow him to Palestine. However, my father was unable to obtain the sought after immigration certificates. In the summer of 1941, he was forced by the Prague Gestapo to itemize all his property, including the inventory left behind in Berlin. On October 16, 1941, the family was deported on the first Prague Transport to the Łódź Ghetto with 1,000 people, some of "the best men in art, science, and music."³

The following translated excerpts are representative of a large correspondence between David Friedmann and the *Wiedergutmachungsamt*. They signify an important record of what a Jewish survivor of the Holocaust endured to win reparations from Germany. He survived Łódź, Auschwitz, Gleiwitz I, and Blechhammer, with nothing more than the prisoner uniform on his back. The Nazis had stolen all of his property and murdered his beloved wife and child. Nevertheless, a soulless bureaucracy placed the burden of proof regarding his former property on him.

¹ The memorial plaque posted on the apartment house on Xantener Strasse 23, the former studio of D. Friedmann, honors the memory of Felix Nussbaum (Osnabrück 1904–1944 Auschwitz).

² Lift – a large wooden container that held the property of D. Friedmann for shipping to Palestine.

³ Story of Mr. David Friedmann, by D. Friedmann. Undated, p. 2.

June 26, 1950

To the attention of Mssrs
Dr. Stockhard and Fenner
To the
Wiedergutmachungsamt
Berlin NW 40
Turmstrasse 91

... It seems to me that you doubt the existence of the *lift*. Later on in Prague, I was told that the firm was taken over by an Aryan administrator and that the owners were thrown out. I was busy working on my emigration to Palestine and the *lift* was supposed to follow me from Berlin. However, the Hitler government was planning on killing all of us Jews, but gradually, and so we were first transported to the Ghetto Litzmannstadt (Łódź). That meant: Hunger, Cold, Danger of Contagious Diseases, and Hard Work. The result: According to the statistics, of the 1000 people from the transport, only 24 returned to Czechoslovakia alive.

Until my deportation I was in contact with Berlin, the *lift* still remained in storage at the shipping firm. Only in December 1941 did I receive a postcard from Berlin with the news of the confiscation.

What happened further to the *lift*? How could I, a simple prisoner, find out? Nevertheless, the place of the property forfeiture was Berlin, but I cannot provide any information about the date, street or street number of the confiscation. I assume that you know as well as I who profited from these confiscated valuables. In any case, I will state again

precisely and clearly: A Jew was fair game during the Hitler Regime and so Jewish property went over to the state. The Deutsche Reich of 1941 is responsible for all the damage that I suffered unrightfully, the Reich forced me to flee Berlin with my family, the Reich forced me into the Ghetto to lose everything in the end. Fact is that the *lift* existed, you will not change that! ...

Regarding Studio-Interior/Equipment

It is of course not possible for me today to name every single painting with topic and dimensions. I painted a great deal and in a diligent manner, landscapes, flowers and fruit still life, genre interior scenes with or without figures, all kinds of nudes and portraits. In the frame of 25 years no artist can sell everything he paints, draws or etches. And for whatever I produced between 1932 and 1938, certainly I could not find more buyers. Since the Jews, who were normally interested in my work, had other troubles instead of buying paintings.

- ▷ 200 large and small Oil Paintings with simple frames:

Size of paintings circa 27 × 34.2 cm or 30.30 × 40 cm on canvas
- ▷ 100 Oil Paintings, unframed:

Partially on canvas or masonite, mostly studies, similar motifs as above
- ▷ 100 Watercolors, until 30 × 45 cm, similar motifs as above

▷ 300 Drawings:

Portrait Sketches of current personalities such as singers, actors, conductors, musicians, sportsmen, politicians, and high state officials

▷ 500 Prints:

Out of these 375 original etchings from my copperplates until 24 × 30 cm

125 Sheets were lithographs (landscapes, portraits of famous contemporary individuals)

* * *

August 16, 1950

To the
Magistrate of Greater Berlin
Department of the Legal System
Wiedergutmachungsamt
Berlin NW 40
Turmstrasse 91

Regarding Oil Paintings

With regard to this I told you in the above mentioned letter that I am not able to give a detailed description of each

painting in terms of topic, dimensions, and value or proper estimate considering the large number of pictures. I have therefore, only given you an average price, a give-away price so to speak, that every art gallery would have loved to pay in 1938, if I had only had the opportunity to sell...

... Already in other letters I clearly expressed my rightful claim for these confiscated valuables. I would not allow myself to claim anything in any possible way if that claim was not actually valid. How easy would it be to say, that in my *lift* there were also plenty of other beautiful things, like for example, some genuine Persian carpets, old Meissen porcelain, vases, crystal bowls, and glasses. But this was the property of my father-in-law and was in his apartment. I, however, can only claim the valuables that belonged to me and that I had acquired through work with my hands or that were brought into our marriage through my wife.

Hence I ask the *Wiedergutmachungsamt* to replace somehow, what was taken from me. If it really wants to make reparations, then my case is definitely worthy, even if my case cannot be proven. However, this is not my fault!

I could have still been living in Berlin! However, a government came into power that preached racial hatred and so I lost my nice apartment, my studio, a good existence, my *lift*, and the things in the apartment at Wielandstrasse 29.

The *lift* with all its contents could not remain at the shipping firm forever. It was forcefully abandoned Jewish property and so the responsible authority that was in charge came and confiscated it. And the same thing happened to the apartment at Wielandstrasse 29.

It can be proven that I had a 3½ room apartment in Paderborner Strasse 9, a studio, that the *lift* existed, that the claimed goods were inside of it, and that I enjoyed a good reputation. My sister-in-law as well as the doorman at Paderborner Strasse 9, if he is still alive, can testify that part of my belongings were also brought over to Wielandstrasse 29.

I therefore ask the *Wiedergutmachungamt*, to approve my restitution claim to the fullest extent. The loss of wife and child however, it cannot replace!

In this sense signs
Respectfully,
David Friedmann

Sometimes things happen as if they were predestined. All that is necessary is to appear at the right place at the right time. Thus, the idea that I could succeed in finding lost art formed during my first trip to Berlin in 1970, when I met Käthe Friedmann, my father's non-Jewish sister-in-law. She had been married to his brother Adolf, who died under suspicious circumstances in June 1941 at a Catholic hospital in Berlin.¹ My father believed that Adolf received a lethal injection because he was a Jew.

¹ Käthe Friedmann, nee Niesler (Berlin 1897–1978 Pegnitz). Adolf Friedmann, born Dec. 10, 1895 in Mährisch Ostrau (Moravská Ostrava). According to the Nuremberg Laws, marriage between Jews and citizens of Germany (Aryans) were prohibited. D. Friedman believed this was the reason for his brother's death on June 29, 1941. The Weissensee Cemetery record states that Adolf died of a duodenal ulcer. He is buried in Section A4, Row 7, Grave No. 105972.

I visited the apartment of Aunt Käthe and her life partner, Alfred Eichenfeldt. My first remarks were about my father's paintings hanging on the walls. I was astonished that they were dated before the war! There were four paintings: a landscape of a lake surrounded by mountains (*Berglandschaft mit See*), the *Berliner Dom*, a small portrait of Adolf, and a portrait of his murdered wife Mathilde. I wondered why my father had never mentioned these works. Innocently I photographed the art thinking that perhaps he did not know of their existence!

After returning to our home in St. Louis, I gave the photos to my father who was quite bewildered about my comments on what I had seen. Stunned at first, he became outraged that Käthe had never told him that Adolf left paintings in his apartment. Unwittingly, Adolf had saved several from the claws of the Gestapo. (A document states that in 1946, Käthe was living in his apartment at Paderborner Strasse 9.) He wrote to Käthe requesting his artwork. She refused until he offered her new paintings in exchanges, and only agreed to return one – the portrait of his beloved Mathilde. This was the only recovered work from my father's prewar collection until that time.

Käthe died in 1978. My mother, Hildegard, tried to convince Alfred that the paintings should be returned to our family. Alfred died by 1982, at which time my mother learned that the paintings were not mentioned in his will. Like the confiscated art, the paintings in the apartment have vanished without a trace. However, these paintings could be found with publicity and the help of good detective work authorized by the German government.

This experience made a lasting impression on me. However, I did not know how to proceed to find more artwork. After all, my father believed that his works had been destroyed and this chapter

was finally closed. Following his death in 1980, I felt compelled to ensure the legacy of David Friedmann. Hidden clues in his diaries and memoirs increased my determination to find the lost art. I embarked on a writing campaign to museums and institutions in Germany and later, the Czech Republic, in the hopes of finding new details. This was unproductive and I decided that I must find something myself. The results of several searching trips were amazing.

After having been lost for a second time, the 14 portrait lithographs of Portfolio No. 4, *Das Schachmeister Turnier in Mährisch Ostrau, Juli 1923*, were found again in the Ostrava Museum. Three portfolios of *Köpfe berühmter Schachmeister* surfaced, including Portfolio No. 28 in the Koninklijke Bibliotheek-National Library of the Netherlands. Several oil paintings materialized and 330 published portraits were discovered in the *Berliner Zeitung am Mittag*, *Berliner Morgenpost*, *8-Uhr-Abendblatt*, *Vossische Zeitung*, and *Der Deutsche Rundfunk*, wonderful confirmation of his brilliant and prolific career. This was an extraordinary view of my father's rich cultural life in Berlin before the Nazi Regime.

I was privileged to meet the historian Detlef Lorenz who joined my search and found a large number of published portraits. I was delighted to contribute to his book published in 2008, *David Friedmann, Ein Berliner Pressezeichner der 1920er Jahre*. My father was a member of the Freemason Lodge, *Germania zur Einigkeit*, and it was heartwarming that his beloved organization sponsored the book in his memory. The volume represents a small selection of sketches portraying musicians, authors, and actors, among other luminaries. Portraits were signed by the artist and autographed by the subjects. Some were later deported to Theresienstadt: Royal Opera singer Therese Rothauser, musicologist James Simon, actress Mathilde Sussin, and conductor Alexander Weinbaum.

David Friedmann writes in his *Tagebuch*, September 23, 1945:¹

"... Not until Prague in 1939 did I plan to work as an artist again. However, the agitation of the time, the worries about my family – after all I was only married for two years and had a three-month old baby – and there was the anxiety of how to get out of this hell! For the longest time this held me back from working until I understood the unbelievable, never to get out of here. Everything was already too late. Hitler was on our tail, the borders were closed, and the oppression began. The suffering of the Jews and their circumstances became worse from month to month, year to year – until the final evacuation. As I too acknowledged the impossibility of emigration, I began to work artistically again. Naturally, one always begins where one has left off. I sketched or painted portraits, landscapes and still life. I improved quickly – again I applied myself eagerly – and certainly if it had been a normal life I would have found success and recognition here in Prague, as had been the case in Berlin. However, Hitler had other plans for us."

He writes in his story, *Das Krafft Quartett*, May 8, 1973:²

"... As it once was in Berlin in my profession as newspaper sketch artist, so now, too, wherever there was something going on, the painter, sketcher, and graphic artist 'David Friedmann' was present to capture something interesting. Since my escape from Berlin to Prague, I was trying to get acquainted with the members of its Jewish Community to call

¹ *Tagebuchnotizen von David Friedmann*, 1945. Collection of the Leo Baeck Institute, New York. Author's translation.

² *Das Krafft Quartett*, May 8, 1973. Author's translation.

their attention to my ability as a portraitist. Once I made it known that I had the intention of putting together an album of portraits, the orders came in abundance. Since I arrived in Prague with little means, except for my dear wife Mathilde and our three-month old baby daughter Mirjam, I was glad to have a little income from the portraits.”

Miraculously, this historically significant album survived. The portraits are evidence of a dynamic Jewish community that was destroyed. Following the portrait pages, my father displayed postwar art depicting his experiences in the Łódź Ghetto and the concentration camps. This precious album was entrusted to me at the age of 23 and continues to be a valuable resource and an inspiration. Among the 60 recovered photos and reproductions are portraits of the governing officials of the Palestine Office and Jewish Community of Prague, such as Friedrich Prossnitz, Hanna Steiner, Oskar Singer, František Zelenka, and Fredy Hirsch.¹

¹ Fixler, Abraham (1911–1944) Community liaison with the Zentralstelle; Emmigration Department.
 Freiburger, Dr. Ing. Rudolf (1906–1978) Responsible for vocational training.
 Herbert, Langer (1914–1944) Secretary Deputy of the Jewish Community.
 Hirsch, Fredy (1916–1944) Beloved teacher and head of physical education for the youth movement. Deported to Ghetto Theresienstadt and sent to Auschwitz-Birkenau Sep. 6, 1943. According to testimony, Fredy committed suicide Mar. 7, 1944; however, the circumstances of his death remain controversial.
 Prossnitz, Friedrich (1896–1944) Finance director of the Jewish Community. Selected for “Special Treatment” because of his knowledge about the robbery of Jewish bank accounts by the Deutsches Reich. Murdered on arrival in Auschwitz-Birkenau on Oct. 29, 1944.
 Singer, Dr. Oskar (1893–1944) Writer, journalist, and chief director of the *Jüdisches Nachrichtenblatt*. Deported to the Łódź Ghetto Oct. 26, 1941. Became director of the Statistics Department and chief editor of *The Chronicle of the Łódź Ghetto 1940–1944*. Deported to Auschwitz in Aug. 1944.
 Steiner, Dr. Hanna (1894–1944) Director of the department for the encouragement of emigration. She was a dedicated Zionist leader and social worker. Deported to Ghetto Theresienstadt, July 13, 1943, and then to Auschwitz-Birkenau, Oct. 16, 1944.
 Zelenka, František (1904–1944) Gifted stage designer, artist, and architect. Produced the children’s opera *Brundibár*, performed 55 times in Ghetto Theresienstadt. He was sent to Auschwitz-Birkenau Oct. 19, 1944.

Most of the portraits were signed by the subjects, although the identities of several are unknown. The best commission he received was painting Fräulein L. Winter, the daughter of a wealthy businessman. The work was life-size and like all David Friedmann portraits, was painted from life. He also painted still lifes and scenes of the “old city.” I have endeavored to identify the unknown portrait subjects to honor their memories in history.

In 1994, I met Dr. Arno Pařík, who directed me to the theater department of the National Museum, where he had seen the portrait of František Zelenka by David Friedmann. In fact, the National Museum has three identical portraits exactly like the one displayed in my father’s album. It is evident that he produced multiple postcard-sized reproductions. Could there be others? What happened to all the drawings and paintings produced from 1939–1941? What happened to my father’s art that stayed behind in his apartment atelier on Dušni 10? These were my questions and those that preoccupied my father.

I had seen several published photos of the stacked looted art in storage. Did his art end up among the Jewish property looted by the Germans? He left with his family on the first transport on October 16, 1941. They were notified of their deportation order just three days earlier — the same day that the Nazi authorities established the *Treuhandstelle*, the Trustee Office in Prague, whose purpose was to collect and hoard all movable property from the evacuated apartments of the deportees.

One would expect that if anyone should know about this matter it would be the staff of the renowned institution that holds the greatest collection of Jewish art in the world, the Jewish Museum in Prague. I received a signed typewritten page, an

autobiography entitled, *Lebenslauf des Akademischen Malers D. Friedmann*. Here was a document demonstrating that he had already contacted the Museum in 1946. I could envision him with his portfolio to show his new sketches and to inquire, as I did now 48 years later, about what happened to his art after his deportation.

In 2003, I saw eight Friedmann works created in the years 1914–1940 found in the collection of confiscated art held by the Jewish Museum in Prague. A list had been carefully prepared with the titles and details of the works, each accompanied by this statement:

“Provenance: received through the *Treuhandstelle* Office between 1942–1945; original owner unknown.”

The artist was not considered to be the “original owner” by the Jewish Museum! This implies that the daughter is not the heir.

Among the art was a painting of a peasant that did not appear to be a work by my father in his usual fine academic technique. Nor could I confirm the first letter of the signature. I was quite familiar with the variances of his artistic style and signature. He signed his name D. Friedmann, Dav. Friedmann, DaFrie, DF, Fried or just Friedmann.

I was delighted with the 1914 etching from my father’s student years in Berlin dedicated to his patron, director Mr. Silbiger. It was exciting to connect the 1918 lithograph of the boys in a Jewish school in Petrikau, Poland, with the description he wrote in his album:

“During World War I, I was a commissioned army artist by the K.u.K Infantry-Regiment No. 100, and was also permitted to draw and paint for myself and produce lithographs.”¹

Two lithographs depicting scenes of the iron and mining industries in Ostrava were additional discoveries. These works were confiscated from Dr. Berthold Lang, who was deported from Prague and perished in Theresienstadt. There was a painting of the Old Jewish Cemetery, the Spiro grave of father and son dated 1630. However, nothing short of a revelation was the surprise of two large pen and ink drawings on tracing paper mounted on paper. I recognized the portrait of František Weidmann displayed in my father’s album. The Museum entitled this work, “Portrait of an Unknown Man.” I told the curator the name of the prominent personality we were viewing. The curator said that my father’s reproduction is not proof of ownership, although I owned the copyright. For the first time, I saw the portrait of Elly Eisinger. I felt sure the portraits were my father’s commissioned works that had been left behind in his atelier on Dušný 10.2 I learned a hard lesson: finding lost art is not enough.

The works of David Friedmann entered the collection of the Jewish Museum as a result of Nazi confiscation from the artist and other victims. These titles have not been publicized. Are they not worthy of restitution to the heirs? Why has not the Jewish Museum searched for the heirs of Berthold Lang, Mr. Silbiger, František Weidmann, Elly Eisinger, as it did for the heirs of Dr. Emil Freund whose collection of famous artist’s works sold for millions? Is there any publicity to be gained for restituting the works of an obscure artist? Will the few surviving works of David Friedmann be forgotten in the archives? There is not even

¹ Author’s translation.

² *Tagebuchnotizen von David Friedmann*, Mar. 28, 1945; p. 38.

the slightest interest in an exhibition that could possibly help bring forward some lost paintings.

Was it his fault that his major works are lost without a trace and only remnants survived? After all, they represent just a small portion of the 2,000 artworks looted under the auspices of the Deutsches Reich or displaced as a consequence of war.

The Holocaust Claims Processing Office, New York State Bank Department (HCPO) contacted the Jewish Museum on my behalf. In a letter dated July 9, 2003, from the Director of the Jewish Museum Prague, Dr. Leo Pavlát refers to the Museum's official website and the requirements of their restitution policy, Chapter 5 / Paragraph 5:

"In order to deal with an application it is essential that the applicant should furnish credible proof showing that he was the owner of the object in question, or, alternatively, that the owner of this object was his/her spouse, ancestor, parents, brother or sister, or the testator who bequeathed the property to the applicant."

Dr. Pavlát summarizes in his last paragraph:

"... there is no evidence at all that they were confiscated [from] Mr. David Friedmann. As this is so, the leadership of the Jewish Museum in Prague has to insist [that] Ms. Morris's submission of her claim be accompanied by other credible evidence that the works of art under discussion were confiscated [from] her father. Her claim would then be examined by the Restitution Committee of the Jewish Museum in Prague and submitted to the Board of Directors for the final decision. I would like to point out once

again that, although I do understand how sensitive a matter this could be for Ms. Morris, the Jewish Museum [in] Prague is not entitled to give out any items which could be a subject of other potential claims filed by other claimants."

If David Friedmann were alive today, what would be asked of him to prove his case? Could he have taken his inventory list to Auschwitz? He would have replied with choice words learned from the murderous Nazis in the camps as proof!

The leadership of the Jewish Museum in Prague believes there could be other claimants. Where are they? What has been done to find them? What credible evidence does the Jewish Museum have that proves that these works did not belong to David Friedmann? The answer: As a refugee, he sold his works under duress to feed and support his family. There is a near total absence of records detailing the confiscation of assets in the former Protectorate of Bohemia and Moravia. The Jewish Museum cannot prove that David Friedmann is not the original and rightful owner of his works. It is impossible to do justice to the past and hold onto this art. There is no justice for the legacy of David Friedmann, which should be honored and valued because of what it represents – the surviving works of an accomplished artist who was denied the opportunity to become world renowned because of the criminal policies of the Deutsches Reich.

Two years later, in 2005, while I was on a searching trip to Israel, a portrait reproduction of Elly Eisinger surfaced in the archive of Beit Theresienstadt. Here was more confirmation that the pen and ink drawings on tracing paper were used to produce the multiple prints. Furthermore, six of the portraits were identical to those displayed in my father's album. In all, there were

36 postcard-sized reproductions, such as Franz Khan, Secretary General of the Czechoslovak Zionist Federation, Leo Janowitz, Josef Lichtenstern, and Otto Zucker.¹ Some have dedications handwritten to Leo Kraus on the reverse side; however, he was not the donor. Dr. Kraus was head of the law department of the Prague Palestine Office.² It is a mystery how the portraits arrived in Israel and who donated them to Beit Theresienstadt.

My main question is: Where is the artwork of David Friedmann? Fleeing the Nazi Regime, some Jewish refugees took along their art, thus saving a few pieces from obliteration. This was true for works brought to Palestine from Berlin by the Wolff, Sadger, Pokorny, Roth, and Rothstein families, all friends of my father. However, the present location of these works is unknown.

The artwork of David Friedmann could appear anywhere in the world. In the course of the persecution of the Jews in Europe, emigrants fleeing Hitler often found it necessary to sell their art. Works were also systematically confiscated and sold at auction by the Nazi Regime. Among the discoveries were several auctioned works in Germany, but the auction houses refused my request for information about the owners. However, one painting dated 1932, a scene of Strausberg near Berlin, was available for sale. I felt it was important that the painting remain in the city

that David Friedmann called home for 27 years. I donated the work to the Stiftung Neue Synagoge Berlin-Centrum Judaicum, in memory of *all* of the forgotten Jewish artists.

I sent letters via the *Koordinierungsstelle für Kulturgutverluste* to the auction houses asking that my mail be forwarded to the owners of David Friedmann works. I introduced myself and requested a photo and the provenance of the painting. None of the auction houses replied. Therefore, I was surprised to receive a letter after three years from an owner that included photos of an oil painting dated 1916, a portrait of a man reading. The collector was interested in selling at a high price. Thus, I have created a market for my father's works that I cannot afford.

I do not have the finances or the resources of museums and institutes to search for hundreds of David Friedmann works that remain undocumented and may be in private hands. European governments should help identify and track these works and provide expertise. After years of exhaustive research efforts, I would welcome help. To make matters more complicated, how does one differentiate between works that my father sold during his successful career and those that were stolen from him? Here is an interesting example:

Three prewar paintings signed by David Friedmann have surfaced in France, each with the number "6198" (written in red), suggesting a possible auction sale reference number. The paintings are not related in subject matter or style and were sold by different vendors. I am at a loss as to which specific sale this marking may reference or what other significance the marking may have. These numbers alone do not confirm whether the works were from my father's confiscated art collection in Berlin. Circa 2000, there was a sighting of four nude paintings in a Paris auction shop that later

¹ Khan, JUDr. Franz (1895–1944) Leading Zionist personality, responsible to the Zionist Federation.
Lichtenstern, Josef (1915–1945) Responsible for workers' transports (illegal immigration).
Janowitz, Dr. Leo (1911–1944) Secretary, Palestine Office; director of the certificates department.
Zucker, Eng. Otto (1892–1944) Zionist organization leader, later vice-chairman of the Council of Jews.

² Kraus, Dr. Leo (1907–) Deported to Ghetto Theresienstadt July 13, 1943, and then to Auschwitz-Birkenau, Oct. 23, 1944. Liberated in Dachau in May 1945. Immigrated to Israel. Two identical portraits of Leo Kraus survive in the album of D. Friedmann.

burned down. My father never was in France. Help from experts is needed to reconstruct the provenance history of these works. Perhaps a clue will lead to more artwork.

Art theft continues to be a problem today. In 2004, Ing. Pavel Beran, the director of the Sokolov Regional Museum, planned to purchase a 1947 painting of a coal-mining scene from the Habartov City Hall, Czech Republic. However, the painting disappeared. He gave me a black-and-white photocopy of the work. In 2005, I came across a painting with the title, *Tagebau mit Abraumagger*, posted on an auction site.¹ I sensed at once that this was the stolen painting. I tracked the work to Auktionshaus Mehlis in Plauen, Germany, conveniently located near the Czech border not far from Habartov. Thanks to the cooperation of the auction house, soon I had a color photograph, an exact match to the copy. The painting was bought by an agent of Eckhart G. Grohmann for a museum that bears his name at the Milwaukee School of Engineering, in Wisconsin, United States. I contacted Mr. Grohmann hoping he would consider returning the art because of the dubious circumstances. He said he needed proof of the theft. However, officials from the Habartov City Hall refused to file a police report and denied the theft. Nevertheless, Mr. Grohmann, a *Sudetendeutscher*, said he had “no interest to return the painting because of the way his family was treated by the Czechs.” He asked if I was familiar with the *Beneš Decrees*. So here was something new that I never thought to encounter: the loss of my father’s painting as a result of ignorance, indifference, and political hatred.

The “Holocaust Era Assets Conference,” held on June 26–30, 2009, hosted by the Czech Republic, is a fortuitous opportunity to remind European governments that works created by Jewish artists

were also methodically plundered and lost. I believe all art looted by the Nazis should be identified, not just works by famous artists found in prominent collections and galleries. Art of an obscure artist is more likely to hang on the wall of a private home than in a museum. I implore the European governments to publicize and help the heirs trace the undocumented and documented art theft.

David Friedmann made important contributions both in the realms of 20th century art and in the creation of materials that play a powerful humanitarian role in educating people about the reality of the Holocaust. Despite his many losses and injustices, and the numerous interruptions in his career, David Friedmann triumphed to survive the evils perpetrated against him. As each of his options narrowed, he continued to produce art illustrating the events and personal experiences of his time. His art could not be silenced. He depicted human fate as a refugee in Prague, as a prisoner in the Łódź Ghetto and Auschwitz, and as a survivor. He created the powerful art series entitled “*Because They Were Jews!*” He never stopped painting throughout his complex postwar journey from Czechoslovakia to Israel and the United States.

In 1948, David Friedmann married fellow survivor Hildegard Taussig in Prague. A year later, they fled Stalinism to Israel, where I was born, and in 1954 immigrated to the United States. The family became United States citizens in 1960, and dropped the double “n” spelling of their surname.

David Friedman has been recognized internationally as materials continue to surface. His memoirs are in the collection of the Leo Baeck Institute, New York. Art collections include the *Stiftung Neue Synagoge Berlin-Centrum Judaicum*; Yad Vashem Art Museum, Jerusalem; the State Museum Auschwitz-Birkenau, Poland; and the United States Holocaust Memorial Museum,

¹ See: <http://www.artprice.com>.

Washington DC Works can be seen in the permanent displays of the Holocaust History Museum, Yad Vashem, and the St. Louis Holocaust Museum and Learning Center, which held a major exhibition in 2005. The United Nations Headquarters in New York, the Terezín Memorial, and the Berliner Philharmonie, have also hosted significant exhibitions of his works.

History has a curious way of confirming itself. After 30 years and monumental odds, I have found astonishing evidence of my father's lost years and art. His works have surfaced in the Netherlands, England, France, Germany, China, Czech Republic, Poland, Israel, and the United States. David Friedman died in 1980 in St. Louis, Missouri. My search continues to be an impassioned and justice-seeking journey. *I appeal to the public to join my search and preserve the legacy of this remarkable artist.*

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(Book-in-progress) "Diary for Miriam, A Father's Legacy, A Daughter's Promise".

¹ For more information, please see the websites:
 — Searching for the Lost Art of David Friedmann, <http://www.chgs.umn.edu/museum/responses/friedmann/lostArt.html>;
 — Portraits of Famous Chess Masters 1923, <http://www.kb.nl/vak/schaak/portretten/friedmann/index-en.html>;
 — Portraits of the Prague Jewish Community 1940-41, <http://www.chgs.umn.edu/museum/responses/friedmann/portraits.html>;
 — Because They Were Jews!, <http://www.chgs.umn.edu/museum/responses/friedmann/because.html>;
 — Guide to the Papers of David Friedman (1893-1980), <http://findingaids.cjh.org/index2.php?fnm=DavidFriedman&pnm=LBI>;
 — Lost Art Internet Database, <http://www.lostart.de>.

Articles:

"Kopffäger im Großstadtschangel. Berliner Pressezeichnungen der 1920er Jahre am Beispiel des Malers und Zeichners David Friedmann." (Coauthor Detlef Lorenz) *Arbeitskreis Bild Druck Papier*, Tagungsband Dresden 2005. Münster, New York: Waxmann, 2006, pp. 180–202.

"Searching for the Lost Art of My Father: The Artist David Friedmann." *Theresienstadt Martyrs Remembrance Association Newsletter*. No. 61, Israel, July 2006, p. 10.

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"A Survivor's Art Speaks for Him." *The Forward*. Vol. LXXXII, No. 30, 713, New York: May 5, 1989, p. 15.

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Das Schachmeister Turnier in Mährisch Ostrau, Juli 1923
 Köpfe berühmter Schachmeister. Copyright©1999 Miriam Friedman Morris.

David Friedman Collection. Copyright©2004 Miriam Friedman Morris.

► Angelika Enderlein

FEDERAL OFFICE FOR CENTRAL SERVICES AND
UNRESOLVED PROPERTY ISSUES, GERMANY

INTRODUCTION OF THE NEW DATABASE OF THE “CENTRAL COLLECTION POINT MUNICH” (MCCP)

Introduction

The MCCP database, along with the Internet database of the Special Commission: Linz (*Sonderauftrag: Linz*),¹ online since the summer of 2008, make sources that help provenance researchers deal with the Nazis' complex policy on art available.² It is hoped that these databases will serve to move enquiries regarding unresolved cases of looted art forward, all the more so because December 2008 marked the tenth anniversary of the Washington Principles, which form the foundation for current provenance research and restitution claims.

The MCCP database incorporates inventory cards and photographs from the Munich Central Collecting Point. Approximately 122,000 inventory cards held at the Federal Archive (*Bundesarchiv*) are augmented by 2,700 inventory cards and 43,000 black-and-white photographs found in the archive of the Federal Office for Central Services and Unresolved Property Issues (*Bundesamt für zentrale Dienste und offene Vermögensfragen*, abbreviated as BADV) and 1,000 inventory cards located at the Austrian Federal Office for the Care of Monuments (*Bundesdenkmalamt*) in Vienna. It is important to point out that all of these original sources had, until recently, been accessible only by their Munich Number.

¹ See: <http://www.dhm.de/datenbank/linzdb/>.

² This paper is based on the introduction to the MCCP database by Angelika Enderlein and Monika Flacke. See: <http://www.dhm.de/datenbank/ccp/>, accessed June 11, 2009.

For the very first time, this information is available online without the need to have the Munich inventory number. In other words, before the creation of the database, a work could not be located in the inventory card files without this number. The database allows research to be carried out using criteria other than the Munich Number, such as artist name, title, and owner. Inventory cards and photographs may be called up simultaneously while their originals remain in various places in Europe, and it is hoped that the United States will also make its databases available. Talks on possible cooperation with the National Archives and Records Administration (NARA) in Washington, D.C. started at the end of 2008. With this and other collaborative efforts, the large gaps in the digitalized inventory card files at the Federal Archive will be filled in ever more.

I. THE HISTORY OF THE MUNICH CENTRAL COLLECTING POINT (MCCP)

“Central Art Collecting Point”³ was the name given to the collection centers for artworks that the American allied forces' Monuments, Fine Arts and Archives Service (MFA&A) set up in scattered places throughout Germany after the end of World War II. The largest of these collecting points was in Munich.⁴ In the summer of 1945, the Allies began removing artworks from the individual provisional depots set up by the National Social-

³ The terms “Munich Central Collecting Point” and “MCCP” are widely applied and will be used subsequently and interchangeably.

⁴ For in-depth information on the Central Collecting Point see Iris Lauterbach, “Arche Noah”, “Museum ohne Besucher”? – Der Central Art Collecting Point in München. In *Entehrt. Ausgeplündert. Arianisiert. Entrechtung und Enteignung der Juden*, vol. 3, ed. Andrea Banesel-Brand. Magdeburg: Coordination Office for Lost Cultural Assets, 2005, pp. 335–352.

ists. Artworks that had been looted, confiscated, or sold within the German Reich or in Nazi occupied regions between 1933 and 1945 were brought from depots to the collecting points to be inventoried and subsequently restituted. The collecting point in Munich was designated for artworks that were to be returned to their countries of origin or to private individuals in Germany. Estimates of the number of artworks inventoried at the MCCC vary greatly, ranging from fifty thousand to over one million.¹

Following inventorying, and as soon as the first provenances could be clarified, the MFA&A Service began as early as the fall of 1945 to return artworks to their rightful owners.² All of the artworks, with the exception of a few thousand objects, were restituted in the subsequent years.

II. TRUSTEE ADMINISTRATION FOR CULTURAL PROPERTY (TREUHANDVERWALTUNG VON KULTURGUT OR TVK) TAKES OVER THE MCCC'S DUTIES

On August 31, 1948, the Americans transferred the duties of trusteeship, care, supervision, and maintenance of the objects

and documents at the Munich CCP to the Bavarian minister president. This initially did not affect the MCCC's duties.³ After identifying artworks for restitution, the US authorities proceeded with the restitution. The MCCC's activities ended on November 30, 1949. In order for the German authorities to initiate further restitutions, the Conference of the Ministers of Culture resolved to form an office of restitution. In 1951, the German restitution office started restitution work alongside the Allied authorities. The office ended its activities on February 22, 1952.

On the same day in Munich, artworks previously held under the trusteeship of the Bavarian minister president were transferred to the Foreign Office's Department for Culture. The Department established a special section, the Trustee Administration of Cultural Property at the Foreign Office, to which the Trustee Administration operating in Munich was subordinate. The remaining artworks were handed over to the government of the Federal Republic of Germany on February 22, 1952.⁴ The transfer included an unspecified number of artworks inventoried on 9,244 inventory cards and microfilms of the MCCC files, all inventory cards from the Munich and Wiesbaden CCPs, and copies of the photographs – though not the negatives. These un-restituted artworks are known as the Remaining MCCC Inventory (*Restbestand CCP*).

The Trustee Administration for Cultural Property created new inventory cards for these works. The cards – which are modeled on the English-language cards – are in German and in duplicate,

¹ In the activity report of the Trustee Administration for Cultural Property (Treuhandverwaltung von Kulturgut, TVK) in Munich for 1962, 50,000 (matches the number of MCCC numbers) and 1,000,000 are mentioned. See *ibid.*, p. 27. A copy of the report is in the German federal art collection records in the BADV archive. The AAM Guide, on the other hand, mentions from 150,000 to more than 1,000,000 objects, see Nancy H. Yeide, Konstantin Akinsha, Amy L. Walsh, *The AAM Guide to Provenance Research*. Washington, DC: 2001, p. 95. In the commentary on the NARA inventory a figure of one million is mentioned. See: <http://www.archives.gov/research/microfilm/m1940.pdf>, p. 2, accessed June 11, 2009.

² For in-depth information see Michael Joseph Kurtz, *Nazi contraband. American policy on the return of European cultural treasures 1945–1955*, (New York: Garfield, 1985).

³ For the following see the TVK activity report for 1962.

⁴ Letter from the Bavarian State Painting Collections to Foreign Office Department of Culture from February 22, 1952. The transfer was based on the exchange of notes between the US High Commissioner McCloy and the German Chancellor Konrad Adenauer, between April 16 and August 27, 1951, as well as a note from the German chancellor to the minister president of Bavaria on January 4, 1952.

with one set arranged according to the Munich numbering system and the other according to artist names.¹ The German federal minister of the treasury took control over the Remaining MCCC Inventory at the beginning of 1963, when the Trustee Administration was dissolved.² Since that time, agencies under the Federal Ministry of Finance – initially the Regional Finance Office (*Oberfinanzdirektion*, abbreviated as OFD) in Munich and currently the BADV – were entrusted with the inventory's administration. Since the mid 1960s, most of these artworks have been placed on permanent loan in German museums and federal agencies.

III. THE INVENTORY CARD SYSTEMS AND THE PHOTOGRAPHIC FILE AT THE MCCC AND ITS SUCCESSOR INSTITUTION, THE TRUSTEE ADMINISTRATION FOR CULTURAL PROPERTY

Control Number File (According to Munich Number) or Arrival Cards

The first director of the MCCC, Craig Hugh Smyth, an American officer and art historian, developed an inventory card system.³ The crates and objects were assigned an Arrival Number, also known as a Munich Number at the time of their delivery to the Munich Collecting Point. In addition to the arrival number, the artist, title, prior inventory numbers, arrival date, and condition

of the object were listed where possible. However, specific information about the artwork is often lacking. The arrival card 40/1-27, for instance, reads “crate – large (27 items),” meaning that the crate was the fortieth object delivered to the MCCC and contained 27 works of art.⁴

At the Federal Archive in Koblenz, these arrival cards are designated as Control Number File in the Trustee Administration of Cultural Property's inventory catalogue. The inventory includes 43,183 arrival cards.⁵

Restitution File (According to Munich Number) or Property Cards

After their registration on arrival cards, the artworks were described in detail on Property Cards, which serve as the main file. If multiple items were registered under one arrival number, each object was then given an individual sub-number. In the case referred to above, the first object in the fortieth crate, a faience bowl, was marked “Mun.[ich no.] 40/1.”⁶ Available information on the artist's name, work's title, art form, size, prior inventory numbers, and evidence of provenance was entered onto the card. This bowl, for instance, was from the Seligmann collection and it was restituted to Paris in 1946, which is written on the back. The entries were usually handwritten in English and augmented by later annotations in German. Two important aids available to the Americans in their efforts to identify the artworks were from the *Sonderauftrag* Linz's library and the so-called Dresden

¹ In this regard see the remarks in the section: Restitution File (according to Munich Number) or Property Cards.

² For a summary compilation of the objects see Klaus Beetz, *Die Erwerbungen Adolf Hitlers bis zum Führererlass vom 26. Juni 1939 für den Aufbau des Neuen Museums Linz*. Berlin: Eigenverlag, 2004, p. 67.

³ Regarding the inventorying see Craig Hugh Smyth, *Repatriation of Art from the Collecting Point in Munich after World War II*. Maarsse/De Haag: 1988, p. 95.

⁴ See Bundesarchiv, inventory B 323/604, Munich Number 40/1–27, Front. The reverse side is blank, as is generally true for all Arrival Cards.

⁵ See Bundesarchiv, inventory B 323/604 to 646.

⁶ See Bundesarchiv, B 323/647, Munich Number 40/1.

Catalogue.¹ These catalogues, consisting of file cards and photographs, list the inventory of artworks that was originally destined for Hitler's *Führermuseum* in Linz.

In addition to organizing the property cards by numbers, other inventory card series were created by the M CCP staff to organize works according to artist, country, and epoch, as well as to previous owners and depot room numbers. The cards in these additional files contain few entries, in contrast to the detailed information on the individual objects in the main file. The previous-owner file is sorted according to country and covers very large art collections. Using this file, it is possible to establish which collections or individual works from collections passed through the M CCP. Postage-stamp-sized photographs of the respective artworks are stapled to many of these cards. This file is kept at the Federal Archive.² We do not know the whereabouts of the other inventory card series or whether they still exist.

When the Trustee Administration for Cultural Property took over from the M CCP, the subsequent staff continued to use the available property cards, while filling in newly acquired knowledge in German. New cards were created for previously unregistered artworks given numbers following the last assigned numbers of registered works. These included works from the *Sonderauftrag*

Linz, as well as ones from Herman Göring's art collection and acquisitions for the Obersalzberg, the German Palace in Posen, and Heinrich Hoffmann's collection. The English-language property cards were translated only if the given object was still at the M CCP. The new file in German, containing German-language cards as well as English-language cards, was organized into two files, one according to the Munich numbering system, and the other according to artist. Some of the German inventory cards according to numbers are in the Restitution File at the Federal Archive. The Restitution File contains 65,572 cards.³ However most of the German inventory cards are kept at the BADV.⁴

Initial and Subsequent Minister President Files

Officers in the American Cultural Property Protection Unit would enter "Minister President" into the field for "presumed owner" or wrote in "transf. to Min. Pres. decided by MFA Off. E. Breitenbach April 49" on the cards for artworks that were to be turned over to the German government in 1949.⁵ Today, a large number of these artworks are in the possession of the German government, designated as Remaining M CCP Inventory. The inventory card entries are typed in English and have German annotations. They contain information on the artwork but generally little on the provenance. These cards are stored according to their Munich Numbers in two sets at the Federal Archive; one is the Initial Minister President File (updating discontinued January 1,

¹ The Dresden Catalogue is often confused with the Führerbau file in the professional literature. See the remarks on these archives by Hanns Christian Löhn, *Das Braune Haus der Kunst. Hitler und der "Sonderauftrag Linz"*, Berlin: Akademie Verlag, 2005, p. 2. The Dresden Catalogue's contents can be viewed in the Sonderauftrag Linz database, also presented by the DHM.

² At the Federal Archive this inventory is designated in the catalogue as the Restitution File (according to owner). See Bundesarchiv, inventory B 323/695–729. These inventory cards are stored in 35 drawers there. The exact number of the cards is unknown because the stock was not scanned. Presuming that the Property Card inventory is stored in boxes containing approx. 1,300 to 1,500 cards each, this inventory can be assumed to contain approx. 45,000 to 52,000 cards.

³ In the Federal Archive these Property Cards (in English and German) are designated as the Restitutions File (according to Munich number). The German-language inventory cards are each filed behind the English-language Property Card. See Bundesarchiv, Inventory B 323/647–694.

⁴ For the inventory cards at the BADV see the remarks in the section, Inventory Cards, current Remaining M CCP Inventory (Germany).

⁵ See in the following also the remarks from by Yeide, Akinsha und Walsh (2001), op. cit., p. 95 and p. 62.

1962) with 9,703 inventory cards and the second Minister President File (restituted objects) with 2,452 cards.¹

IRSO File

The series of inventory cards maintained under the heading IRSO lists artworks that were restituted to the Jewish Restitution Successor Organization, the predecessor institution to the Jewish Claims Conference. The labeling is brief – similar to that of the two aforementioned inventory card series. The Federal Archive contains 1,340 relevant cards, which are again stored by numbers.²

Inventory Cards, Current Remaining MCCP Inventory (Germany)

The file cards for the Remaining MCCP Inventory (Germany) artworks, which are in the possession of the German government, are located in the archives of the Federal Office for Central Services and Unresolved Property Issues (BADV). The inventory contains 2,716 cards filed according to their Munich Numbers.³ Currently, this inventory contains about 2,300 paintings, graphic works, sculptures, and applied artworks as well as some 10,000 coins and books.

Following the endorsement of the Washington Principles (1998) and the Common Statement (1999) a special department for provenance research established at the federal level was launched in May 2000. Today, the BADV is responsible for renewed provenance research on the MCCP collection. If the artwork stems

¹ See Bundesarchiv, Inventory B 323/763–769 as well as B 323/602 and 603.

² See Bundesarchiv, Inventory B 323/732.

³ See BADV, Kunstverwaltung, Property Cards MCCP.

from a persecution-related deprivation of property dating from the National Socialist period, it will be returned to its rightful owner or to the owner's heirs.⁴ So far, the origins of 920 art works have been probed. Twenty-two works have been returned and the return of 17 additional objects to the legal heirs is planned. A selection of the results to date is presented in the BADV's online database.⁵ The MCCP database is linked to it. The complete inventory can be viewed on the Coordination Office for Lost Cultural Assets' website.⁶

Inventory cards, current Remaining MCCP Inventory (Austria)

The transfer of the "Remaining MCCP Inventory" (Austria) to Vienna in 1952 included inventory cards as well as artworks. The 943 cards are now kept at the Austrian Federal Office for the Care of Monuments while scientific research is carried out by the Commission on Provenance Research.

Object Photographs

After the objects were inventoried at the MCCP, large format

⁴ On provenance research in the federal agencies see Harald König, "Erste Ergebnisse der Provenienzforschung zu dem in Bundesbesitz befindlichen Restbestand CCP – Das Ölgemälde 'Die Milchfrau' von Daniel Chodowiecki," in: *Beiträge öffentlicher Einrichtungen der Bundesrepublik Deutschland zum Umgang mit Kulturgütern aus ehemaligem jüdischen Besitz*, vol. 1, ed. by Ulf Häder (Magdeburg, Coordination Office for Lost Cultural Assets at Magdeburg, 2001), and ibid., "Leihgaben der Bundesrepublik Deutschland aus Beständen, die zwischen 1933–1945 in Reichsbesitz gelangten," in: *Museen im Zwielicht. Ankaufspolitik 1933–1945. Kolloquium vom 11.–12. Dezember 2001 in Köln; die eigene GESCHICHTE. Provenienzforschung an deutschen Kunstmuseen im internationalen Vergleich. Tagung vom 20.–22. Februar 2002 in Hamburg*, vol. 2, ed. by Ulf Häder, with assistance from Katja Terlau and Ute Haug (Magdeburg, Coordination Office for Lost Cultural Assets at Magdeburg, 2002), pp. 149–158.

⁵ See: <http://provenienz.badv.bund.de>.

⁶ See: <http://www.lostart.de>.

black-and-white photographs, including some with detail views, were made of the artworks and placed in a separate photographic file. The chief photographer, Johannes Felbermeyer, was assisted by Herbert List. The images were fixed on cardboard and labeled with the respective Munich number. These objects, too, can only be identified in the main file by their Munich numbers. The American MFA&A Service officers were able in some cases to make use of the Führerbau file. This file contains images of artworks that had been inventoried for the *Sonderauftrag* Linz. These photographs, taken by the photographers Rudolf Himpl and Willy Schönbach between 1941 and 1944, are recognizable by their wide white borders.¹ The photographs' reverse sides show an inventory number stemming from the *Sonderauftrag* Linz, either handwritten or stamped, and on occasion a Munich number as well. A total of 42,904 photographs – most of those taken at the Collecting Point – are held at the BADV.²

IV. THE WHEREABOUTS OF THE INVENTORY CARD SERIES

Numerous archives of the Office of Military Government, US Zone (OMGUS) were transferred to the US Army Archives in Kansas City shortly after the Munich Central Collecting Point closed in 1949. The shipments included some 30,000 property cards.³ This inventory was transferred to the National Archives and Records Administration in Washington, DC, in the early 1960s. Today, the cards are kept at the College Park branch of the National Ar-

chives (NACP). They are alphabetically sorted into five separate series according to different criteria, such as the artwork's country of origin.

The greatest proportion by far of the inventory cards remaining in Germany – probably about 170,000 – has been stored since 1990 in the Federal Archive in Koblenz under the inventory code B 323. This includes the Control Number File (arrival cards) and the Restitution File (according to Munich numbers or property cards) as well as the two Minister President files, the IRSO file, and the Restitution File (according to owner). Nonetheless the file has major gaps among the individual Munich numbers. Only a comparison study of the two sets can establish whether the cards at the NACP are duplicates of those in Koblenz or whether the NACP cards are instead those missing from the Koblenz files.

Other inventory cards ended up in Berlin and Vienna with the transfer of the Remaining MCCC inventories from Germany and Austria. There are also original inventory cards as well as copies in Paris.⁴ It is possible that there are still undiscovered cards stored in other archives.

V. THE MUNICH CENTRAL COLLECTING POINT DATABASE ON THE INTERNET

The database contains the copies of all of the MCCC inventory cards made after the end of the war by the American allied forces and the TVK staff in Munich that are today in the Federal Archive with the exception of the Restitution file (according to owner).⁵ Moreover, additional inventory cards and photographs

¹ Lohr 2005, p. 96 (see note 15).

² See BADV, Kunstverwaltung, Fotoarchiv MCCC. Smaller photo files are located – as far it is known – at the National Gallery of Art in Washington, DC, Photographic Archives, Core Collection, MCCC; at the GRI, LA, Felbermeyer photographs for the MCCC (accession nr. 89.P4); at the LACMA, Herbert List photographs; and at the Central Institute for Art History, Munich, organized by the artist's name.

³ See: <http://www.archives.gov/research/microfilm/m1940.pdf>, pp. 2–4, accessed June 11, 2009.

⁴ A kind tip from Patricia Kennedy Grimsted.

⁵ See Bundesarchiv, inventory B 323/695-729.

from the BADV, as well cards from the Austrian Federal Office for the Care of Monuments, are available for research.

Linked to each data file transcribed from the Restitution file or main file is a copy of the relevant inventory card and in many cases the photograph as well. The database now makes it possible after more than 50 years to search without knowledge of the Munich inventory number for paintings, antique sculptures and applied artworks such as furniture, tapestries, metalwork, faience wares and ceramics, as well as for books and numismatic objects. Inventory cards from different archives have now been brought together with photographs from the BADV. Using the MCCC database, one can search according to different criteria, such as inventory numbers, file/inventory, object title, object type, material/technique, artist, society (i.e., provenance), and keyword.

Until now, the large number of inventory cards sorted according to their Munich numbers made research in the archives very difficult. From now on, the database is searchable without the Munich number. The MCCC database is an important tool for provenance research as well as for investigations surrounding unsolved cases of looted art. This applies to individual research inquiries, as well as to the exploration of complex interrelationships such as those, for instance, in the art trade, through the use of the inventory cards held at the Federal Archive.

The database can identify works that have not previously been recognized as being the subjects of forced sales. In addition, it offers information on artworks that were returned to their owners after 1945 and that have not been publicly exhibited since. Database research can be carried out for artworks in museums, in private hands, or in what is known as the Remaining MCCC

Inventory – works that today are the object of BADV provenance research.

This enormous database is the result of the close cooperation of the Federal Archive (*Bundesarchiv*), the Federal Ministry of Finance (*Bundesministerium für Finanzen* or BMF), the German Historical Museum (*Deutsches Historisches Museum* or DHM), the Zuse Institute Berlin (ZIB), the Berlin Office of Central Information Processing and Information Technology (*Zentrale Informationsverarbeitung und Informationstechnologie* or ZIVIT), and the Federal Office for Central Services and Unresolved Property Issues (*Bundesamt für zentrale Dienste und offene Vermögensfragen* or BADV).

In a period spanning approximately four months, staff of the Federal Ministry of Finance scanned 244,000 front and reverse sides of the inventory cards held by the Federal Archive and some 5,400 front and reverse sides of the cards located in the BADV archive. To save room, blank reverse sides were not scanned, and instead annotated with “no entry.” Copies were not made of the Federal Archive’s Restitution File (according to owner) since the effort involved in the removal and remounting of the stapled photographs would have been disproportionate to the amount of information gained.

After a thorough examination of the different series of digitized inventory cards, the DHM and BADV decided that the information contained in the Restitution File (according to Munich no.), i.e., the main file, should be transcribed for entry into the database.¹ This file contains the most extensive information on the respective artwork. Information that is

¹ See in this regard the remarks in the section: Inventory Card Systems.

missing from the main file, however, can be gained by inspecting copies of the other inventory card series. It took the BADV staff about a year to enter all of the relevant particulars into a database. After the work's completion, the DHM's Central Documentation Department staff reformatted the data for use in the DHM database and carried out an initial automated data-conversion. In addition, the original data was supplemented with information/data from the DHM *Sonderauftrag* Linz database, as well as the BADV's database on provenance research.

The Central Documentation Department at the DHM has so far performed only cursory editing of the database entries. Full-scale scholarly editing is planned for the next months. For now, a full-text search can be carried out to locate artworks even if the entry is not properly placed. Spelling mistakes, however, will cause the full-text search to produce faulty results.

VI. COOPERATION WITH NATIONAL AND INTERNATIONAL ARCHIVES

During the database's developmental phase, contacts with European and American archives were established at a workshop at the Getty Research Institute in the fall of 2008. Shortly thereafter, the Austrian Commission on Provenance Research offered, for example, to digitalize its inventory of one thousand cards from the Munich CCP in order to incorporate them into the database. This has served to close some of the gaps in the inventory cards at the Federal Archive.

In addition, talks on possible cooperation with the National Archives and Records Administration (NARA) started at the end of

2008.¹ In the spring of 2009, NARA indicated its openness to a collaborative effort. This can, however, only be undertaken after NARA has finished digitalizing its stock of inventory cards, presumably at the end of 2009. With this work completed, NARA's data can then be linked with the M CCP database, which advances the reconstruction of the Munich Central Collecting Point.

Also of interest would be to link the M CCP database to Washington, DC's Holocaust Museum's *Einsatzstab Reichsleiter Rosenberg* (ERR, Operational Staff Rosenberg) database, for many of the M CCP cards bear ERR inventory numbers.

In addition, collaboration with the Central Institute for Art History (*Zentralinstitut für Kunstgeschichte*) in Munich has been initiated. Its photographic library contains some 4,300 images from the M CCP. Following a comparison study, these photographs will also be linked at a later date with the database.

More M CCP inventory cards and photographs might still be located in other archives. Relevant information is greatly appreciated.²

Conclusion

The online placement of the M CCP database allows for free research of over 170,000 entries as well as 300,000 images of inventory cards and photographs using various search criteria. Such a database is intended to serve not only provenance research but also those searches carried out at universities on the art market and looted art. Several such projects are currently

¹ The talks took place with the NARA staff, although the inventory cards are kept at the National Archives at College Park, MD.

² It can be sent to Monika Flacke at ccp@dhm.de.

underway, for instance, at the *Entartete Kunst* (Degenerate Art) Research Center at universities in Hamburg and Berlin. The Center has also entered into a cooperation agreement with the Getty Research Institute and the University of Southern California, which jointly founded the work group: The Art Market in Germany, Austria and Switzerland, 1900–1955. A database focusing on the art market sales in the 1930s and 1940s is to serve as the foundation for individual research projects and conferences.

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Smyth Craig, Hugh. *Repatriation of Art from the Collecting Point in Munich after World War II*. Maarsen/Den Haag: 1988.

Yeide, Nancy H., Konstantin Akinsha, Amy L. Walsh. *The AAM Guide to Provenance Research*. Washington, DC 2001.

Archives

Bundesarchiv (Federal Archive), B 323

Bundesdenkmalamt (Federal Office for the Care of Monuments), Vienna

Los Angeles County Museum of Art, Los Angeles, Herbert List Collection

National Archives at College Park, Maryland

National Gallery of Art in Washington, DC, Photographic Archives, Core Collection, Munich Central Collecting Point

Research Library at the Getty Research Institute, Felbermeyer photographs for the Central Collecting Point, Munich (accession number 89.P.4)

Zentralinstitut für Kunstgeschichte (Central Institute for Art History), Munich

Abbreviations

BADV	Federal Office for Central Services and Unresolved Property Issues Berlin
DHM	German Historical Museum
ERR	Einsatzstab Reichsleiter Rosenberg (Operational Staff Rosenberg)
GRI, LA	Getty Research Institute, Los Angeles
LACMA	Los Angeles County Museum of Art
MCCP	Munich Central Collecting Point
MFA&A Service	Monuments, Fine Arts and Archives Service (of the American allied forces)
NACP	National Archives at College Park, Maryland
NARA	National Archives and Records Administration, Washington, DC
OFD	Regional Finance Office
TVK	Trustee Administration for Cultural Property at the Foreign Office
ZIB	Zuse Institute Berlin
ZIVIT	Zentrale Informationsverarbeitung und Informationstechnologie (Central Information Processing and Information Technology)

Inventory Card System

	CONTROL NUMBER FILE OR ARRIVAL CARDS	RESTITUTION FILE OR PROPERTY CARDS = MCCP MAIN FILE + TVK FILE	TWO MINISTER PRESIDENT FILES (1), IRSO FILE (2), REMAINING MCCP INVENTORY GERMANY (3) AND AUSTRIA (4), OBJECT PHOTOGRAPHS (5)
CREATOR	MCCP	MCCP until 1948, after 1948 TVK	(1)–(5) MCCP
MAIN INDEX	Arrival number = Munich number	MCCP: Arrival Number with sub number for multiple items, so-called Munich Number TVK: Consecutively numbering for unregistered art works	(1)–(5) Arrival number = Munich number
CONTENT	Artist, title, prior inventory numbers, arrival date, condition of object etc., no specific information about art works and provenance	Detailed description of artwork e.g., artist, work title, art form, size, prior inventory numbers, provenance	(1)–(4) Information on art works and provenance, but little in comparison to the Restitution File (5) Only arrival number = Munich Number
ORDERING SUBJECTS	By number (as delivered to Munich Collection Point)	MCCP Main File ordered by number, other series (referring to Main File) ordered by artist, country, epoch, previous owners, depot numbers TVK File series ordered by number and artist	(1)–(5) By number

ARCHIVE	Federal Archive: Control Number File (according to Munich nr.) = arrival cards	Federal Archive: Restitution File (according to Munich nr.) = Property Cards (including MCCP and TVK cards) Federal Archive: Restitution File (according to owner) BADV: TVK inventory cards (by number) BADV: TVK inventory cards (by artist) – not included in the database	(1), (2) Federal Archive (3) BADV and Federal Archive (4) Austrian Federal Office for Care of Monuments (5) BADV
NUMBER OF CARDS AVAILABLE FOR SEARCH	43,183 Arrival cards (Federal Archive)	65,572 Property Cards, including TVK inventory cards (Federal Archive)	(1) 12,155 Inventory cards (2) 1,340 Inventory cards (3) 2,716 Inventory cards (4) 943 Inventory cards (5) 42,904 photographs
SEARCH LANGUAGE	English	Mostly English, German (after 1948)	(1) English with German annotations (2)–(4) English
DATABASE SEARCH	Information available at the new database on the Munich Central Collection Point: http://www.dhm.de/datenbank/ccp/ Search mask: inventory numbers, file / inventory, object title, object type, material / technique, artist, society (= provenance), and keyword		

Legal Issues

► Olaf S. Ossmann

THE INTERNATIONAL ASSOCIATION OF JEWISH
LAWYERS AND JURISTS, GERMANY

ONE COLLECTION, ONE PERSECUTION, ONE DECISION – BUT DIFFERENT IDEAS OF “JUST AND FAIR SOLUTIONS” – HURDLES IN DIFFERENT NATIONAL PROCESSES FOR HEIRS OF ART COLLECTIONS

Good morning, Ladies and Gentlemen:

Before I start my presentation, allow me some personal words about the issue. When my grandmother turned 80 in 1985, she had, as in all the years before, two parties. There was, of course, one with her small family and us as the offspring of that family. But there was, on the same day, another party where the family was not invited. The setting: a table with four people. As I learned over the years, everyone at this table including my grandma had a number on the arm and over the years I knew the first names of these people but this was all. From time to time, I was allowed to help my grandma prepare the food for this celebration: a clear hot chicken soup.

Unfortunately, in 1985, my grandma did not return from this party to today's world. She lost all of her power, all of her strength, and her brain returned to 1939 – as we learned from the doctor's

expertise. And until her death one year later, she suffered from and felt the same fears as in 1939.

My grandmother declined all her life to be acknowledged as a victim of the Nazis; she also declined the special pension provided for these victims. But her only daughter (my mother) could not afford the costs of the medical treatment (of course we hoped her life would endure until 120) and so I – who had started to study law one month before – was asked by my family to prepare the papers for the special pension application.

Since then, I have dealt with a significant number of such applications for insurance, pensions, and *Verschlimmerungsanträgen* (“Aggravation Applications”). The applications require the inclusion of a medical evaluation to assist in the determination of the causes of the illness and the relationship between persecution-related causes and “natural” causes, defined in percentages.

In all of my cases, the most difficult thing for me was to hand over this evaluation to the families, as the content and the language of these evaluations were, in my eyes, dehumanizing, so I felt guilty just by delivering such a document, guilty to be a part of such a system that called itself “just and fair.”

So, you may understand my approach to this topic. Again, we try to weigh several circumstances in the life of a victim. We try to judge arguments for an action seventy years ago.

This morning, I would like to invite you to forget for one moment the position that brought you here. Lean back and try to see, for this moment, my explanations through the eyes of a family.

Your family name for the next minutes will be Gutmann.¹ Your grandfather, Eugen Gutmann, was the founder, owner, and director of one of the leading banks in Germany, Dresdner Bank. Later, his son, your father, stepped into Eugen’s shoes and led the Bank.

In the 1950s, you were told that the son of Eugen, Herbert M. Gutmann, was responsible for the losses of the bank in the bank crises at the end of the 1920s. The board of the “new” Dresdner Bank added that, even if there had been some losses, it would have no influence as the “old” Dresdner Bank did not exist any longer, and no documents remained. You try to

¹ 1879 – October 15, Herbert Max Magnus Gutmann, born in Dresden, Germany.
1884 – Head Office of Dresdner Bank, founded by Herbert’s father, Eugen moved to Berlin
1903 – Herbert M. Gutmann became the Vice Director of the London branch of the Dresdner Bank.
1906 – January 3, Eugen and Herbert M. Gutmann founded Deutsche Orientbank AG.
1910 – January 10, Herbert M. Gutmann joined the board of the Dresdner Bank AG.
1913 – September 27, Herbert married to Daisy von Frankenberg und Ludwigsdorf.
1914 – May, Herbert and Daisy moved to Herbertshof in Potsdam.
1921 – June 21, Trust en Administratie Maatschappij founded in Amsterdam.
1927 – January, Dresdner Bank Aktien – Syndikat established.
1931 – September 9, Herbert M. Gutmann was forced to retire from the board of the Dresdner Bank AG.
1933 – May The Dresdner Bank AG “calculated” Herbert M. Gutmann’s debts.
1934 – April, Herbert M. Gutmann sold his art collection at Paul Graupe Berlin.
1934 – June 30, H. M. Gutmann arrested by the SS.
1936 – Mid, The German property of the Eugen Trust with the Berlinische Bodengesellschaft AG was liquidated.
1936 – October, Herbert M. Gutmann immigrated to London.
1937 – The “Emigration Tax” for Herbert M. Gutmann is calculated with 89,000 Reichsmarks.
1937 – Herbert M. Gutmann was clear of debt.
1939 – Punitive tax calculated with 35,000 RM.
1939 – June 5, Herbertshof sold.
1940 – November 27, Gestapo seized the assets of Herbert and Daisy Gutmann in Germany.
1942 – December 22, Herbert M. Gutmann died in London.

make a living in England, the country to which Herbert escaped before he died in 1942, leaving Germany with nothing besides his famous name.

The situation changed after 1990. The reunification opened some archives. You start some research on the former family home “Herbertshof” in Potsdam. You find out that it was sold in 1938 and that Herbert got not a penny from this sale to the *Reichsvereinigung der Auslands-Deutschen*. You try to start a conversation with the Dresdner Bank again; the new and friendly board sends you a copy of the information from the 1950s and tells you that unfortunately, due to data security protection, they cannot permit entrance to their archives for your researchers.

Unfortunately for Dresdner Bank, because of the pressures of history,¹ Dresdner Bank had to establish an expert commission to research its activities in the Third Reich. One small chapter in this report from 2002 also deals with the “relation to the Jewish board members and employees.” This chapter explains that Herbert Gutmann was, according to the protocols of the board meetings, the “arranged scapegoat” from 1933 until 1935 and all of the debts presented to the family after 1945 were faked just to kick him out of the Bank.

So, you rethink your position. You start to research the assets and you research the art collection.

You find a specialized lawyer who works with research experts. In 2006, this team presents you with a first idea of what the collection was and when and how the title of ownership changed for several parts of the collection. You learn that even the former

property of Eugen Gutmann who died in 1925 is still “undivided” – a special topic for another lecture.

Your representatives start to send out letters to museums and collections where former parts of the collection are located. I will give you some examples of the answers and the ways to deal with these letters.

I will focus your attention on one auction in 1934, the year after the board of Dresdner Bank decided to finally get rid of Herbert Gutmann and one year after the “creation” of debts from risks caused by business dealings in the name of Dresdner Bank and their consortia that we would call today “option trades.”

The “Graupe Auction [of] April 12th 1934” included 848 pieces of art, including 64 paintings. Let’s speak about three of these paintings: Lenbach’s *Image of Bismarck*, Markart’s *Death of Pappenheim* and Rubens’ *Coronation of a Virgin or Coronation of Maria*.

First Example: Lenbach, *Image of Bismarck*

This painting was listed as item 17 in the auction catalogue.

I have had an ongoing conversation with the German Bundestag since 2007. The problem here: The identity of the painting is in question. Even if you are not an expert, you will recognize the painting from a family photo, as it is still in the same frame.

You should see a kind of identity, the same frame and although the *catalogue raison* of Lenbach shows more images of Bismarck, it includes only one with this specification: “*Bismarck standing with a head*.” Also, the provenience is clear:

¹ “Hinter jedem ersten Tank läuft Dr. Rasche von der Dresdner Bank”.

- ▷ Eugen Gutmann
1897 – present to Eugen Gutmann on the occasion of the 25th anniversary of Dresdner Bank as the founder and director
- ▷ Herbert M. Gutmann, Potsdam
12.14. April 1934 GraupeAuction Nr. 132, Lot 17, in Berlin
- ▷ Carl Rehn
21. February 1964 sold by Carl Rehn from Bopfinger to the “*Kunstsammlung des Deutschen Bundestages in Berlin*” (purchase price: 20,000 DM)
Deutscher Bundestag, Berlin

Second Example: Markart, *Death of Pappenheim*

Listed in the auction catalogue as number 20

After one year of negotiations, the Vienna Museum wrote the following letter:

GZ 35/2009 Vienna, January 20, 2009
Re: Restitution case of Herbert M. Gutmann

Dear Mr. Ossmann!

The Museums of the City of Vienna regret the accrued delay in the matter of Herbert M. Gutmann, which was, however, not within their purview since, after the Vienna City Council determined that the painting by Hans Makart was eligible for restitution in June 2008, it was first necessary for the unique “heritage quality” of the work to be clarified with the help of documents provided to the Museums

of the City of Vienna by Mrs. Schreiber. Because this determination has now been made, it was further required that the Museums of the City of Vienna receive from the Vienna Cultural Council a letter containing its political decision as to which legal successor the painting should ultimately be delivered to. [...] The painting is ready for you, as the beneficiary’s representative, and can be picked up at any time at the premises of the Museums of the City of Vienna, Karlsplatz, 1040 Vienna.

The provenance of the painting was indisputable, the circumstances of loss were verified by the Restitution Committee in Austria, and the painting was restituted even though this case was not covered by the existing law in Austria.

Provenance:

- ▷ 1885 Theodor Freiherr von Dreifus, Vienna;
- ▷ Collection of Herbert M. Gutmann until 1934; then
- ▷ April 12–14, 1934 Graupe Auction No. 132, lot 20;
- ▷ From 1934 privately owned in Potsdam; and from thence [in]
- ▷ 1945 into the art trade (according to an undated partial copy of a letter from Gottfried Günther to Frede Møller);
- ▷ Acquired at an unknown time by Frede Møller, Østrigs-gade 11/3, Kopenhagen and in his possession until November 1968; then sold to the

- ▷ Historical Museum of the City of Vienna (today: the Vienna Museum) on February 12, 1968 for the price of 35,000 Austrian Schillings.

So the grandson of Herbert Gutmann and I went to Vienna and picked up the painting in April of this year.

Third Example: Rubens, *Coronation of a Virgin or Coronation of Maria*

This painting was listed in the auction catalogue as number 43.

The painting was already on the Courtauld list of questionable paintings. The provenance shows that it was the property of Mr. Gutmann.

Since 2008, we have been standing in a line of claimants as the Courtauld Institute can only deal with one claim at the time. After the (in my eyes tragic) “Glaser” decision of June 2009, we are next in line at the spoliation advisory panel.

These three examples should give you an idea of different approaches to the topic and to the different views ending in persecution by finding different answers to the same questions. The bases for these different views are the different legal bases in the different countries.

Austrian Law reflects only the situation of Jews in Austria¹ after

¹ Österreich
Bundesgesetz vom 15. Mai 1946 über die Nichtigerklärung von Rechtsgeschäften und sonstigen Rechtshandlungen, die während der deutschen Besetzung Österreichs erfolgt sind.
§ 1. Entgeltliche und unentgeltliche Rechtsgeschäfte und sonstige Rechtshandlungen während der deutschen Besetzung Österreichs sind null und nichtig, wenn sie im

the annexation (*Anschluss*) and the persecution there. Germany² starts from the present owner and reflects from there to a persecuted pre-owner. England³ reviews all kinds of artwork if there is a request from a former owner who claims a loss in ownership between 1933 and 1945 because of persecution.

This British position sounds good but as the Glaser file showed, the idea of grading different levels of persecution and then creating a kind of cause-and-effect chain using fragmented archive

Zuge seiner durch das Deutsche Reich erfolgten politischen oder wirtschaftlichen Durchdringung vorgenommen worden sind, um natürlichen oder juristischen Personen Vermögensschaften oder Vermögensrechte zu entziehen, die ihnen am 13. März 1938 zugestanden sind.

² Deutschland
Erklärung der Bundesregierung, der Länder und der kommunalen Spitzenverbände Die Bundesregierung, die Länder und die kommunalen Spitzenverbände werden im Sinne der Washingtoner Erklärung in den verantwortlichen Gremien der Träger einschlägiger öffentlicher Einrichtungen darauf hinwirken, dass Kulturgüter, die als NS – verfolgungs – bedingt entzogen identifiziert und bestimmten Geschädigten zugeordnet werden können, nach individueller Prüfung den legitimierten früheren Eigentümern bzw. deren Erben zurückgegeben werden. Diese Prüfung schließt den Abgleich mit bereits erfolgten materiellen Wiedergutmachungsleistungen ein. Ein derartiges Verfahren ermöglicht es, die wahren Berechtigten festzustellen und dabei Doppelentschädigungen (z.B. durch Rückzahlungen von geleisteten Entschädigungen) zu vermeiden.

Den jeweiligen Einrichtungen wird empfohlen, mit zweifelsfrei legitimierten früheren Eigentümern bzw. deren Erben über Umfang sowie Art und Weise einer Rückgabe oder anderweitige materielle Wiedergutmachung (z.B. gegebenenfalls in Verbindung mit Dauerleihgaben, finanziellem oder materiellem Wertausgleich) zu verhandeln, soweit diese nicht bereits anderweitig geregelt sind (z.B. durch Rückerstattungsvergleich).

³ Great Britain
Spoliation Advisory Panel
Constitution and Terms of Reference: The task of the Panel is to consider claims from anyone (or from any one or more of their heirs), who lost possession of a cultural object (“the object”) during the Nazi era (1933–1945), where such object is now in the possession of a UK national collection or in the possession of another UK museum or gallery established for the public benefit (“the institution”). The Panel shall advise the claimant and the institution on what would be appropriate action to take in response to such a claim. The Panel shall also be available to advise about any claim for an item in a private collection at the joint request of the claimant and the owner.

material or even private correspondence of the former owner must lead to tragic and, in my eyes, wrong and misleading decisions. It is indisputable that the former owner was a victim of the Nazi system so even if he received an “appropriate” amount of money for the artwork – what was financed with that money? His escape, the losses caused by the persecution and so on. The view of the panel seems to me too academic. But hopefully we will hear more about it later.

Just to avoid the impression that you as a member of the Gutmann family now know all of the facets of restitution cases, the next negotiations are waiting in the Netherlands, the USA, and elsewhere.

Would you not agree that it would be a good idea to shorten all of these different procedures and to come to a standardized view at minimum for the specific and continuously repeating aspects of the claims? Remember, we speak about the same owner, the same collection, and the same circumstances of loss. So what are the complexes of expertise that we need to solve in our case and where is the best base of knowledge?

The expertise about the origin of the artwork (identity) exists where the collection was located.

The expertise about the person (owner) exists in the country where the persecution took place.

The expertise about the expropriation exists where the artwork was expropriated.

The expertise about obstacles against restitution exists in the country where the artwork is located today.

Why is it that we do not trust these knowledge bases and just clarify the really different aspects of a specific claim instead of starting the different national procedures from scratch each and every time?

How will we handle different ratings of persecutions in the EU in cases of identical persons and cases? Do we allow different levels of ethics?

My suggestion is to think about global, or at minimum European, acceptance of national pre-decisions in the following aspects and publication of such decisions as it is already standard in some European countries – but without any binding effect so far for other institutions dealing with the same subject.

This would make the life of the victims easier and the procedures in the various institutions dealing with this matter faster.

The aspects where binding (part-) decisions are possible and helpful are:

- ▷ Identity of the artwork;
- ▷ Ownership/persecution of the owner;
- ▷ Expropriation – legal nature of the “loss of property”;
- ▷ General obstacles against restitution;
- ▷ Succession.

My experience has shown me that the claimants have experienced a painful journey through the different ideas of “just and

fair solutions,” and since Washington, we did need ten years to reach the present situation. Do not let it be another ten years before we find ways to shorten the lengthy procedures for the claimants and the institutions. European standards for general aspects and cross-approval of the decisions of the national institutions worldwide, or at minimum in Europe, are the only way to make substantial progress. I will release you into your own perspective.

Thank you for your attention.

► **Georg Heuberger**

CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST
GERMANY, GERMANY

**HOLOCAUST ERA LOOTED ART: A WORLDWIDE
OVERVIEW**

The following is an overview based on preliminary data. It represents the results of the current best efforts research of the Conference on Jewish Material Claims Against Germany (“Claims Conference”) and the World Jewish Restitution Organization (WJRO) and is based upon information obtained by the Claim Conference/WJRO to date. It may contain factual or other errors. Governments, non-governmental organizations, and individual experts are invited to make corrections and comments on the website of the Claims Conference at www.claimscon.org.

Major intergovernmental conferences and resolutions during the past decade established international principles regarding the restitution of art and other cultural property, most notably

the *Washington Conference Principles on Nazi-Confiscated Art* (1998), *Resolution 1205* of the Parliamentary Assembly of the Council of Europe (1999), and the *Declaration of the Vilnius International Forum on Holocaust-Era Looted Cultural Assets* (2000). As a result, there have been some positive steps towards the restitution of movable artwork and cultural and religious property plundered from Jews, but progress has been slow, and there remains a very considerable amount of looted movable artwork and cultural and religious property that has not been recovered and that is still in private and public hands.

No mechanism was established to monitor progress by the over 40 governments that endorsed the Washington Conference Principles.

The main organizations of the world Jewish community that are active in the restitution of property looted from victims of the Holocaust, namely the Conference on Jewish Material Claims Against Germany and the World Jewish Restitution Organization, have been focusing on the systemic issues involved in art restitution throughout the world with the intent of improving and creating processes to enable more owners and heirs to recover their property. They have been working with Jewish communities around the world to bring increased attention to the restitution of looted artwork and movable cultural and religious property and in this regard have conducted extensive research over the past years on the status of provenance research and of claims processes for the restitution of artworks in most, if not all, relevant countries.

The variations among countries’ historical experiences and legal systems, as well as the complexities of provenance research and the establishment of claims processes, are such that it is not

easy to make generalizations. It is clear, however, that some sort of independent examination of progress is necessary, both within individual countries and between them. When, in 2005, the Claims Conference requested that the Association of American Museums (AAM) survey the progress of US museums in adhering to guidelines that the AAM had established for provenance research and restitution procedures, the AAM responded that it was not a policing organization and would not do such research. The Claims Conference response was that the Claims Conference also was not a policing organization but in the absence of any other choice, it would undertake to ask US museums to provide information themselves regarding implementation of the guidelines.¹

As part of the Claims Conference/WJRO Looted Art and Cultural Property Initiative, research has been carried out on a large number of countries, including all countries expected to participate in the Holocaust Era Assets Conference in Prague in June 2009, as well as some additional ones. Brief summaries for 50 countries of the very basic information relevant to implementation of the Washington Conference Principles on Nazi-Confiscated Art may be found at the end of the present report (see annex p. 1210).

Overview of Countries' Progress in Implementing the Washington Conference Principles

Based on the information gathered by the Claims Conference as summarized below, each country was placed into one of four broad categories:

1. Countries that have made *major progress* towards implementing the Washington Conference Principles on Nazi-Confiscated Art;
2. Countries that have made *substantial progress* towards implementing the Washington Conference Principles on Nazi-Confiscated Art;
3. Countries that have taken *some steps* towards implementing the Washington Conference Principles on Nazi-Confiscated Art; and
4. Countries that *do not appear to have made significant progress* towards implementing the Washington Conference Principles on Nazi-Confiscated Art.

The placement of a country in one or another category was based on available data regarding whether or not during the past decade a country established mechanisms to carry out provenance research and to process claims for restitution.

Of the 50 countries for which summaries are appended to this report, only four may be said to have made major progress towards implementing the Washington Conference Principles, while an additional 11 have made substantial progress in this regard. Of the remaining countries, six have taken some steps, while fully 23 appear not to have made significant progress towards implementing the Washington Conference Principles. For six of the countries, there is not enough information to be able to make a judgment. Put differently, only 34 percent of the 44 countries for which there is at least some information have made major or substantial progress towards implementing the Washington Conference Principles.

¹ See *Nazi-Era Stolen Art and US Museums: A Survey* at http://www.claimscon.org/forms/US_Museum_Survey_Report.pdf.

Obviously the situations faced by countries vary greatly. Perhaps the most obvious divide is between countries on whose territory the killings and robbery of the Holocaust took place and those countries that may have been involved in the history of the Holocaust and its aftermath but were not sites of the genocide itself. Whether perpetrator or victim nations, countries where the local Jewish population was robbed face greater complications and generally larger quantities of looted art in their museums than do countries that were simply the recipients of looted art. Thus, the challenges facing countries such as Germany and Ukraine are far greater than those facing countries such as Portugal and Canada.

Judgments regarding some of the countries may be open to question, but the fact remains that about two-thirds of the countries participating in the Holocaust Era Assets Conference in Prague in June 2009, most of which also participated in the Washington Conference in 1998, may be said only to have taken some steps or do not appear to have made significant progress towards putting the Washington Conference Principles on Nazi-Confiscated Art into practice. These countries may have taken important steps – e.g., the extensive work by the Russian Federation documenting the cultural losses of Russia – but they have not yet put in place the mechanisms necessary for provenance research and restitution of Nazi-confiscated art.

Note that in addition to most of them having endorsed the Washington Conference Principles, the countries in question – almost without exception – are signatories to the Code of Ethics of the International Council of Museums (ICOM), which calls for provenance research to be done on collections.

What Is to Be Done?

In addition to the specific recommendations made by the Working Group on Looted Art, there need to be international mechanisms to encourage countries to make progress in this area. The development of international laws may not be possible in the short term, but the further establishment of international guidelines and best practices, of regular progress reports, of an international association of provenance researchers, and of funding sources both within and across borders should help.

The return of plundered artworks and religious artifacts often has meaning beyond that of the restitution of other types of assets. These were personal possessions valued for their beauty and cultural significance, often handed down through several generations. In many cases, these artworks or artifacts are the last personal link heirs may have to families destroyed in the Holocaust. But beyond obligations to those from whom these artifacts were taken, our obligations to human civilization must include ensuring that our art collections are not based on robbery and genocide.

The following represent the recommendations of the Claims Conference and WJRO:

- ▷ Where they have not done so, institutions and states should be encouraged to undertake provenance research. Where it has commenced, efforts should be intensified in order that provenance research can be completed in an expeditious timeframe. Adequate funding for provenance research including grants to institutions and independent researchers is needed.

Include in what is deemed confiscated art and cultural property, transfers arising from looting, plunder, theft, coercion, abandonment, loss, or other forms of taking, as well as transfers of property, including “forced sales” that resulted from the direct or indirect effects of persecutory measures enacted into law or implemented by other political action by the Nazis and their collaborators during the Holocaust and its aftermath, whether such transfers were voluntary or involuntary.

- ▷ All countries should ensure the ongoing publication over the internet of provenance information including full details and images of looted objects and those with gaps in their provenance between 1933 and 1945.
- ▷ Provenance research requires that full access to archives and documentation be unhindered for all parties. The States should encourage private institutions and individuals, e.g., auction houses, art-dealers, galleries, and banks also to provide access to their records. Funding should be given to private entities to encourage accessibility of archives. There must also be free access to all archives dealing with the institutions involved in the plunder of the artwork.
- ▷ National claims procedures for fair and just solutions encompassing decisions on their merits, that is, on a moral basis and not on technical defenses such as the passage of time should be established. Procedures should include:
 - Sharing of evidence by both the current possessor and the claimant;

- Presumption of confiscation in favor of the claimant (the onus is on the later owner to rebut this presumption);
- Relaxed standards of evidence for the original owner;
- The burden of proof should not rest only on the claimant; the present possessor also has to prove the rightfulness of his possession;
- Claimants should not be burdened by financial requirements.
- ▷ Export, citizenship, de-accession laws, statutes of limitations, inheritance and cultural heritage laws should not be used to prevent the restitution of property to claimants.
- ▷ States should support and encourage the establishment of public or private organizations that advise, support, and assist claimants in provenance research, the legal procedures, restitution and other matters.
- ▷ States should actively support the establishment and operation of an international association of all provenance researchers. The association should encourage cooperation between researchers, the exchange of information, the setting of standards, and education.
- ▷ Institutions should be encouraged to provide provenance information in all exhibitions or other public presentations that include looted cultural property.
- ▷ Countries should establish mechanisms for the resolution of disputed claims – these could include commissions,

advisory panels, or other alternative dispute resolution mechanisms comprised of balanced membership – including representation of victim groups – as an alternative to judicial proceedings to determine ownership issues and rights of claimants to confiscated property. Such mechanisms should have full transparency, include clear rules and procedures, and require the publication of decisions, recommendations, and terms of reference.

- ▷ Where necessary, states should enact or modify legislation in order to ensure the identification and recovery of looted artwork and cultural assets by original owners or their legal successors and to implement the principles contained herein.
- ▷ The Participating States should report on the implementation of these principles – including, but not limited to, the state of provenance research and its publication and the status of the restitution of artwork and cultural property – to an appropriate international entity. These reports should be publicly available.

For Classification and Summaries of Countries – see annex p. 1210.

► **Marc-André Renold**

THE UNIVERSITY OF GENEVA, SWITZERLAND

**THE RENEWAL OF THE RESTITUTION PROCESS:
ALTERNATIVE DISPUTE RESOLUTION METHODS**

**I. ALTERNATIVE METHODS OF DISPUTE RESOLUTION:
THE VARIOUS MECHANISMS**

Washington Principles on Nazi-Confiscated Art, December 3, 1998, Principle N° XI: “Nations are encouraged to develop national processes ... in particular as they relate to alternative dispute resolution mechanisms for resolving ownership issues.”

Claims for restitution and court proceedings: advantages and disadvantages.

Arbitration

The international basis for arbitration in the field of cultural property.

International arbitration in practice: the awards in *Maria Altmann et al. v. Republic of Austria* (January 15, 2006 and May 7, 2006).

Mediation and Conciliation

The international basis for mediation and conciliation in the field of cultural property.

A recent example of a successful mediation in a dispute relating to ancient manuscripts looted during the 18th century religious wars in Switzerland (mediation agreement of April 27, 2006).

Negotiation

- ▷ Inter-state negotiations through the diplomatic channels;
- ▷ Negotiations between states and museums or other entities (public or private);
- ▷ Negotiations between private individuals;
- ▷ Some (unpublicized) examples.

II. POSSIBLE SUBSTANTIVE SOLUTIONS

Washington Principles on Nazi-Confiscated Art, December 3, 1998, Principle N° VIII: "... [S]teps should be taken expeditiously to achieve a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case."

A particular restitution agreement can simultaneously contain other specific substantive solutions (e.g., the April 2006 ancient manuscript mediation agreement in Switzerland, where the following solutions were adopted cumulatively: restitution, formal recognition of the cultural significance of the non-returned objects involved, long-term loan, donation, making of a copy of one of the cultural objects at stake).

Restitution

- ▷ Unconditional restitution (e.g., the 5 Klimt paintings returned to Mrs. Maria Altmann in January 2006; the restitution of Pissarro's *Quai Malaquais et l'Institut* to Mrs. Bermann-Fischer in 2008);
- ▷ Conditional restitution.

Loans

- ▷ The long-term loan (e.g., the ancient manuscript mediation in Switzerland);
- ▷ The short-term loan mediation (e.g., the *Benvenuto Missal* returned by the British Library following the UK Spoliation Advisory Commission Recommendation of 2004).

Donations

A long-term loan can ultimately be transformed into a donation (e.g., in the cultural heritage field, the 1997 loan granted by the Geneva Art and History Museum to the municipality of the place of origin of the medieval *Casenoves* frescoes in France; in 2003, the loan was unilaterally transformed by the Genevan authorities into a donation).

Other examples taken from recent practice (e.g., donation of a manuscript in the context of the Swiss mediation on the ancient manuscripts).

Setting Up a Specific Ownership Status (Co-Ownership, Trust, etc.)

The out of court settlement (August 1998) relating to a painting by Degas, *Landscape with Smokestacks*, looted by the Nazis and later acquired by a North American collector: the collector donated half of the interest in the painting to the Art Institute of Chicago and the other half went to the descendants of the victim of the spoliation, who could sell their share to the Institute for half of the value of the painting as determined by an expert appointed by both parties.

Making Copies

This technique was used in the Swiss mediation on the ancient manuscripts and other cultural goods: one of the parties was allowed to keep the original of the terrestrial and celestial globe of Prince-Abbey Bernhard Müller (1570 AD), but it had to make, at its expense, a perfect copy of the globe, which it was to donate to the other party.

The Formal Recognition of the Significance of the Cultural Properties to the Claimant's Cultural Identity

The Swiss ancient manuscripts agreement provides that the objects not returned to one party (Saint-Gall) are nevertheless expressly recognized by the other party (Zurich) as having for the former an important identity value.

Cultural Cooperation Agreements

In the field of antiquities, recent agreements between states and museums provide for the restitution by the museums of certain

cultural objects to the state of origin, but they simultaneously put into place long-term cooperation between these museums and that state, by providing for loans of certain important objects to these museums and the establishment of common international exhibitions (e.g., agreements entered in 2006 and 2007 between North American museums and Italy).

Other Possible Solutions

- ▷ The transfer of ownership to a third party not linked to the restitution claim;
- ▷ The withdrawal of the restitution claim in exchange for financial indemnification (e.g., the settlement of the litigation regarding Kandinsky's *Improvisation N° 10* in Basel);
- ▷ The re-purchase of the object by the person claiming restitution;
- ▷ The re-purchase of the object by the person/institution facing the restitution claim.

► Stephen J. Knerly Jr.

ASSOCIATION OF ART MUSEUM DIRECTORS, USA

SELECTED ISSUES FOR AMERICAN ART MUSEUMS REGARDING HOLOCAUST ERA LOOTED ART

This paper is presented on behalf of the Association of Art Museum Directors (AAMD) to the *Looted Art Working Group* of

the 2009 Holocaust Era Assets Conference. The purpose of the paper is to provide an overview of the American museum response to the Principles set forth in the Washington Conference on Nazi-Confiscated Art, to identify areas that need attention, and to suggest solutions.¹

Introduction

The AAMD, which was founded in 1916 as a not-for-profit organization whose director/members represent approximately 190 of the major museums in the United States, Mexico and Canada, abhors the unspeakable crimes committed against Jews during the Holocaust and recognizes the plight of Holocaust survivors who struggle to be reunited with works of art stolen from them by the Nazis and the heirs of Holocaust victims who seek resolution for the wrongs done their ancestors. The American art museum community is firmly committed to assisting Holocaust survivors and heirs by making all provenance research on potential Nazi era looted art available on websites and responding to every claim seriously, respectfully, and in a timely manner in an effort to bring justice to those so long denied it.

The AAMD, among other mission-related activities, establishes policies and guidelines for its members that are followed by most art museums in North America. The AAMD also works closely with the American Association of Museums (AAM) on a number of policy-related activities. The AAM establishes policies and best practices for museums of all types throughout the United States.

¹ For classification of countries see annex p. 1251.

The AAMD was the first professional organization to establish policies and guidelines for addressing Holocaust looted art and cultural property. In June of 1998, the AAMD published its Report of the AAMD Task Force on Nazi Looted Art ("*1998 Report*"). The *1998 Report*, among other things, provides that the AAMD:

- ▷ Deplores the unlawful confiscation of art that constituted one of the many horrors of the Holocaust and World War II;
- ▷ Reaffirms the commitment of its members to weigh promptly and thoroughly claims of title;
- ▷ Urges the prompt creation of mechanisms to coordinate full access to all documentation concerning the spoliation of art;
- ▷ Recommends the review of the provenance of works in the collections of member museums, including research of museum records and contact with archives, databases, art dealers, auction houses, donors, art historians, and other scholars, to attempt to ascertain whether any were unlawfully confiscated during the Nazi/World War II era and never restituted;
- ▷ Recommends that records relevant to such provenance information be available;
- ▷ Recommends that, in connection with acquisitions, donors and sellers should provide as much provenance information as possible with regard to the Nazi/World War II era and, where that information is incomplete, available records should be searched and databases consulted; if the foregoing fails to show an unlawful confiscation, the

acquisition may proceed, but if the evidence shows unlawful confiscation without restitution, the acquisition should not proceed;

- ▷ Recommends that new acquisitions be published;
- ▷ Recommends that if a member museum discovers that a work in the collection was unlawfully confiscated and not restituted, the information should be made public and if a legitimate claimant comes forward, the museum should offer to resolve the matter in an equitable, appropriate, and mutually agreeable manner;
- ▷ Recommends that if no claimant comes forward, the member museum should acknowledge the history of the work on labels and publications;
- ▷ Recommends that when a claim is received, the member museum should review the claim promptly and thoroughly and if the museum should determine that the work was illegally confiscated and not restituted, the museum should offer to resolve the matter in an equitable, appropriate, and mutually agreeable manner, using mediation wherever reasonably practical;
- ▷ Recommends that the provenance of incoming loans be reviewed and that works should not be borrowed if they were illegally confiscated during the Nazi/World War II era and not restituted; and
- ▷ Recommends the creation of databases and the participation in those databases by museums.

The *1998 Report* was a collaborative effort by major collecting museums and reflected the growing worldwide concern with unresolved property issues arising out of the Holocaust. Perhaps one of the most notable aspects of the *1998 Report* was that the vast majority of the directors who served on the Task Force that drafted the *1998 Report* were directors of museums that are private institutions. Furthermore, a large proportion of the AAMD museums that adopted the *1998 Report* are private institutions. This is an important distinction. Unlike art museums in almost any other country, most art museums in the United States are private institutions. With the adoption of the *1998 Report*, both private institutions and museums owned or controlled by governmental entities undertook voluntary standards of conduct not imposed by any government policy.

Even before issuing the *1998 Report*, both in hearings before the United States Congress and discussions within the field, the AAMD took a proactive position with respect to addressing responsibly issues that might arise concerning objects that were looted during the Holocaust and not restituted. The *1998 Report* was followed by the Washington Principles for which the *1998 Report* served, in part, as a model¹ and in 1999, by the American Association of Museums' AAM Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era ("AAM Guidelines").

¹ The *1998 Report* is broader in a number of significant respects than the Washington Principles. For example, the *1998 Report* addresses not only objects in museum collections that may have been confiscated during the Nazi era and not restituted, but also new acquisitions and loans.

Acquisitions

While the undertaking by member museums to research their collections and provide accessible information about those objects that had gaps in their provenance during the Nazi era (defined in the *1998 Report* as 1933–1945) was perhaps the most significant portion of the *1998 Report*, the most immediate effect of the *1998 Report* was to change the nature of collecting by American art museums. Art museums have long sought to obtain provenance information on objects they intend to acquire, whether by purchase, gift, bequest or exchange. After the adoption of the *1998 Report*, museums asked much more specific and pointed questions of sellers, dealers and donors before acquiring objects that might have been in Europe during the Holocaust. In addition, museums conducted independent, multi-source research on such objects, especially as more information became available after the fall of the Berlin Wall and on searchable databases. This effort continues today and now not only do museums carefully research provenance for Nazi era issues, but many private collectors take the same care before acquiring works of art. At least in the United States, the increased awareness resulting from the Washington Principles, the *1998 Report*, and the *AAM Guidelines*, has fundamentally changed the market for art objects.

American museums also routinely publish their acquisitions. As a result, unlike private transactions and those of institutions in some other countries, the acquisition of works by American museums brings objects into the public eye. If there is a potential claim, the publication of the acquisition of the work can bring it to the attention of the claimant allowing a potential resolution. This open policy on acquisitions by American museums is an important cornerstone of the efforts to address responsibly the difficulties in researching Nazi era provenance.

Research

When American museums committed to review objects in their collections that had gaps in their provenance between 1933 and 1945, during which time they were in Europe or had actually been confiscated, few probably understood the enormity of the effort. Of course, a gap in the provenance does not mean that an object was confiscated or confiscated and not restituted. A gap, in this context, simply means that there is an absence of information for some period of time between 1933 and 1945 and an indication that during that period of time the object might have been in Continental Europe.

The first priority for review has been European paintings; some museums have been able to complete that portion of the project and have moved on to other aspects of their collections, e.g., sculpture and Judaica. Provenance research is specialized work requiring both education and experience, often beyond the capabilities or time available of the current curatorial staff. As a result, museums have hired additional personnel in order to do the necessary research. This effort has resulted in multiple millions of dollars in direct expenditures for research and much more in indirect expenses as existing museum personnel are retrained to do this specialized provenance research on the collections and respond to claims.

Once an object has been identified as one that changed hands or may have changed hands in Europe between 1933 and 1945, with or without a complete provenance, the next step is publication. Pursuant to an agreement between AAM, AAMD, and the Presidential Advisory Commission on Holocaust Assets in the United States, AAM created a website known as the Nazi-Era Provenance Internet Portal. The Portal provides a central, searchable

registry of objects in US museums that changed hands in Continental Europe during the period 1933 to 1945. To date, over 164 museums have published over 27,000 works on the Portal. The Portal links researchers to individual museum websites or staffs, from which users can obtain detailed provenance information, exhibition and publication history, and other information about specific objects.

Museum Restitutions and Settlements

Since the *1998 Report*, an estimated sixteen paintings have been returned by American museums to Holocaust survivors or their heirs and mutually agreeable settlements have been reached with claimants on an estimated thirteen claims, settlements that allowed those works to remain in the public domain at the museums.¹ These twenty-nine resolved claims are a very small number when considered in relation to the number of works of European origin in collections of American museums, but James Cuno, Director of the Art Institute of Chicago, explained the issue very well in his testimony before the Subcommittee on Domestic and International Monetary Policy, Trade and Technology of the Committee on Banking and Financial Services of the United States House of Representatives on July 27, 2006:

“Of all of the art museums in the US, approximately half have no permanent collection, or have collections of only contemporary, many of which are of only local or regional

¹ These restitutions and settlements involved museums that are both private institutions as well as museums that are owned or controlled by government entities. The numbers do not include litigated cases where the claimants did not prevail, unless there was a subsequent settlement, or cases where the claim was not accepted by the museum.

art, and by definition do not have Nazi-era looted art in their collections. This is true also of 30 percent of AAMD’s 170 member museums: only 120 member museums could have Nazi-era looted art in their collections.

The 120 AAMD member museums that may have Nazi-era looted art in their collections have collections totaling 18 million works of art. Of these, fewer than 20,000 are European paintings, thousands of which were acquired before World War II. Unlike Eastern and Western Europe, the US was never a repository for any of the 200,000 works of art recovered after the war. Any Nazi-era looted art that may be in US art museums is there as a result of second-, third-, or even fourth-generation, good faith transactions. I mention this only to remind us of the scale of the potential problem in this country: the likelihood of there being problems in US art museums is relatively low; nevertheless, the amount of research to be undertaken on the tens of thousands of works of art that, by definition, may have Nazi-era provenance problems is significant, requiring large allocations of staff time and money, allocations US art museums have made and will make until the job is done.”

US museums are proud of their record of resolving claims based on diligent investigation of the underlying historical facts. Each story is distinct; the facts are invariably complicated and unique to the case. Some examples can hopefully clarify both the efforts of the American museums to resolve cases through original research and the challenges involved.

One case that demonstrates how information on a confiscated painting can come to the museum through many different

sources involved the Utah Museum of Fine Arts in Salt Lake City, Utah.¹ While compiling information for a book on Hermann Göring's collection entitled *Beyond the Dreams of Avarice*, Nancy Yeide of the National Gallery of Art in Washington, DC, discovered information about a painting by François Boucher, *Les Amoureux Jeunes* at the Utah Museum. Yeide determined that the Boucher had been looted from the collection of the French art dealer Andre Jean Seligmann. The painting had been acquired by a collector from a New York gallery in 1972 and the collector had donated it to the Utah Museum in 1993. After the Utah Museum was contacted by Yeide, it undertook an extensive provenance research investigation with the assistance of the Art Loss Register. In 2004, the Utah Museum determined that the Boucher should be restituted to Mr. Seligmann's heirs, Claude Delives and Suzanne Geiss Robbins, both of whom traveled to Salt Lake City to receive the painting and to express their thanks to the museum staff, who Ms. Robbins called "adorable."²

In another case, this time involving the Virginia Museum of Fine Arts,³ the Museum was conducting research on its collection and determined that there was a gap in the provenance with respect to a small oil on panel by the 16th century artist Jan Mostaert entitled *Portrait of a Courtier*. After more research, the Museum determined that the painting had been in the Czartoryski family collection in Poland and was transferred from the family collection at Goluchów Castle to safekeeping in Warsaw in 1939. The Nazis located the painting and seized it in 1941, moving it to the Castle of Fischhorn in Austria after the 1944 Warsaw Up-

rising. The painting surfaced at the Newhouse Galleries in New York and was sold in 1948 to a collector who gave it to the Museum in 1949. After discovering these facts, the Museum contacted the Polish Embassy and returned the painting in 2005 to the Embassy on behalf of Adam Count Zamoyski, the representative of the rightful owner's descendants. The family later deposited the painting in the Princess Czartoryski Museum in Krakow, Poland.⁴

Another example of a museum promptly addressing an issue occurred in 2000 at the North Carolina Museum of Art.⁵ The Holocaust Claims Processing Office of the New York State Banking Department, acting on behalf of the heirs of the Viennese industrialist Philipp von Gumperz, contacted the Museum about a painting by Lucas Cranach the Elder, *Madonna and Child in a Landscape*. The heirs claimed that the painting had been illegally seized by the Gestapo from the von Gumperz collection in 1940. During the ensuing correspondence, the Holocaust Claims Processing Office provided documentary evidence confirming the looting of the painting, including the signed authorization of the seizure and a photograph of the looted painting taken by the Gestapo, presumably for showing to Hitler and other Nazi "collectors." The painting was acquired by Baldur von Schirach, the Nazi *Gauleiter* (Governor) of Vienna. By the early 1950s, it was held by a New York dealer, E. & A. Silberman Galleries, who sold it to an unsuspecting George and Marianne Khuner of Beverly Hills, California. Upon Mrs. Khuner's death in 1984, the Cranach painting was bequeathed to the Museum. Until contacted by the Holocaust Claims Processing Office, the Museum knew nothing

¹ The Utah Museum of Fine Arts is a university and state art museum.

² The Museum did not assert defenses to the claim such as the statute of limitations, although the work had been in the collection since 1993.

³ The Virginia Museum of Fine Arts was created by the government of the Commonwealth of Virginia.

⁴ The Museum did not assert defenses to the claim such as the statute of limitations, although the work had been in the collection since 1949.

⁵ The North Carolina Museum of Art is an agency of the Department of Cultural Resources of the State of North Carolina.

of the painting's wartime history. Once the looting of the painting had been confirmed, the Museum on February 3, 2000 formally relinquished possession — without litigation. The Museum then immediately entered into negotiations with the owners to re-acquire the painting. The owners agreed to allow the Museum to buy the painting for half of its appraised value because as they indicated in correspondence to the Museum “the public should know that the heirs of Philipp von Gomperz appreciate the sense of justice shown by [the Museum's] decision to reconstitute the painting.”¹

In another case that shows how fact specific each one of these cases can be, the Kimbell Art Museum in Fort Worth² both de-accessioned, restituted, and then reacquired what its director, Timothy Potts, described as its most important British work. The painting *Glauco and Scylla* by J. M. W. Turner was acquired in 1902 by John Jaffé, a British subject, from a gallery in Paris. Jaffé lived in Nice, France at the time of his death in 1933 and he left the painting to his wife. Mrs. Jaffé was trapped in France and died in 1942 leaving all of her property, including the painting, to three nieces and a nephew. The Vichy government seized her estate and arrested the nephew, who subsequently died in Auschwitz. The painting disappeared until 1956 when it resurfaced in Paris, was purchased by a London gallery, then by a New York gallery and then, in 1966, by the Kimbell. Approached by a representative of the family, the Kimbell confirmed these facts and restituted the painting, which was then placed for auction at Christie's. At auction, the Kimbell purchased the painting for USD 5.7 million, placing this important work back in the collection of the Kimbell.³

¹ The Museum did not assert defenses to the claim such as the statute of limitations, although the work had been in the collection since 1984.

² The Kimbell Art Museum is a private museum located in Fort Worth, Texas.

³ The Museum did not assert defenses to the claim such as the statute of limitations,

These examples, as well as others, demonstrate the efforts by American museums to comply not only with the *1998 Report* and the *AAM Guidelines*, but also with the Washington Principles.⁴

Disputed Claims

There have been situations where museums have faced claims that, after painstaking historical investigation and full public disclosure of all the relevant evidence, prove not to be valid. These present a difficult situation for museums. US museums are fully committed to responding to all claims carefully and in good faith. Museums hold their collections in trust for the public and they have a legal and fiduciary duty not to transfer objects from the collection to private ownership except for good cause. For a museum to transfer an object to a claimant, the evidence must demonstrate that: (1) the object was confiscated by the Nazis or was the subject of a forced sale; (2) the object was not restituted, nor was fair compensation ever paid; and (3) the claimants constitute the universe of those who could bring a claim. Until evidence can be developed that would persuade a reasonable observer that these three tests have been met, a US museum cannot consider restitution to resolve a claim.

The obligation of museums not to reconstitute works in response to non-meritorious claims should not be mischaracterized. Museums are placed in a difficult position when there is a claim that they have in good faith determined to be unsubstantiated because they have limited choices in their response to the claim consistent with their fiduciary duties. Should

although the work had been in the collection since 1966.

⁴ See Washington Principles in annex p. 1249 — specifically # I, II, III, IV, V, VII and VIII.

they transfer a work to a claimant on the basis of highly ambiguous evidence of ownership and a subsequent claimant appears with incontrovertible evidence of ownership, the museum could be liable to the second claimant. Likewise, if a museum transfers a work held in public trust, that a government regulator, like a State Attorney General, subsequently decides was inappropriately removed from the public trust, the museum again could be held responsible for inappropriately disposing of its assets.

Given this background, museums can continue to discuss the absence of persuasive evidence with the claimants and their representatives, but this can become a never-ending process without resolution. They can wait to be sued by a claimant, at which point they will have to decide whether to defend the case on the merits which can be extraordinarily expensive and time consuming or interpose defenses, such as the statute of limitations. If they have already determined that the claim is invalid based on the documented historical record, there is a significant argument that they have a fiduciary duty to interpose those defenses rather than expend time and money defending a meritless claim on the merits. Finally, a US museum can elect to present the facts to a court and ask the court to decide if the claim is invalid. At least in the United States, this is a time honored approach to the resolution of title disputes, as well as other litigable disagreements, and it has many advantages, not the least of which is litigating the case when witnesses are still alive and documents still available.

Access to Records

While there have been a number of restitutions or settlements, museums do have a fiduciary duty to only deaccession objects

and transfer them out of the collection based on facts that merit such a decision. These facts are challenging to develop and US museums are often hampered by the legal systems in foreign jurisdictions. Some jurisdictions prohibit third party access to estate documents or archives – sources that are generally available to claimants.

The problem with access to records is multifaceted and often involves claimants, governments, and, sometimes, private entities. While admittedly there is no universal solution, claimants should be required to provide all information they have with respect to their claims, but also provide access to records where their consent is required, whether governmental or private. There are generally two threshold issues in connection with a provenance claim – whether the object was confiscated and not restituted and whether the claimants, if they are not the original owners, have standing to bring the claim. Museums, in the exercise of their fiduciary duty, have an obligation to assure that if an object is being transferred, it is one which was confiscated or the subject of a forced sale and not restituted or some form of settlement reached, but also that the claimants represent the universe of those who could bring an action against the museum. This latter point often requires significant research into inheritance records, copies of wills, etc., which in many countries are not available to researchers without the consent of the family. The more complete and accurate the information presented to museums by claimants, the more expeditiously a claim can be considered and resolved.

While high value works often attract support for claimants from lawyers, researchers and advocacy groups, works which do not have the same monetary value often do not garner the same attention. Nevertheless, the diligence that a museum must

undertake before deaccessioning an object is not simply a question of value. Museums hold all of their works in trust for the public and that standard is not based on a hierarchy of monetary worth, even though there are broad practical considerations appropriate to the relevant inquiries.

Government Assistance to Claimants

The creation of government funded agencies to assist claimants in the identification of property, the research of relevant facts and the preparation and presentation of evidence to possessors like museums would be of great value. In the United States, there is an excellent example of such a group, the Holocaust Claims Processing Office of the New York State Banking Department. This organization, created by the Governor of the State of New York in 1997, has highly qualified staff of independent researchers who are there to evaluate claims for restitution of property confiscated during the Holocaust, perform research into the claim, and prepare materials for presentation to the possessors. They also act as an intermediary between the claimants and the possessors in seeking the amicable resolution of the claim. Their work has been wide reaching and extremely beneficial to the claimant community and they have assisted museums, both in and out of the State of New York, in the resolution of claims. They are not an arbitral panel or an advisory panel; rather they are an independent group that assists claimants in the research, preparation, and presentation of their claims. Their research can often help claimants determine that their claim is valid or equally, when evidence does not support the claim, convince claimants that the claim should not be pursued.

The AAMD believes that creating an agency similar to the Holocaust Claims Processing Office is needed, provided there are

sufficient safeguards built in for both parties. Such an agency is important at this time in light of the need for prompt and effective resolution of claims for the benefit in the first instance of the survivors of the Holocaust whose numbers are diminishing every day. Governments should be encouraged to create entities like the Holocaust Claims Processing Office. Of course, the distinctions of national law and practice will affect how such an organization is formed and funded, but we recommend the basic model of the Holocaust Claims Processing Office as one that has a proven track record and can at least form the basis for discussion of similar efforts.

Deaccession, Delivery and Export of Restituted Works

While not an issue for US museums, there is a disparity in the treatment of restitution claims in the United States as opposed to some other countries. Generally, there is no legal prohibition against a US museum returning a work of art to a claimant. This is not the case in some other countries. Furthermore, in the United States, art is freely exportable by its owners, which is also not the situation either legally or bureaucratically, in some other countries.¹ American museums are proud of their leadership role in efforts to address Nazi era confiscations and they are very willing to assist other nations in evaluating the benefits of allowing restitution of works rather than simple monetary settlements. While there have been few direct restitutions in the United States, they have been well publicized and these cases can be examples for other countries that might consider changing their laws or practices that prohibit a complete resolution of claims. Further, United States law does not prohibit a foreign claimant from removing an awarded work of art from

¹ An export declaration is usually required.

the territory of the United States. Simply put, if a claim is valid a work of art can be returned to the heirs after which it is saleable and freely transferable.

Conclusion

Every day, survivors of the Holocaust pass away. Without diminishing the rights of their heirs to seek restitution of property confiscated by the Nazis, the group that has the highest claim on our collective conscience is those who directly suffered during the Holocaust. Time left to them is limited and while progress has certainly been made since the Washington Conference, there is the danger of "Holocaust fatigue." All involved, whether claimants, non-governmental organizations dedicated to the support of Holocaust victims and survivors, national governments, and museums, both state owned and private, need to redouble their efforts in the relatively short period of time left to those survivors to bring to resolution any of their claims. This is admittedly difficult in tough economic times when funding available for museums in general is diminished, much less that which is available for research, claims consideration, restitution or settlement. Nevertheless, the Prague Conference should act as a catalyst to reinvigorate all those involved in the process and there is every reason to believe that the American museum community will assist in these efforts, as it has in the past.

► Norman Palmer

SPOILIATION ADVISORY PANEL, UK

INTEGRITY, TRANSPARENCY AND PERTINACITY IN THE TREATMENT OF HOLOCAUST-RELATED ART CLAIMS

Every lawyer in this room will know that it frequently falls to us, the lawyers, to be the harbingers of unwelcome news. Someone once said to me that if there is one thing more galling than paying money to be told what you cannot do, it is paying money to be told what you should not have done. And that is a role that, regrettably, does fall to us very often indeed. There can be no doubt, moreover, that the law is an extremely substantial barrier to the ethical and equitable resolution of claims in this field, and, as I may say, in many others. I will say more about that in due course.

But let me just say at this stage that I think the United Kingdom government has, for at least the past decade and a half, been acutely aware of the shortcomings of law as a mode of dispute resolution, particularly in cases of significant imbalance of power and significant disadvantage on the part of one party. It has manifested this concern in two different ways.

First, by general procedural reforms: We have now had, since 1998, new civil procedure rules, which attach very significant case management sanctions to parties who could reasonably have gone to alternative dispute resolution and did not. And among those case management sanctions would be a refusal to make a cost order in favour of the successful party in the litigation, even though they had won, if they had previously declined a reasonable offer, reasonable invitation to mediate, or go to other dispute resolution. So, we are moving towards a policy

of out-of-court resolution generally, as well as in the case of Holocaust-related art. As I am sure many of you know, in June 2000, the Department of Culture set up a Spoliation Advisory Panel which has continued to sit since that time with entirely unchanged membership over the intervening nine-year period. It is important to understand the limitations of the Spoliation Advisory Panel. Its service is non-mandatory. No party would be compelled to resort to the Spoliation Advisory Panel as it is purely a matter of voluntary adoption.

Second, no party is compelled by law to follow the conclusions and recommendations of the Panel. The Panel is in power to make recommendations to two groups of people: the parties to the dispute and the relevant Minister, i.e., the Minister for the Arts. As regards the parties to the dispute, the Panel would of course give its view as to what should happen, what remedy, if any, should ensue. The adoption of that remedy is then a matter for the parties, who can either repudiate it or adopt it according to their wish. The only occasions in the past in which the remedy recommended by the tribunal has not been adopted are cases where it has not proved legally possible to do so.

And that brings me to the second type of recommendation that we on the Panel might make, which is a recommendation to the Minister. These recommendations can take several forms. One such recommendation might be, and we have done this on several occasions, to say to the Minister: "We think this is a case, where an *ex gratia* payment, acceptable to the claimant, should be made. And because the public have had the benefit of this picture, which has been in the public museum for the last forty, fifty, or sixty years, we think this should come from public accounts." We have never made such a recommendation to the Minister which has not been adopted.

But the other sort of recommendation we can make is about the existing law. Again, we have done this. We can say to the Minister: "Look, we think this item should go back. Justice points in favour of specific restitution, but the law does not permit it." We have national museums in England, which are subjects to governing statutes. These statutes are largely in place to guarantee the independence of these museums, but essentially render inalienable, incapable of disposal, objects that are vested in the trustees of that museum as part of the collection. If we have said for example to the Tate Gallery in the case of our first hearing, which was the Griffier painting of Country Court from the Southern River: "It must go back," they would quite properly have replied: "It cannot go back, we would be breaking the law by doing so." We are therefore able, and we consider it part of our function, to recommend to the Minister that the law be changed, so that museums can do the right thing, when they want to follow our recommendation. So that is the functional and constitutional concept of the Spoliation Advisory Panel.

It has to be said that law does still stand in the way of what most of us regard as the relative success of our proceedings. Perhaps the biggest example of its barrierdom, if you like, occurred in 2005, when the British Museum wanted to return to the descendants of Dr. Feldman five Old Master drawings, which had come into the possession of the Museum following the 1939 murder of Dr. Feldman in Brno. The Museum conceived the idea that the Charities Act 1993, which covered all charities, stipulated the obligation to release an object from its collection.

The Attorney General was not convinced, and the matter was taken to the Chancery Court. And the Chancery Court said no. You cannot do that. And the reason you cannot do that is

because there is the civic legislation, the British Museum Act 1963, which says you cannot alienate objects from your collection. That prohibition is not overridden by the Charities Act, so legal proceedings were taken to give the British Museum the power to do what it should have been able to do, and what it undoubtedly wanted to do, and that failed. In the end, the matter came before the Panel and I think by agreement of the parties by then, a financial settlement was negotiated.

It was a sad episode, and I am pleased to be able to report that there is now legislation passing through Parliament, which will give British national museums the power to relinquish their ownership of such objects even though there is the General Prohibition Act, which overrides the British Museum Act to a certain extent.

I suppose you could say that whereas law can create problems, it can also create solutions in the end. Those are examples of statutory laws. There are also many examples of cases where the ingenuity of the common law can also in the end assist resolutions.

What I find gratifying about this area is that lawyers are increasingly thinking outside the box. The international agencies still talk aloud about restitution of the object. And of course, in many if not all cases, that is the preferred option. But there is more than one way to skin a cat, and sometimes if you can exert legal sanctions and remedies other than specific legal restitution, you might at least bring the other party to the negotiation table and eventually get what you want. Even if you do not get what you want in the end, you may get something, which is second best.

Let me give you some examples. Supposing that a museum is told: "You have got a Holocaust-related object on loan to you".

And they say to you: "Yes, I am sure that is true, that is not our problem, we are going to return it to the lender at the end of the period of loan because if we do not do that, the lender is going to sue us anyway, so why do not you fight it out with the lender?" The lender of course would probably be a museum or a private collector in a country where it is utterly fruitless to bring any legal action against them because if it were fruitful to do so, we would have done so years and years ago.

You say to the museum: "Yes, all right, you do that. And if you do that, if you return it, we will sue you for damages." The English law quite clearly says that if a person knowingly returns an object in defence of that right to somebody who is not entitled to it, then they are guilty of the tort of conversion. Now the object is gone and you will not get restitution, but you will get damages and damages can be quite substantial. At the thought of a prospect of paying damages on the return of the object, the museum may actually be discouraged to do so, even a borrowing museum that is protected by an Immunity Statute as we now have in England. Because as Charles Goldstein has often said, it is only immunity from seizure, it is not immunity from suit that these statutes confer. You say to the museum: "Okay, exercise your right of immunity, return the object and we will sue you for damages: 5 million, 20 million, whatever the picture is worth." But well, it is worth a try. None of this do I guarantee will work, of course.

This pertains to other examples as well: In the Spoliation Advisory Panel, I first had a case where we awarded a *gratia* payment, and we included within that a sum which was long specified to account for the British public benefit in having had the use of this picture over the preceding forty years. And this curiously reflects the doctrine of English restitution law, or

the doctrine for a reasonable hiring charge. If your property has been wrongly retained over a certain period, you may be entitled to a payment that represents the value of its use in the hands of the party that has had it in its possession.

I do not think there has been any case like this since. But this remedy has been invoked. And of course the Tate-Griffier case was the case where we did not recommend the return of a picture; a settlement which would have been quite acceptable to the claimants. Supposing you do return a picture. Could the claimant turn around and say: "Thank you very much, I am very glad, at last, I have got my property back. By the way, you have had the use of my property for the preceding forty years, and therefore, the adoption of the reasonable hiring charge suggests that you might consider compensating me for that use as well." Well, maybe you think these things sound too baroque-ly ingenious, maybe you think this sounds too aggressive. But in my experience, it could be very helpful to explain to people, whatever the position with regards to restitution of the object itself, that there are other solutions which may equally be unpalatable to a recalcitrant and intransigent defendant.

If we talk about reform in the way I had, I would just want to make a few points. One of them is this: Understandably, because of our preoccupation with restitution, we focus on the immediate present ultimate holder of the work of art, which may be a museum, a private collector, or even a commercial organization. Of course, the various national and international instruments, including the Council of Europe, correctly recommend that the countries relax their limitation periods in cases like this.

I think that is right. The claims could be brought. But it is not impossible that the party at the extremity of the chain, the ultimate

holder against whom the restitutional remedy is sought, is actually the most innocent person in the chain of thought. It may come as a blinding revelation to this entity, whether it is an institution or an individual, that this is a Holocaust-related work of art. I have known such cases. I am not saying that you in anyway diminish the remedies of the claimant in such a case. All I am saying is this: We ought to consider the role of the predecessors in the chain. We ought to consider, if we are relaxing limitation periods as against the ultimate holder, perhaps also relaxing limitation periods upstream so that the holder can turn around to the person who sold it to him, and say to him: "All right, I will have to give it back, I want the remedy from you."

Perhaps we should consider whether they should be able to leap from upstream as well. So if you bought from a dealer who is going bankrupt, there is someone in the line, particularly someone who knew what was happening. In that case, the remedy should spread further up the line as well. In fact, I would even suggest that you should give consideration to giving the claimant the remedy against the people earlier in the line as well. Supposing there are entities or individuals in the chain of supply to the ultimate museum who actually knew perfectly well all along what was going on. They are still around and they have got plenty of money, and they made an enormous profit out of this sale. I do not see why the claimant should not be able to proceed against them. Either in addition to, or instead of against the ultimate museum that is the actual holder.

If they can proceed against them, I do not see why the ultimate holder should not proceed against them as well. It does not seem to me inequitable to relax the limitation periods against the ultimate holder, limitations possibly obstructive to an ultimate settlement, if you relax only those limitation periods. If the

stand-alone ultimate recipient finds that there are other, guiltier people that can be brought in, other, more morally responsible people who could be included in the remedial pattern, I think that might make some ultimate holders actually less intransigent, less recalcitrant, more willing to come to the table and seek the solution. But of course, all this you might think is over ingenious or in some way lawyers' sand pit talk, nothing that any rational human being wants to deal with.

Let me say in conclusion that I cannot overemphasize my belief that all forms of legal remedy here and other procedural remedies should go hand in hand with education. Increasingly, I find the need for people to really understand what happened. If they understand what happened, they are much more responsive to means of finding solutions.

I will tell you this personal story because to me it does illustrate the need for education. In July 2001, I gave a talk on the subject in Melbourne, and at the end of this talk, two people came up to me. One was an old man. He had tears in his eyes, and he just said: "Thank you for helping to make sure that nobody forgets." The other was a young woman and she said to me: "So you are Jewish, then?" That was her take on what I was saying. The implication was that we have to be Jewish to be interested in this. And I think this is where the education comes in. And at the end of the day, I think enlightenment has been far more important than law.

Thank you.

The Search for Works of Art and Other Cultural Assets: A Business or Moral Obligation?

► Nawojka Cieslinska-Lobkowitz

FREELANCE ART HISTORIAN AND PROVENANCE RESEARCHER, POLAND

THE OBLIGATION OF THE STATE OR A HOBBY OF THE FEW. THE IMPLEMENTATION OF THE WASHINGTON PRINCIPLES IN POLAND

I am saddened that not much good can be said about the policy of my country regarding the problems discussed at this Conference. I do not want to use this opportunity to flatly condemn my country and thus "soil my own nest." However, I do want to call on the government of my country to recognize the commitment made through its signature of the Washington Principles in 1998.

This was the statement made in 2006 by the director of the Polish Ministry of Culture and National Heritage department that is responsible for the museum policy:¹

"We respect the decisions of the Washington conference. [...] But we have no such problem. Poland was not in coalition with Hitler and has looted nothing."

The same official announced elsewhere:

¹ *Gazeta Wyborcza*, February 22, 2006.

"The so-called problem of the Holocaust victims' property has to consider the fact that the victims of Nazi looting were both Jews and Poles, and that the looted objects did not end up in Polish collections."¹

Those statements have never been retracted by the Polish Ministry of Culture and National Heritage.

In spite of this opinion, Polish museums and libraries may still contain quite a large number of objects lost by their owners as a result of the German occupation and the Holocaust. Some objects may have even been stored since the beginning of the war, when art owners deposited their collections or (especially the Jewish collectors) made fictitious gifts to public institutions while still hoping that they might eventually get their property back.

During the occupation, the closed Polish museums and libraries were often used by the Germans as repositories for valuable cultural goods looted from the Jews during their deportation to the ghettos, and later during the ghetto liquidations. Such was the situation, for example, in Warsaw, Krakow, Łódź, Poznań, and Lublin.

We know that just after the war, some objects that were rescued this way were returned, if their prewar owners claimed them. But we cannot be sure if restitutions were consistently practiced. Moreover, a great majority of the confiscated objects was stored without any indication of to whom it belonged. All other goods found throughout the liberated Polish territories in warehouses, offices and apartments left by the fleeing Germans,

if unidentified, were routinely classified as abandoned property, which, according to the 1945 and 1946 state decrees, became property of the Polish State. In the former German territories gained by Poland as a result of the Potsdam Conference of 1945, practically all abandoned property was considered to have been abandoned by the Germans and was nationalized. That also included property confiscated by the Nazis from the German Jews.

Many art objects looted by the Germans or stolen or appropriated by the local populations became part of the public collections after the war. They were purchased from individuals or antique shops that were set up during the occupation years or shortly after the war, often selling objects from unknown or fictional sources.

After 1950, when the art trade was nationalized, provenance standards did not improve; in fact, the tendency to falsify provenance documents increased. This enabled the black market to blossom, and the smuggling of art abroad became commonplace. Since 1989, the displaced art works, especially *polonica* "privately" looted by Nazi functionaries or by German soldiers or smuggled after the war, have been returning to the Polish art market. Usually, their prewar owners and their whereabouts during the war years are not mentioned.

This sizeable segment of the contemporary Polish art trade which sometimes deals with the sudden appearance of high-class objects deemed lost during the previous decades helps to enrich the museum collections directly through purchases (rare because of the limited financial resources that public cultural institutions have at their disposal), or indirectly through deposits and gifts. I should also mention the completely forgotten category of artworks that found their way into the country's museums

¹ *Muzealnictwo*, 2005, vol. 46, p. 168.

following the postwar emigration waves of the remaining Polish Jewry. These objects, although luckily rescued from the Holocaust, could not be legally taken out of the country because of official restrictions on cultural goods, and thus were bought from their emigrating owners at prices much lower than their market value.

For almost 20 years, the Ministry of Culture and National Heritage has been gathering documentation on the Polish cultural losses during the Second World War. Some data gathered by the Ministry has been published in books and online; plans exist to publish more information. This documentation mainly deals with the losses of the state and communal collections and a few well-known private collections that were owned by the aristocracy. Only these collections customarily (though not always) would have been registered or documented in some way before the war. Other private collections had not been catalogued, and their documentation would be fragmentary and dispersed or altogether lost.

The example of the 1932 exhibition of paintings by the Polish Jewish artist Maurycy Gottlieb, which showed over seventy canvases from private Jewish collections whose owners were mentioned by name should suffice. Catalogues dating from the nineteen thirties of the exhibitions of famous Polish painters such as Jacek Malczewski, Józef Mehoffer, Leon Wyczółkowski or Teodor Axentowicz prove that a great number of their canvases had been owned by well-known Jewish collectors rather than persons who wished not to disclose their names.

Nevertheless, relatively few of these owners' names are mentioned in the published documentation of war losses. Maybe that is because, as written in 1977 in a confidential letter by the

director of the Ministry Museums Department, this would necessitate earlier "research in the museums, which had gotten some objects as a result of restitution or purchase."

It is understandable that during the first decades after the fall of communism in 1989, the Polish Ministries of Culture and of Foreign Affairs, as well as public cultural institutions, concentrated on documenting and listing the war losses suffered by the country in general. The purpose of creating these lists was to use them during the state's restitution negotiations with Germany, Russia, and the Ukraine concerning those Polish cultural goods, which, as a result of the war, were found within the current territories of these countries.

But in 2000, the Polish delegation to the Forum on Holocaust-Era Looted Cultural Assets in Vilnius declared the decision to undertake provenance research in our museums which:

"... will be closed with the list of works of art and other cultural properties, which have been saved during the war in the museums, but have been previously lost by the Holocaust victims resulting from obvious lawlessness. Every identified work of art of such provenance will be made public in order to undertake further steps according to the Washington principles adequate to the circumstances of the given case."¹

A special inter-ministerial commission was created for the coordination and monitoring of these actions; cooperation with Jewish congregations in Poland was planned for the future.

¹ Deputy Minister of Culture and National Heritage, was published at <http://vilniusforum.lt/proceedings>. The website is no longer available (editor's note).

All of this turned out to be nothing more than a bureaucratic and political ephemera, with no concrete results.

In practice, the Washington Principles have been used by the state authorities exclusively for the wholly legitimate goal of reclaiming cultural goods that, as a result of the Second World War, had been displaced outside the current borders of Poland. Thanks to the spirit, as well as the letter of the Principles, restitution was accomplished for a number of art objects belonging to prewar Polish museums and private collections, which after the war had been bought in good faith by American museums and private collectors in the USA and Great Britain, or objects that were withdrawn from foreign auctions.¹

In this context, it is worth mentioning four cases of restitution of Jewish-owned cultural goods that involved Polish authorities.

The first two cases concern countries abroad.

The first one was the return in 2004 of forty Hebrew manuscripts and incunabula from the legendary collection of Leon Vita Saraval (1771–1851).

Since 1854 and up to the beginning of 1939, the collection had been owned by the library of the *Jüdisch-Teologisches Seminar* in Breslau. The whole 20,000-volume library of that school was confiscated by the Gestapo and was transported to the *Reichssicherheitshauptamt* in Berlin. Then, in 1943, to protect it from possible bombardment, the library was moved to the territory of the Czech and Moravian Protectorate. Because of this route, the most valuable pieces of the Saraval collection ended up after the

war in the Czech National Library in Prague. The Commission for Art Recovery initiated the request to the Czech authorities to return these objects to the Jewish congregation in Wrocław (former Breslau), and the Polish Ministry of Foreign Affairs conducted the negotiations. The Polish-Czechoslovak agreement of 1946 that bound both countries to mutual restitution proved to be ineffective in this case, because it did [Archival data in author's possession] not take into account the territories gained by Poland as a result of the Potsdam Conference such as Lower Silesia, to which Wrocław belongs. Thus the restitution of the Saraval Judaica became possible only as a result of the Washington Principles, to which the Czech party agreed.

The second restitution case concerns the 17th century painting by Pieter de Grebber, which appeared at a London Christie's auction in 2006. The Art Loss Register identified this painting in the catalogue of Polish war losses and duly informed the auction house and the Polish Embassy in London. The Polish Foreign Affairs Ministry intervened and requested the return of the painting to Poland.

It was then that Polish diplomats in the USA informed Warsaw that the painting's owner's heirs are living in Philadelphia; the owner was a well-known prewar antiquarian from Warsaw, Abe Gutnajer, who had been murdered in the ghetto there in 1942. As a result, the Polish authorities decided to help the heirs disinterestedly. The matter was finalized in 2008 by an agreement between the current proprietor of the painting and Gutnajer's heirs. This was "the first case in which our Foreign Affairs Ministry acted for restitution on behalf of rightful heirs, who happen not to be Polish citizens."²

¹ See the website of the Polish Ministry of Foreign Affairs at <http://www.msz.gov.pl>.

² *Gazeta Wyborcza*, April 24, 2008.

Furthermore, to this day, the painting is mentioned on the Foreign Affairs Ministry's internet page as one of the objects restituted to Poland.

Two inland cases were solved in a different way.

The first case concerns the liturgical objects that were looted by the Germans from Warsaw's synagogues and survived in the storage of the capital's National Museum, which was closed during the occupation. After the war, these objects were registered in the Museum's inventory. The Association of Jewish Religious Congregations of the Polish Republic, according to the law of February 27, 1997 concerning the state's relation to Jewish congregations, claimed the restitution of these Judaica to the only synagogue currently existing in Warsaw.

The Museum returned the objects, but only as a long-term loan, and kept them on its inventory list. The basic argument against restitution was that in spite of the very high probability that these objects had been the property of the Warsaw congregation, it was impossible to be completely sure, because the objects were produced in series and thus were not unique.

Now to the last case of restitution. Goustave Courbet's painting *Landscape Around Ornans* was mistakenly restituted to Poland by the Americans in 1946, from Fishhorn in Austria, as part of a group of paintings that had been looted by Germans from the Warsaw's National Museum. The Courbet had been part of the Budapest collection of Baron Herzog, which was confiscated by the Nazis in 1944. In 2001, the Warsaw Museum received a claim to return this painting to Herzog's heir, an American citizen. The Museum director finally decided to return the painting. But the Ministry of Culture refused to grant an export license. It refused

the heir's entitlement to the painting and voided the return. The Courbet remains in Warsaw's National Museum as its legal property to this day.

There are a few other restitution claims concerning several paintings and drawings of Old Masters and German painters in the Polish public collections. These are the claims of the heirs of German Jews from Breslau (Wrocław): Max Silberberg, Carl Sachs, and Leon Smoschewer, addressed to the National Museums in Wrocław and Warsaw; and the claims of the heirs of the Dutch collector and art dealer Jacques Goudstikker and of the Jewish family Zoellner that was forced to emigrate from the German Reich, addressed to the National Museum in Gdańsk.

The possessions of these families were looted by the Nazis under various circumstances, and they included their private art collections. The heirs and their lawyers succeeded in reconstructing the documentation of these collections to a considerable degree. In cases of Silberberg's and Goudstikker's property, the museums in Germany, Holland and Israel restituted the paintings identified as originally belonging to the confiscated collections, although it was not their legal duty. Polish museum directors, lacking political support or guidelines from the authorities, ignored or rejected the claims on the basis of Polish law.

The Jewish Historical Institute in Warsaw also rejected the claim to return two paintings by Ralf Immergluck, a Jewish artist from Krakow, who perished in the Holocaust. The claim was submitted by the artist's family. In this case, the decisive argument for the refusal was insufficient proof of ownership, even though the painting had been purchased soon after the war in a Krakow antique shop, without any provenance data.

The Ministry of Culture and National Heritage was unable to provide me with answers as to the number of claims made in recent years by owners' heirs. As the Ministry stated in a letter addressed to me on June 4, 2009:

"The claims for return of specific objects are submitted directly to the interested institutions that, according to prevailing laws, are sole managers of their collections. Therefore, the ministry does not have the possibility to conduct statistics of this type. This does not mean that restitutions were not conducted."

Knowing that without the consent of the Minister of Culture no director of a public museum can remove items from the inventory of his collection, we can presume that during the last years not a single object from Polish museums has been restituted to the heirs of Jewish owners.

The slowness of the authorities and cultural institutions in verifying the provenance of public art collections, accompanied by lack of transparency, has caused some independent initiatives to arise.

In the years 2002–2006, the Stefan Batory Foundation organized a series of international and national conferences, seminars and debates that were dedicated to the ownership, restitution and re-privatization of cultural property, and involved interested professionals, representatives of Jewish communities and former owners, lawyers and journalists.

In 2002, the Museums' Commission of the Polish Art Historians' Association established the Forum for Displaced Works of Art. This Forum attempted to inform the professional

community and media about the Washington Principles, and to promote cooperation among museums in the field of provenance research, to encourage open proceedings and to serve as an independent advisory body for the anticipated restitution claims.

The Polish ICOM requested the successive Ministers of Culture to create specific guidelines for the realization of the Washington Principles. It also directed attention to the need to regulate the ownership of collected items, as an act necessary for the legitimacy of the museums in Poland and abroad.

The Polish ICOM even conducted a statistical analysis of our museums' ownership status, which showed that a high percentage of items listed in the inventories as well as in the deposits were of unknown provenance. The majority of these items are not objects lost by owners during the German occupation. Unofficially, museum experts estimate that about one percent of all items in Polish collections were Jewish-owned.

All of the activities that I have described here were looked at by the authorities without much understanding. Supported by the media on a case-by-case basis, they had a limited effect. Careful provenance research of the museum items in the exhibition – and (still seldom) collection – catalogues remains an achievement of a small number of individual researchers.

Fortunately, during the last decade great progress has been made in Poland in the research and understanding concerning Holocaust issues and the history of Polish–Jewish relations in general, especially during the occupation and the postwar periods. This progress is not just quantitative; this is a qualitative change concerning not just specialists but the general public as well.

No doubt the catalysts for this process were the two great public debates caused by the books by Jan T. Gross: *Neighbors* (2000) and *Fear* (published in Polish in 2008).

The uncovering of the 1941 Jedwabne crime and the description of postwar criminal anti-Semitic acts in Poland (resulting in unlawful appropriation of abandoned Jewish property by the Poles) caused a shock and opened the eyes of many. Thus museum specialists, librarians and archivists became willing to join the growing group of individuals who for years has been calling for the adoption of the Washington Principles. This group tried to stay informed about the restitution issues, to write and lecture on this subject, to continue the provenance research, to mediate between the parties, and to monitor the art market. More than that could not have been done by private means.

Various solutions that were used for restitution purposes in other countries can certainly prove useful in choosing an optimal formula for a concrete program of the Washington Principles' implementation in Poland. In my opinion, besides the involvement of a governmental agent and public cultural institutions, the necessary condition for a successful implementation would be the participation of the NGOs, representatives of the Jewish communities, independent experts, and trusted public figures. Another indispensable condition would be statutory transparency of procedures, open actions, and information on the results of the proceedings made accessible to the public. Independent consultants to the museum directors and to the Ministry of Culture should also advise in matters of restitution claims.

The specificity of the Polish restitution problems – the number of heirless victims of the Holocaust among Polish Jews, the lack of inventories of many prewar private collections, fragmentary and

dispersed documentation, illicit export of artworks, and the rules of the postwar art trade – demand the creation of a special team devoted to the provenance research of public collections. Such a team should include museum, library and archive collaborators, independent researchers, and, last but not least, those specialists who have spent years documenting Polish cultural losses.

Such a team would need full access to archives (this has not been the case until now) and to museum inventories. It should be a task of high priority to create an online archive of ownership signs and marks, and an online library of all documents, to help in identifying past owners and collections. An important aspect of the activity of such a team should be cooperation with foreign institutions and provenance researchers, as well as an attempt to gain understanding and cooperation of Polish auction houses. No less valuable would be contact with groups and persons who had emigrated from Poland before, during or after the Second World War, and who could supply knowledge and traces regarding lost collections or their postwar tracking. This, incidentally, touches on the problem of the access to the documentation kept by international auction houses.

To sum up, the goal of provenance research is not just the restitution of objects to the owners' heirs, or another fair and just solution. To no lesser extent, the goal is also, after decades of social amnesia, the restoration of memory of the prewar Jewish collectors and the fate of their collections. Museums, libraries, and archives that guard the common memory owe this not only to the heirs, but to their own mission, to the society they serve, and to the preservation of the historical memory of Polish Jewry.

Let me finish by making a gesture of returning two very modest but symbolic art objects to their owners.

The first object, which I found in Poland is a small watercolor by the Polish-Jewish painter Erno Erb who was murdered in the Lwów ghetto. On the back there is a note that it belonged to the Leon Braciejowski collection. Braciejowski was the owner of two elegant fashion stores in Krakow, a member of the town's Jewish elite and a respected art collector. His collection of more than seventy paintings, including works by famous Polish painters, disappeared without a trace during the German occupation. My search for the heirs of Leon Braciejowski ended successfully. His granddaughter, who lives in California, has only one prewar keepsake from her grandfather – a clothes hanger from the Braciejowski shops. I ask the representative of the US State Department to hand Erb's watercolor over to her.

The second object I found in Germany. It is a 1926 print of a lesser-known Polish artist. It was looted by the Germans during the Warsaw Uprising in 1944.

I am pleased to return this print to the Polish Ministry of Culture and National Heritage, because it belonged to the prewar State Collection of the Republic of Poland, as shown by the stamp and inventory number on the print's back.

► Lucien Simmons

SOTHEBY'S, USA

PROVENANCE AND PRIVATE OWNERSHIP: JUST AND FAIR SOLUTION IN THE COMMERCIAL ART MARKET

Sotheby's engages primarily in the public auction sale of fine and decorative works of art and has offices located in more than 40 countries. Auctions are conducted in 11 auction centers throughout the world. Sotheby's today is largely a combination of the London auctioneering firm of Sotheby's founded in London in 1744 and the New York auctioneer Parke Bernet which was founded in the autumn of 1937 from the ruins of the American Art Association.

Parke Bernet, Sotheby's predecessor, was one of a number of institutions in the United States to have been chosen by the International Refugee Organization and by the American government to assist in the liquidation of art objects recovered by the Allies in Germany and of art objects confiscated from Enemy Aliens on American soil. Numbers of auctions of such art objects were held after the cessation of hostilities.¹ Unfortunately, our records from these sales, save for the catalogues themselves, no longer exist.

In the years following WW II, Sotheby's was chosen by many private recipients of restituted property to handle their sales

¹ Four sales of property consigned by the IRO were held in 1948: Jewelry and Precious Stones (232 lots), June 21–22, 1948; Continental Silver, Porcelain, Glass and Ornaments (828 lots), June 23–25, 1948; Precious Stones and Gold Jewelry (461 lots), September 14–15, 1948 and Continental Silver, Porcelain, Glass, Gold and Enamel Watches and Rugs (834 lots), September 16–18, 1948. Sales for the alien property custodian of the U.S include the stock of the New York and Boston stores of Yamanaka & Co., Inc. which took place in 1944.

including many of the greatest Jewish collectors in prewar Europe. After the fall of the iron curtain, Sotheby's was also chosen to sell restituted works of art on behalf of many noble families who had been dispossessed. Examples from the 1990s include the Moritzburg Treasure consigned to Sotheby's from the royal family of Saxony.

In most instances Sotheby's acts as agent and not as principal, and generally has no ownership interest in the artworks that we offer for sale.¹ In this we differ from museums. We also differ in that museums often operate in a public law environment whereas auction houses generally handle privately owned property.

It has been Sotheby's longstanding policy not to sell any work of art that is known to have been stolen or where there is credible evidence that our consignor's title may be compromised by theft or persecution — whether by the Nazis or by anyone else.

Sotheby's is inherently the wrong place to sell stolen or looted art because of the international exposure given to a work offered at public auction by Sotheby's and the wide circulation of Sotheby's catalogues which gives potential claimants and research bodies a good opportunity to identify works which they believe may have been looted. Sotheby's has a strong commercial interest in avoiding the sale of works of art with potentially troublesome provenance; to sell such items has the potential to damage Sotheby's brand, expose the company and clients to liability and is not in the best interests of the company's shareholders.²

In June 1998, together with Aon Insurance, Sotheby's took the decision to lead the financial sponsorship of the Art Loss Register's

¹ Exceptions are disclosed in Sotheby's auction catalogues.

² Sotheby's is publicly quoted on the New York Stock exchange (symbol: BID).

Holocaust initiative to enable all Holocaust claims to be registered on the ALR database free of charge. Other auction houses later joined in supporting the initiative. As a result, since 1998, Sotheby's worldwide catalogues have been reviewed by the Art Loss Register both in respect of recently stolen property and art seized during the Holocaust.

In respect of works of art created prior to 1933, it is Sotheby's policy to disclose in its catalogues the fullest possible provenance for the years 1933 to 1945.

Since 1997 Sotheby's has run a due diligence program targeted at identifying possible WW II provenance issues amongst the thousands of artworks which we are asked to sell or value every year. The essentials of the program have not changed since 1997 and include the following elements:

- ▷ Maintaining a specialized international team of provenance researchers within Sotheby's whose role is to support Sotheby's specialists throughout the world in dealing with provenance research and spoliation issues. The team is staffed with art historians and lawyers in New York and London and calls on the services of a network of independent art historians based in Europe and North America.
- ▷ To ensure that works of art are offered for sale by Sotheby's with good title, all sellers are asked to provide written confirmation of their legal ownership or their authorization to act on behalf of the legal owner. Sotheby's asks sellers to warrant that they have good and marketable title to the property and that both title and right to possession will pass to the buyer. Sellers are also asked to warrant that the property is free from any third party rights, claims

or potential claim and that they have provided Sotheby's with all information they have regarding the provenance of the property as well as any concerns expressed by third parties regarding its ownership. Sotheby's has the right to require sellers to indemnify the buyer for breaches of these warranties. Sellers are particularly asked to provide all information they may have regarding the ownership history of any work of art for the period 1933 to 1945.

- ▷ Works of art are physically examined for the appearance of brands, markings or labels that indicate they may have been displaced during the period between 1933 and 1945. They will also look for labels and seals of public collections that are known to have lost property during the war.
- ▷ Works of art are checked against the principal public lists and publications for art looted from museums and individuals including those for Austria, Belgium, France, Germany, Hungary, Italy, Poland and Russia to ensure that the work of art is not an extant loss. The lists checked include the internet-based database.¹
- ▷ Prior owners of a work of art are checked against Sotheby's proprietary database of "red flag" names. This database has been constantly updated over the past 12 years and holds details of victims of spoliation (Jewish, noble, and political) as well as collaborators and Nazis.
- ▷ Sotheby's pays the Art Loss Register to check all lots in its auction catalogues against their databases of losses – both from the WW II period and from recent times.

¹ See: <http://www.lostart.de>.

- ▷ Complimentary catalogues are sent to the main commissions and working groups in Europe and elsewhere dedicated to researching art stolen or looted during World War II so that they too can make sure that there are no matches in our catalogues with missing works of art.

If the due diligence process highlights a possible WW II provenance issue, then this will trigger further research that must be completed satisfactorily before the work of art concerned may be included in a sale. Often, this further research will involve work in archives in Europe and the United States as well as inquiries to governments, provenance research bodies and professional researchers. The research will often involve tracing and contacting the heirs to prior owners of an artwork – sometimes the successors to as many as three or four prior owners of a single artwork where their input is necessary to understand the ownership history of the work.

Despite the importance of provenance to an auction house, it is often impossible to establish the ownership history of a work of art for the years 1933 to 1945.

Sotheby's believes that the absence of a provenance for the years 1933 to 1945 should not necessarily taint a work of art. There are a variety of legitimate reasons as to why provenance information from more than 50 years ago may no longer exist. Whilst it is comparatively easy to trace and reconstruct the history of an important or well-known object, it is understandably far more difficult to uncover the provenance of less important works. There is likely to be a lack of any published exhibition history for these items and they typically are owned by lesser-known collectors.

The difficulty of provenance research is compounded by the fact that many works traded in the international art market are not

unique (such as prints or multiple paintings of the same subject by a single artist and his studio). The change in attribution of a work from one artist or maker to another may further frustrate research efforts. Furthermore, the titles of paintings and works of art titles or descriptions often change over time because titles are often applied by the art trade and by owners rather than by the artist. Despite the work that goes into ensuring the completeness of our catalogues, there will often be lots which have little or no provenance given for the war years. For the reasons given above this should not be regarded as sinister; Sotheby's believes that the absence of ownership history alone should not of itself taint a work.

For Sotheby's, potential WW II provenance disputes can arise from three different fact situations:

1. Where we initiate an inquiry on behalf of the current owner of a work of art with the heirs or successors to a person or body we believe may have parted with it involuntarily in WW II;
2. Where we receive inquiries or potentially adverse claims to a work of art in an upcoming auction; or
3. Where we receive inquiries or potentially adverse claims to a work of art sold or offered in the past.

Where Sotheby's discovers persuasive evidence that a work of art may have been involuntarily displaced between 1933 and 1945, we will inform the consignor and their professional advisors and then work with them to build a strategy as to how to resolve the potential legal, commercial, and ethical issues which could arise. Often, the first stage will be to recommend

a research program designed to test whether there really is a problem that might have an impact on the consignor's ownership rights and/or the marketability of the work of art.

Where our research leads us to believe that there is a good chance that a work of art was looted, we will generally seek the consignor's instructions to contact the heirs of the WW II period owner and ask those heirs for clarification of provenance. We receive such instructions in the majority of cases and this regularly leads to a dialogue between the consignor and the heirs. It often transpires that the artwork concerned was restituted after WW II. Our experience has been that where restitution never occurred and where the heirs to the WW II period owner wish to assert a claim then some form of settlement is reached in the majority of cases — probably in excess of 90 percent of cases. To the extent that Sotheby's is involved in such discussions, often as a facilitator, we try to help the parties and their attorneys to find solutions that are just and fair to everyone, taking into account the legal and factual issues in each matter. On average, we are involved in the resolution of around 12 or more of such cases, initiated by proactive research on Sotheby's part, every year.

Sotheby's due diligence program is designed to minimize the risk that a lot in an upcoming sale might be subject to an adverse title claim. Nonetheless claims, and enquiries which might lead to a claim, are received from time to time and we respond to them on a case-by-case basis.

Where Sotheby's receives a claim to a work that was offered for sale in the past, we will generally offer to forward a letter to the consignor and/or buyer from the historic sale from the claimants or their lawyers. We will only identify buyers and sellers if their names are already in the public domain (for instance if they were

designated as sellers in Sotheby's auction catalogue) or if we can locate the buyer or seller and get their consent to the disclosure of their identity. Sotheby's will not disclose clients' identity without their consent as this is commercially sensitive proprietary data of Sotheby's and could constitute a breach of contract and/or a breach of data protection and privacy legislation – depending on the jurisdictions concerned. We are equally sensitive to the privacy concerns of the heirs to looted collections and do everything we can to help them maintain their anonymity in the event that they wish to sell restituted property through Sotheby's.

Each provenance case is different and over the years we have seen the resolution of claims from:

- ▷ The heirs to persecuted Jewish art owners (banks, art businesses and private art collectors);
- ▷ The German government acting on behalf of Federal and State institutions;
- ▷ The heirs to political opponents of the Nazi regime;
- ▷ Institutions in Russia and the former CIS;
- ▷ The heirs to private German collections looted by Allied forces and individual combatants at the end of WW II;
- ▷ The heirs to collections seized by operation of the Beneš decrees;
- ▷ The heirs to untainted relatives of Nazi officials;
- ▷ Jewish Communities in former Nazi occupied Europe;

- ▷ Governments in respect of property taken from foreign embassies in Nazi Europe;
- ▷ The heirs to Jewish owned collections seized by British and American forces as Enemy Alien Property.

Although the facts of each case are different, we will generally not release an artwork that is the subject of a credible adverse title claim. Sotheby's has been sued several times by consignors seeking the return of property subject to WW II claims.¹ As with all other adverse title claims, the key factual issues with WW II era claims include: (1) positive identification of the artwork, (2) evidence of pre-WW II ownership, (3) evidence of WW II era involuntary loss and (4) postwar restitution or compensation.

The solutions which have been negotiated have ranged from the return of artworks to the heirs of original owners at one end of the scale to the retention of the artworks with an obligation to share proceeds in the event of sale (but with no obligation to sell) at the other.

Recent examples of resolved provenance issues include:

- ▷ The return of an oil painting by Emile C.H. Vernet-Lecomte to the Max Stern estate (the estate's first recovery);
- ▷ The return of oil paintings by Jan van der Heyden, Jacob Gerritsz Cuyp and Joachim Beuckelaer, to the heir of Jacques Goudstikker;
- ▷ The return of a glass and silver gilt tazza to the Schlossmuseum in Gotha.

¹ For example, see: Sotheby's Sued over Picasso, Bloomberg 4 July 2003 and Will Bennett, The Daily Telegraph, 27 Oct 2003.

Potential provenance disputes are often resolved by the sale of the artwork concerned and the division of proceeds in a manner that fairly reflects the positions of the current owner and the heirs of the prior owners. In the past 18 months, Sotheby's has sold works of art pursuant to such settlements by artists including Cézanne, Gris, Degas, Sisley, von Brandt, Pissarro, and van der Werff.

Sotheby's is pleased to be able to play a part in the international provenance research community. We regularly receive provenance inquiries from museums, lawyers and collectors. The majority of these inquiries is collegiate in nature and involves an exchange of knowledge as to prewar collectors and WW II era auction and displacement of art. These we are able to answer fully. We are also delighted to share historical and factual information from the WW II research archive which we have built over the past 12 years to the extent that the information is not commercially sensitive or subject to confidentiality restrictions.

Over the past 10 years, Sotheby's has been an active participant in conferences and seminars on the subject of provenance research and restitution. We have also organized public conferences in the United Kingdom, Israel, the Netherlands, and Austria as well as numerous private seminars. This outreach reflects Sotheby's commitment to share our experience and to publicize the need to conduct thorough provenance research. Sotheby's also supports the digitization of WW II-era documents, auction catalogues and restitution records and their publication on the internet.

► **Heřena Koenigsmarková**

MUSEUM OF DECORATIVE ARTS, PRAGUE,
CZECH REPUBLIC

THE MUSEUM OF DECORATIVE ART IN PRAGUE'S EXPERIENCE WITH LOOTED OBJECTS IN ITS COLLECTION AND THEIR IDENTIFICATION

The Historical Role of the Museum of Decorative Arts (and Other Museums in the Czech Republic) in Obtaining Looted Art

The Museum of Decorative Arts in Prague was established in 1885 by the Prague Chamber of Trade and Commerce. Representatives of the cultural and economic life of that time shared in its establishment, as well as in its collections and the construction of its own building. In subsequent years, many of them served on its Board of Trustees and in the Museum's other administrative and auxiliary bodies. Many of them were of Jewish origin, and actively contributed to the collections, either financially or by donating or selling their own collections. For example, a member of the Board of Trustees, the industrialist Bohumil Bondy, bequeathed to the Museum a financial fund for buying collections before his death in 1907. His son Léon continued to support the Museum. After his death, his collection was bought for the Museum by the Ministry of Trade. Moreover, Otto Petschek (died in 1934), a son from one of the founding coal-magnate families, ensured that the Museum's acquisition fund was regularly subsidized by his banking house in the years 1923–1937, i.e., practically right up to the time the family decided *en masse* to leave the country in 1938. At that time, Hanuš Petschek and Felix Kahler still figured on the Board of Trustees' list of members

at a meeting it held to ensure that they would be replaced by other names from the ranks of German entrepreneurs at its next session.

The collections, therefore, grew in the typical manner as a result of acquisitions from private businessmen, artists, schools, and manufacturers, as well as in auction rooms throughout Europe. In the interwar years, Czechoslovakia was considered to be democratic. Consequently, a wave of immigrants arrived here from neighboring fascist states after 1933.

As the threat to people of Jewish origin developed, some even in our country decided to leave, and they also looked for possible ways of disposing of the art they possessed. One of the things that played a role in this process was the confidence they had in institutions like the present-day National Gallery, the Museum of Decorative Arts in Prague and in Brno, the Museum in Opava, etc. People who deposited part of their collections with the UPM included the likes of Berta Rosenthal in 1938 (reclaimed in 1938), Erich Springer in 1937 (reclaimed in 1939) and Josef Pollak in 1939 (although he remained the owner, the Museum could use the collection). According to the documentation, as far as the last deposit mentioned is concerned, one thing that played a role was the obvious endeavor to place this relatively extensive set of porcelain and other items in the Museum at the last minute (e.g., the effort to predate documents). The circumstances behind the fact that items were not returned to the relatives after the war are also complicated. (The restitution of these assets was stipulated to be an invalid action for the period from September 29, 1938 to May 4, 1945 according to Decree No. 5/1945 of the President of the Republic.)

At that time, therefore, the form of deposits was voluntary and was also utilized by people of non-Jewish origin, particularly

before the occupation. Some subsequently reclaimed items they had deposited and evidently attempted to take them out of the country or sell them. In these instances, another process concerning the export of objects of art arose. As an example, we could mention the cases of the Petschek and Gellert families, who owned several mines and a bank. This extensive family primarily tried to export movable holdings from their villas, particularly pictures, drawings and graphic art. As far as pictures were concerned (most of them of non-Czech origin), an inspection was conducted by Vincenc Kramář (Director of the State Collection of Old Masters), who selected several items for an export permit. At the Ministry, however, Professor VV. Štech intervened against the entire selection so that the export was permitted in exchange for financial compensation, not by donating selected items. The family agreed with this and transferred 100,000 to the State Collection of Old Masters (NG) for acquisitions, which were nonetheless supposed to be presented as Dar Petschek. The entire operation took place during the first week of January 1939. Nevertheless, the fact that the family donated part of its collection of applied art to the UPM also helped to facilitate the export. This donation was clearly made with the awareness that the items would be well looked after. An application by the widow Hedwig Schick for the export of the collection of her husband Viktor Schick was viewed in a similar manner. At the time, it was one of the biggest private collections of glass, and it contained around 500 pieces of (mainly Bohemian) glass. In December 1938, she submitted an export application for an unspecified sale abroad. The collection was inspected by the then Director of the UPM, Karel Herain. He selected 61 items whereby all parties jointly agreed on the donation of 60 items and on the purchase of one cup. The remainder of the collection was sold the same year at Sotheby's in London. Despite the fact that this concerned items of Czech origin, the authorities strove to quickly accommodate

the application (items began to be packed before a permit had been delivered). The same thing also happened with pictures.

In the period from September 30, 1938 to December 31, 1940, objects of art, books and photographs were transferred to collections from 67 “donors.” To a certain extent, these could be considered to be voluntary donations or donations made in the belief that, if they were to fall into Nazi hands, it was preferable to have them in an institution where there was a certain hope that they would be returned after the end of the war. Incidentally, it is necessary to mention that expert permits were common practice as far back as the time of the First Democratic Republic, where an ethical appeal was brought to bear on the exporter with regard to the possible impoverishment of national assets. Advocating this attitude became morally objectionable, particularly after 1945. It was advocated once again after 1948. Unfortunately, to this day, some institutions continue to maintain this attitude in their arguments against surrendering Jewish property.

A second research project at the UPM dealt with the issue of enforced donations under the name “Lives for Ransom” (*Výkupné za život* – Prague 2009).

From 1944, the third form (besides personal deposits and donations) in which objects of art of Jewish origin were transferred to the collections of the UPM and the NG were deposits from the *Verwaltung des reichseigenen Kunstgutes* (the Reich Assets Administration). The last such deposit took place in February 1945. In this instance, professional contacts between the art historian Karl Maria Swoboda and the groups of specialists evidently played a considerable role. In most cases, these items are also part of the identified collections at the UPM and NG, which

comprise part of the first survey at the UPM and have been published in the publication “Bringing Back the Memory” (*Návraty paměti* – Prague, 2007). These included important objects, as well as less precious items. The general survey also showed that many of the truly precious objects of art never made it to official depositories and selected domestic collections. They disappeared into private hands during the confiscation process.

How Did the Museums’ Approach to This Issue Change After 1989 and After 1998?

After 1989, restitution proceedings were launched for lawful owners, particularly when Act No. 87/1991 of the Collection of Laws (Coll.) came into effect. In the case of the UPM and other institutions, this did not just concern Jewish property. An extensive portion comprised church property and the assets of private persons, particularly those of noble or so-called bourgeois origin, who had property confiscated from the 1950s (around 90,000 movable chattels from 1,028 locations had been transferred to the “collection” at Sychrov Chateau alone. About 60,000 were there in 1990).

These so-called “Zetky” (as in Z for “zábor,” meaning confiscation in Czech) were received by institutions by way of a decision made by other bodies, particularly the aforementioned National Cultural Commission (*Národní kulturní komise*). In this instance, there is also a difference in designating an act in which Jewish property was at least personally deposited by the owners in cooperation with the institutions, in contrast to the situation here, which concerned confiscation, a decision that was implemented by state authorities for violently seized property with an effort being made by the National Cultural Commission to ensure at least the partial preservation of precious items. Its role was

similarly dubious, not unlike the participation of the institutions themselves during the time of deposits and enforced donations of Jewish property.

An ethically common endeavor and conviction remains vis-à-vis objects placed in state institutions as it might have been believed that they had a better chance of surviving in their collections. (Unfortunately, exceptions to the case exist as well.) Despite this, it is necessary to view these acts as violent acquisitions, and today's somewhat belated effort to at least identify the original owners could represent a partial redress of this situation.

Our Museum dealt with all lawful restitutions locally and could, for instance, use Act No. 87/1991 Coll., on out-of-court rehabilitations, to surrender crucial artistic assets to the family of the entrepreneur of Jewish origin Jindřich Waldes, primarily in connection with his unique Museum of Buttons (*Muzeum knoflíků*) in Prague and a related specialist library. The family then donated the most precious part of the so-called "Karlštejn treasure" to the Museum in 1995. The assets of Richard Morawetz were surrendered in accordance with the same law.

The remaining objects of art that have not been identified up to now were the subject of an investigation that would not have been possible until the signing of the Washington Declaration, which recommended that signatory states devote research to the fate of these objects of art, including financing the necessary study of archives.

An entire complex archive and documentation investigation is not actually possible in the institutions themselves unless they have sufficient human resources at their disposal, as is the case with a long-term search for information of the kind that has been

institutionalized at the Jewish Museum in Prague. The reason for this is because they do not have (and for various reasons did not have) access to everything that was required for research into necessary archive documents, etc.

Consequently, at the beginning of the 1990s, after being prompted by the Ministry of Culture to deal with Jewish assets, letters published, on the basis of entries in the record books declared that it was not possible to locate confiscated Jewish assets specifically. Our Museum, as well as the Silesian Museum in Opava, was in this situation.

Many records were suspicious, such as the transfer of art from the Reich Assets Administration, even if it was passed on as "German" property. Incidentally, these assets were not even completely identified by the National Property Administration (*Národní správa majetkových podstat*) after 1945. The directors stayed "virtuously" silent. They probably knew why, since assets that were not restored to the rightful owners went to auction and not to the institutions. It was only the cooperation with the newly established Centre for the Documentation of the Transfer of Property and Items of Cultural Value from Second World War Victims at the Institute of Contemporary History of the Academy of Sciences of the Czech Republic (the Centre), which has human resources, expertise and funding, that made it possible to begin a genuine and wide-ranging investigation into the origins of art collections from the period ca. 1938–1944 or 1945.

In cooperation with workers from the Museum, the Centre's workers went through all registration records. According to the entries, they were able to trace the original place from where the assets had been transferred to the Museum. At the same time, they were able to search in archives, particularly in lists from

sources such as the *Treuhandstelle*, the Reichsprotektor's Office, the Gestapo, etc. According to the reference numbers, they succeeded in identifying items, particularly works contained in the aforementioned sets from the Reich Assets Administration (*Verwaltung*), where they were linked to a precise register of deported persons. Consequently, the assets of 39 people were identified. After the war, there was no one left of the 17 people, who could demand restitution. In the other cases, it is possible to follow how the postwar National Property Administration proceeded. For the most part, the assets of untraceable persons (or people who were not adequately searched for) were designated for sale in 1950. This concerned thousands of pictures, carpets, graphic art, etc., which had been transferred to the state-owned Antiquarian Authority that had been established. The financial proceeds went to the National Renewal Fund (*Fond národní obnovy*). Increasing ideological pressure was a main factor here. Restitution proceeded more easily in the originally occupied territory than it did in Slovakia, for example, where there was resistance to it. The nationality that applicants had declared themselves to be in 1930 gradually played a greater role. Another wave of emigration (that was not only Jewish) began at the end of the 1940s; the other aforementioned confiscations mainly began after 1948.

The Process by Which the Museum Identifies Works and Their Lawful Owners

The fulfillment of the Washington obligations in the Czech Republic is done via the Centre, which is financed by the government. So far, it has been possible to return only a small percentage of the identified items. Rather there is but a small number of cases where it is possible to surrender an object of art in accordance with the wording of Act No. 212/2000 Coll. to direct descendants, i.e., spouses or children, not proper testamentary heirs, as was

still possible in 1945. Once again, the Museum itself does not have enough resources to actively search for these heirs. Consequently, it is important to publish the identified works in the form of the aforementioned books or to place them all on a centralized website.¹ We must only hope that someone will still register with us thanks to these efforts. I have most recently been informed that a declaration has finally been made concerning the works of art (mainly Asian items, which are now in the NG) belonging to Leo Zeckendorf, who perished with his wife in Auschwitz. Thanks to our publication, the declaration was made by his daughter who now lives in Israel.

Several pictures in the collection of the Silesian Museum in Opava managed to be restored to direct heirs. In the case of the UPM, the niece of Viktor Kahler still lives in the USA. She was at least able to happily accept the publication of "Bringing Back the Memory" and she hopes that these items will be marked with the name of the original owner in our collections. That, however, is all that we can do so far to correct these injustices. Many of the identified objects of art have also been included in an exhibition entitled "Bringing Back the Memory," which has just opened in our Museum on the occasion of this Conference.

¹ See: <http://www.restitution.art>.

► **Monica Dugot**

CHRISTIE'S, USA

**IMPACT OF THE WASHINGTON CONFERENCE
PRINCIPLES ON ART MARKET PRACTICES:
MOVING THE DISCUSSION FORWARD**

Good afternoon. I am Monica Dugot — International Director of Restitution at Christie's — coordinating our restitution efforts globally. I was Deputy Director of the Holocaust Claims Processing office in New York for a number of years representing claimants before taking up my current position. I am privileged to have been engaged with Holocaust-era art restitution over the last twelve years, and am pleased to have the opportunity to contribute today.

I. THE BIG PICTURE

A Decade on from Washington

Over a decade on from the Washington Conference, international commitment and dedication on the part of the restitution community has meant that the problem of Nazi art spoliation is as vivid as ever. Indeed, the passage of time makes us more — not less — acutely aware of the need to address the issue of unrecovered Holocaust-era assets.

Consideration of art restitution requires individual attention to the provenance of each particular art object; research must be done against the background of the idiosyncrasies of the art market where an object might have fallen out of sight, been sold and resold or even altered beyond recognition. So provenance

research is a far from simple task, but it is the foundation for all art restitution efforts. As such, the availability of archives and access to information is of paramount importance.

Challenges for the Art Market

I would like to explore some of the challenges of art restitution from the auction house point of view. Auction houses are not — as is the case with museums — owners of the art we offer for sale. While we can offer assistance towards the amicable resolution of a claim, the art in question is not ours and ultimately the auction house is not the decision-maker. Rather, our role is to assist the parties, as much we can, in developing information, analyzing the significance of historical material and facilitating negotiations.

The combination of art, high commercial values, and restitution claims can create a combustible mix, not least when restitution is in the public eye. It is easy to catch the imagination of the public — and the media — with a claim to a high value work. But, the debate ignited by the return and sale of high-profile objects masks the real work of restitution where hundreds of modest pieces are studied every day.

Christie's Perspective

Christie's primary concern is to ensure that

1. Works of art offered for sale in our auctions can be freely acquired, with clear title; and
2. We do not compound the original spoliation by selling looted works of art.

Where looted art is identified in any of our consignments, we actively engage all parties to resolve any issue or claim.

Through the number of works of art that pass through our doors in any given year, our provenance research team sees as many restitution issues as any other sector of the art world. Facing this volume of claims puts Christie's in the position of working across the wide spectrum of collectors and claimants and places us at the center of the debate over best practices in the art market. Moreover, if we approach restitution issues openly and on the basis of sound provenance research, we can engender confidence in the way the art market deals with Holocaust-related claims and also in the reliability of the art market in general.

II. RESTITUTION AT CHRISTIE'S IN PRACTICE

Christie's 1933 – Present

Today Christie's promotes and fosters company-wide awareness of art restitution issues, driven by a team of four with the support of senior management. Our work covers the vetting of consignments, provenance research, claims resolution and an ongoing engagement with claimants and the restitution community.

We have recently been involved in the return of this Dürer print to the Kunsthalle Bremen, this Bogdanov-Belskii to the Taganrog museum, the Jan Wellens de Cock to the Estate of Max Stern and helped resolve the claim by the heirs of Adolph Bensinger for the Menzel pastel. Over the last five years, we have also been involved in an important number of settlements (around sixty) and are always pleased when we have been able to help the parties to find a just and fair resolution to a Holocaust-related art claim.

Our engagement in claims resolution and assistance in claims handling is provided at little or no cost to the claimant – and without obligation; we do not oblige settling parties we have assisted to consign their works to Christie's. Of course, we are pleased when they do, and we have, as you know, sold numerous artworks after restitution or as part of a settlement.

III. BRINGING ART AND CLAIMANTS TOGETHER

Christie's works across the art and restitution community and encourages a shared responsibility and a free and transparent exchange of information wherever possible. We all face similar hurdles in researching and resolving Holocaust art restitution claims: the "information vacuum" precipitated by lack of documentation complicated by the passage of time; lack of provenance information in spite of multiple changes of ownership; legal and moral arguments sometimes seemingly pulling in different directions; misunderstanding, confusion and hostility over where the onus lies to "prove" or "disprove" a claim; a lack of a universal framework for claims; and the absence of internationally binding standards for evaluating claims and defenses.

But those claims that are most intractable are where, for whatever reason, either or both sides refuse to engage. It is in all our interests therefore to articulate our perspectives as clearly as possible. Christie's always hopes to bring both parties to a position of mutual understanding and respect, based on a shared appreciation of the historical record.

This was the approach we took with this painting from the collection of Dr. Max Stern, which we flagged as part of our pre-sale vetting. At this early stage, we knew only that it had been in

Dr. Stern's hands but could not establish when. The Estate was eventually able to demonstrate that he had it in his possession in 1936. Although there were no specific sale records, when his 1936 possession was put in the context of the documented persecution of Dr. Stern, the presumption was made that his transfer at that time was not voluntary and, on this basis, restitution was agreed.

IV. CALL FOR A SHARED CLAIMS PROCESS

This slide¹ shows a number of disputed works where Christie's has helped to facilitate a settlement. While the intent of the Washington Principles still rings true today, our experience suggests that their lack of specificity – the lack of detail – means that in practice the Washington Principles alone are not sufficient to improve claims handling. From the auction house perspective, then, I would like to suggest that one of the things we need to establish alongside their broad brushstrokes are more specific procedural guidelines for the art market to use in dealing with Holocaust provenance issues and restitution claims.

To this end, as a first step and to begin the process, I would like to share with you Christie's own guidelines which set out a framework for handling provenance issues and claims, making clear the expectations and responsibilities of all concerned. (These guidelines will be available on our website.) We are announcing these guidelines publicly today, and sharing them with you, however they mostly consolidate the practices we have followed up to now.

¹ The speech was accompanied by the PowerPoint presentation.

The guidelines are based on four overarching principles: fairness, practicality, consistency and transparency, which are sometimes too easily obscured in the to and fro of heated negotiation. It is self-evident that claims need to be resolved quickly and fairly. And, those claims that are resolved fairly – and with the least amount of acrimony – are those where one side or both recognize(s) that there is some justice in the position of the other.

Many of us, on the other hand, will have dealt with claims, for example, where the current holder has no knowledge of an artwork's earlier history and although sympathetic, has limited options and a hostile response. Guidelines to deal with these situations need to be practical and fair. If they are [practical and fair] and if they are widely adopted, they can provide at least some procedural consistency and certainty for consignors and claimants alike, such as for timeframes and other aspects of claims handling.

With these principles in mind, Christie's guidelines set out on the one hand what we look for to be presented from the claimants' side: namely a clear, articulated claim, supported with as much information and documentation as is possible and which is presented in sufficient time before a sale is due to take place. By the same token, Christie's will (1) inform its consignor of a claim, (2) request that the consignor provide as much provenance information and documentation as is available, and (3) encourage its consignor to engage in a negotiation process looking towards a just and fair solution based on historical facts.

Although Christie's cannot be the arbiter of claims, there needs to be a threshold amount of information to support a claim before we can take such a serious step as withdrawing a work from sale. With

the most good will in the world, Christie's cannot take action where there is not a serious and substantiated cause for concern. For this reason, I am sure we all want to see a continuation of the process of opening government archives for provenance research.

I would like to use two contrasting examples. The comprehensive and thorough claim presented for this Master of Frankfurt painting from the Julius Priester collection clearly benefited from the careful research undertaken into the fate of the collection as a whole by the heirs' representatives. Information provided with the claim, demonstrated that the consigned painting was a clear match with one from the Priester collection. Moreover, the claim was supported by information from the Austrian archives detailing the act of confiscation and postwar attempts to recover the painting. While it took a little while to bring about a resolution, our consignor was nonetheless reassured from the outset that there was a colorable claim to answer.

However, when we were approached about this van Aelst sold at Christie's some time previously, although the claimant was able to give us the biographical details of his father's flight from Vienna, his claim rested solely on the family's recollection that a painting like this had hung in the family home. Sadly, there was nothing to back up this assertion, and we were able to find other examples of very similar still-lives by the artist and his followers. Indeed, subsequent research did establish that this painting was, in fact, in Italy during the years in question and had been in the hands of the same family since 1927.

These guidelines are also presented in the hope that we can agree on timeframes for progressing claims. Too often after a claim has been raised, the initial momentum is lost, with neither side engaged in dialogue. Such deadlock is frustrating and counterproductive, so

Christie's will expect parties to settle or proceed to court, arbitration or some other dispute resolution procedure.

Our guidelines also make clear Christie's obligations towards claimants. For example, we work with consignors (or current holders) and claimants and restitution experts alike to try to uncover – to the extent possible – the provenance of an object where concern has been raised; to publish as much information as we have; and to withdraw and hold a claimed object for sale pending resolution of a claim. The goal of these guidelines is to help claimants and claim recipients to make better and more prompt decisions based on an accurate assessment of the historical circumstances that gave rise to any particular claim. We believe that issuing these guidelines underscores Christie's serious intent to facilitate dialogue between parties and assist them in finding fair and equitable resolutions through provenance research and a just process.

Invitation to Cooperation

Ultimately, Christie's cannot resolve claims alone; it is the parties themselves who must do so by settling, walking away or litigating. With transparent guidelines, we can signal our ongoing intention to assist in the resolution of Holocaust-era claims and to help engender confidence in both collectors and claimants over how disputes are handled by the art market. I ask that you give us your thoughts on these guidelines. Also, I hope to establish a working group around this issue.

V. CONCLUSION

Working together with many of you, and with our shared intent and purpose to improve claims handling and to prevent looted

art from circulating through the marketplace, I hope that we might be able to build on the very real foundations of the last decade of experience under the Washington Principles, and set new benchmarks in diligence and claims processing for the next decade. Christie's looks forward to working with you over the coming years on developing workable auction house guidelines and on addressing such other suggestions that would facilitate the just and fair resolution of claims as may be made during the course of this Conference.

► **Felicitas Thurn**

DOROTHEUM, AUSTRIA

DOROTHEUM: PROVENANCE RESEARCH AND DUE DILIGENCE IN THE ART TRADE IN CENTRAL EUROPE

History

More than 300 years after its foundation by Emperor Joseph I, the Dorotheum is one of the most important auction houses in the world and the leading auction house in the German-speaking area with offices in Milan, Munich, Düsseldorf, Prague, Tokyo, Zagreb, Brussels, Tel Aviv, Rome, and Paris. For the broad range offered by the Dorotheum, more than 100 specialists are available, as well as over 40 departments. The highlights range from contemporary art to modern art, from design to old master paintings. As an auctioneer, the Dorotheum sells, as an agent, other people's property. The Dorotheum stems from the Pawn & Query Bureau established in 1707, located in Vienna's inner city. When the auction business began to prosper at the end of the 19th century with auctions being held in 13 separate

rooms, Emperor Franz Joseph commissioned the rebuilding of a Palais on the grounds of an old monastery, which was inaugurated in 1901. Already in the first thirty years of the 20th century, the Dorotheum saw many great private collections passing through its premises and held numerous specialist sales of books, manuscripts, medals, coins and other art objects. During the Nazi era, important posts within the Dorotheum hierarchy were assigned to supporters of the regime. The institution's infrastructure was used to auction off aryanised property, and although the Dorotheum itself was not actively involved in aryanisations, it benefited extensively as a trading agent from consignments by administrative bodies such as the Gestapo, customs and financial authorities, or the City of Vienna.

When the Dorotheum was privatized in 2001, the management made coming to terms with the Dorotheum's history during the Nazi era one of its prime concerns. Upon the sale of the Dorotheum, the ÖIAG – the Austrian Republic's investment and privatization agency – as former owner of the auction house, paid USD 32 million into the General Settlement Fund as a compensation payment for their Austrian holdings that cooperated with the Nazi Regime. The year 2006 saw the publication of a report by independent historical experts on the history of the Dorotheum from 1938–1945.¹ At the same time, the Dorotheum handed over all historical archival material to the Austrian State Archive in order to make it available to all researchers. The establishment of a department of provenance research set up in 2003 by the new directors was groundbreaking in Central Europe and continues to be the only in-house department of provenance research dealing with restitution issues in an auction house in continental Europe.

¹ Lütgenau, Schröck, Niederacher, *Zwischen Staat und Wirtschaft. Das Dorotheum im Nationalsozialismus*, Oldenbourg Verlag 2006.

Provenance Research

The provenance or the full ownership history of an artwork is of great importance to an auction house not only in the context of looted art. The provenance helps establish the authenticity of a work of art, a provenance from a famous collection will enhance the importance and mostly also the value of an artwork and it gives an historical and art historical context to a work of art. In the past years, the whereabouts of an artwork between 1933 and 1948 have become increasingly important when researching its provenance. The Dorotheum is alert to various means of looting and dislocation in these years such as aryanizations, forced sales, seizures, theft, and spoliation or de-accessioning of degenerated art that can give rise to disputes. However, complete provenance of a given work of art is often difficult if not impossible to establish. Frequently ownership must be determined through secondary sources such as *catalogues raisonnés* and artist monographs, exhibition catalogues, annotated auction sales catalogues, publications or others. Whilst it is comparatively easy to establish the history of well-known artworks, less important works are more likely to have gaps in their provenance history. Provenance research is also undermined by the fact that many of the items are not unique (such as prints, or multiple paintings of the same subject by the same artist). Changes in attribution, title or description further complicate the work. The absence of a full provenance should therefore not automatically taint an artwork. Many works of art lack a clear history for legitimate reasons: Private records of sales frequently do not survive, many private collectors buy and sell anonymously through third parties and in numerous cases records of auction houses or dealers are at best incompletely preserved, if not lost, or destroyed.

Due Diligence

The possibility that an artwork with a tainted provenance might be offered to the Dorotheum on consignment gave rise to moral and legal considerations and led to a tight-knit system of due diligence: In the late 1990s, the Dorotheum took the Austrian lead in subscribing to the Art Loss Register, the world's largest private database of lost and stolen art, antiques and collectables, thus having all catalogues reviewed by the Art Loss Register's team. All catalogues are furthermore distributed to an international field of researchers and private and public institutions in order to give potential claimants and their representatives the opportunity to identify artworks. Additionally the internet provides the interested community with all information on the works of art sold at public auction. Most importantly, the Dorotheum takes an active part in the research of the objects up for sale to avoid the inadvertent sale of un-restituted looted art. Upon consignment the client has to share all known information about the provenance of the object and has to sign a confirmation that he is the legal owner of the piece.

The experts are educated to recognize signs of looting on artworks during cataloguing and handling: brands, signs, numbers, labels, and seals on the frame or stretcher that may lead to a Holocaust victim or a public collection that has lost property during the war. Trainings held by the department of provenance research raise the awareness of issues in provenance. Generally, the experts will establish the provenance of an artwork, which the department for restitution issues will then check for suspicious names. Since the Dorotheum is dealing with a number of artworks worth a few hundred or thousand euros and the establishment of any provenance is almost impossible for these pieces, we need to go even further: the specialist department for provenance research checks

all identifiable artworks against a number of databases and listings. Online databases that are consulted include *lostart.de*, a database set up by the Federal Republic of Germany; *trace.com*, the world's largest database of lost and stolen property; or the object database of *lootedart.com*, containing details of over 25,000 missing objects. National databases of looted art are also screened by skilled Dorotheum personnel as well as property listings in books or on CDs. Major tools in this research are the internal database of lost property, the record of "red flag" names holding details of thousands of individuals who were victims or collaborators of the Nazi regime as well as data from sales catalogues of the Nazi era, all of which are constantly updated and extended. For all questions regarding the provenance, the identification of labels, the search for previous owners and other questions in regard to Nazi era looted art, the Dorotheum works closely with Austrian and international public and private archives, the Jewish Community in Vienna, the Austrian Commission for Provenance Research, the German "Arbeitskreis Provenienzforschung" and other research bodies.

Looted Art

If a work which is offered to the Dorotheum on consignment is detected as possibly being looted art, the Dorotheum will convince the consignor that it is inappropriate to offer it for sale regardless of whether the consignor can establish clear legal title. The artwork will be withdrawn from the sale until either all suspicion is cleared or until a mutual agreement between all parties involved has been reached. In order to avoid litigation for reasons of time and cost and complexity, the Dorotheum experts help the consignor to reach an agreement with the possible plaintiff. There are various possible solutions to these mostly ethical disputes: restitution, payment of compensation, or a joint sale where the proceeds of sale are split between the current owner and the claimant(s).

Initiatives and Remarks

In order for the Dorotheum to be aware of displaced art it is of utter necessity that looted objects wanted by private individuals, museums, and governments are registered with public databases. Cooperation between institutions, individuals, and the trade is also a major key to the solution of questions of provenance and the Dorotheum experts are happy to share their knowledge with research professionals. At the same time one always has to bear the following in mind:

- ▷ Every case is singular and has to be treated on such a basis; there is no such thing as a general rule.
- ▷ The increased attention of auction houses to looted art does not translate into an affirmative duty to seize works when their research turns up suspicious findings. As discussed above, provenance is often indeterminate and gaps in a work's history are not de facto evidence of illegal appropriation. Seizure can generally only be ordered by courts or state authorities; a similar measure taken by an auction house would constitute an infringement of private rights.
- ▷ Since in most European countries the acquisition of full legal title is possible through a bona fide purchase and is facilitated by statutes of limitations, the situation of someone who is suddenly confronted with the fact that he or she may own looted art is very complex. A prudent course of action is required and the principle of "just and fair" solutions must consider the situation of the bona fide possessor. This also applies to the right of privacy for all parties.

- ▷ Comprehensive research is the foundation of any claim and any rejection of such. The Dorotheum strongly encourages projects leading to a broader knowledge of the art trade in the Nazi era and the looting of works of art. We also strongly support open online access to documents concerning the ownership history of cultural property in one international database.
- ▷ Finally, due diligence should also be exercised by victims of spoliation and their successors through identifying their losses and notifying the art trade about losses.

The policy is clear: The Dorotheum will not knowingly sell any work of art that has been looted and has not been restituted since. In order to avoid inadvertent sales, we need every piece of information available.

Provenance Research

► Carla Shapreau

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MUSICAL CULTURAL PROPERTY: THE NAZI ERA AND POSTWAR PROVENANCE CHALLENGES

I want to thank the Czech Republic and the conference organizers for hosting this Conference and including me as one of the speakers in the Looted Art Working Group, so that I can address the subject of musical cultural property. Musical instruments, musical manuscripts, printed music, rare books and other music-related objects were looted, surrendered, lost, hastily left behind, or purchased in significant numbers in Europe as a result of the Nazi Era. Additional musical losses were incurred as musical materials were swept up as war trophies.

The utilitarian nature and portability of many musical objects contribute to provenance challenges, as does the fact that musical losses often accrued to individual musicians and composers, who may not have maintained records or photographs for title and authentication purposes. The history and fate of such lost musical materials and intellectual property, an integral part of the fabric of musical culture and aesthetics, remains relatively unknown.

Ten years after the Washington Conference on Holocaust-Era Assets in 1998, little progress in provenance research has occurred

in the United States regarding musical cultural losses. The Nazi Era Provenance Internet Portal, hosted by the American Association of Museums (AAM), a laudable effort for looted art, does not include one musical entry, even though many museums in the USA have significant music-related objects in their collections. The lack of readily available archival information makes compliance with the AAM guidelines problematic. One of the positive developments over the last decade has been the proliferation of online databases.

Once a central reservoir of provenance information pertaining to music-related items begins to grow, this will enhance research results and contribute to the development of a standard of care governing what constitutes reasonable due diligence in connection with transactions involving music-related property. Today, this standard of care is far below that which has evolved in the art world, in large part due to the dearth of readily available historical information.

Life for musicians, composers, music publishers, and others in the musical sphere began to unravel upon Hitler's rise to power in early 1933. By March 1933, musical performances by Jews were being cancelled and musicians were being ousted from employment. These events so shocked the musical world that by April 1, 1933, renowned conductor Arturo Toscanini, along with many other prominent musicians, sent a cable to Hitler protesting this treatment of Jews. By November 1, 1933, all professional musicians in Germany were required to register with the music division of the Reich Culture Chamber; Aryan ancestry was required. The only alternative for Jewish musicians and cultural life for Jews in Germany was the Jewish Kulturbund, established in the summer of 1933. Membership in the Kulturbund reached 180,000 by 1937.

As with the art world, the attempt by the Nazi Regime to manipulate cultural values was advanced through a variety of vehicles, including an exhibition entitled *Entartete Musik* (Degenerate Music), which opened in Düsseldorf in May 1938. Composers of Jewish descent, or with racial, political, religious, social, or aesthetic views not in conformity with Reich music policy, were targeted, as were the musical genres of jazz, modernism, and atonality. By 1940, the *Lexikon der Juden in der Musik* was first published, identifying those in the field of music who were believed to be Jewish.

Although many musicians were able to safely immigrate to other countries, others did not overcome the significant administrative, legal, and economic barriers to freedom. After eight years of existence, the Nazis closed down the Kulturbund on September 1, 1941. Shortly thereafter, Kulturbund musicians were ordered to surrender their musical instruments. The German borders were closed to Jews on October 23, 1941, and widespread deportations commenced. Musical objects were looted from the homes of Jews, surrendered prior to deportation, confiscated from ghettos, and seized in concentration camps. Those camps with orchestras, and there were many, had amassed assorted musical instruments, such as those observed by Polish violinist Szymon Laks upon his arrival at Auschwitz-Birkenau, where he saw:

"All sorts of brass and woodwind instruments, everything polished to a bright shine. I distinguished in turn a huge tuba helicon, a trombone, a few trumpets, a brass tenor and alto horns, saxophones, clarinets, and two flutes, one a piccolo. Leaning against the wall in one of the corners was an impressive double bass with a bow stuck under the strings, in another a bass drum with cymbals and a snare drum with all of the percussion paraphernalia. On

a wide, solid shelf specifically designed for this purpose were a few accordions and violins in cases. One of them, somewhat bigger than the others, probably contained a viola... [T]he conductor... gave me a violin and asked me to play something."¹

In tandem with confiscations within Germany, in July 1940 the *Einsatzstab Reichsleiter Rosenberg* (ERR), led by Alfred Rosenberg, commenced its organized and systematic approach to cultural plunder in territories occupied by the Third Reich. The ERR task force charged with musical confiscations was known as the *Sonderstab Musik*.² Musical confiscations were also carried out through the *Möbel Aktion*, established by Alfred Rosenberg and approved by Hitler on December 31, 1941, which involved the seizure of the contents of the homes of those who had fled or had been deported. These thefts garnered much musical property as well.

The Third Reich appears to have obtained musical property for several purposes, among which were the *Hochschule für Musik* in Leipzig and the *Amt Musik* Headquarters, in Berlin. Archival evidence confirms that Goebbels and his aides were involved with the evaluation and improvement of the quality of instruments being played by professional musicians in Germany. To this end, an instrument bank was established in Berlin that allegedly contained valuable instruments of the violin family, which were loaned out to prominent musicians in Germany, some from the Berlin Philharmonic. The prewar provenance of

these instruments, the circumstances under which they were acquired, and their current whereabouts are the subject of ongoing investigation.

Thanks to ghetto photographer Mendel Grossman, who perished during the Holocaust, images he hid in tin cans within the ghetto to document musical confiscations in the Łódź Ghetto in Poland, where on January 17, 1944, an order was issued that the populace of the ghetto surrender all musical instruments in its possession. In addition to Jewish losses in Poland, non-Jewish citizens also suffered musical losses, as did the National Museum in Warsaw, from which an alleged 1719 Stradivari violin was looted during the war.

Threats of damage in Germany from Allied bombing resulted in the evacuation of a great quantity of musical objects, both looted and from German collections, to various locations for safekeeping. Field discoveries by the United States Army immediately after the war included many musical finds. One discovery was made at Raitenhaslach Schloss, near Berghausen, first noted by the US military in a May 30, 1945 report. It proved to be a very rich musical recovery of French property, including 80 crates of music and books and many musical instruments. Among these were valuable keyboard instruments confiscated from the Saint-Leu-la-Forêt home of noted harpsichordist Wanda Landowska.

Musical property evacuated to the countryside was also swept up by the Russian Army³ and by Poland⁴ as war trophies. An al-

¹ Szymon Laks. "Music of Another World". Northwestern University Press, Evanston, Ill., 1989, pp. 32–33.

² Willem de Vries. "Sonderstab Musik, Music Confiscations by the Einsatzstab Reichsleiter Rosenberg under the Nazi Occupation of Western Europe." Amsterdam University Press, 1996. This seminal and excellent work by Mr. de Vries provides essential reading regarding this subject matter.

³ Patricia Kennedy Grimsted. "Back is Back in Berlin: The Return of the Sing-Akademie Archive from Ukraine in the Context of Displaced Cultural Treasures and Restitution Politics." Harvard Ukrainian Research Institute, 2003.

⁴ The University Library in Łódź, Poland is the beneficiary of the Philipp Spitta Collection and other music from the *Hochschule für Musik*, Berlin, which had been evacuated to Silesia. Access to this significant collection has been made available

leged 1719 Stradivari violin, owned by the *Hochschule für Musik*, was obtained near Berlin by two Russian officers in June 1945. In 1946, the Russian National Collection of Musical Instruments in Moscow accessioned into its collection a violin by the same maker of the same date.¹ The *Universität der Künste Berlin*, the successor entity for the *Hochschule für Musik*, is currently seeking recovery of this violin. A search of the iconographic literature has turned up a 1949 image of the Russian instrument, which will hopefully be helpful in the provenance analysis.

Eastern Europe sustained musical losses as well. In the former Czechoslovakia, by order of the Reichsprotektor, all moveable musical instruments were to be surrendered by Jews in Prague by December 26, 1941. Larger instruments, such as pianos, were taken from deportees' homes. A tally of 5,288 "musik noten" were listed in the June 1943 inventory of property surrendered by deportees in Prague, and by February 1944, the number of confiscated musical instruments reached 20,301.

Linking such generalized data with specific identifiable property poses many challenges. Yet, clues may be found amid archival records, such as those from the Munich Central Collection Point (CCP). For example, an 18th century Italian violin made by Zanoli and confiscated by the Gestapo from Dr. Otto Stein is documented in the Munich records. Dr. Stein, who was Jewish, had been a professor of ancient Indian culture at Charles University in Prague, but he was deported to the Łódź Ghetto, then to Theresienstadt, and perished in the Holocaust. The US military discovered Dr. Stein's violin in Ulm, Germany, and it was restituted in

a shipment to Czechoslovakia on November 19, 1946. Unfortunately, no records have yet been located that confirm the whereabouts of the violin after its restitution to Czechoslovakia. The violin was never returned to Dr. Stein's family. Hopefully, further provenance research within the Czech Republic will shed some light on the violin's fate.

In Hungary, records in the National Archive similarly hold references to musical losses that are still unresolved. For example, nearly 100 musical instruments were lost to one family from Budapest during the war. The instruments in this collection included examples of the history of Hungarian violin making from its beginnings until 1944, and included 80 violins, 7 violas, 2 cellos, one viola da gamba, and 7 guitars. The owner of this collection was not deported and survived the war. The subsequent political upheaval under the communist regime resulted in additional hardships. None of the instruments lost in 1944 were ever returned and the whereabouts of this large collection is currently unknown.

The Dutch also sustained many unresolved musical losses arising from the Nazi era, a sampling of which are set forth in the chart below.

to the public for research. See Christoph Wolff, "From Berlin to Łód : The Spitta Collection Resurfaces." *Notes*, Second Series. Vol. 46, No. 2, Dec. 1989, pp. 311–327.

¹ The 1719 Stradivari stolen from the Warsaw Museum does not appear to be associated in any way with the violin missing from Germany, or in Russia.

**Selected Postwar Dutch Loss Reports,
Instruments of the Violin Family**

INSTRUMENT NAME	ORIGINAL OWNER OR REPRESENTATIVE	DETAIL
"Ferdinando Alberti," violin, Milan (SNK No. 657)	C. Schoemaker, Laren	Ownership unclear; prior owners Karl Binter, violin collector, and violinist D. Vos. C. Hengeveld of Utrecht, custodian. Schoemaker, a violin maker, filed the report; report date: 3.10.45
"Amati," violin (SNK No. 2712)	J. Geradts, Posterholt	Stolen by Germans upon evacuation of home. Report date: 20.10.45
"Amati," viola (SNK No. 669)	C. Schoemaker, Laren	Given for safekeeping to violin expert Hamma, for deposit in Frankfurt, through custodian C. Hengeveld in Utrecht; report date: 3.10.45
Four "contrabas" (SNK Nos. 3707, 3708, 3709, 3710)	Albertus Spruyt, Arnhem	Stolen by Germans in Arnhem. Reports filed November 3 and 5, 1945
"Johannes Cuijpers," violin (SNK No. 688)	R.L. Catz	Owner taken prisoner, violin stolen by German soldier; report date: 15.9.45
"Joseph Dalaglio," violin, 1832, Mantua (SNK No. 3484)	W.J.H. Resing, Lochem	Violin stolen from home, after owner fled upon arrival of Germans; report date 22.11.45
"Casparo di Salo," cello 1613, Brescia, lion's head (SNK No. 5232)	B. Hengeveld, Arnhem	Stolen from owner's home; report date 27.12.45
"Joseph Gagliano," violin, 1771, Naples (SNK No. 15285)	A. Bär, Naarden	Confiscated by the "Einsatzstab Rosenberg," Amsterdam; report date: 6.9.46

"J.G. Grancino," cello, 1699, Milano (SNK No. 15284)	A. Bär, Naarden	Confiscated by the "Einsatzstab Rosenberg," Amsterdam; report date: 6.9.46
"J.G. Guadagnini," violin, 1783, Turin. Certificate from Maucotel & Deschamps, Paris (SNK No. 20315)	Owner unknown. Additional references in US military files indicate that this violin was originally from the collection of a Dutch Jew who perished during the Holocaust.	Stolen. Allegedly acquired by Eldriede Bleier, of Stuttgart, for 12,000 guilders. Dutch file notes dated: 7.7.48
"Joseph Guarneri" violin, 1729 (SNK No. 16711)	Stichting Nederlandsch Kunstbezit	Thans Hindenburg, Polizei Kazerne, Netherlands War Crimes. Prior owner Hendrik Rynbergen; H. Schoppe van de N.V. Synthova Maatschappij. Sold for 65,000 guilders; report filed 25.11.46
"Josef Guarneri," violin (SNK No. 4462), mark inside the violin, "sub 6"	Dr. L. van Hussen, Eindhoven	Stolen from home during evacuation in fall of 1944; report date: 11.45
"Petrus Guarnerius," violin, 1721, Venice, two piece back, medium-width flame. Certificate from Max Möller of Amsterdam; bearing the number 7687 (SNK No. 656)	Owner appears to be Dr. Hergt, of Wiesbaden, with C. Schoemaker filing claim. C. Hengeveld appears to have sold the violin to Hergt, with violin dealer Hamma referenced in related documentation.	US Military records reflect a payment by Dr. Hergt of 30,000 RM for this violin. Violin dealer Hamma and C. Hengeveld appear to be involved in this sale; report date: 3 October, 1945
Guersan ("Gueisan" [sic]), viola da gamba (SNK No. 16011) carved head, ivory decorations on back and ribs, French	A.F. Dufour, Arnhem	Stolen; report date: 5.11.46

"Matthias Klotz," violin, 1700s (SNK No. 5257)	J.K. Ligtenberg, Den Haag	Confiscated by Germans; report date: 15.9.45
"Kuyper" viola, Italian violin, plus another violin (SNK No. 6118)	A. da Silva, Amsterdam	Stolen by Germans; report date: 4.10.45
"Leisemuller," violin (SNK No. 8757)	Mej. B. G. Spierenburg, Rotterdam	Stolen by Germans; report date: 31.10.45
"Imitatie Lupot," viola (SNK No. 5261)	J.H. Ligtenberg, Den Haag	Stolen by Germans; report date: 15.9.45
"Mantegazza," violin, Mailand (SNK No. 668)	C. Schoemaker, Laren	Given for safekeeping to violin expert Hamma, for deposit in Frankfurt; custodian C. Hengeveld in Utrecht; report date: 3.10.45
"Panormo," violin, Paris (SNK No. 667)	C. Schoemaker, Laren	Given for safekeeping to violin expert Hamma, for deposit in Frankfurt; custodian C. Hengeveld in Utrecht; report date: 3.10.45
"Stainer," cello, 1700s (SNK No. 16010)	A.F. Dufour, Arnhem	Stolen; report date: 5.11.46
"Kopiert nach Stradivarius," violin 1839 (SNK No. 13547)	Mr.W.A.M. Cremers, Arnhem	Stolen from evacuated home by Germans; report date: 1.8.46
"Steiner," violin (SNK No. 2713)	J. Geradts, Posterholt	Stolen by Germans; report date: 13.11.45
Jean Baptiste Vuillaume, "An roi David," violin, Paris, 1859, with 2 bows (SNK No. 7701)	H. Frank, Amsterdam	Confiscated by Germans; report date: 2.46
"Jean Baptiste Vuillaume," violin, ca. 1843 (SNK No. 520)	Dr. C.F.P. Stutterheim, Tiel	Stolen from the Rotterdam Bank in Tiel; report date: 30.9.45
3 "Kinderviolinen" and 1 black pianola (SNK No. 16818)	Dutch Foundation Kunstbezi	Karl Prunk, via Treuhandverwaltung (custody); report date: 26.11.46

The last 64 years have garnered limited recoveries of such musical materials. Moreover, it is only very recently that musical compositions that were lost or suppressed during the Nazi era have gained attention through the efforts of a few, such as conductor James Conlon who aptly pointed out of this lost generation of composers:

"The Third Reich silenced two generations of composers and, with them, an entire musical heritage... Alongside Stravinsky, Strauss and other major and more fortunate figures, the varied voices of composers from Berlin, Vienna, Prague and Budapest, whether Jewish, dissident or immigrant, reveal much about the musical ferment of their time... The suppression of these composers and musicians caused the greatest single rupture in what had been a continuous seamless transmittal of German classical music... The 20th century needs to be re-scrutinized after we acquaint ourselves with the voluminous music cast out by the Nazi suppression."¹

The musical world has lagged far behind the art world in the mining of records and the development of this lost history. Inclusion of musical losses (and musical materials with provenance gaps) in online databases will enhance progress in this area, as would linking together the existing databases. In addition, the creation of a separate compilation of information pertaining exclusively to music-related losses may prove to be the most effective approach for provenance research.

¹ Maestro James Conlon. "Recovering a Musical Heritage: The Music Suppressed by the Third Reich." *The Orel Foundation*. <http://orelfoundation.org>. See also <http://www.jmi.org.uk/suppressedmusic/>; <http://www.musica-reanimata.de>; the Entartete Musik series, previously produced by Michael Haas on the Decca label.

I want to end with a few words about German composer Edwin Geist, who fled to Lithuania to escape persecution as a half-Jew in 1938, where his musical efforts continued. Geist was arrested and killed by the Gestapo in 1942. His niece, Rosian Zerner, herself a Holocaust survivor, has been trying to recover some of her uncle's music, currently in the Lithuanian Theater, Music and Cinema Museum, so that Geist's music may be rediscovered, performed, and enjoyed by a wider audience. I am very pleased to report that just two days before this presentation the Lithuanian Ministry of Foreign Affairs advised the US Embassy in Lithuania that the Ministry of Culture appears to have agreed, in principle, to turn over the Geist Collection in the Lithuanian Museum to the Geist heirs.¹

Unfortunately, these developments have been all too rare. For some musicians who survived the Nazi Era, memories of musical losses continue to haunt. Cellist Anita Lasker Wallfisch, an Auschwitz orchestra member and survivor now in her 80s in England, said of her still missing cello, "I had once been the proud owner of a beautiful cello made by Ventapane. God knows who plays on it now."²

Thank you.

¹ Some of Geist's musical manuscripts were recently discovered in the Music Department of the Berlin State Library. Ownership in this music was amicably resolved in favor of Geist's heirs, who have loaned the music to the Prussian Cultural Heritage Foundation. The first recording of Geist's compositions was made in 2007 by the *Deutsches Kulturforum östliches Europa*, supported by the German Federal Government's Commissioner for Culture and Media, winning an award from *Neue Musikzeitung*. In October 2008, Brandeis University and the Goethe Institute in Boston presented the US premiere of some of Geist's newly recovered music.

² Anita Wallfisch-Lasker: *Inherit the Truth*. St. Martin's Press, 1996, p. 150.

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PROJECT RELATED TO THE PROMOTION OF PROVENANCE RESEARCH IN GERMANY, TAKING STOCK AFTER THE FIRST YEAR

Introduction

In November 2007, the Federal Government Commissioner for Culture and the Media decided that the provenance research in Germany shall be considerably strengthened. Since 2008, the Federal Government Commissioner has been specially promoting research into cultural assets taken from their rightful owners as a result of Nazi persecution.

He is providing one million euros a year to help public establishments and institutions to research the provenance of items in their collections. The funds are channeled through the Bureau for Provenance Investigation and Research, which has been working at the Institute for Museum Research at the National Museums – Prussian Cultural Heritage Foundation in Berlin. The Bureau for Provenance Investigation and Research started its activity in June 2008. One year after initiating this way of promoting provenance research, the activity already achieved satisfactory results.

This report by the Bureau for Provenance Investigation and Research will contain a summary of the granted projects and reflect on first-year experiences.

Why Was Project Related Promotion of Provenance Research Started?

As a result of the Washington Conference on Holocaust-Era Assets and the realization of the Principles, more attention and a growing interest in the processing of the results of the National Socialist art and cultural asset robbery could be seen in Germany at large. Significant efforts to improve the provenance research considerably were also established. But soon the possibilities as well as the limits of this kind of historical research were clearly recognizable.

However, public cultural institutions and collections in Germany were largely caught unprepared for implementing the tasks resulting from the obligations laid out in the Washington Principles and the subsequently formulated Joint Declaration of the Federal Government, the Federal States and the National Association of Local Authorities (1999). Over the past ten years, investigations into unclear provenances were usually undertaken on a case-by-case basis, in response to specific information requests or restitution claims. In addition, efforts by public institutions to clarify provenance and identify former owners took place within an underdeveloped infrastructure.

Only a few museums and libraries had engaged qualified employees or charged staff members with provenance research as their primarily or almost exclusively scientific work. It also became increasingly clear that comprehensive research into the origin of historical artworks and other cultural objects – together with the goal of identifying heirs or other entitled claimants – could not be achieved in just a few short years.

Particularly with regard to the federalist system and the area of culture in Germany, one problem became clear: the majority

of the municipal museums, libraries and archives in Germany were unable to carry out systematic research because they had a low budget and a limited staff. The German states and the local authorities as the providers and sponsors of the public cultural institutions demanded more financial support and regular assistance.

The funding of provenance research projects with financial support from the German federal government is the way to give a new impetus after a period of stagnation during the past years.

The Tasks of the Bureau for Provenance Investigation and Research

The Bureau for Provenance Investigation and Research, which is affiliated with the Institute for Museum Research of the State Museums in Berlin – Prussian Cultural Heritage Foundation – has the task of supporting museums, libraries, archives and other publicly run institutions in the Federal Republic of Germany in the process of identifying those cultural artifacts in their collections or in their possession which were taken from their lawful owners during the period of National Socialist rule.

The establishment of the Bureau for Provenance Investigation and Research was the direct result of the findings issued on November 13, 2007 by the working group on matters of restitution set up by the Federal Government Commissioner for Culture and the Media Bernd Neumann. The financial resources for the day-to-day running of the Bureau for Provenance Investigation and Research have been provided by the *Kulturstiftung der Länder* (Cultural Foundation of the German Federal States).¹

¹ See: <http://www.kulturstiftung.de>.

From 2008 onwards, funds totaling one million euros will be assigned each year by the Federal Government Commissioner for Culture and the Media to support the investigation and study of the provenance of cultural artifacts in German public collections. The Bureau for Provenance Investigation and Research allocates these funds to individual projects.

The Bureau for Provenance Investigation and Research is also tasked with linking the findings of the various research projects, evaluating these and following up on issues that arise out of the projects either by conducting contextual research or by initiating further research projects. While the starting point of the Bureau's work is the loss of certain cultural assets by individuals as a result of National Socialist persecution, it is hoped that a bigger picture will emerge, shedding light on the history of important private collections, the functioning of the art trade in the National Socialist era, but also on the activity of the government officials involved in the dispossession of, in particular, the artworks owned by the Jewish population. As laid out in a co-operation agreement, the Bureau for Provenance Investigation and Research works closely with the *Koordinierungsstelle für Kulturgutverluste* (Office for the Documentation of Lost Cultural Property)¹ in publishing its findings and in the search for the lawful owners of art works.

The Bureau will work on facilitating access to the resources necessary for provenance research, for example enhancing the accessibility of relevant documents. It is also the aim of the Bureau to improve networking among individuals and institutions active in the field of provenance research and to encourage the sharing of the resulting information and experience.

¹ See: <http://www.lostart.de>.

What Kinds of Projects Can Be Promoted?

There are three different types of funding available:

1. *Short-Term Research Projects*

If administrations of museums or libraries are confronted with requests about former owners of pieces in public collections or with restitution claims and they have no information on a context of Nazi persecution and confiscation as yet, they can seize the opportunity to use the funding for starting research. The research results are supposed to help them to produce the first official statement in such cases.

Institutions which have short-term research needs, usually relating to ongoing restitution cases, can apply for grants of up to EUR 15,000. Decisions on such applications will be made within one month. The same procedure is applied with regard to applications for subsidies for drawing up legal expert opinions.

2. *Subsidies for Legal Expert Opinions*

If administrations of museums or libraries or their funding bodies need assistance with or consultations on legal technicalities, they can take the opportunity to use the funding for ordering legal expert opinions or for engaging lawyers. For this purpose, they can make an application for a grant-in-aid.

3. *Long-Term Research Projects/Systematic Checking of Collections*

Alternatively, institutions wishing to systematically study

their collections and to initiate wider research projects can apply for larger grants. Twice a year – in March and in September – the applications can be submitted.

The advisory committee to the Bureau for Provenance Investigation/Research bears significantly on the decision of which applicants are to receive this latter type of funding. The committee consists of representatives from the worlds of politics and culture as well as of experts from the fields of history and art history.

The funding bodies of institutions applying for grants are expected to match the funding to a certain degree. This kind of grant can be used for hiring research assistants for one or two years.

What Kinds of Projects Were Already Granted?

To date, 53 applications were submitted to the Bureau for Provenance Investigation/Research and funding has been allocated to 35 different projects. Among the 35 granted projects were 23 long-term research projects and twelve short-term projects. Twenty-three applications were submitted by museums, ten by libraries and two by archives.

- ▷ Checking museum collections – systematic indexing of inventories

Example 1: The Wiesbaden Museum

The research project of the Wiesbaden Museum is concerning with the paintings in the collection, which were purchased between 1935 and 1945 when Hermann Voss was the director of the Wiesbaden Museum. In addition Voss was the commissioner for the *Führerauftrag Linz* from 1943 to 1945.

- ▷ Checking library collections

Example 2: The Central and Regional Library Berlin (Zentral- und Landesbibliothek Berlin)

In 1943, the Berlin City Library purchased about 40,000 books from the municipal pawnshop. These books came from private libraries of deported Jews.

Staff members are making investigations to find the former book owners or their descendants.

- ▷ Examination of archive contents and interpretation of data for provenance research

Example 3: German Fine Art Archives Nuremberg (Deutsches Kunstarchiv im Germanischen Nationalmuseum Nürnberg)

Since 1972, the business documents of the Jewish Munich art dealer Heinemann have been owned by the museum. The Heinemann Gallery was one of the important German art galleries at the beginning of the 20th century. These documents cover the period from the formation of the company in 1872 to the expropriation ("Aryanization") in 1939 and contain a lot of information about the art sales by the Heinemann Gallery. Many clients of the Heinemann Gallery were victims of Nazi persecution.

After finalizing the indexing and digitizing of the documents, information for research concerning about 15,000 works of art and 10,000 persons and institutions will be available online.

- ▷ Connecting the indexing of collections with historical contextual research

Example 4: Bavarian State Painting Collections, Jewish Museum Munich, the Municipal Gallery, the Munich City Museum, the Villa Stuck Museum, the Bavarian National Museum and the State Graphic Arts Collection Munich (*Bayerische Staatsgemäldesammlungen, Jüdisches Museum München, Städtische Galerie im Lenbachhaus, Münchner Stadtmuseum, Museum Villa Stuck, Bayerisches Nationalmuseum, Staatliche Graphische Sammlung München*)

The collaborative research project of the state and municipal museums in Munich entitled *The fate of Jewish art collectors and dealers in Munich 1933–1945* was started on June 1, 2009. The aim of the project is to reconstruct what happened during the *Judenaktion* in Munich in the winter of 1938/39. At that time the Gestapo seized artworks from about 30 Jewish collectors and about 70 Jewish art dealers. These works were initially acquired by the Bavarian National Museum and the Munich City Museum and then further distributed to the Munich Galleries (*Alte und Neue Pinakothek*) and other museums in Munich. The documentation of these art collections and its whereabouts is scheduled.

Perspectives

From the viewpoint of the provenance research post, the list of the tasks required in achieving sustainable research results on the origin and whereabouts of artistic and cultural assets directly or indirectly related to the National Socialist tyranny is as follows:

- ▷ Improvement and expansion of the infrastructure of provenance research, which means abridging the research paths and preventing redundancy when one and the same confiscation or acquisition proceeding is researched two or three times. This applies in particular to the intensified and in-depth examination of certain archive contents and the online publication of the corresponding indices, the verification of the auction catalogues and their examination and appraisal, as well as the question of the handling and in particular the archiving of whatever internal “business documents” have been handed down within a museum or library – for example the correspondence between a director and art dealers or public authorities.
- ▷ The acceleration and expansion of online access to informational resources on the model of an open source community of knowledge, together with a further development of user-based processes to enable more flexible search and query procedures.
- ▷ The development of provenance research as the organization of a continuous scholarly dialogue within the community of the discipline, with an exchange on the principles of action, the subject areas of research, etc.
- ▷ The creation of research associations – both institutional and international, not only among museums and libraries but also above all with universities and other research institutions and among disciplines – in particular a closer relation between the research efforts in art and current developments in cultural history and contemporary history.

Consequently one of the main goals of the Bureau for Provenance Investigation and Research is to set up a secure virtual space for the provenance research community, which is to function as a socio-technical system. The Bureau for Provenance Investigation will act as an editor and custodian of this information system and function as a contact partner. The results of research and the outcomes of projects supported by federal funding will also be incorporated in the information system.

A shift from a predominantly reactive examination of the provenance of individual objects in the collections to the systematic indexing of inventories in the course of reconstructing and documenting the developmental stages of public and private collections, especially for the second third of the 20th century, remains the major challenge of provenance research for the near future. With the project-oriented research funding established in the past year, an apparatus has been made available in Germany that can link the research on individual cases with contextual research and that can be further built upon.

► **Jacques Lust**

BELGIAN FEDERAL SCIENCE POLICY, BELGIUM

PROVENANCE AND WORLD WAR II: ART, RESEARCH, AND ILLUSION

Ladies and Gentlemen:

First, I want to thank Mrs. Charlotte van Rappard-Boon. She is a long-time friend, and a courteous and devoted colleague of DS, who always combines intelligence with common sense. Also, I

am more than honored to be in the same panel with Ms. Nancy Yeide, whose recent and awaited publication on the Göring collection forms high point of publication in this field of expertise.

Second, I want to remark, that in the program of this working group panel, a question mark was unintentionally omitted in the title "Art research and illusion?" thus changing its meaning. Of course, it is a small dedication to Ernst Gombrich, a highly respected scholar of art history, who in his book *Long-life Interests* describes his fleeing of Vienna in the thirties with his family to London.

Last but not least, I want to thank Mr. Bady, who explained yesterday a lot about Belgium. Rather than spending time on explaining what the general background of the problem is, I can focus on the important details.

Last month, Mrs. van Rappard asked me a few questions. The first thing she asked me was: What happened in the area of provenance research in your country? In 1994, Belgium began a search for cultural goods that had disappeared during World War Two. In 1998, the Belgium Stvanudy Commission started investigating lost property in Belgium, and made an inquiry at thirty cultural institutions, not only at the largest museums, but also in the Royal Library of Belgium, the Royal Museum of the Army and Military History, and other institutions, which might be possible holders of Jewish property.

Afterwards, between 2003 and 2008, the Commission of Indemnification, whose president is here among us, dealt with more than 5,000 individual demands for lost property. A total of 160 special reports on cultural losses were made, and only in two cases a link was found between our museums and the concrete

cultural institutions, resulting in requests for the restitution of cultural goods. As I have said, we did the search in public museums and institutions that were mainly linked to restitution efforts initiated in Belgium after the Second World War. However, we also investigated in the municipal museums in Liege, Antwerpen, Gent, Bruges, and other cities.

In 2001, Belgium published its findings in a final report that included 300 cultural objects and groups of several objects. We did not publish the guidelines, but we might publish them after the adoption of the Terezin Declaration. We used the experience of France and Netherlands, who taught us a lot and who were also moving much faster than were.

Another very good question asked by Mrs. van Rappard was: Were new sources of materials found? Yes, we found a lot of new sources of materials deposited in archives extending over several kilometers. To give you an example of such large archive, in Belgium we have safeguarded an archive of the Ministry of Reconstruction responsible for material damages to private persons. That archive is about 27 kilometers long. Seven hundred dossiers were examined with a focus not only on the Jewish community at large, but also on every individual in Belgium. We did not publish the data on the internet as they did in the Netherlands and France, but all the information, including the restitution information, will be made available before the end of this year or at the beginning of the next one.

To keep my speech brief, I would like to make a few short points. First, I want to point out that sometimes, through our national actions, we might be duplicating research that has been already completed or inquiries that are pending. I have very much respect for the fantastic project of the ERR, which aims to bring all

the research information under one roof. However, I have been in the business now for fifteen years and we have always been talking about the group Rosenberg, which of course is important (even though in Belgium it was only a small group). But we have been working on these documents for a very long time, and we have still about forty or fifty kilometers of relevant documents to examine.

Second, I would like to make a remark on what I call the tyranny of the masterpieces. At conferences, we often hear the same case stories, and I have to say mostly from the lawyers, in which we see the masterpieces being rediscovered and reclaimed. That is of course understandable. Establishing the provenance of the masterpieces is probably easier because there are reasonably direct lines to follow during research. However, 90 percent of the art we are involved with is of lesser value and is much less known, such as musical instruments. There, conducting the provenance research is more difficult and thorough, but the information obtained throughout the process is very important. In provenance research, we are confronted with a mass of information and it is not always easy to find the right piece of data. For example, in the case of material damages, if there are a few unidentified paintings in Belgium, and 700,000 dossiers classified in an administrative way that need to be studied, it is not easy to establish the provenance of the artwork quickly. Nor is it easy to say: We will put it on the internet. That is impossible.

Third, I would like to say that sometimes, surrounded by the terrible tragic events and the importance of the provenance research, we tend to forget that there are also many other fields and restitution policies that have been developing in the past years. A simple example is the case a most European countries with a colonial past are dealing with — the issue of human

remains. This is sometimes forgotten by researchers in some of the fields whose focus is traditionally quite narrow.

My last remark has to do with the profession of a researcher. In my opinion, the expert researcher or the provenance researcher should remain a researcher in the first place, and not become a politician, as we sometimes experience when listening to some of the speeches, because then the facts suddenly seem to disappear and objective views are influenced by a personal relation to the provenance. Likewise, the politicians should not be experts in research fields because then the issues will become more politically charged. We should all focus on what we are good at.

As for provenance, it will definitely retain its crucial importance for every form of collecting. In reality we sometimes tend to forget to look for the connections leading to every point in provenance research. Sometimes the remembrance of the people is forgotten or given only a short space of four or five lines.

If you looked up the materials on postwar restitutions in Belgium, there are some people who were deported and now are completely forgotten. The museums that have their works do not have any relevant materials, because art historians have the tendency not to use too many of the historical documents, and historians do not always look at the other materials. And it is difficult to find people from both sides of the aisle, people who speak four or five languages, who could create bridges among these issues. Nevertheless, it is important to be constantly aware of the complexity of the issues at hand and to find and establish the right lines of provenance, so we can come up with objective results not only in the area of restitutions, but also in the area of history.

To conclude, I believe that the provenance research is important and we need to continue. However, there is one thing I learned while working in Belgium with the different commissions. During the talks on the Belgium agreement, the Jewish community in Belgium cooperated very closely at every step we undertook over the last ten years. And it taught us a lesson in modesty – modesty and humility towards the history, the sense of it and the tragic events of the past.

I thank you for your attention.

► **Nancy Yeide**

NATIONAL GALLERY OF ART, USA

PROVENANCE RESEARCH IN AMERICAN MUSEUMS

There has been a lot of talk at this Conference about provenance research and archival access. However, with the notable exception of my colleagues on this panel and a few people in this room, very few people at the Conference have actually engaged in provenance research. Therefore, I am especially glad to give a voice to provenance researchers. I would like to make some comments about this research because in the end, it is the research that should be the foundation upon which ownership decisions are made. On this panel we are talking about art, fine arts, and increasingly applied arts, and even musical instruments.

Provenance research starts with identifying the object in question; it cannot start anywhere else. It is often noted that artists work in genre, repeat themes, and may create multiple versions of a composition. But the visual examples should bring this home.

The Virginia Museum of Fine Arts had to sort out the histories of eight versions of the same portrait, in order to resolve an ownership claim. A provenance researcher spends a significant amount of time determining whether the object at hand is the same as that referenced in the archival documents or scholarly literature. Another problem in identifying paintings can be measurements, which can be recorded with or without frames or pedestals, inaccurately recorded, or changed over time. One might think that a painting might be trimmed down and is unlikely to become larger. However, this example proves otherwise. One of multiple versions of the *Madame de Pompadour* owned by the Rothschilds was originally square and had over the centuries been enlarged by significant additions to the composition to form an oval.

Unlike contemporary cars or houses, art objects do not carry paperwork with them to prove each transaction. And while one might wish and believe this were not the case, the simple truth is that it is. Today's expectations for what a provenance researcher can achieve often exceed reality. The art trade was never a business for title transfer documents or standards, although invoices and correspondence may exist.

The goal of provenance research is to trace the ownership and location of an object from its creation to the present. Because of the manner in which the object might have changed hands, that valuable documentation for each transaction varies widely. Whether the object was transferred by sale, gift, trade, inheritance, or in some other manner, the issue of available documentation is critical. Even evidence of those kinds of transfers that are most likely to be documented such as sales, consignments, or public auctions, may not exist or may be inconclusive. Therefore, ownership must often be determined through art historical

sources, such as *catalogues résumés*, artistic monographs, exhibition catalogues, scholarly articles, annotated sales catalogues, published reports and dealer advertisements, to name just a few. These, however, must be critically considered and corroborated.

For example, I found this little picture¹ by the artist Gerrit Dou called *Rembrandt's Mother Peeling Apples* listed in a postwar report on Göring's collection as having been sold to him by a private collector in the Netherlands. Eventually, I found the painting had been lent by the Dutch collector to a 1938 exhibit in the Netherlands, and in that catalogue, the provenance was traced to an important 1928 sale in Berlin. Meanwhile, I found that the painting was now at the Gemäldegalerie in Berlin, who had bought it at the 1928 sale. So how could it have been lent by a private collector in 1938, while owned by the Berlin museum? To make a long story short, the 1938 catalogue was in error and the Göring picture from the Dutch collector is a previously unknown version of the Berlin painting. Göring traded his Dou back to Alvan Meedle, who fled with it to Spain in 1945. It was discovered there after the war, but eventually released, and has never been seen since. I only found this out by reviewing as many documents as possible, consulting a Dou specialist and the family of the Dutch collector.

While working with archival documents, which rarely include images, one must be particularly careful to not jump to conclusions or create misconceptions. The nature of the archival record is such that it may be incomplete or inaccurate. One has to realize that although the archival documentation is extensive, the records are often vague, and it is not always possible to conclusively connect the documents with a particular object.

¹ This speech was accompanied by the PowerPoint presentation.

For example, Makart's *Beautiful Falconer* is one of the most recognized paintings in Göring's collection. It was a 1938 birthday gift from Hitler, the occasion itself captured in a widely reproduced photograph. First known from an important Romanian collection, the picture is well documented within the records of Göring's collection that were available to postwar investigators. Nonetheless, when it was recovered with Göring's collection, it was catalogued as a painting depicting Brunhilda, a topic with which she has never been associated before or since.

Most importantly, I think, the lack of documentation should not be taken to mean that a transaction did not occur. One must recognize the possibility that relevant documents created during the time of great upheaval and subject to a significant amount of relocation may no longer exist. One must weigh whether such a document ever would have existed, and if so, how it may have been lost or destroyed. And if one locates documentation, one must always attempt to corroborate the contents.

If the object is the beginning of provenance research, it is placed within a context of art collecting, and art dealing must also be understood. It is simply inaccurate to move a single transaction from the surrounding circumstances. Why did the collector collect, out of investment, passion, social or familial influences? Did he or she routinely put objects on consignment, where and how were the objects displayed? It is only within the context of the individual collector and the place and time in which he or she lived that one can understand the movement of art. Collectors move in the same social circles and are often related by marriage. And while these connections may sometimes complicate tracing an individual picture, they also provide a different avenue of research that may prove fruitful.

Collectors often have an ongoing relationship with a given dealer, buying and selling regularly to shape their collections. Relationships with important collectors were highly guarded business secrets of dealers and auction houses, whose records may be couched in attempts to protect their interests. For example, cable correspondence between the Devin Galleries in New York and its European branches routinely employed code names for collections for fear of rival dealers. Code names do not necessarily imply anything nefarious, but were normal practice.

Provenance research is interdisciplinary. It requires knowledge of art history, history, the assembly of collections and the locations of archival materials. It is like the proverb of the blind men touching different parts of the elephant and each coming to a different conclusion. I come to this area as an art historian, and I tend to concentrate on the object, while historians view the larger picture, often neglecting the specifics.

Provenance research challenges us to contact experts in a wide range of fields. For example, the larger context of the turbulent German economic situation after WW I and the world financial crisis resulting from the stock market crash set in motion several liquidation proceedings of art collections. The best research results from combined effort utilizing the expert knowledge of not just art historians and historians, but economists and legal experts as well.

Similarly, the archival research, the archival resources documenting Nazi confiscations and postwar restitution were until recently outside the scope of traditional provenance research. The wealth of Nazi era-related information that has appeared in the last ten years is remarkable. A community of scholars has discovered new resources, new methodologies, and a greater

understanding of the interconnections between documents scattered worldwide.

Previously lesser known resources include complicated texts, estate, property, import, export, and other European records that are necessary to support ownership history prior to the ascent of the Nazi regime. Even in the United States archives, I found new sources that shed light on the complexity of the movement of art during the war and in the postwar period. There is an ever-expanding circle of the types of archival documents that need to be consulted. However, as the types of materials being consulted expand, so does the possible misuse of archival documents by accidental misunderstanding of their meaning in context. For example, the US Office of Censorship routinely censored wartime correspondence between the USA and Europe, including that of dealers and collectors. These people knew they were being censored and wrote accordingly to avoid their correspondence being intercepted and lost. Consequently, you cannot take every word at its face value; you must read between the lines.

Similarly, the Office of Alien Property tasked with monitoring currency transactions between the USA and Europe as a part of economic warfare required foreign firms and individuals in the United States to register their assets and routinely investigated currency movement. The mere existence of such a report is not proof of the person having been investigated. And finally, the Art Looting Investigation Unit list of red-flag names is routinely misused despite the cautions written in the document itself. So I think that just as much, if not more care has to be taken in interpreting documents as in locating them.

Finally, since the title of my talk is Provenance Research in American Museums, I am going to mention the effort of American

museums to provide provenance training, exchange results, and make museum provenance information available. In 2001, we published the AAM Guide to Provenance Research. In 2001 and 2003, we sponsored two seminars hosting almost two hundred US museum professionals to train them in provenance research. Sessions on provenance research are held every year at the annual meetings of the American Association of Museums, and in 2001, the AAM consolidated a Best Practice Brochure for museums' guidance. The AAM also maintains tools for US museum professionals currently working on the World War Two era in provenance research field. And in 2004, we hosted the international Provenance Research Colloquium in Washington, and published the papers under the title of Vitalizing Memory. And we have all heard several times already about the Nazi internet portal.

Returning to the research itself, I have a few closing points. One concerns the need for cooperative research efforts. Working in isolation is not efficient, and can be counter-productive. In the United States, the collegial sharing of information has been successfully conducted on a fairly informal level. For example, recently I was looking into the provenance of a Manet painting at the National Gallery, and I found a document that showed it had been in a Swiss collection and next appeared in the USA in 1940. The next document I found from the United States Treasury revealed its history. It left Switzerland in 1937 for exhibition in France, and then came to the United States in 1941, where it was shortly sold and the funds deposited to the accounts of the collector's family. However, it did not travel alone. In a consultation with a colleague at Harvard, we determined that a Monet listed on a document is the *Gare St. Lazare* at the Fogg Museum, further that a Villard is now in the Museum of Fine Arts in Boston, and a Cézanne in Toledo. Through our cooperative efforts,

the uncertain provenances of four separate paintings have been clarified.

I also think that there is a need for pure research that makes the contribution to the field as a whole, in addition to the results of specific individual investigations. Sophie Lillie's book on the Viennese collections is an example of publication that made previously inaccessible documents available to a wide audience. Likewise, Burkert Schwarze's book on the Linz Collection provides not only a basic understanding of historic documents, in this case Hitler's albums, but also a record of the objects contained therein.

Finally, my work on Göring is an attempt to do the same thing. My initial intention was to help colleagues who did not have the same access to archival documents that I did by researching Göring's collection as a whole and making the results available as a foundation for further scholarship. More independent research grounded in archival documents would benefit the entire field.

To conclude, I just want to say that I am concerned about the tone of some of the conversations that took place at this Conference and with the press. I think unnecessary antagonism between sides does not benefit anyone. When the first contact is made with a museum or a private owner via a law firm, the result is that all subsequent correspondence is limited to the legal representatives of the claimant and the other party, setting up an adversarial relationship, establishing a mentality of defensiveness, and anticipation of potential litigation. This also creates an administrative layer between the provenance researchers on each side of the case, which is an impediment to the true sharing of information and documentation and its ultimate goal, the

unearthing of a true history of the object and its previous owners. As cooperative research among museums shows, the whole is greater than some of its parts.

► **Sophie Lillie**

INDEPENDENT SCHOLAR, AUSTRIA

THE BACKLASH AGAINST CLAIMANTS

"The world should let go of the past and live in the present." This uplifting advice comes from Sir Norman Rosenthal whose sweeping judgment on the invalidity of restitution claims reverberated through the art world last fall. In an op ed piece published in December 2008 by *The Art Newspaper*, the former exhibitions secretary of the Royal Academy of Arts provocatively called for a unilateral statute of limitations to inhibit Holocaust-era restitution claims, arguing that "each person should invent him or herself creatively in the present, and not on the back of the lost wealth of ancestors." According to Rosenthal, artworks are inherently better off in public collections than returned to claimants "distanced by two or more generations from their original owners." In an usual display of twisted logic, Rosenthal argued that the stain of Nazism could not be cleansed by the restitution of masterworks from museums since "neither Rembrandt nor Klimt were responsible for those political crimes."

Rosenthal's position was enthusiastically seconded by Jonathan Jones of *The Guardian* in January 2009. In a lengthy art blog, Jones argues that "nothing in today's art world is more absurd or insidiously destructive" than the return of artworks looted by the Nazis. Why? Because such works, according to Jones, are invariably

sold on the market. Jones scathing commentary on the deaccessioning and subsequent sale of art works is that “memory is being vandalized in the name of memory.” Museums, he says, are “beacons of civility and culture” and it would be brutish to weaken them through restitution claims.

Rosenthal’s and Jones’ arguments are indicative of a very serious and deeply disturbing backlash against Holocaust claims. Although it has to some extent accompanied restitution activity throughout the past decade, the assault on restitution regained momentum in 2006, following the return of five paintings by Gustav Klimt to the Bloch-Bauer heirs or Ernst Ludwig Kirchner’s *Streetscene* to the heirs of Alfred and Thekla Hess. In the wake of such monumental recoveries, skeptics gave in to the anxious perception that public institutions were being assailed by spurious claimants seeking undue reward for their families’ suffering.

Reactions against restitution are triggered less by actual fact than by increased possibility. Both the Bloch-Bauer and the Hess recoveries were exceedingly rare and hard-won victories. Overwhelmingly, Holocaust survivors have not received the compensation they deserve. In fact, the value of five Klimt paintings recovered by the Bloch-Bauer family exceeded the total sum that Austria pledged as global compensation for all Holocaust-related losses under the Austrian General Settlement Fund. Restitution critics – sometimes more so than its advocates – understand, however, that the issue at stake far exceeds the surrender of individual works. By subjecting museums to far-reaching scrutiny of their collections, provenance research questions the very premise on which such institutions rest. In anticipation of this imposing threat, critics fearfully monitor the increased stature being afforded to Holocaust-era claims. Ironically, Rosenthal’s rigorously defensive attitude is the best indicator that we are making headway on restitution issues.

The most convenient discrediting of restitution claims is the passage of time since these crimes took place. Backlashers like Rosenthal argue that the right to restitution should expire with the death of the original owners. They ignore the real reason why we are dealing with claims today rather than fifty years ago. The fact that we are still undoing these wrongs simply demonstrates the extent of the Nazis’ spoliation of Jewish property, as well as the inadequacy of restitution provisions in the postwar period to undo these crimes. Most governments did little to support Jewish restitution after the war and at times actively conspired to deter such efforts. Many claims failed because court proceedings privileged owners of looted art over claimants. In Austria, art restitution was typically made contingent upon export embargoes – a strategy used by the Austrian state to prevent the removal of artworks considered of national heritage. None of these factors that obstructed the timely return of Nazi loot lay in the responsibility or indeed in the realm of influence of Nazi victims.

Blaming the victim is doubly attractive when it is Jews who join in the lamentations against restitution. The son of Jewish refugees from Germany, Rosenthal has allowed himself to be recruited to attack the Jewish cause, and has put his own biography in the service of restitution opponents. Commentators such as Diethard Leopold, the son of the Austrian collector Rudolf Leopold, eagerly snapped up Rosenthal’s “idiosyncratic, non-politically-correct” view that looted works, when in public hands, make up a “universal museum.” Writing for the Austrian newspaper *Der Standard*, Leopold junior suggests that Washington Conference’s call for “fair and just solutions” might be better accommodated if paintings remained in the possession of museums rather than being returned to their rightful owners. A psychologist by training, he suggests that claims might be resolved on the premise of

“what the original owners, indeed, what the artist himself would do with their paintings today,” going so far as to recommend that one let paintings “speak for themselves.” In a self-serving and bizarre hyperbole, Leopold junior concludes that paintings – if in fact they were able to do so – would no doubt choose to be publicly displayed.

The backlash deceptively frames itself as a sophisticated “post”-restitution debate that transcends the boundaries of common law and morality, yet it is not above resorting to the rhetoric of moral outrage to castigate Holocaust claimants. In 2006, Michael Kimmelman of *The New York Times* wrote of the Bloch-Bauer return: “Wouldn’t it have been remarkable... if the heirs had decided... to donate one or more of the paintings to a public institution?” In so doing, Kimmelman suggests, “they would have underscored the righteousness of their battle for restitution and in the process made clear that art, even in these money-mad days, isn’t only about money.” The underlying message is clear: Jews are expected to be modest and selfless – lest assertive or confident behavior harvest anti-Semitism. Moreover, victims bear the onus of making good on history. In a peculiar conflation of fact, backlash diverts responsibility away from Nazi perpetrators and instead faults the children and grandchildren of Holocaust victims for the insufficiencies of the restitution practice.

Of course the opponents of restitution insinuate that the art market is the true catalyst of the “Shoah business.” Undoubtedly, the art trade has proven beneficial for provenance research since the value afforded to art has ensured that the issue be taken seriously. There are obviously congruent interests. Auction houses must inhibit the resale of looted art and therefore actively investigate the provenances of works they sell. Needless to say, the ulterior motive informing this commitment is to sell

works that are being deaccessioned from the world’s finest institutions. But precisely because of this vested interest, art dealers have become potent allies in promoting and upholding the principle that looted art has no resale value and cannot be sold on the open market.

Backlashers like to argue that artworks are better kept in public than private collections. They ignore the fact that continental European museums were often intimately involved in the process of dispossession. When Jones praises museums as “beacons of civility and culture,” he erroneously points to the *Hermitage* in St. Petersburg and the *Tretyakov Gallery* in Moscow – institutions notorious for harboring trophy art collected from Nazi Germany. Similarly, Jones’ sympathy for Vienna’s Belvedere and *Kunsthistorisches Museum* overlooks these museums’ active role in dispossessing Austrian Jews during the Nazi era, and in preventing the return of looted art through the strategic enforcement of postwar export embargoes. “Memory is being vandalized in the name of memory,” writes Jones. Indeed, it would be more appropriate to say that history is being vandalized by a new brand of revisionism.

Museums have no intrinsic, superior right to art over private individuals, and no inherent redemptive quality that justifies the display of looted art. Museums become “beacons of civility and culture” by returning looted art, not by holding on to it. They earn our respect by acknowledging the origins of their holdings, and not by concealing the questionable mechanisms by which they were acquired. And while today’s museum administrators are not responsible for past injustices, they must be held morally and politically accountable as institutions for returning property that was unrightfully acquired or traded in the Nazi-era – even if such works were acquired in good faith. The backlash argument

stands truth on its head by arguing that the very steps that have heightened the moral position of museums have in fact paved the way to their erosion and downfall.

Nazi looting not only destroyed Europe's finest private collections, but also erased from memory the names of countless individuals who collected and sponsored art at the turn of the 20th century. The Holocaust eclipsed the singular contribution of Jewish collectors such as Heinrich Rieger, Oskar Reichel or the Zuckerkandl family and allowed their legacy to be superseded by the generation of collectors active during and after the Nazi era. Among the profiteers were such individuals as the German art dealer Wolfgang Gurlitt who copiously acquired and traded art in the Nazi era; in the 1950s, his collection became the foundation of the museum now known as the Lentos Museum in Linz. Another is Gustav Ucicky, a son of Gustav Klimt, who acquired numerous Klimt works from Nazi-looted collections, many of which he bequeathed to the Belvedere upon his death in 1961. Today's process of restitution reinvests these looted works with the history of their earliest owners from which they were severed.

Responding to Rosenthal's commentary, the German minister of culture, Bernd Neumann, issued a statement pledging his government's "unerring moral commitment" to restitution. Great Britain's Department for Culture, Media and Sport similarly affirmed that it would not resile from its restitution policies. Political commitment to restitution is crucial to transforming public opinion and to prevailing against backlash. Governments are called upon to implement the appropriate legal frameworks for the return of Holocaust-era art from publicly sponsored collections. They must provide adequate funding for comprehensive provenance research and the publication of its findings, and

bind museums to uniform standards of professional conduct and good practice. Similarly, museums must take a proactive stance towards art restitution to ensure that provenance research is accomplished speedily and of their own. Proactive research serves museums and claimants by disassociating itself from market politics and ensuring that artworks receive the attention they deserve regardless of their monetary value. Finally, we are called upon as scholars to establish provenance research firmly as an academic discipline, based on theoretical groundwork and specific methodologies, if we mean to set the restitution agenda on our own terms. The justness of our cause is inalienable. We can and we shall resist the backlash against claimants to ensure the continued restitution of Holocaust-era art.

Working Group: Judaica and Jewish Cultural Property

The State of Provenance Research in State, Public and Private Collections

► Karen Heilig

CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, USA

HOLOCAUST-ERA LOOTED JUDAICA AND JEWISH CULTURAL PROPERTY: A WORLDWIDE OVERVIEW

The following is an overview based on preliminary data. It represents the results of the current best efforts research of the Conference on Jewish Material Claims Against Germany ("Claims Conference") and the World Jewish Restitution Organization (WJRO) and is based upon information obtained by the Claim Conference/WJRO to date. It may contain factual or other errors. Governments, non-governmental organizations, and individual experts are invited to make corrections and comments on the website of the Claims Conference.¹

The main organizations of the world Jewish community active in the restitution of property looted from victims of the Holocaust, namely the Conference on Jewish Material Claims Against Germany and the World Jewish Restitution Organization, have been working with Jewish communities around the world to bring

increased attention to the restitution of looted Judaica and Jewish cultural property. The organizations have been focusing on the systemic issues involved in the restitution of Judaica with the intent of improving and creating processes to enable more communities and individual owners and heirs to recover their property and to ensure that Judaica is held in appropriate places and is appropriately used. In this regard, extensive research has been done over the past years on the status of provenance inquiries and of claims processes for the identification, location, and restitution of Judaica in most, if not all, relevant countries, and discussions have been held with many, if not all, ministries of culture and other relevant organizations.

Partly in preparation for the Holocaust Era Assets Conference in Prague, in the beginning of 2009, the WJRO and the Claims Conference made public over the website² of the Claims Conference a *Descriptive Catalogue of Looted Judaica* that provides for the first time since the end of World War II a worldwide "snapshot" of what is known concerning the fate of Judaica that was spoliated by Nazi Germany and its allies. After a summary of the history of Nazi looting of Judaica and of restitution efforts after the war, detailed information is presented there for 47 separate countries, as well as a list of relevant archives, a bibliography, and a list of the leading experts in the field throughout the world.

Using the information in the Descriptive Catalog of Looted Judaica, this paper provides a summary of what is known concerning the current location of looted Judaica and the state of provenance research worldwide – with brief individual country summaries appended – and offers some suggestions for the future so as to ensure the identification and return of plundered Judaica,

¹ See: <http://www.claimscon.org>.

² See: <http://www.forms.claimscon.org/Judaica/>.

which is important in itself but also important for safeguarding the knowledge concerning the history of the Shoah and for its remembrance.

Claims Conference/WJRO Policy

In regard to looted art and cultural property, including Judaica, the current approach of the Claims Conference/WJRO is as follows:

1. The commitment to the restitution of looted cultural and religious property to their original owners is a continuation of the commitment in the past and present to restitution of other forms of looted Jewish property.
2. The Claims Conference/WJRO prioritizes at present two areas:
 - (a) Provenance research – so that information regarding the location of looted items is publicly available;
 - (b) Establishment of fair and just claims processes for claimants.
3. The Claims Conference/WJRO does not take on the representation of individual claimants.
4. The effort to ensure that Judaica is held or used by appropriate bodies is of the utmost moral importance. Particular focus should be on *tashmishey kedusha* and *tashmishey mitzvah*. Prioritization regarding this effort is critical after completion of current research and review of existing research. The types of solution in any given case to be sought will vary from country to country and from case to case.

Definition of Judaica

By “Judaica” is meant historical and literary materials relating to Judaism. Included are not only objects that carry a quality of holiness (*tashmishey kedusha*) or that are essential to the performance of a particular ritual or commandment (*tashmishey mitzvah*), but also those that have no intrinsic quality that can be defined as sacred or holy. Included are not only archives, libraries, and objects relating to Judaism as a religion but also daily objects of Jewish life as well as those relating to Jewish organizations and Jewish life generally.

The classic example of an object carrying a quality of holiness is a Torah scroll, and the fate of Torahs and other handwritten ritual scrolls containing the name of God is of particular concern to religiously observant Jews.¹

With the destruction of the Temple in Jerusalem in 70 CE, the dual foci of Jewish life became the home and the synagogue – thereby increasing the quantity of Judaica held by individual families and communities. In addition, other features of Jewish life in the Diaspora such as the constant threat of exile and prohibitions on synagogue construction resulted in a proliferation of elaborate portable objects. At the same time, the development of Jewish law through the didactic discourse of Rabbis led to publishing of Jewish books. These and other factors contributed to the fact that on the eve of the Nazi era, hundreds of thousands of items of Judaica were being held by European Jewish families and communities.

¹ For a full description of the definition of Judaica, please see the Introduction to the *Descriptive Catalogue of Looted Judaica*, pp. 7–8, <http://forms.claimscon.org/Judaica/>.

Current Location of Judaica Looted by the Nazis and their Allies

The spoliation of Jewish cultural and religious property was an official part of the Nazis' campaign against those labeled as "ideological enemies of the Reich." Aside from objets d'art, myriad Jewish cultural and religious objects were also looted from 1933 to 1945, including various kinds of Judaica, such as ritual, sacred and/or everyday objects, books, and archives. Numerous looting agencies, both within the Reich (including those territories that were annexed to Nazi Germany such as Austria, Poland, Silesia, and Czechoslovakia), as well as agencies operating outside it in the Nazi-occupied territories and in countries allied with Nazi Germany were responsible for what can be called the greatest theft in the history of humanity.

In addition to what was taken by the Nazis and their allies, at the end of the war there was also Judaica that simply remained abandoned as the result of the murder of its owners.

Most of the Judaica of Europe was removed from its countries of origin. Much of that which had been taken by the Germans or that remained abandoned was then taken by the Soviet trophy brigades and removed again to be transferred to the former Soviet Union. While some of the looted Judaica that was not destroyed during World War II was eventually returned to the families and communities to whom it had belonged before the war, the extent of the genocide was so great that in most cases the families and communities ceased to exist.

Much Judaica, whether truly heirless or not, wound up in government repositories in many countries. In many cases, the government attempted to return the Judaica to individuals

or the Jewish communities. However, in Eastern European countries large amounts of Judaica were deposited with governmental institutions – for example in Poland, where the government deposited large amounts of Judaica in the Jewish Historical Institute in Warsaw, and in the Soviet Union, where the government deposited huge collections originally from Jewish libraries into state libraries in Minsk and elsewhere and placed archival collections in the *Osobyi Arkhiv* (Special Archive) in Moscow, now part of the Russian State Military Archive (RGVA).¹

As a result of this history – and partly, but only partly, as a result of the tremendous geographic and demographic changes in world Jewry in the middle of the 20th century – Judaica looted by the Nazis and their allies may be found today in a great many countries around the world. There are 28 countries in which foreign Judaica (Judaica that was looted by the Nazis and their allies in other countries) is specifically known to be located. But the actual number of countries in which objects of looted Judaica are to be found is much greater.

Due to a lack of records, it is not possible to provide a complete survey of how many books, ceremonial objects and Torah scrolls were internationally distributed following the war. The distribution of "heirless" Judaica by Jewish Cultural Reconstruction and the Jewish Successor Restitution Organization (entities formed by international Jewish organizations after the war), which has been studied, is only part of what happened in the West.

No distributions of heirless Judaica were made by Jewish Cultural

¹ For a full description of the spoliation of Judaica and restitution attempts after World War II, please see the "Overview: Historical Background" in the *Descriptive Catalogue of Looted Judaica*, pp. 9–33. <http://forms.claimscon.org/Judaical>.

Reconstruction to East European countries due to the rise of communism, but a number of East European countries received foreign heirless Judaica in other ways, as previously noted. However, no study has yet been made of the distribution of Judaica brought into the Soviet Union by the trophy brigades, nor for the most part have there been studies of the distribution of Judaica in other countries of Eastern Europe.

For various reasons, some countries currently have comparatively large amounts of Judaica looted by the Nazis and their allies during the Holocaust. In some cases this is primarily foreign Judaica looted in other states that was then brought into the country. In others it is Judaica left in the country because of the murder and/or flight of its Jewish citizens. In others it is Judaica that at the end of the war was in geographic areas subject to changing borders and therefore is now in a different country. In still others it is Judaica that was looted during the war but returned by the Allies to the country, though not necessarily to the original individual and communal owners. In others it is the result of several or all of these factors.

Provenance Research on Judaica

Some provenance research has been conducted on holdings of Judaica, and some projects regarding the provenance of library holdings generally (e.g., the National Library of Austria) have been very extensive. However, for the most part there has been far less done to investigate the ownership history of Judaica than there has been in regard to paintings and other objets d'art.

In Table 1 are listed those countries that are known to have conducted at least some provenance research on Judaica. They are divided between those in which a substantial amount of Judaica

looted by the Nazis and their allies is located and those in which at least some such Judaica is located. The inclusion of a country in the table is not meant to imply that the degree of provenance research conducted to date has been adequate, nor does it imply that restitution has taken place. Generally where provenance research has been carried out, it has been conducted only on a very few collections (e.g., that of the Israel Museum in Israel, that of the Library of Congress in the United States, the Vienna Jewish Community, Breslau Jewish Theological Seminary collections in Russia, etc.).

In Table 2 are listed those countries that are not known to have conducted or to be conducting provenance research on Judaica. In some cases provenance research may have been carried out, but it has not been made public. The countries are divided between those in which a substantial amount of Judaica looted by the Nazis and their allies is or is thought to be located; those in which at least some such Judaica is or is thought to be located; and those for which there is not sufficient information to make a determination.

Table 1: Countries That Have Conducted or Are Conducting at Least Some Provenance Research Regarding Judaica

COUNTRIES IN WHICH A SUBSTANTIAL AMOUNT OF JUDAICA LOOTED BY THE NAZIS AND THEIR ALLIES IS LOCATED	COUNTRIES IN WHICH AT LEAST SOME JUDAICA LOOTED BY THE NAZIS AND THEIR ALLIES IS OR IS THOUGHT TO BE LOCATED
Czech Republic	Austria
Germany	Belgium
Israel	The Holy See
Lithuania	South Africa
The Netherlands	
Poland	
Russia	
Ukraine	
United Kingdom	
United States	

(Inclusion in the Table does not necessarily mean that the amount of provenance research is adequate or that restitution has taken place.)

Table 2: Countries not Known to Have Conducted or to Be Conducting Provenance Research Regarding Judaica

COUNTRIES IN WHICH A SUBSTANTIAL AMOUNT OF JUDAICA LOOTED BY THE NAZIS AND THEIR ALLIES IS OR IS THOUGHT TO BE LOCATED	COUNTRIES IN WHICH AT LEAST SOME JUDAICA LOOTED BY THE NAZIS AND THEIR ALLIES IS OR IS THOUGHT TO BE LOCATED	COUNTRIES FOR WHICH THERE IS INSUFFICIENT INFORMATION
Belarus	Argentina	Albania
France	Australia	Cyprus
Hungary	Bosnia and Herzegovina	FYROM
Italy	Brazil	Iceland
Romania	Bulgaria	Ireland
	Canada	Liechtenstein
	Croatia	Luxembourg
	Denmark	Moldova
	Estonia	Monaco
	Finland	Montenegro
	Greece	Slovenia
	Latvia	Turkey
	Norway	
	Portugal	
	Serbia	
	Slovakia	
	Spain	
	Sweden	
	Switzerland	
	Uruguay	

For summaries by country see annex p. 1270.

(Note that some countries have done historical research on the subject, but that is not the same as provenance research on current collections).

Suggestions for Future Action

The public focuses most of its attention on the restitution of expensive artworks, but if anything, the restitution of Judaica is of even greater moral importance. This is particularly true in regard to Torahs and other objects that are holy in Judaism. While the types of solution by which Judaica is ultimately held or used by appropriate bodies may vary from country to country and from case to case, at the very least there needs to be full public knowledge of where all Judaica looted by the Nazis and their allies is located. Specific suggestions by the Claims Conference/WJRO for future action are as follows:

- ▷ Although many aspects of the identification and restitution of looted art overlap with issues concerning Judaica, separate attention should be given to Judaica. The Claims Conference/WJRO welcomes the decision by the organizers of the Prague Holocaust Era Assets Conference to make Judaica and Jewish cultural property a separate topic at the June 2009 meeting.
- ▷ Efforts should be made to identify, and catalogue all items of Judaica, regardless of their monetary value, that are found in government and private archives, libraries, museums, and other repositories; In order to assist with the development of such efforts, the Claims Conference/WJRO at the beginning of 2009 made public a *Descriptive Catalogue of Looted Judaica* with coverage

of 47 countries and listings of archives and experts and a bibliography.¹

- ▷ Efforts should be made to research as much as possible the provenance of all unique items of Judaica and to make the results publicly known, preferably over the Internet. Unique items include items of importance to the Jewish world, due to their historic, artistic or cultural importance – irrespective of their monetary value – and include archives and libraries of Jewish organizations and entities.
- ▷ Provenance research should be the responsibility of governmental and private institutions, as well as of Jewish institutions, whether governmental or private. The Association of European Jewish Museums (AEJM) and the Council of American Jewish Museums (CAJM) have both passed resolutions in this regard, and it is hoped that the states participating in the Prague Conference will proceed with this task.
- ▷ Instruction guides and manuals on how to conduct provenance research on Judaica should be developed and made available over the Internet. At present there is nothing comparable to the *AAM Guide to Provenance Research* in regard to Judaica.² The AEJM has begun to plan for the creation of such a manual, and both AEJM and CAJM have begun to hold training workshops for provenance research.

¹ See: <http://forms.claimscon.org/Judaica>.

² Yeide, Nancy H; Akinsha, Konstantin; Walsh, Amy. "The AAM Guide to Provenance Research." Washington: American Association of Museums, 2001.

- ▷ All Torahs and other handwritten ritual scrolls throughout the world should be internationally registered. Torah scrolls occupy a unique place in the spiritual heart of the Jewish people and their use needs to be in accordance with the beliefs of their original owners. Due to the fact that many Torah scrolls look alike and can be resold at relatively high prices, they are subject to theft and to black market operations that cross borders. International registration systems exist that provide ways of uniquely identifying Torahs and have been proven to greatly reduce theft in those countries where they have been applied. The Claims Conference/WJRO has been working to make more widespread international registration of Torahs possible at little or no cost.¹ Hopefully such registration can also be a step towards resolving the incongruous situation that currently pertains to a number of countries where there is a resurgence of Judaism but congregations have to import Torahs while at the same time large numbers of Torahs are kept in Government repositories in the very same countries.
- ▷ All attempts should be made to return Judaica to its original owners – whether individuals, communities or Jewish institutions. Where the unique items comprise books, archives or libraries but the institution that formerly owned the property no longer exists, they should be archived by an appropriate institution and made available for research by qualified researchers. In cases where it is not possible to return a “unique” item, these items should be subject to public display (together with appropriate

¹ So far discussions have been held in particular with representatives of all the Jewish communities of Ukraine and with the State Committee on Archives of Ukraine.

recognition of the history of the object) at an appropriate institution.

- ▷ A system should be developed to circulate Judaica internationally with appropriate guaranties from judicial seizure. Due to the Holocaust and its aftermath, there are numerous situations in which the ownership of Judaica is or is likely to be disputed and where it is desirable to make items of Judaica accessible to scholars and the public in more than one country. As discussed in the Working Group on Judaica and Jewish Cultural Property in preparation for the Prague Holocaust Era Assets Conference, a system to circulate such Judaica internationally with appropriate guaranties from judicial seizure may be the best way to handle such matters and may also induce countries to make their Judaica holdings more publicly known.

Other “Judaic” Objects: Many of the ceremonial objects and books that were looted were mass-produced and cannot be linked to a specific individual or community. For these items, it is appropriate that:

- ▷ The fact that the item was looted be recorded when the item is on display or used in another way; a book should bear an appropriate stamp. The unique origin of the item will then be recognized for all time and will pay tribute to the Jews and Jewish communities that were destroyed; and
- ▷ The looted item should be held in an appropriate place and used in an appropriate manner. The item should be kept by an appropriate entity in a place befitting its religious and cultural significance.

Provenance research on Judaica throughout the world is important on moral grounds. It is important for the preservation and understanding of Jewish culture. And it is important for Holocaust remembrance. As argued in this paper, its importance should be recognized and implemented globally.

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**LOSSES OF BOOKS AND ARCHIVES FROM
PUBLIC AND PRIVATE COLLECTIONS**

During the last twelve years in Belgium, as elsewhere in Western Europe, there has been much research done in the state and public collections, unfortunately with few positive results.

Although the Belgian Study Commission with the aid of the Jewish Museum primarily researched the cultural losses of individual Jewish owners and leading personalities, in a more general way the spoliated cultural property of religious communities and associations in Belgium was also studied and investigated indirectly.

Special attention was given to the provenance of religious objects and silver collections. The investigation in the Belgian cultural institutions showed that, besides the discovery of some objects, these silver objects were not registered or deposited in Belgian cultural institutions en masse. The findings were published in the final report of the Study Commission.

After more than ten years of intensive research we now have a pretty good idea of what was looted, who was looted and who did it.

During the war years, one public incident was especially met with indignation. During the Easter Weekend of 1941, a small anti-Semitic mob ransacked two synagogues, the private house of rabbi Rottenberg, and several Jewish shops in the Jewish quarter of Antwerp. This pogrom remained an isolated event in Belgian history. Torah scrolls, sacred books and furniture were openly burned in the streets and the buildings were set on fire. National-Socialist militias were present and did not intervene. Jewish religious buildings were desecrated and spoiled by Nazi militia services and individual thieves. In 1940, shortly after the occupation of Belgium, the *Sicherheitsdienst* had targeted and ransacked Jewish and Zionist organizations such as the *Alliance Israélite* and the *Federation of Belgian Zionists*. After the liberation of Belgium, all synagogues were returned by the Belgian authorities to the local Jewish communities and the *Consistoire Central Israélite de Belgique*. Material damages were partially paid by the Ministry of Reconstruction. The synagogues were re-consecrated. The religious and cultural associations were partially compensated by West Germany (the *Brüg* Legislation) for material damages and cultural losses suffered.

In 2001 and 2002, the Belgian "Trophy" archives, after successful Belgian-Russian negotiations, were returned by the Russian Federation. The archives, mostly military documents from the Belgian Ministry of National Defense, contained 14 dossiers from Jewish organizations (such as the *Alliance Israélite-Committee Antwerp* and the editorial board of *Hatikva, Federation of Belgian Zionists*). A total of 74 dossiers of leading Jewish personalities such as *Jacques Errera*, *Herbert Speyer*, *Henri Salomon Fast*, *Charles Cohen* and *Léon Kochnitski* were returned to the rightful owners. The same also happened, for example, in France and The Netherlands. The reason for the small amount of documents, less than one percent of the total of the Belgian "Trophy"

archives, was that the main objective of Nazi services as the *ERR* in Belgium was the confiscation of library materials. Most of the books and libraries have not been recovered.

In the immediate postwar period, about 4,500 books were found and given back to private owners. In the 1990s, the Jewish Museum of Belgium discovered 450 Yiddish books, which had been confiscated by an "Anti Jewish National Agency" during the war years, in an attic. If we estimate that the number of books looted during the period under review has been around half a million, we must say that we are still looking for them. For those of you interested, I published a few months ago an article with photos of bookmarks from Jewish pre-War libraries. It was written with a painful lack of archives on those institutions and those from which the books were looted.

Josef Herman, the famous English-Jewish painter, came to Brussels in March 1939 to attend the Academy of Fine Arts; he lived in Brussels till May 10, 1940 before fleeing to France and then settling in Scotland. He left to the care of his landlord all his paintings and drawings. They have to this day never been found. The same happened with the paintings made by Carol Deutch who was arrested in September 1943 and died at Auschwitz in 1944.

These few examples show that, 65 years after the fact, it seems almost impossible to find a trace of these items today. We have only small clues that indicate that some countries in Eastern Europe and an institution in New York (J TSA) still hold some of the books or paintings.

On the other hand, the Jewish Museum of Belgium holds in its collection a Torah scroll that was given in 1945 to the Brussels Orthodox community by the New York section of the American

Joint Distribution Committee. It was given to us because it was *pasul* which means "of no proper use for religious service." After long research, it can be established that no living person or surviving document exists to tell to which community in New York or elsewhere this Torah belonged.

But no matter how long it will take, we will never abandon our research and I beg you to do the same. That is why, in 2006 as president of the Association of European Jewish Museums, with the help of our committee in Venice, I was pleased to introduce and to receive a full endorsement of the Resolution on Looted Art, which binds AEJM members to undertake research and give an annual report to the General Assembly.

The National Commission of Belgium Jewish Assets has created, since 2000, two linked databases. The first one is the Mala Zimetbaum Data Base (MZDB), which gives the name of all Jews that lived in Belgium during the time of the war. The second one is called Jewish Cultural Assets – Belgium (JCA-B) which lists all the cultural assets that we searched and also data concerning the objects that were found. It contains 4,196 files concerning 225 collections. This system can be applied by each country at a very low cost, which seems important in these times of financial crisis.

With the help of the Foundation of Belgian Judaism we hope to launch next year a national and international surveys in semi-public institutions such as religious ones who might hold objects or documents that were looted during or after the war.

Let us hope that the publicity around this gathering will create opportunity for greater access to some institutions in my country and abroad that will help us to solve the cases that have been mentioned as well as many other ones.

In Europe, it is our duty as public institutions to preserve the cultural heritage and to take care of the objects and documents which were created in or brought to our country, until claimants have stepped forward.

Till then, following the International Council of Museums Code of Ethics, it is our commitment to preserve them with care, and to document and exhibit them with their full story appended for the benefit of disseminating knowledge in society.

Thank you.

► **Karen Franklin**

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**CURRENT STATE OF JUDAICA PROVENANCE
RESEARCH IN JEWISH MUSEUMS IN THE USA**

The Nazi program for the destruction of European Jewry consisted not only of the physical extermination of the Jewish people and the looting of their property and assets but the obliteration of the contribution of Jews in all facets of European life — from culture to science to philosophy and lastly but just as importantly to the Nazi regime, to the decimation of the Jewish religion, heritage and culture. For example: the Nazis collected the Judaica of Bohemia and Moravia which they intended to study here in Prague at the Nazi-proposed Museum of the Extinct Race.

The issue of looted Judaica includes *Tashmishey Kedusha* and *Tashmishey Mitzvah* — such as Torah and other handwritten

Scrolls, religious books; ritual and ceremonial objects; Jewish objects for daily life; and archives and libraries of Jewish organizations.

The existence of Jewish life in the Diaspora since the destruction of the Second Temple in Jerusalem in 70 AD and the accompanying persecution of the Jews by the kingdoms and later states in which they lived during a 2000-year period of exile had a great impact on the the scope of looted Judaica. For example:

- ▷ With the destruction of the Temple as a central focus of religious yearning — the dual foci of the religious and ritual life became the synagogue and the home — thereby increasing the amount of religious objects held by individual families and communities.
- ▷ Due to the destruction of centralized Jewish leadership of the Sanhedrin, Jewish legal rulings were based upon decisions of Rabbis, often residing in different countries. These didactic discussions on issues of Jewish law, which formed the basis of Jewish religious life, resulted in an increase in number of Jewish books, particularly after the invention of the printing press. Rabbis worldwide wrote and published Jewish responsa (*tshuvot*) in books that became the basis of Jewish religious life and learning and of important libraries throughout Europe.
- ▷ The fact that Jews were regularly expelled from their places of residence or had limitations upon constructing ornate synagogues often resulted in a proliferation of a significant number of elaborate portable objects (i.e., ritual and ceremonial objects, *ketubot*, *megillot*, and manuscripts) and books by communities and families.

Consequently, on the eve of the destruction of European Jewry by the Nazis, there were hundreds of thousands of items of Judaica (ritual items, ceremonial objects, books and Torahs and Megillah scrolls) held by European Jews and Jewish communities.

Some of this Judaica was simply destroyed, and some was looted in a systematic way by the organs of the Nazi regime. In addition to what was taken by the Nazis and their allies at the end of the war, there was also Judaica that simply remained abandoned as the result of the murder of its owners. Of that looted and/or abandoned, some of the Judaica were rare pieces individually crafted, or written, for communities or wealthy families, while others were mass-produced books or objects.

After the war, these items ended up scattered throughout the world. In some countries, the Judaica that was preserved was the result of murder and/or flight of its Jewish citizens. Alternatively, the Judaica was “foreign,” brought there by the Nazis or even as the result of the Allies returning Judaica to the country in which it was thought to originate.

In some cases there were attempts by countries to return the Judaica to individuals or Jewish communities but in other cases, especially in Eastern Europe, the governments deposited large amounts of Judaica with governmental entities. In Poland, for example, the government deposited large amounts of Judaica with the Jewish Historical Institute in Warsaw, and in the Soviet Union, the government deposited huge collections originally from Jewish libraries into state libraries in Minsk and elsewhere and placed archival collections in the Osoybi Arkhiv (Special Archive) in Moscow, now part of the

Russian State Military Archive (RGVA).¹ Some of these items in Moscow were brought by the Soviet Trophy Brigades.

Some Judaica is currently also located in countries in which there was no Nazi occupation. The existence of the Judaica there is a result of the distribution of heirless Judaica to Jewish communities in areas of the Western world to which Holocaust victims migrated in the immediate postwar period.

The question to be addressed is: What is to be done now, sixty years after the end of the Shoah?

Inventory and Classification

Since so little is known about the current whereabouts of looted Judaica, all countries should make an initial inventory of possibly looted Judaica in their governmental institutions (national, provincial or municipal), including institutions under quasi-government control.

In order to assist with the implementation of such efforts, the Claims Conference/WJRO at the beginning of 2009 made public a *Descriptive Catalogue of Looted Judaica* with coverage of 47 countries and listings of archives and experts and a bibliography.²

Generally, Judaica can be divided into four categories:

1. Torahs and other handwritten scrolls;

¹ For a full description of the spoliation of Judaica and restitution attempts after World War II, please see the “Overview: Historical Background” in the *Descriptive Catalogue of Looted Judaica*, pp. 9–33, <http://forms.claimscon.org/Judaica/>.

² See: <http://forms.claimscon.org/Judaica/>.

2. "Rare" or "museum-quality" Judaica (as it is clear that these items are of important historical, artistic and cultural significance to the Jewish people);
3. Archives and libraries of Jewish organizations and entities;
4. "Other Judaica items" — items that were mass-produced or printed and of which there are a number of similar items in circulation.

Institutions holding possibly looted Judaica should attempt to classify the Judaica they hold into the above four categories.

In some cases this has already begun. For example, numerous holdings of Judaica that were looted in Hungary during the Nazi era but subsequently brought to Nizhny Novgorod (formerly Gorky) are scheduled to be examined and classified by the Russian State Library of Foreign Literature. With assistance from the Claims Conference, the Russian State Library of Foreign Literature is in the process of creating an inventory with the intention of producing a catalogue of the holdings.

In cases where the institution does not have staff with the expertise necessary to differentiate between these types of Judaica, there should be a group of accredited experts who are able to assist the institutions with this task.

It is imperative that both the inventory and classification commence immediately, and once completed is publicly available. Once this classification has been completed, each institution can then proceed to the vital task of provenance research.

Provenance Research

It is critical to engage in provenance research on museum-quality Judaica. The current state of provenance research on Judaica ranges from very extensive — for example, as in the National Library of Austria — to, in most cases, very sketchy. In part, this is due to the focus to date on paintings and other objets d'art. The following principles should guide the research:

- ▷ Efforts should be made to research as much as possible the provenance of all items identified by experts as unique or rare items of Judaica; and to make the results publicly known, preferably over the Internet.
- ▷ Provenance research should be the responsibility of governmental institutions as well as of Jewish and non-Jewish private institutions. The Association of European Jewish Museums (AEJM) and the Council of American Jewish Museums (CAJM) have both passed resolutions in this regard. It is hoped that the institutions under the control or influence of the states participating in this Conference will also proceed with this task.
- ▷ Instruction guides and manuals on how to do provenance research on Judaica should be developed and made available over the Internet. At present there is nothing comparable to the *AAM Guide to Provenance Research* in regard to Judaica.¹ The AEJM has begun to plan for the creation of such a manual, and both AEJM and CAJM have begun to hold training workshops for provenance research. These should become publicly available.

¹ Yeide, Nancy H; Akinsha, Konstantin; Walsh, Amy. "The AAM Guide to Provenance Research." Washington: American Association of Museums, 2001.

Other Principles for Looted Judaica

Torah scrolls and other handwritten ritual scrolls throughout the world should be internationally registered. Torah scrolls occupy a unique place in the spiritual heart of the Jewish people and their use needs to be in accordance with the beliefs of their former Jewish owners. Because Torah scrolls look alike and can be resold at relatively high prices, they are subject to theft and to international black market operations. International registration systems exist that provide ways of uniquely identifying Torahs and they have been proven to greatly reduce theft in those countries where they have been implemented. The Claims Conference/WJRO has been working to make international registration of Torahs possible and more widespread at little or no cost.¹ Hopefully such registration can also be a step towards resolving the incongruous situation in a number of countries with a resurgence of Judaism where congregations have to import Torahs while large numbers of Torahs are kept by government repositories there.

“Unique” Items — Jewish Archives or Libraries of “Rare” Ceremonial or Ritual Objects

All attempts should be made to return these objects to the original owners, e.g., to the archives of various Jewish organizations and institutions. In addition, where the unique items comprise books, archives, or libraries and the institution who owned them no longer exists, they should be held by an appropriate institution and made available for research by qualified researchers.

¹ So far discussions have been held in particular with representatives of all the Jewish communities of Ukraine and with the State Committee on Archives of Ukraine in this regard.

“Rare” ceremonial or ritual items should be subject to public display (together with appropriate recognition of the history of the object) at an appropriate institution.

Furthermore, for items under disputed ownership a system should be developed to circulate such Judaica internationally with appropriate guaranties from judicial seizure. Due to the Holocaust and its aftermath, there are numerous situations in which the ownership of Judaica is or is likely to be disputed and where it is desirable to make items of Judaica accessible to scholars and the public in more than one country. As discussed in the Working Group on Judaica and Jewish Cultural Property in preparation for the Prague Holocaust Era Assets Conference, a system to circulate such Judaica internationally with appropriate guaranties from judicial seizure may be the best way to handle such matters and may also induce countries to make their Judaica holdings more publicly known. Such circulation must ensure that the items are held securely and appropriately.

“Other Judaic” Objects: Many of the ceremonial objects and books that were looted were mass-produced and cannot be linked to a specific individual or community. For these items, it is our recommendation that:

1. The fact that the item has been looted should be recorded when it is either on display used for another purpose by the institution; a book should contain an appropriate stamp inside. The unique origin of the item will then be recognized and pay tribute to the Jews and Jewish communities that were destroyed; and
2. The looted item should be held in an appropriate place and used in an appropriate manner. The item should be kept

by an appropriate entity in a place befitting its religious and cultural significance.

It should be noted that in cases where it is clear where a collection as a whole came from (including the mass-produced items in the collection), the previous owners would have the right to receive ownership of the entire collection.

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PERSPECTIVES FROM THE REMAINING ARCHIVES OF THE EINSATZSTAB REICHSLEITER ROSENBERG (ERR)

Adolf Hitler's ideological henchman Alfred Rosenberg was beheaded at Nuremberg, condemned to death as a war criminal, the charges for which included the looting of cultural valuables by his "Special Task Force," namely the Einsatzstab Reichsleiter Rosenberg (ERR). First organized in France (in June/July 1940), the ERR operated in all German-occupied countries. The ERR members' first priorities were books and archives, especially from prominent Jews and Masons. Their loot was quickly transported to Germany for Rosenberg's Hohe Schule, its Central Library (ZBHS) and the Institute for Study of the Jewish Question (IEJ) in Frankfurt. In occupied Soviet lands, they also found and shipped Judaica to IEJ, although there they concentrated on Bolshevik literature, Orthodox icons, and archeological exhibits. Meanwhile in Western Europe through the Möbel-Aktion program, an ERR offshoot run by ERR staff to remove furnishing from vacated

Jewish lodgings, significant Judaica of all types was added to the ERR loot, including many more books.

My extensive (300-page) international survey describing the remaining archives of the Einsatzstab Reichsleiter Rosenberg (ERR) and other records related to the fate of the ERR loot is being launched later this summer on the website of the International Institute of Social History (Amsterdam), with which I am affiliated, in cooperation with the Conference on Jewish Material Claims Against Germany (Claims Conference) and the Netherlands Institute of War Documentation (NIOD). The project, long in preparation, describes ERR files in 28 repositories in nine countries. As a hybrid between a survey and an archival finding aid, for some repositories not previously publicly described, it presents more detailed file-level descriptions of ERR documents and related materials. It also covers Hohe Schule and M-Aktion files, as well as restitution and postwar trial records (especially IMT) that have incorporated significant ERR documents, as well as those related to the identification and restitution of objects looted by the ERR.

The seizure of circa 20,000 works of art from over 200 private Jewish collections in France and Belgium was the ERR's most blatant claim to the status of a group of war criminals. In the Art-Looting Working Group, I mentioned the new database of the ERR inventories, photographs, and registration cards for individual works that they processed in the Jeu de Paume in Paris. As part of the Claims Conference ERR project, the Jeu de Paume database is now being compiled at the US Holocaust Memorial Museum, and we hope for its launch by the autumn of 2010. Significant postwar restitution was possible because those ERR documents survived, and we plan to make the full texts available. This database, however, does not cover what most of you

would undoubtedly think of as Judaica. My own investigations on that subject have been primarily devoted to libraries and archives.

In trying to find lost libraries, or even individual books, or to identify the provenance of displaced ones that have been found, it is most essential to know first what Nazi agency plundered the object(s) in question and second where they ended the war. For books, the two principal plundering agencies were the ERR and the Reich Security Main Office (RSHA), and we need to understand the turf wars between them. By the end of 1939, the RSHA had already amalgamated the SD Hauptamt along with the Gestapo, which was also a culprit in the confiscation and/or trafficking of Holocaust-related cultural goods. For confiscated books and archives, the RSHA Amt VII was the major destination repository.

Let me say a few words about each of the four major concentrations of plundered books at the end of the war. First, most has been written about the largest concentration of Jewish books and ritual silver, which ended the war in the Frankfurt area – in the ERR-supplied Institute for the Study of the Jewish Question (IEJ), and its evacuation center in Hungen. In connection with my ERR Survey, I recently found some of the ERR leases for more of the IEJ Hungen facilities, and library correspondence from the IEJ library. The millions of books, archives, and other items of Judaica recovered by the US Army were all processed for restitution in the US Central Collecting Point outside of Frankfurt known as the Offenbach Archival Depot (OAD). Although the OAD dealt predominantly with materials from ERR-plundered sources, some books plundered by the RSHA were also processed in the OAD, most numerous among which were a portion of the books from the RSHA Amt VII library that had been

left in Berlin. US restitution records retain extensive documentation, including lists of libraries, albums of library stamps and other markings and ex libris for the books processed for restitution there. There are inventories of the ritual silver and other items of Judaica that were subsequently moved from OAD or Munich CCP to the Wiesbaden CCP before being turned over to Jewish successor organizations.

Second, the counterpart concentration of ERR-plundered books destined for the Central Library of Rosenberg's Hohe Schule (ZBHS) ended the war in the remote monastery of Tanzenberg (near Klagenfurt) in Austrian Carinthia. As I have written elsewhere, this third concentration of over 600,000 books was processed for restitution by the British. Extensive records remain in the British National Archives (TNA), although I have not yet found the originals of the ERR Paris library records that the British reported finding there. Many books in Tanzenberg were identified as being from Jewish collections in France, Belgium, and the Netherlands, while many non-Jewish books were restituted to other countries, including the USSR. I have recently seen lists of owners of books, and some lists of books returned to France, among the French restitution records; those book restitution records are now split between the Quai d'Orsay Archives (soon to reopen in La Courneuve) and the Archives Nationales. Almost all of the books found in Tanzenberg were seized by or on behalf of the ERR, except for some that were "purchased" from special collections. The beginnings of a new French database cover many of the named collectors.

In the ERR seizure of library and archival materials, we see major differences in patterns of plunder in the West and on the Eastern Front. In occupied Soviet lands, in contrast to the numerous important Jewish collections in Western and Southern Europe,

the ERR was principally involved with the plunder of state institutions, rather than private collections. The ERR shipped some important Jewish library books from Belarus and Ukraine first to Frankfurt and later to Hungen. They found more in the Baltic countries recently annexed to the Soviet Union, such as those of the Jewish Research Institute (YIVO) in Vilnius. They supplied an estimated 35,000 from former Russian imperial libraries rather than from Jewish collections for ZBHS in Tanzenberg.

Since the mid-1930s, long before the ERR was established, as I have written elsewhere, the SD had started amassing Judaica and Masonic collections from within the Reich, especially after Kristallnacht (November 1938). As the Third Reich extended its brutal occupation regime, the SD, together with the Gestapo, which had by then been amalgamated into the Reich Security Main Office (RSHA), had their hands out everywhere for important Judaica. By the end of the war the Jewish, Masonic, and other divisions of the RSHA library, based on plundered collections, greatly outnumbered those of the ERR. Thus, the surviving ERR documentation that I have been surveying is only a partial wartime record of the plunder of Judaica.

Researchers tracing the fate of books and archives from Jewish collections, or trying to determine the provenance of surviving books and archives or other Judaica far from home will accordingly also need the remaining records of the RSHA. Today, many more of the relevant RSHA records are concentrated in the Bundesarchiv record group (Bestand) R 58 than is the case of the relevant ERR records. In contrast, because the RSHA was not seriously involved in art looting, SD seizure files are not found mixed in with the postwar Western Allied restitution records I described, while there are many important ERR documents there.

Another crucial factor is that the most relevant RSHA records ended up in Eastern Europe. Indeed, many surviving records from the RSHA Amt VII, the division that ran the RSHA plundered library and archival operations were found (along with the looted archives) in Silesia by the Red Army, or by the Poles, at the end of the war. One major part of the RSHA (and earlier SD Hauptamt and Gestapo) archives describing their plunder, captured by the Poles, became available after 1989; that segment was turned over to the Bundesarchiv in a 1997 exchange.

An even more important segment had been captured by Soviet authorities. Some of those, however, had been passed on to the Stasi in East Germany, and have been gradually becoming available in the Bundesarchiv with the processing of the Stasi archives. Those contain many files documenting SD-Hauptamt seizures, especially those in 1938 and 1939. In recent years, the Bundesarchiv has been uniting all of the RSHA records in a database developed in Berlin-Lichterfelde and Hoppegarten, although it still is not detailed enough for optimal access.

However, even that database is much more accessible than is another large segment of RSHA records that remains sequestered in two large fonds in the Russian State Military Archive (RGVA) in Moscow (from the former Special Archive). Their existence in Moscow is an impediment to research, and the new Russian WW II cultural property nationalization law (1998–2000) has meant that they cannot be returned to Germany and reunited in the Bundesarchiv (R 58) with the much larger batches of RSHA records returned from the United States (1960s) and Poland (1979), and those from East Germany after 1989.

Along with those in Berlin, the Moscow RSHA files were the source of my description of the German capture of archives and

libraries in Western Europe, mentioned in my introduction to the volume *Returned from Russia*. While that volume concentrates on the return of the twice-plundered Western European archives, the same sources are important in tracing other cultural property, and especially Jewish library books.

Among those returned, the RSHA Amt VII had amassed particularly large collections of archives from Jewish communities and other Jewish organizations from all over Europe, which the Red Army found and shipped off to Moscow afterwards, as well as from Masonic lodges throughout Europe. For that loot, the RSA was often in bitter competition with the Einsatzstab Rosenberg (ERR). Competition for the spoils explains why the archives from the Jewish Community of Thessalonica are still dispersed in several different countries including the United States, Russia, and Israel. Last August, Dutch archivists returned some files to Thessalonica that had mistakenly been returned from Moscow to The Hague; those were the first that had been returned to Thessalonica since the war. The ERR also seized important Judaica and Hebraica in the former Yugoslavia, and Italy; reports from Yugoslavia are found in Moscow and New York (YIVO) with copies of the latter in Berlin.

Another example of a serious research problem from dispersed records has been my trying to piece together documentation in Moscow and Berlin about the post-1943 fate of the major portions of the RSHA Amt VII library. That third major concentration of plundered library books — with an estimated million volumes — ended the war in evacuation (from Berlin) in four Sudeten Castles and the Theresienstadt concentration camp (Terezin), as described in my recent article published in Prague. In Theresienstadt, inmates who were leading Hebrew scholars were used for cataloguing Hebraica, as is well described in published

literature. The Red Army liberated Theresienstadt, and the Sudeten castles where the other books were located, but I have found no evidence that they captured any of the Jewish books found there. The Poles managed to retrieve a train-wagon full of Judaica and Hebraica from Poland even before the castles had been emptied and the remains brought to Prague.

We now estimate that about 70,000 Jewish and Hebrew books went to Jerusalem, or were sold to Jewish booksellers from Prague immediately after the war. Others were returned to at least ten countries, which I am now trying to document in more detail. Some additional ones remain in the custody of the Czech National Library, and probably another 200,000 remain in the Jewish Museum in Prague (JMP). Today, a database in the JMP is a major step forward in identifying the provenance of books remaining from the concentration of plundered Jewish books in Czechoslovakia at the end of the war, as represented on our panel here. Those books came primarily from the RSHA Amt VII library and the SD Hauptamt exploits during the late 1930s.

I have written earlier in considerable detail about a fourth major concentration of books at the end of the war, namely the estimated two million books and periodicals collected in the ERR operational center in and around Ratibor (now Polish Racibórz). Operations there, including those with the ZBHS Buchleitstelle, started in the summer of 1943, after Goebbels ordered the evacuation of Berlin. Ratibor also became the destination for most of the books that the ERR plundered from the former Soviet Union, as well as many from the Balkans, intensifying with the German retreat from the Eastern Front starting in the summer of 1943. We can now also determine the roads to Ratibor for books from Western Europe, along with those plundered from the USSR. The vast majority of them, and particularly those plundered from the

Soviet Union, were never processed and never reached their intended destinations.

The fact that roads from East and West converged in the ERR Silesian centre determined the postwar road to Minsk for an estimated 1,200,000 volumes in the autumn of 1945. Half a million of those books had first been confiscated from “enemies” of the Nazi regime in France, the Benelux countries, and former Yugoslavia, along with another half million plundered from libraries in Belarus and other Soviet republics. Found by Red Army trophy brigades in the spring of 1945 in warehouses in a Kattowitz (now Katowice) suburb, 54 freight cars were shipped to Minsk. However, the full documentation about their retrieval and that shipment in the fall of 1945 is still classified in the Russian Ministry of Defense Central Archive (TsAMO) in Podolsk. Others books and archives from Ratibor fell into Polish hands; part of this collection was restituted to the Netherlands and Belgium in 1956.

The vast majority of those books spent the next half century imprisoned in Soviet Secret Reserves (Spetskhran) in Minsk. In the fall of 2003 in Minsk, I learned that some of the Jewish and Hebrew books were still uncatalogued. Thanks to provenance cataloguing undertaken since 1992 in the Rare Books Department of the National Library, I was able to match up book markings and dedications with close to one hundred names of confiscated “Jewish libraries” on ERR lists from France, Belgium, and the Netherlands that I had brought with me to Minsk. Perhaps these ERR lists of confiscated libraries could supplement the new database compiled on French library seizures by Martine Poulain, now on a Paris website. In Minsk, to name only three names from those lists, I found books from the Amsterdam institute (IISH), books seized in Belgium belonging to Frederich

Adler (1876–1960), secretary of the Second International, and elegant volumes owned by various members of the Rothschild clan. Those are only a few examples seized by the ERR from victims of the Holocaust in Western Europe, but librarians in Minsk still consider those books to be “compensation” for the millions of books plundered or destroyed in Belarusian libraries during the war.

My ERR archival survey is now serving as the basis for a virtual “reconstruction” of remaining ERR files, together with a detailed finding aid, in cooperation with the German Bundesarchiv. Plans call for consolidation of dispersed ERR documents in a searchable digital system as a major component of the record of wartime cultural plunder. Of considerable interest here, my survey also describes briefly additional documentation relating to postwar efforts to locate, identify, and return each of those items to their home country. We need a separate workshop to discuss methodology, other priority archives to be made available, and perspectives that I have gained in tracking down related ERR seizure documents. Growing out of my experience with this ERR project, I have a number of recommendations for further international research cooperation. Most of all, we need to cooperate with the new joint international project of archival leaders from the United States, the United Kingdom, France, and Germany to extend more Internet access to important groups of sources relating to Holocaust-Era Looted Cultural Property, as announced in the Art Looting Archival Panel at this conference. And we also need to pool the findings of specialists from individual museums and libraries that have been searching for their own still displaced valuables.

The Provenance Research in State, Public and Private Collections After 1945

► **Michal Bušek**

JEWISH MUSEUM, PRAGUE, CZECH REPUBLIC

RESTITUTION IN THE JEWISH MUSEUM IN PRAGUE IN THE CASE OF NAFTALI ZVI KARTAGENER

As a result of complicated historical events, there are books in our collections that did not originally belong to the Jewish Museum in Prague (hereafter “the Museum”). This is why, in 2001, the Museum launched an extensive and long-term project *Identifying the Original Owners of Books*.¹

The first phase of the provenance research was carried out between May 2001 and October 2003. During this phase, 80,527 books were examined, of which nearly 34,000 contain owner records (of individuals or institutions). For more on the details of the research, see the afore-mentioned papers. The project continued with the second phase, which was launched in May 2008 at the Spořilov (Prague) depository, where books that were shipped to the Museum from the Terezín ghetto after the WW II

are kept. These books were catalogued there by a special work group (“the Talmudkommando”), which marked them with the letters “Jc”; according to this mark, we can now place these books in a historical context. Research is now being undertaken in a similar way as was done in the first phase, but now once a week rather than every day. To date, 5,798 of the approximately 30,000 books have been examined; 4,982 of these contain owner records. About 4,700 of these books belonged to institutions, only about 280 to individuals. The latter are those who can put forward a restitution claim, provided they meet the “Terms for the filing of claims for the restitution of books from the library collection of the Jewish Museum in Prague which were unlawfully seized from natural persons during the period of Nazi occupation” (hereafter “the Terms”), which came into effect in July 2007. The full wording of the Terms is available from the Museum’s website.²

As of 16 June 2009, a total of 38,961 entries have been placed in the database; of these, 26,744 are marked as belonging to institutions and 12,743 are marked as belonging to individuals.

I would now like to mention a specific case where books have been returned to the original owners or their heirs on the basis of provenance research. It was only after the adoption of the Terms that the Museum could register a claim from the descendants of Naftali Zvi Kartagener for the return of books originally owned by Mr. Kartagener. The heirs first contacted the Museum in the 1990s, when Mr. Kartagener’s daughter asked the library staff whether books belonging to her father were in the Museum’s book collection. In the period before 2001 it was not possible to answer questions concerning the origin of the books. As the collection was not fully accessible, it was practically impossible

¹ For more on the composition and compilation of the book collection, see Bušek, M. “Identifying Owners of Books Held by the Jewish Museum in Prague” in *Vitalizing Memory: International Perspectives on Provenance Research*. Washington 2005. Bušek, M. “Identifikace původních vlastníků knih v knižním fondu Židovského muzea v Praze” in *Budoucnost ztraceného kulturního dědictví* [The Future of the Lost Cultural Heritage]. Prague 2007. Also see Braunová, A. “The Origin of the Book Collection of the Library of the Jewish Museum in Prague” in *Judaica Bohemiae XXXVI*. The catalogue for the exhibition at the Robert Guttmann Gallery, “Hope is on the Other Page”. Prague 2007.

² See: <http://www.jewishmuseum.cz/cz/czcztrestit.htm#6>.

to research it. Provenance research began only after quality depositories had been built, and this resulted in creation of a database of the original owners of books. We respond to questions concerning the presence of books belonging to specific persons in our collections on the basis of information included in the database. If such books are found, a report is drawn up for the Restitution Commission, which, following the approval of the request, recommends that the restitution claim be registered and presents it to the Administrative and supervisory boards for approval. The claim is positively evaluated if the Terms are met. In the Kartagener case, the restitution claim was for five books and was registered on June 7, 2007. After a period of one year, the Terms were met and Mr. Kartagener's books were handed over to his heirs in September 2008. The list of restituted books is available on the Museum's website.¹

From the Museum's perspective, these restituted items are not rare books whose restitution significantly endangers the quality of the library collection. However relevant such a perspective may seem to the Museum, it is not taken into consideration in connection with restitution. Each restitution claim is evaluated in a comprehensive way. Rare print books and rare editions are the only items that we try to keep in our collections, but this is a matter of agreement between the claimant and the Museum, which always fully respects the decision of the new owner.

In connection with the aforementioned case, I would now like to touch upon the most basic and most frequent problems that we can encounter when dealing with restitution claims. If an heir requests that we carry out provenance research, it is always beneficial if we have available more detailed information about

the person in question, the places of residence, or the signature of the owner. A clear restitution claim is not even proved by a correspondence of names, if no further accurate information is known. We encounter such cases most frequently with German names. In order to prevent a breach of the property rights of another owner, we cannot put such a book forward for restitution if we are not certain that the individual in question can be demonstrably identified. This is why we prefer to keep such a book in our collection. We opt for the same procedure for books whose last owner cannot be reliably determined. In many books, the names of two or more people are included in an owner record. In such instances, it is not within the Museum's scope to determine the name of the very last owner from whom the book was confiscated. Such an instance occurred in the Kartagener case. As part of our provenance research, we identified a total of 13 books where N.C. Kartagener appeared as an owner. It was possible to clearly identify Mr. Kartagener's ownership of only five of these books. The name of another owner appeared in the other books, which is why they remained in our collection and were not restituted.

The problem in identifying names is something we encounter with hand-written marginal notes or signatures. Oftentimes, the records pertaining to ownership are illegible, the handwriting cannot be deciphered, and the form of the name cannot be accurately determined. In such cases, the owner remains unidentified in the database, although the language of the record and any legible information are included in a note. In the future, such books will be included in the category of books that cannot be returned, and will be kept in the Museum's care. As of the 15th of June 2009, we have been unable to identify the owners of 579 books.

As is known, the Museum restitutes only objects or books that were owned by individuals prior to confiscation. A legal

¹ See: <http://www.jewishmuseum.cz/cz/czcrestit.htm#8>.

framework has not yet been put in place for the restitution of items to foreign corporations, which means that these items also remain in the Museum's care. When carrying out provenance research, we do not take into consideration the presence of an owner record by an individual person if there is also a record of the book in question by an institution. In the database of owners we only add an entry on the institution, which may in the future prove an acquisition of the book.

The records in the Museum's wartime (German) catalogue that are related to objects and books are of importance when determining the provenance of books that were acquired during World War II. If a record in this catalogue includes the name of an organization or association as its provenance rather than the name of a person, the Museum regards the book as the property of an institution rather than an individual, even though the owner record clearly refers to a private person. Despite the supposition that the owner probably left the books with a particular institution for safekeeping and that this institution later, during liquidation, had to hand them over to the Museum, the rule is that the items shall remain in the Museum's care if ownership by an individual cannot be fully proved. After the Museum was privatized in 1994, all the assets of the inter-war Jewish organizations in Bohemia and Moravia were transferred to the Federation of Jewish Communities in the Czech Republic, which is their legal owner. The items registered in the Museum's collections are in its care.

As for the future, the question remains whether and how the ascertained information will be made available to the general public. The Museum certainly expects to have a website presentation of its database of original owners, but the specific form of such a presentation has not yet been determined. The

project is still ongoing, which is why the information is not yet publicly available; in response to queries, however, we check the current database and look up the relevant information, which serves as documentary material in the event of restitution.

The database of owners was originally created using Microsoft Access. The appearance of the original database and its usefulness had also been presented to specialists at conferences and at a workshop in the Museum's Library. After lengthy considerations, however, it was decided that this database was unsuitable for the requirements of future website presentations. The technical processing and editing of data was not only time-consuming, but above all expensive. The possibility of using the Aleph electronic library system, which is in use at the Museum, was then proposed. Aleph was developed in Israel and enables the processing of Hebrew books, which is ideal for the Museum in view of its focus. This system is used by many public and special libraries in the Czech Republic and abroad and it is easy to search and share information about books using its online database. We intend to make use of this service particularly when entering information about books that will be part of a record pertaining to ownership. The entries can be supplemented by illustrations, which we plan to add to information on owners (scans of stamps, signatures and ex-libris, etc.) but also to the actual books (title pages). The original database was transferred to the Aleph system by members of the Library staff. For restituted books, the entries have been completed and supplemented by all the data and illustrations that we are presenting here for clarification. For the time being, the other entries include information about the location and registration of the relevant items, the name of the owner, and the kind of the ownership.

Obviously, the entire project is very expensive, time-consuming and labor intensive. In the first years, the Museum fully covered all the expenses associated with the project. For the ongoing part of the research (books from Terezín), we have managed to gain financial support from the *Conference on Jewish Material Claims against Germany*, based in New York.

We believe that our work will facilitate, at least in part, a mitigation of some of the injustices that were committed by the Nazis during the Shoah, and we trust that we will have a successful cooperation with other organizations that are working on similar projects.

► **Magda Veselská**

JEWISH MUSEUM, PRAGUE, CZECH REPUBLIC

WHERE DID ALL THE PRETTY OLD THINGS COME FROM? THE JUDAICA PROVENANCE RESEARCH AT THE JEWISH MUSEUM IN PRAGUE

The Jewish Museum in Prague (hereafter “the Museum”) was founded more than a hundred years ago. Its collections were for the most part, however, put together during WW II (hereafter “the war”). The circumstances under which the collections were established are now well-known to the public: based on an initiative from the Prague Jewish Religious Community, items owned by Jewish religious communities in what was then the territory of the Protectorate of Bohemia and Moravia (hereafter “the communities”) were shipped to Prague in 1942–1944 and were thereby protected from destruction.

Immediately after the war, the Museum and its collections were put under the control of the state and, in 1950, were official nationalized. After 1989, the Federation of Jewish Communities in the Czech Republic, which had become the legal successor to the Jewish communities, associations, and corporations, restituted the Museum’s collections from the state. In 1994, the Federation placed the collections in the Jewish Museum in Prague, the legal successor to the Jewish Museum that was founded in 1906. Despite the fact that the owner of the collections is known, the Museum considers Judaica provenance research in its collections to be one of its priorities. The aim of this research is to gain detailed information about the life of the Jewish minority in the Czech Republic.

From the perspective of provenance research, the Museum’s collections can be divided into three parts:

1. The collections of prewar Jewish museums (in Mladá Boleslav, Prague and Mikulov);
2. Items from the property of communities in the Protectorate of Bohemia and Moravia with specific areas extending into the Sudeten border regions; and
3. Items from the property of individual people that were transferred to the Museum’s collections from the warehouses of the *Treuhandstelle* (a trustee office that administered confiscated Jewish assets). As this group of items comprises mainly art objects and books we will not be discussing it in detail here. Matters concerning artworks come under the Looted Art section and matters relating to books have been described by my colleague Michal Bušek in his presentation.

We use several sources for our provenance research to identify the origin of items that were included in the Museum's collections during the war. The primary source is the actual wartime register whose entries are in German. In this catalogue, each item has its own card, which also contains information about the "collection place", i.e., the locality from where the item was sent to the Museum's collections. The category of the collection place, however, contains within itself a number of pitfalls,¹ for it does not always refer to the place where the item was actually in use; on the contrary, in some cases, it refers only to the place from where the item was sent to the Museum. Items belonging to the Jewish community in Kosova Hora are an example of this; these items were sent to the Museum from Sedlčany, a town which is also mentioned as the collection place in the wartime catalogue. This difference is even more striking on a regional level: for example, items from communities located in the Brno *Oberlandrat*, a large administrative unit, were initially assembled in Brno and then sent *en masse* to Prague. Items from individual communities were mixed together in the process of packing (which is why, in the wartime catalogue, the collection place is mentioned as, for example, Brno-Jevíčko, Vyškov). Considerable complications are also associated with, for example, wartime Prague warehouses, where shipped items were deposited prior to being registered at the Museum. For reasons that are clear (e.g., inundation of shipments, insufficient handling room, lack of staff, time constraints, mental stress, fear of deportation), information concerning the origin of many shipments (i.e., specific crates, baskets or boxes) has not been preserved, which is why, in such cases, the Prague warehouse is given as the collection place in the wartime catalogue.

¹ Veselská, Magda. "The Problem of Identifying 'Collection Points' in the German Catalogue of the Jewish Museum in Prague." In Kybalová, Ludmila; Kosáková, Eva; Putík, Alexandr (eds.), *Textiles from Bohemian and Moravian Synagogues from the Collections of the Jewish Museum in Prague*. Prague: Jewish Museum in Prague, 2003, pp. 121–131.

This situation is not satisfactory, which is why we seek to be as precise as possible with regards to information vis-à-vis the origin of items. We go about this in several ways:

- ▷ *Archive Research*: Here we focus mainly on extant wartime information relating to the individual shipments, which often mentions: a) where the items were actually used (e.g., items from the synagogue in Štěnovice that were shipped via the Blovice collection place), or b) how the items came into the possession of the communities before the war (e.g., the community in Černovice purchased the items from Prague synagogues that were closed down in 1906), or c) how the items came to be used by the communities before the war (the community in Svitavy in the Sudetenland sent its silver liturgical items to Prostějov as a deposit in 1939). Where necessary, we also explore the fate of specific communities (particularly in order to see if they were disbanded or if they merged with another community before the war; e.g., Koloděje nad Lužnicí/Týn nad Vltavou).
- ▷ *Literature Research*: We also identify items by referring to published information. Among such sources is Aladar Deutsch's book,² which describes items from individual synagogues in Prague that were closed down in 1906. This information was used when identifying items from Prague synagogues that were kept in one of the Prague warehouses, namely the Pinkas Synagogue, during the war. We also frequently use topographic and other literature, particularly books on Jewish communities in Bohemia and Moravia edited by Hugo Gold,³ as well as lists of historical and cultural monuments

² Deutsch, Aladar. "Die Zigeiner-, Grossenhof- und Neusynagoge in Prag (Denkschrift)." Prag: 1906.

³ Gold, Hugo (ed.). "Die Juden und Judengemeinden Böhmens in Vergangenheit und

in individual regions. Also of great use are the photographs of items that are included in these books.

- ▷ *Research into the Actual Items:* Dedicatory or other inscriptions can also provide a clue for determining the origin of an item. It is necessary here, however, to take into consideration the fact that, in addition to information about the synagogue or place that the item was donated to, inscriptions contain information mainly about the donors, i.e., where they themselves came from; their place of origin, however, is not necessarily the place where they subsequently lived and/or where they went to the synagogue.

Identifying the collections of prewar Jewish museums in Bohemia and Moravia constitutes a separate area of provenance research. The Jewish Museum in Prague was founded in 1906 by a museum society that was put together for precisely this purpose. In 1942, its collection became a source of inspiration and point of departure for our Museum's collections, as well as an integral part thereof. As a collection place in the wartime catalogue, it is referred to as "Prague Museum" or the "Old Museum". For various reasons, however, it is difficult to identify the original form of the Prague collection. We tried to do this in 2006 by putting together an exhibition on this topic and publishing a catalogue to go with it, entitled *Defying the Beast*¹. This catalogue presents the complete prewar collection of the Jewish Museum in Prague, as we had managed to reconstruct it.

The fate of the Jewish Museum in Mikulov (founded in 1936) was

Gegenwart." Brunn: 1934. Gold, Hugo (ed.). "Die Juden und Judengemeinden Mährens in Vergangenheit und Gegenwart." Brunn: 1929.

¹ Vesel'ská, Magda (ed.). "Defying the Beast: The Jewish Museum in Prague, 1906–1940." Prague: Jewish Museum in Prague, 2006.

rather complicated at the beginning of the war. In 1938 the collection was transferred from the border town of Mikulov to Brno, from where in 1942 it was shipped to Prague. In the wartime catalogue, it is referred to mostly as the "Moravian Museum" collection place. We are currently trying to identify this collection, but this is a very difficult task as its prewar inventory has not been preserved; on the other hand, we have access to archive sources concerning acquisitions to the museum's collections before the war.

The Jewish Museum in Mladá Boleslav (1900) was founded by the local community and comprised of items that were no longer in use. The discovery of this fact makes it much easier to identify the content of the collection, for which a prewar list has also been preserved. The collection of the Jewish Museum in Mladá Boleslav, however, has yet to be researched in detail.

Tracing the fate of individual items from the Museum's collections after the war is an important part of its provenance research. Some items (mainly artworks and books) that were acquired for the Museum's collections from private owners via the *Treuhandstelle* were returned to them in 1945–1950. The Museum also provided items to the nearly fifty communities that were revived after the war; ten of these communities are still in existence. After the demise of the remaining communities, however, only a few of the items on loan were returned to the Museum. The rest was dispersed in different ways: some of them remained in Czechoslovakia (now the Czech Republic) and some were sent abroad illegally (i.e., without the state's permission). These items now appear at art auctions (e.g., a synagogue curtain at Sotheby's a few years ago) or in antique shops, as well as in public collections (e.g., two Torah mantles in the collections of the Jewish Museum in New York) and in private collections (e.g., a synagogue curtain that belongs to the Museum's

collections, offered for sale by a private person in 2009). The Jewish Museum in Prague, however, has never stopped considering these items as part of its holdings, which is why it promotes all activities that focus on finding and returning them.

The Czechoslovak Communist State was also not a particularly good overseer of the Museum's collections. There were two kinds of losses during the period when the Museum was in state hands (1950–1994):

1. On the one hand, the losses were linked to efforts aimed at enriching the state budget by gaining valuable resources in foreign currency (the Museum was pressured to sell items from its collections abroad); and
2. On the other hand, the state did not pay too much attention to the safety of the items that were placed in repositories. Among the notable items that went missing in this period are a number of artworks that still appear in auction halls and in antique shops from time to time (most recently, a work by Ilona Singerová was on offer at the Czech branch of the Dorotheum in 2009). Current legislation, however, does not empower the Museum to request that these works be reacquired free of charge if they appear on sale or are offered for purchase directly to the Museum.

The largest group of items that the Museum lost during the Communist regime, however, comprises the aforementioned items that were sold from the collections – primarily the Torah scrolls (approx. 1,500), which were purchased in 1964 by the Westminster Synagogue in London with the help of a philanthropic member of the synagogue. Other items were sold

or donated from the Museum's collections in the 1960s, primarily to Czechoslovak commercial partners abroad, including Jewish businessmen who sought to acquire items from the Museum for their congregations. The origin of these sales and donations is covered in my article that was published in the 2006 issue of the *Judaica Bohemiae* journal.¹

Although the collection of the Jewish Museum in Prague is one of the largest in the world (it contains as many as 40,000 items, in addition to books and archival documents) and is indeed the largest collection that comes from a precisely demarcated geographical area, there is still more Judaica on the territory of the Czech Republic. We are also focusing our attention on these additional items as part of our research into the collections of other museums in Bohemia and Moravia for the purpose of finding comparative material for the items in our collection. Our research is focused on documenting these items, both in writing and photographically. I described its first – and, it must be said, very promising – results in the 2009 issue of the *Judaica Bohemiae* journal.² As part of this research, we managed to discover – in addition to individual items – several groups of Judaica which, thanks to the enlightened views of the curators at the time, were part of the collections of local museums before WW II already. One of the largest groups of Judaica has been preserved in the Municipal Museum of Polná; a group of Judaica in the collections of the Pilsen museum is also remarkable. Also of importance is the collection of synagogue textiles in the Přerov museum, which is unique in terms of both its quality and age. In my article in the 2004 issue of *Judaica*

¹ Veselská, Magda. "Selling Off of Items from the Collections of the Jewish Museum in Prague After the Second World War, with Particular Focus on the Sale of the Torah Scrolls in 1963–1964." *Judaica Bohemiae*. 2006, vol. XLII, no. 42, pp. 179–232.

² Veselská, Magda. "Documentation of Judaica and Hebraica in Bohemian and Moravian Memory Institutions." *Judaica Bohemiae*. 2009, vol. XLIV/1, no. 44, pp. 105–114.

Bohemiae¹ I looked in more detail at collections in local museums and other museum institutions that reflect the presence of Jews in the Czech Republic.

¹ Veselská, Magda. "Jewish and Related Museums in Czechoslovakia in the First Republic." *Judaica Bohemiae*. 2004, vol. XL, no. 40, pp. 78–92.

Methodological Questions Concerning the Provenance Research of Judaica and Jewish Cultural Property

► Julie-Marthe Cohen

JEWISH MUSEUM AMSTERDAM, THE NETHERLANDS

RESEARCHING JUDAICA LOOTED IN THE NETHERLANDS DURING THE SECOND WORLD WAR: METHODS, RESULTS, AND NEEDS

In 1997, the year preceding the Washington Conference on Holocaust-Era Assets, the Dutch government started a trial investigation into the restitution of works of art that had been returned from Germany to the Netherlands after the Second World War and still remained in the custody of the Dutch authorities. In April 1998, the committee concluded that in general the approach had been formal, bureaucratic, cold and often heartless. Later, more detailed research into the provenance of over 4,000 works was carried out, scrutinizing thousands of files in the Stichting Nederlands Kunstbezit archive. The Netherlands Dutch Art Property Foundation, or SNK, had been responsible for tracing and restoring art to its rightful owners. This Netherlands Kunstbezit or Netherlands Art Property collection of 4,000 objects included very few Judaica objects. In the course of the last decade, whenever possible, objects were restored to their legal owner based on a lenient and flexible approach.

Although it was through the intercession of the Dutch government that archives of the country's prewar Jewish communities were returned from Russia in 2002, Judaica as such has not

received serious attention from the Dutch government. Research into the impact of the theft and subsequent restitution of Jewish books, manuscripts, archives, and ritual objects has only been carried out by three Jewish institutions. A general overview of Judaica looted in the Netherlands during the Second World War has yet to be compiled.

Among the issues that require further examination is the fate of Judaica that remained in the country after it was stolen. We know for a fact that ceremonial objects were stolen from synagogues on a massive scale by German officials and Dutch collaborators, as well as ordinary thieves. While repatriation of looted objects from Germany was handled by SNK's foreign department, it was SNK's domestic department that was responsible for tracing, registering and administering items found in the possession of enemy personnel or traitors in the Netherlands. How successful was this domestic department? Clearly not very. In fact, the department's failure to achieve tangible results is well-known. No Judaica items seem to have been discovered and restored. In view of the detailed study of SNK's foreign department, it is appropriate that SNK's domestic department files also came under scrutiny. This is essential if the state is to evaluate its role in the discovery, administration and restitution of looted Judaica that remained in the Netherlands.

The Jewish Historical Museum is one of the few institutions to undertake extensive research on looted Judaica in the context of an investigation into the fate of its collection during and after the Second World War. As a result of this investigation we have been able to reconstruct exactly what happened to the collection after it was confiscated by the Einsatzstab Alfred Rosenberg in 1943, and to establish how many objects were restored and how many remain missing. In 1946, only a fraction of the looted

collection was returned from the US Army's Offenbach Archival Depot through SNK's foreign department.

I would like here to discuss the method I used during the research of the history of the Jewish Historical Museum collection, showing the kind of sources I used and how the information was processed. I am not concerned here about the fate of the collection as a whole, rather about the reconstruction of what happened to individual objects. Of the 610 looted items, 180 were returned, while 430 remain missing. In conclusion, I hope to show that the same methods can be applied to an investigation that is due to start soon on Judaica that disappeared from synagogues during the war and remained in the Netherlands.

The aim of my research into the history of the museum collection was to determine which objects from the prewar collection were returned, which remain missing and which objects of unknown provenance entered the collection after the war. All this information is to be made available in a database on our website.

In my investigation I explored the full range of documents that a reconstruction of the history of a museum collection can access. A key source was a prewar inventory of the museum, which included descriptions of a total of 940 pieces. I copied these into a table, adding considerable further information during the course of my research. For example, a list found in the Stedelijk Museum archive provides information about which objects had been entrusted for safekeeping to the Stedelijk and were later confiscated by Rosenberg. Bills of lading listing items returned to the Netherlands in 1946 found in the US Military Government archives, and a list of objects that were handed over to the museum by SNK in January 1947 show which objects were returned. However, the descriptions are often poor, making identification

difficult. I therefore searched through exhibition catalogues, Jewish and non-Jewish newspaper and photo archives for objects in the museum inventory, looking for additional details not given in the inventory. This enabled me to match an object, simply described as Chanukah lamp in the inventory, to a lamp with a vase with flowers in the middle, which is part of our present collection.

To show which objects were recovered and which were still missing, the collated data was compared to the present collection. The result was around 180 matches. My research also showed that a number of objects sent from Germany entered the collection erroneously. They were not part of the prewar collection and their provenance remains unknown. We are currently putting all the data relating to missing and misplaced objects into a database to be posted on our website. We hope that our database will set a standard for other museums.

In the search for missing objects, databases of Judaica have become indispensable, as the following example shows. While searching for details of a missing object simply described as a Torah mantle, I found out that it was in fact a valuable eighteenth-century Dutch Ashkenazi Torah mantle, lent to the museum in 1936. I subsequently made an important discovery: I was able to match it with a Torah mantle in the Israel Museum Second World War Provenance Research Online database, launched in 2007. The mantle had arrived in Jerusalem through the Jewish Cultural Reconstruction organization, which had distributed unidentified and heirless objects to Jewish institutions after the war, mostly in Israel and the United States. Similar discoveries may be expected, especially since a committee was formed at the 2008 annual meeting of the Association of European Jewish Museums in Amsterdam to explore the establishment of a

specialized database of Judaica objects. This would be a major advance, since Judaica is poorly represented in existing art databases.

I will turn now to the planned research into ritual objects that were looted from Jewish communities or disappeared in other ways during the war. Our research aims to achieve the following: First, to learn about the fate of these objects; second, to determine the number of lost objects and to identify or locate as many of these objects as possible; and finally, to examine the role of the Dutch government in the tracing of hidden or lost objects and how items that were declared were dealt with.

The key source in this study is a survey involving 158 Jewish communities in the Netherlands of moveable property and real estate reported missing or damaged. Each dossier documents a claim for compensation for losses suffered due to destruction and theft, which was submitted to the state. A structural study of these dossiers will indicate the extent of the property that was lost and stolen during the war. The files also include correspondence full of many different kinds of information. For example, letters explicitly mention Germans and collaborators as the thieves. I can mention the example of the village of Hardenberg, where the brass synagogue chandelier was confiscated and acquired for the collection of Anton Mussert, the head of the Dutch Fascist Party or NSB. Other files report Holy Ark curtains that were peppered with bullet holes or a handful of Torah mantles and fragments of brass candlesticks which were all that remained and which were kept in the local museum. In addition, the dossiers reveal how ceremonial objects of liquidated communities were redistributed to communities that no longer had such items. Other sources that have yet to be explored will hopefully provide information about the fate of missing items or items presumed to be missing.

The archive of SNK's domestic department may include material about collaborators who looted Jewish objects. Catalogues of auctions held during the war will probably also include looted Judaica, as will catalogues of postwar auctions of impounded objects that were sold by the state. This includes objects that were deposited by Jews with Liro Bank, the bank that the Nazi authorities created to rob Jews, which subsequently came into possession of the state. Some Judaica objects may already have been returned to their former owners, as a letter in our museum archive about the return of two charity boxes to the Jewish community of Middelburg shows. As in the earlier Jewish Historical Museum research, we will look for details to expand the cursory descriptions of objects in the dossiers of the 158 Jewish communities. For example, prewar Jewish journals often report occasions when ceremonial objects were donated, frequently describing the item in detail. The collated information will also be tested against a unique inventory of ceremonial objects in 23 Jewish communities in the Netherlands recently completed by museum staff. A comparison of these two sources will lead to further identifications of missing or apparently missing objects and will tell us more about their fate.

This year the Netherlands Museum Association will launch a follow-up study of a voluntary investigation implemented ten years ago by a large number of museums into art acquired between 1940 and 1948. In the new study, to be subsidized by the Ministry of Education, Culture and Science, museums will examine the provenance of their collection acquired in the period from 1933 to date according to specific criteria set by the government. The Jewish Historical Museum has contacted the museum association to ensure that Judaica will not be forgotten. In addition, it will provide instructions on how to recognize Judaica. The museum has also pointed out that countless ceremonial objects were

stolen from Jewish communities and that many of those that remain may still be found in small local museums, town halls, and similar places. The following examples illustrate the point: In its response to the 1999 museum inquiry, the Historical Museum at Oldenzaal wrote that it has a portrait of a nineteenth-century local rabbi and that the chairman of the Jewish community had given it on loan to the local museum in 1941. It had until then hung in the synagogue, which was never used again after the war. The museum also reported that no discussion had taken place after the war regarding the return of the painting. Another example pertains to Culemborg, where in 1943 the mayor had ordered the commissioner of police to impound the Jewish community's religious objects and archive, which were subsequently kept at the town hall. They had been forgotten about entirely until a regional archivist discovered the archive in 1963. The ritual objects had by then been transferred to the local museum.

I have presented the Jewish Historical Museum as a case study. Naturally every museum has its own particularities, while research results depend on the kind of sources available and their number. Clearly, as many archives as possible should be consulted and information can be retrieved from different visual sources and databases which are a key aspect of our research. I have proposed elsewhere that a digital museum manual be compiled to include information about experts, research results and research methods. This should incorporate a list of sources available for consultation: archives of the Nazi period, of the Allied forces, of national governments and Jewish organizations, as well as sources such as general and Jewish newspapers, photos, inventories, correspondence, and auction and museum catalogues. To succeed in this research we need to share our expertise and knowledge, to collaborate on a national and international level and, last but not least, obtain financial support from

the international community. All governments, the Dutch government included, should recognize the importance of our research into the fate of Judaica during and after the Second World War, a subject that has been neglected for too long and which deserves to be treated as all other kinds of assets, both from a moral and legal standpoint.

► **Inka Bertz**

JEWISH MUSEUM BERLIN, GERMANY

COLLECTING FOR JEWISH MUSEUMS TODAY

During the preparatory phase of this Conference, the question was raised repeatedly, particularly by those concerned with the legal side of Holocaust-era assets, as to whether there was actually a difference between the “looted art” discussed in the room next door and the “Judaica and cultural property,” which is our subject here. Since this question is justified, I have decided to include it in my paper, but I know that the answer will leave the lawyers disappointed, for the only answer I can offer lies in the realm of history, not that of law. It has much to do with the history of Jewish museums, and this history differs in many essential ways from that of other museums.

After the era of the Holocaust, it was certainly not a given that Jewish museums would be established or re-established in Berlin or other places in Germany, or in other countries throughout formerly Axis-occupied Europe.

And yet the first post-Holocaust Jewish museum was founded in Europe even before the war had ended: in August 1944 in

Vilnius, by survivors of the Jewish resistance. The first thing they did upon returning to their heavily destroyed hometown was to go out and gather the books and artifacts they had saved from the Germans. The story of this – short-lived – museum project points to a constellation which we see again and again in many other places:

1. The first people to attend to the surviving objects were the survivors themselves and the allied forces. Their plans for these objects tell us a great deal about their outlook. On a more practical level, it seems that the “re-assemblage,” the gathering of whatever could be found, was always the first step that people took, whether in the former ghetto library in Vilnius, in similar efforts by the Jewish Historical Commission in Poland, or at the collection points set up in the western zones of Germany.
2. But the subsequent decision on how to proceed with these materials was, as Robert Weltsch has put it, “a question of Jewish policy”: based on these decisions, they were either left where they had been found, moved to other places, or even sold for the benefit of the survivors.

More than sixty years later, “Jewish policy” and Jewish prospects for the future may have changed, and we may even regret some of the decisions taken at that time, but many objects in today’s Jewish museums all over the world still bear witness to and reflect the visions and decisions taken by the survivors back then and the realities they faced.

After these initial efforts, there were several decades of silence until Jewish museums were founded again under completely different circumstances and auspices and with different agendas

than before the war. And from this moment on, I can only speak about the situation in Germany, which itself is mostly a West German one.

The Jewish museums I am talking about are those that have been founded in Germany since the 1980s: in Frankfurt in 1988, in Rendsburg in 1988, in former East Berlin in 1995, in former West Berlin in 2001, and in Munich in 2007. And these are only the larger ones.

Most of these museums are situated in historic buildings, and their exhibitions and collections present Jewish History with a strong regional focus. Many go back to private initiatives by local historians.

This “rediscovery” of Jewish history and its institutionalization is in itself an interesting phenomenon of German “memory politics” and “public history.” It has taken place against the backdrop of the rediscovery of forgotten sites of persecution (for instance, the “Topography of Terrors” in 1984) and a growing public awareness of the Holocaust (which began with the screening of the *Holocaust* TV series in Germany in 1979).

Ever since their beginnings in postwar Germany, Jewish museums have been perceived — and have defined themselves — as counterpoints to the sites dedicated to the memory of persecution. In contrast to these sites, the Jewish museums intended to remember “not how Jews died, but how they lived.”

In this context, Jewish museums in Germany have been places of education, remembrance, and “public history,” as opposed to being traditional collection-based institutions and repositories of cultural artifacts.

There was a certain factual logic to this, since almost none of these museums could draw on prewar Jewish collections. Exceptions to this rule are the Jewish Museum of Frankfurt, which holds artifacts from the Nauheim Collection, and the Centrum Judaicum, which now houses part of the *Gesamtarchiv der Deutschen Juden* and the few ceremonial objects that survived in the Jewish community in Berlin. (It should be mentioned briefly here, that the holdings of the important pre-war Jewish museums in Germany were transferred to the United States, Israel and other countries by the JCR and IRSO after the war.)

Thus, the Jewish museums today are faced with the question of provenance when actively enlarging their collections and when researching their existing collections.

I would like to take a few minutes to explore the methods and problems of provenance research based on examples from the collection of the Jewish Museum Berlin.

In the following, I will present four examples from the collection of the Jewish Museum Berlin and the problems of provenance research associated with them.

The collection of the Jewish Museum Berlin originates from the former Jewish department of the city historical museum of Berlin. Collecting started in the mid-1970s and encompasses all genres of objects: ceremonial objects, fine art, architecture, photography, and archival documents. In numbers, the collection is not very large. The number of objects produced before 1945 is even smaller: It encompasses about 160 paintings and 400 Judaica objects, plus a small number of sculptures and about 5000 sheets of graphic art. Among the paintings we are left with 47 objects that have gaps in their provenance between 1933 and 1945. Up to the present

moment we have not received claims. We are currently researching the provenances in our collection and will publish the results on our website by the end of 2010. The art collection has been the focus of provenance research, so the examples I will give reflect this emphasis:

1. The first object I would like to present is a portrait of the rabbi and scholar Abraham Geiger, posthumously rendered by Lesser Ury between 1905–1907. It had been suggested that this is the same portrait which was part of the collection of the *Hochschule für die Wissenschaft des Judentums*, which was looted and stored in a building which was subsequently bombed. A second looting would not have been all too unlikely. However, closer examination of our pastel showed that it had a stamp of the artist's estate on the reverse. Thus, it proved to be the pastel version of the painting – a practice not uncommon for the artist. It remained with the artist until after his death, when the estate was divided up between the heirs. The pastel left Germany with its owners when they moved to the United States. It was sold by the end of the 1970s and acquired by the family, who then sold it to the Museum.
2. The second object is again a portrait: Theodor Hosemann painted Ferdinand Lassalle in 1865. The small painting was acquired at a Berlin art gallery in 1965. Inquiries there were answered, but negatively: documentation no longer exists. The literature about Hosemann, which is not extensive, does not mention the portrait – in fact, he painted hardly any portraits. The literature about Lassalle leads us to the photography the portrait was painted after, but not to the painting itself.

These two examples are quite typical for the problems we face when dealing with second or third tier artists. The exact provenance of the Lesser Ury pastel could be identified on the basis of the oeuvre currently being compiled. For Hosemann, such a catalogue does not exist yet. Thus, the case has to remain open until further information will surface.

3. My next example is a sculpture, a walking girl, which was handed over to the curator by the widow of the person who had received it from a young woman, whose name she claimed not to remember in the early 1940s, probably with the intention of safeguarding it before her emigration, deportation or flight. Research has shown that the sculpture was given as a prize at a sports event in 1934 to a young runner named Helene Finkelstein. We do not know if this prize-object remained with the winner or if it was handed over to the next winner of the next sports-festival. Neither do we know, if she was the person who had received it. But also the name Helene Finkelstein of that age could not be found in the existing lists. Now that the archive of the ITS has opened, there is a new possibility of finding a trace of her.
4. The next example is one of the core holdings of the Museum's collection of ceremonial objects. Its history recalls Aharon Appelfeld's novel: Zvi Sofer, a survivor and cantor to the community of Münster, collected it with his modest means. We do not have any documentation about his purchases, and we can only speculate about his motivation and methodology of collecting. What we are left with are objects, which many curators will know from their collections or from auction catalogues, manufacture production,

as for example of the silversmith Meyen from Berlin or the *Württembergische Metallwarenfabrik*. And even the pieces of greater artistic importance — such as the Berlin rimoni — bear no inscription or anything which may give a hint to their previous owners — let aside tell us about the circumstances of loot — or rescue.

What we see from this is that, no matter how different — and how difficult — provenance research proves to be in Jewish museums, it is not fundamentally different from that in other museums. In this respect the lawyers have been right in asking what distinguishes Judaica from looted art.

It takes just as long and is just as difficult. In addition, a great deal of luck is often required to bring together the missing pieces of the puzzle. So we see that Jewish museums share the concerns raised in the section devoted to “looted art”: they reject statutes of limitation and support demands for open access to all archival sources.

But even if all these demands are met, and even if we do our homework as diligently as possible, we will have to accept the fact that we will be left with some objects in our collections — or in our storerooms — which we most likely will never be able to retribute: either because the identity of the object cannot be clearly established, the circumstances under which they were looted cannot be clarified, or the former rightful owners or their living heirs cannot be identified.

It is this corpus of objects that raises ethical and philosophical questions as to the role of museums as “owners” or as “custodians” of cultural property. And it is at this point that Jewish museums assume a role that may be different from that of art

museums, since the culture to which they are dedicated was directly affected by the Holocaust.

To illustrate the predicaments facing Jewish museums and anyone collecting Judaica after the Holocaust, we might recall two works of art and the statements they make:

1. One is Daniel Libeskind’s architectural design for the Jewish Museum Berlin, which incorporates empty spaces called voids, echoes iconoclastic philosophical reflections on the “limits of representation,” and has led to statements such as: “*Ceci n’est pas un musée*”. Even so, Daniel Libeskind has shown that a Jewish museum is NOT something that can be taken for granted after the Holocaust.
2. The second is the novel *Iron Tracks* by Aharon Appelfeld. Ever since his release from a concentration camp forty years earlier, the protagonist has been obsessively riding the trains of postwar Austria. What keeps him sane is his mission to collect the menorahs, kiddush cups, and holy books that have survived their vanished owners; and the hope that one day he will find the Nazi officer who murdered his parents, and have the strength to kill him. The novel is remarkable because it combines both these tasks — which are actually two aspects of the same mission — and presents the act of collecting Judaica and the theme of revenge with the same degree of emotional intensity in a world of broken characters. The objects he collects are just as much “*sherit hapleita*” as the survivors he meets during his journey.

Again: what makes Jewish museums different from other museums?

First, one could view the matter from a legal perspective and discuss the notion of “heirless property” and the question of the legal owner, the successor to these “orphaned objects.” The fact that Jewish successor organizations were set up immediately after the war to avoid common succession by the state, especially the German state, is another sign of the special character of Judaica and Jewish cultural property among the Holocaust-era assets. And at this point historical specifics result in legal specifics of ownership.

And second, there is a more general, historical aspect: The Jewish museums of Europe – to different degrees and in different ways – are built on the ruins of the culture they are dedicated to. They assume the character of a memorial. Thus, the imperative which we share with all other museums, namely, “to preserve,” has taken on a different character. It entails using the means available to museums not only to remember, but also to restore the destroyed cultural context and the lost knowledge that once were associated with these objects. Today, special efforts are required to show the meaning of these objects, especially in a largely non-Jewish cultural context.

Jewish museums take on this role of re-contextualization. Through the exchange of information, through the preservation and circulation of objects, they contribute to memorializing and even re-building of at least a small part of Jewish cultural life in Europe.

Since the Terezín Declaration mentions the possibility of restoring objects for synagogue use, it is important to make the point here that this is not the only way to re-attribute cultural meaning to an object. Since every object incorporates cultural values which lie beyond its religious function in the aesthetic and

historical realms, and since Jewish culture has never been limited to religious practice, these “secular” aspects of an object are equally legitimate and important aspects of Jewish culture.

To reduce objects to their religious function or even to give unquestioned preference to this function would also place limitations on the idea of Jewish culture, which has always had a secular side and integrated influences from the non-Jewish world. Moreover, the preservation and study of Judaica and Jewish cultural property, even the founding of Jewish Museums, has been a vital part of modern Jewish culture, which in prewar Europe successfully built modern, partly secularized, and vividly Jewish identities.

Jewish museums can also assume a role in rebuilding Jewish life in present-day Europe: by preserving and studying objects, making them available to scholars, providing information about them, and circulating the dispersed heritage through loans. In doing so, Jewish museums have become part of the activities of remembrance, education, and research. As counterpoints to the original sites of the Holocaust, they preserve the objects that bear witness to Jewish life and allow the past to live on in the memory of generations to come.

► **Dario Tedeschi**

GOVERNMENTAL COMMISSION FOR THE RECOVERY OF
THE JEWISH COMMUNITY LIBRARY OF ROME (LOOTED
IN 1943), ITALY

**RESEARCH FINDINGS OF COMMISSION FOR GENERAL
SPOILIATION IN ITALY AND RESEARCH OF THE
LIBRARY IN ROME**

The looting of the assets of the Jewish citizens in Italy took place in two successive periods, and had a different form and scope in each of them.

The first period commenced in 1938; during it, most Jews lost their sources of livelihood as they were expelled from all public service jobs and often also from the private ones, were not allowed to engage in professional activities (e.g., as lawyers, engineers, and physicians), and their commercial and industrial activities were considerably limited. Jewish citizens were not allowed to own assets of an aggregate value exceeding a specified level; the part of their properties considered to be in excess was expropriated by the State. Young Jews were deprived of their right to education, and they were forbidden from attending public and private schools and universities, with obvious implications for their future employability.

The asset owners had tried from the very beginning to save at least a part of their possessions by selling them, often at low prices, or by registering them in the name of fake nominees who, however, did not always respect the agreements entered into. During this first period, the moral and material status of the Jewish citizens was lowered as the result of the deprivation of their civil rights, but their physical extermination had

not yet started. The Jewish population managed to survive in relative freedom, although often in precarious conditions, or even poverty.

The second period followed after the armistice declaration on September 8, 1943; German troops immediately occupied Italy and the Italian Social Republic was created. The Jews were declared to be aliens and were treated as members of an enemy nation, which resulted in arrests, murders and mass deportations perpetrated by the German forces and the Italian fascists. The Jews were not allowed to own any possessions anymore and a decree was issued against them saying that "all their movable and immovable possessions should be seized immediately to be later confiscated to the benefit of the Italian Social Republic."

The regulations in the first period were promulgated by the Italian government of that time and had the form of laws, decrees and often even of ministerial circulars. As to the second period, besides the steps taken by the Salò Republic, other very serious measures were adopted directly by the German Commands.

A commission set up by the Prime Minister's Office of the Italian Republic in December 1998 investigated the looting in Italy and the underlying measures as well as the consequences of the restitution and compensation measures ordered after the end of the German occupation. This Commission (known as the "Anselmi Commission" by the name of its chairwoman, of which I was a member), finalized a summary report in April 2001, the text of which, already translated to English, can be found on the website of the Prime Minister's Office.¹

¹ See: http://www.governo.it/Presidenza/DICA/beni_ebraici/index.html.

It is a structured report which informs on the difficulties and complexity of the investigations, given the fact that the investigated events happened almost two-thirds of a century earlier, with a wide range of measures adopted, and a broad range of authorities which ordered and subsequently implemented them. This situation highlighted the need to investigate archives of many authorities and agencies scattered across the Italian territory; it was not always possible to complete this research, as in some cases the underlying documents were destroyed during wartime.¹ The access to public and private archives (such as private bank archives) was smooth. The report, although it states that a detailed reconstruction of the past events is impossible, provides information on the scope and scale of the looting, as reflected clearly in the hundreds and hundreds of both legislative and administrative measures, and almost eight thousand confiscation orders issued by the Republic of Salò. According to the Commission, the confiscation orders list all types of assets; not only valuable objects such as the immovable assets that had not yet been confiscated, but also humble household objects and strictly personal effects, even toothbrushes!

As early as in 1944, before the liberation of the entire national territory, the government of liberated Italy introduced legislation governing the restitution and compensation measures which was completed in the years to follow. The Commission considered the measures taken to be mostly positive and it pointed out that the legislation relating to the restitutions turned out to be sufficiently timely and comprehensive. The Commission also observed that in several cases the impact of these measures has not been satisfactory for various reasons

¹ "The Report" (text), p. 6, p. 36, and the following.

of different nature which are listed exhaustively in the report; I must necessarily refer to the report here as well as I am referring to the conclusive reflections and recommendations included in the final report which relate to the archives, research, individual compensations, conservation of memory, and educational purposes.

I think it is useful to mention here, taking into account firstly the draft Terezín Declaration which is going to be submitted to the Plenary Assembly and secondly the assets seized from the Jews, that Italy has already introduced some of the measures proposed by the abovementioned Declaration.

As early as 1947² a provision was enacted as requested by the Union of Israeli Communities in Italy, which established that the inheritance of the Jews who had died as a result of racial persecution without heirs shall be transferred to the Union of Israeli Communities, notwithstanding the law specifying that in case a person dies without heirs, his/her property shall be forfeited by the state. In fact, the enforcement of this Act is difficult for various reasons, one of which is the difficulty of establishing the existence of the assets already expropriated or confiscated, which had not been claimed by their owners or their heirs.

An Implementing Act promulgated in 1997³ stipulates that the assets stolen from the Jewish citizens, or from persons regarded as such, for reasons of racial persecution, which could not have been returned to their rightful owners as the latter were missing or untraceable as well as their heirs, and which are

² *Dlcp*s no. 364 as of 11 May 1947, *Gazzetta Ufficiale*, no. 119 and 120, May 27 and 28, 1947.

³ Act no. 233 as of 18 July 1997, *Gazzetta Ufficiale*, no. 171, July 24, 1997.

still retained or held by the Italian state for any reason, shall be assigned to the Union of Italian Jewish Communities who shall distribute them to the relevant Communities according to the origin of such assets and location from where they were stolen.

This Law was applied at least in two important cases. The first one was related to the assets found in the immediate postwar period close to Klagenfurt, Austria, which had probably belonged by Jews deported from the city and the province of Trieste. These were personal effects some of which were valuable, such as gold watches, bracelets and other jewels stolen from the deportees. Only a very small portion of those assets could be returned to their owners or their heirs. The remaining portion, which was placed in five large bags, had been stored for decades by the Ministry of Treasury. In compliance with the aforementioned Act, which was expressly enacted on this occasion, these assets were allocated in 1998 to the Union of Jewish Communities which, in turn, handed them over to the Jewish Community of Trieste, the territory of origin of the victims who had owned the assets in question.

Another interesting application relates to an important collection of eighteenth-century German porcelain¹ which was confiscated from a family of German origin which had fled to Italy and lived in Merano, at the moment when they were expelled from Italy and were crossing the border again to move to the United States. The Anselmi Commission has investigated this case and mentioned it in its final report,² concluding that the competent administrative authority recognized the substantial illegitimacy of this confiscation and therefore also the ensuing obligation of restitution. As all traces of the Kaumheimer

¹ The Autonomous Province of Trento, *La collezione Kaumheimer*, Trento, undated.

² "The Report", p. 146.

family appeared to be lost, the 1997 Act was applied and the collection was assigned to the Union of Italian Jewish Communities with a view of its subsequent allocation to the Jewish Community of Merano. Subsequently, the collection was returned to the Kaumheimer family as the Union of Jewish Communities was finally able to find its members.

For reasons of completeness, please note that other measures were also taken; however, these do not necessarily relate to stolen assets, such as the life annuity, equivalent at least to the minimum social pension, which is granted to all former persecution victims, etc.

During its work, the Anselmi Commission was dealing also with the destruction of the archives and libraries of Jewish communities.³ It was dealing mainly with the looting of the library of the Jewish Community of Rome, stating its importance in its final report. As I had the opportunity to mention at the previous conferences held at Vilnius, Hanover,⁴ and Liberec⁵ and as it is pointed out in the report itself, this library contained manuscripts, incunabula, *soncinati*, works printed in the 16th century by Bomberg, Bragadin and Giustiniani as well as early 16th-century publications from Constantinople and other 17th and 18th century publications from Venice and Livorno.

³ "The Report", p. 154.

⁴ D. Tedeschi, *Research of the Roman Jewish Community's Library Looted in 1943*. In "Jüdischer Buchbesitz Als Raubgut". Klostermann, Frankfurt Am Main, 2006, pp. 243–252.

⁵ Ibid. *The Libraries of the Jewish Community of Rome and the Italian Rabbinical College Looted by the Nazis: The work of the Commission set up for research by the Italian Government*, in: *Proceedings of the international academic conference held in Liberec on 24–26 October 2007*, Prague, 2008, pp. 114–122.

Following the submission of the Report prepared by the Anselmi Commission, and in compliance with the recommendations specified in its final reflections, the Union of Italian Jewish Communities submitted to the Prime Minister of that time a memorandum containing a certain number of requests. The Commission was asking the State above all to renew its commitment to continue the systematic research of the Jewish Community Library in Rome and highlighted the enormous cultural value of the looted material besides its simple market value, stressing that its research was in the interest of the country's cultural heritage in general.

This appeal was received favorably, given also the considerable cultural importance the discovery and recovery of the Jewish Community Library could have for the Italian state. A new Commission was established under the Prime Minister's office with the mission of "promoting further research in order to reconstruct the events relating to the bibliographic heritage of the Jewish Community in Rome which had been dispersed after the looting perpetrated towards the end of 1943 and, if this heritage or a part thereof is discovered, to outline the measures governing its recovery."

I had the honor of being a member of this Commission,¹ which

¹ The members of the Commission were as follows: Mr. Dario Tedeschi (Chairman; Union of the Italian Jewish Communities); Ms. Anna Nardini (Prime Minister's Office), Ms. Bruna Colarossi (Prime Minister's Office), Ms. Rosa Vinciguerra (Ministry for Cultural Heritage and Activities), Ms. Marcella Conti (Ministry of Justice), Mr. Michele Sarfatti (Director of the Centre of Contemporary Jewish Documentation), Mr. Mario Toscano (University La Sapienza in Rome), Ms. Filomena Del Regno (University La Sapienza in Rome), Mr. Lutz Klinkhammer (German Historical Institute in Rome), Mr. Sandro Di Castro (Union of the Italian Jewish Communities).

The Ministry of Foreign Affairs was represented successively by: Minister Plenipotentiary Piergiorgio Cherubini, Minister Plenipotentiary Fabrizio Piaggese, Minister Plenipotentiary Maurizio Lo Re, Minister Plenipotentiary Alessandro Pignatti, Minister Plenipotentiary Sergio Busetto and Minister Plenipotentiary Daniele Verga.

grouped historians and expert archivists as well as representatives of the Prime Minister's Office and of other relevant Italian Ministries (such as the Ministries of Foreign Affairs, Cultural Heritage and of Justice). When the Commission accepted this mission, it was well aware of the enormous difficulties related to such a research, in particular because all traces of the library disappeared when it was sent to an unknown destination on railway wagons of which only the initials were known as well as the fact that they belonged to German Railways. As a result, no mention of the Library of Rome was found in the bibliography relating to the Nazi depredations despite its considerable extent. Towards the end of 2005, i.e., when this issue was raised in Italy and the details of the looting were spread among the experts thanks to the work of the Commission, Patricia K. Grimsted wrote about it in one of her documents.

In relation to this, it should be mentioned that in the postwar period, parts of the looted archives and libraries were found in various locations controlled by the Allied troops and returned to the institutions or individuals to whom they had belonged. This relates to books belonging to the Library of the Italian Rabbinical College, which were returned and during some time were considered to represent the entire contents of this library. However, in 2005, during a conference held in Hannover, the astonished Commission delegation that participated in it received a Pentateuch, printed in Amsterdam in 1680 and bearing the bookplate of the Italian Rabbinical College. This book, whose history would be too long to narrate here, but which can be found in the Acts of this Symposium,² is assumed to be a part of a group of books stolen by the Nazis that

² On this subject, see Hoogewoud F.J., *Eine späte Rückgabe*. In *Jüdischer Buchbesitz als Raubgut – Zweites Hannoversches Symposium*. Frankfurt am Main, 2006.

has not been found yet. The Commission learned later from an interview held during its work that a group of valuable incunabula belonging to this library had been lost. The Commission was then asked to include in its research not only the Jewish Community Library in Rome but also the so far undiscovered part of the Rabbinical College in Italy that had the same fate and was also of unquestionable importance.

The research activities of the Commission took many directions and followed various lines of inquiry. These activities have been amply described in the final report to which we must refer. It is possible to mention here just the fact that the research has been conducted not only on the basis of the study of publications relating to the Nazi looting of books and other assets but also due to the correspondence with experts in the relevant fields and above all due to visits to archives dispersed around the world which were supposed to keep the records related to the looting. The research was carried out in archives in Germany, the United States, and the Russian Federation as well as in other countries. The list (which is just partial) of the missing books has been digitized to facilitate the search in the library catalogues. The copies of stamps and bookplates affixed to the missing books were also distributed.

Despite this in-depth research, which had been strongly encouraged by the Commissioners for quite a long time, the Jewish Community Library in Rome (and the still dispersed part of the library of the Italian Rabbinical College) has not been found. However, the activities of any commission are limited and in this case, apparently no further extension was possible of the already broad and engaging research performed by the Commission. However, some significant results have been achieved.

Firstly, as mentioned in the final report, a certain amount of information and of documents has been acquired which throws some light on the looting, thus potentially paving the way for further research. Secondly, the correspondence and personal contacts, the participation in international conferences and the publication of reports including the present one have attracted the interest of experts to a subject rarely dealt with until now.

An interesting document was found in the *Bundesarchiv* in Berlin. It was a monthly report signed by Hans Maier – who had been the head of the *Einsatzstab Reichsleiter Rosenberg* (ERR) group active in Italy – informing the headquarters that the last shipment of books from the Synagogue in Rome was sent to Frankfurt on December 23, 1943. This confirms that, from various Nazi agencies dealing with the looting, many of which competed among themselves, the looting in Rome was accomplished by the ERR.¹ This document thus provides an important clue that is useful also for research purposes. The ERR report of November 1944² contains also a reference to the looting committed the previous year.

In the *Jewish National & University Library* in Jerusalem, a hard-copy catalogue of books from the Italian Rabbinical College was found dating back probably to the thirties, as well as an application form for books to be consulted. The Commission obtained a microfilm copy of this catalogue and a photocopy of the form, but has so far been unable to establish how the catalogue made it to this location. Apparently, this was the catalogue prepared by Fabian Herskovitz which is known

¹ Letter of 21 January 1944 of the ERR *Sonderkommando Italien* signed by Maier, *BundesArchiv*, NS30/32.

² Report of 28 November 1944, *Bericht über den Besuch in Bad Schwalbach und Hungen*, signed by Wunder, ERR - Stabsführung/I, Ratibor, Centre de Documentation Juive Contemporaine de Paris, CXL1-150.

to have been seized by the Nazi looters in 1943, shortly before the two Roman libraries were stolen. It is highly likely that the catalogue found is the document described as “No 142 – Collegio Rabinico Italiano. Rome. Italian manuscript (book index)” in the “Monthly Report” prepared by the OAD as of 31 May 1947.

As for the books, apart from the abovementioned discovery of the Pentateuch belonging to the Italian Rabbinical College, two manuscripts were found at the *Jewish Theological Seminary* of New York, which belonged beyond any doubt to the Jewish Community in Rome as they bear the stamp of this community indicating that they were owned by it. The Commission obtained a microfilm copy but was unable to determine exactly whether these manuscripts formed part of the books looted.

Finally, according to a document written by Estelle Gilson,¹ a manuscript and a *cinquecentina* – which belonged to the Jewish Community Library in Rome – can be allegedly found in the library of the *Hebrew Union College* in Cincinnati. However, the Library has informed the Commission that they did not know the abovementioned documents existed.

And, last but not least, we should mention the research conducted in Russia by the Russian State Library of Foreign Literature led by Ms. Ekaterina Genieva. As early as in 2003, during an official meeting between Mr. Mario Bondioli Osio, Minister Plenipotentiary, and M. Khoroshilov, Russian Deputy Minister of Culture, it was said that the possibility that the searched library could be located in Russia was “far from being excluded.”

¹ Gilson E., *The Fate of the Roman Jewish Libraries*. In De Benedetti G. October 16, 1943. Indiana: University of Notre Dame Press, 2001.

The Commission found also indirect evidence which somehow corroborates this hypothesis, and which is amply illustrated in its final report. Among the various directions taken by the research, the Russian track was perceived as an alternative to the surveys conducted in the United States on the basis of another assumption, i.e., that the libraries of Rome ended up on the Anglo-American territory.

Research was therefore conducted in libraries and archives in Moscow and Saint Petersburg. The results have not been favorable; however, they cannot be considered to have been completed as the research could not have been conducted on certain sites to which access was prohibited. The Russian party proposed to explore other sites within the vast Russian territory; however, before starting this research, which would be both costly and uncertain, it is necessary to complete the research on the sites in Moscow and Saint Petersburg which have not yet been visited.

It is possible to conclude that, given the almost total absence of documents referring to the looting of libraries of the Jewish Community in Rome and of the Italian Rabbinical College, the Commission expended a long and tedious effort in order to trace back the journey of the libraries after being stolen from the place where they were stored, and to identify the Nazi organization responsible for the looting.

Hope was expressed that, at some point in the future, the data obtained as a result of the Commission's work could be combined with other data obtained by other researchers, possibly as a result of exploration of the Russian archives which are not accessible at present, and thus enable to find an irreplaceable cultural heritage which should not have disappeared based on the qualified estimate of the Commission.

As stated in the final part of the Commission's report,¹ despite the fact that its efforts rendered only partial results, it is necessary to highlight again the importance and usefulness of further investigations.

Even before the library is found, it is necessary to reconstruct the history of its looting in the context of the ERR activities and the Nazi policy of plundering of works of art and of all documents related to the history and life of Jews, which represented a substantial part of the German racial politics. The exact reconstruction of the ERR's activities in Italy, identification of the specialized staff directly involved in the operation, reconstruction of the passage and storage of the heritage, their activities, comparison of facts with the facts from other libraries and archives looted, dispersed, but sometimes found and returned to their rightful owners, are all important and significant aspects of a research project. This project has been launched but must be completed not only in order to reconstruct this specific event but also due to the light it can shed on the Nazi policies during the occupation of Italy and on the looting of cultural assets and libraries in other occupied territories.

The Commission felt that its efforts helped to pave certain ways for the research, which nevertheless requires a deeper, patient and careful investigation of archives given the fragmented and dispersed nature of the resources to be studied.

As to the latter, the priority is to deepen the analysis of the documents kept in the archives in the United States and Germany, and to examine the documents in the Russian archives,

provided the constraints the Commission had to face during its activities in Russia are overcome. The result of this effort should be the reconstruction of a specific chapter of the history which can only be understood in the broader context of the events of WW II and of the early years of the postwar period.

¹ *Report on the activities of the Commission for the Recovery of the Bibliographic Heritage of the Jewish Community in Rome, looted in 1943.* See: <http://www.governo.it/Pn>.

Distribution of Collected Judaica and Jewish Cultural Property After 1945

► Dov Schidorsky

THE HEBREW UNIVERSITY OF JERUSALEM, ISRAEL

THE HEBREW UNIVERSITY'S BOOK SALVAGING ACTIVITIES IN POSTWAR CZECHOSLOVAKIA AND THE PROBLEMS OF RESTITUTIONS IN ISRAEL

My subject is books. Not the money, insurance policies, artwork, or immovable property that the Nazis confiscated and stole, but books – entire public and private collections of books and even a single book. Most of the books, by themselves, were of no monetary value or of only little such value. Their importance was and is that they constituted and constitute a link to their persecuted and missing owners – a tie to their spiritual world, which was destroyed and is lost. They constitute a shard of memory; their contents represent the spiritual heritage of Judaism, which the Nazis had sought to destroy. After the Holocaust, hundreds of thousands of these books – including forty to seventy thousand books that were found after WW II in various locations in Czechoslovakia – were transferred to the Jewish National and University Library (JNUL). The books and the libraries had thus come to the same places to which the persecuted Jews had wandered seeking shelter.

Schopenhauer claimed that libraries constitute the permanent memory of humanity. Here the traumatic remembrance of the victims was absorbed into the remembrance tradition and was

allotted a symbolic location and cultural site in the JNUL in Jerusalem. And so the people of the book as an integrated corporate body could develop and strengthen a collective memory that is intertwined with the fate of the book.

In his letter to the Allied leaders dated September 20, 1945, Chaim Weizmann drafted the Zionist policy regarding claims for the restitution of the assets of the dead and heirless Jews. Weizmann sought to prevent the return of the ownerless property to the oppressor countries and to have it instead entrusted to the Jewish Agency for Israel, which represented the World Zionist Organization. In this letter, he wrote the following:

- ▷ The problem of restitution embraces... valuables of various kinds taken from Jewish institutions and individuals, as well as Jewish cultural, literary and artistic treasures...
- ▷ But many of the institutions have been swept away, and will never be restored while considerable numbers of Jews have been murdered and left no heirs... It should need no argument to prove that property by crime rendered masterless should not be treated as *bona vacantia*, and fall to the governments which committed the crimes, or to any other governments, or to strangers having no title to it...
- ▷ The true heir, therefore, is the Jewish people and those properties should be transferred to the representative of the Jewish people, to be employed in the material, spiritual, and cultural rehabilitation of the Jews.
- ▷ The Jewish Agency for Palestine therefore makes the following submissions:

- That with regard to the problem of Jewish property forming the subject-matter of indemnification and restitution, in so far as the individual or communal owners of such property cannot be traced, the title should pass to the representatives of the Jewish people...
- That in so far as such assets are to be employed in rehabilitating in Palestine the Jewish victims of racial and religious persecution, they should be entrusted to the Jewish Agency for this purpose.

In accordance with the principles outlined in this letter, the Jewish Agency authorized the Hebrew University and the JNUL to represent it with regard to the Jews' cultural property and in particular with regard to the "Diaspora Treasures" (as the manuscripts and books that had been confiscated and stolen by the Nazis were called). At the beginning of 1946, the University established two committees: the Committee to Salvage the Diaspora Treasures and the Legal Committee. The latter committee was charged with providing a legal basis for the restoration of the Diaspora Treasures to the Jewish people. The legal arguments were to be accompanied by a consideration of the relevant perspectives of social justice, morality and practicality — all with regard to three claims to be made regarding the treasures: a demand for the return to the Jewish people of cultural assets which remained ownerless and heirless; the claim that the University and the JNUL be recognized as the sole trustees for cultural assets; and the claim for special compensation to be provided out of the cultural treasures located in the public libraries in Germany. The Legal Committee recommended that the Jewish Agency be asked to separate the handling of the cultural property from that of the other assets, and to charge the University and the JNUL with the handling of the former type of property. The

Jewish Agency did consequently recognize these institutions' rights to serve as trustees for such assets and gave the University a power of attorney to enable it to take the steps necessary to obtain the cultural assets, including the conduct of negotiations with the Allied authorities in Central Europe regarding this matter.

In order to implement the above-mentioned policy, the University sent some twelve emissaries to different countries in Europe during the years 1946–1976, including to Czechoslovakia. As is known, hundreds of thousands of books, the remnants of the libraries and collections of the victims and of displaced European Jews, were to be found in various locations in Czechoslovakia. Part of the Reich Security Main Office Library in Berlin, a library created by the Nazis and which included thousands of books and entire collections that had been stolen from Jews, had been evacuated to various castles in Bohemia and Moravia. Another part, which included most of the Hebraica books, was transferred to the Terezín Ghetto. The various places in which the books were sheltered and the manner in which they were taken in at the various castles to which they were brought is described in detail in the published research of Patricia Grimsted and it needs no repetition here. Within the few minutes allocated to me, I would like to answer the following questions in brief: who were the University's emissaries who operated in Czechoslovakia; what problems did they encounter while transferring the books to Jerusalem; and what is the prognosis regarding the restitution processes for hundreds of thousands of books absorbed in Israel. My comments here are based on the confidential reports of the emissaries that were published in Hebrew in my book "Burning Scrolls and Flying Letters" which was published by the Hebrew University's Magnes Press last year.

The first emissary was Gershom Scholem, a professor of Jewish philosophy and an expert on Jewish mysticism, who reached Prague in June of 1946. His main contribution was that he succeeded in having the institutions with whom he conducted negotiations recognize the status of the Hebrew University as the representative of the Jewish people and as the heir of the Jewish cultural assets that remained ownerless or heirless. He also persuaded these institutions that by virtue of its status as such, the University was entitled to claim these assets and to hold them in a trust framework. Scholem was able to obtain the consent of the Jewish Community Council of Moravia and Bohemia for the transfer of the Terezín books to the Hebrew University in Jerusalem. This consent was accompanied by certain conditions. Important as they are, it is impossible to dwell upon them now. Regarding the books located in the various castles, he proposed that a commission from the Jewish community go to the castles and examine the books, with the consent of the Czechoslovakian government. Afterwards, negotiations would be conducted with the authorities so that they would waive the formal ownership rights that they held pursuant to the Czechoslovakian law, according to which whatever the Germans had brought into the country belonged to the country. Finally, he proposed, the transfer of the books to University, in trust, could be approved.

The second emissary was a librarian and professor of philosophy, Hugo Bergman. Bergman was a Prague native and had previously served as a librarian at the Charles University in Prague. He had contacts and acquaintances at the Jewish institutions and at the Ministry of Education in Prague, dating back from the time that he was the director of the JNUL during the nineteen-twenties. (He had hosted Tomas Masaryk at the time of his visit to Jerusalem in the summer of 1927, and had heard him speak of

Zionism and say "I see Zionism above all from the moral side, I see in it a drop of the oil of prophecy.")

Bergman stayed in Prague from the 6th through the 14th of November in 1946. He persuaded the Charles University Library to give up their demand to receive the books held at Terezín and persuaded the Ministry of Education to grant approval for the removal of these books. He visited the Nimes Castle and on the basis of Scholem's proposals, Bergman conducted negotiations with the Jewish Communities Council regarding the transfer of the books held at that castle.

He took care that the Communities Council transmitted to the Czechoslovakian Ministers Council the recommendation that the books be transferred.

Dr. Arthur Bergman, Hugo's brother, was sent to conclude the negotiations and to implement their outcome. He had worked for the Czechoslovakian government in the past, and his contacts from that period helped him to carry out the tasks with which he had been charged. He succeeded in advancing the handling of the Terezín books which were stored for delivery at the Prague railroad station. The Nimes Castle books were transferred to the management of the Jewish Communities council and were stored in the Jewish cemetery in Prague. His work regarding the consolidation of bibliophile Sigmund Seeligmann's collection — part of which was held at the Nimes Castle and part of which was among the Terezín books — should be specially noted.

The preparation of the shipment was entrusted to the fourth emissary, Ze'ev Shek. Shek was a native of Olomouc, a Zionist activist and a Hebrew teacher in Prague, who worked in Czechoslovakia from September 1947 through July of 1948. While using

various ploys to work around the standard procedures, as well as his wisdom, Shek succeeded in gathering 35,000 books from the various castles, and thousands of the Terezín books into the Jewish Community's storeroom in Prague. He took care of the sorting and packing of the books, and he handled the export licenses and the deliveries via Antwerp to Palestine. His mission contributed to the fact that the institutions in Czechoslovakia came to understand the need of the hour and were able to appreciate the creative power of the Jewish people in Palestine, who were concerned with the preservation of their spiritual assets in the Diaspora, even as they struggled for survival during the War of Independence in 1948.

The emissaries faced numerous obstacles in their attempts to achieve their goals. One main difficulty was presented by the remaining members of the Jewish communities in Prague, where the emissaries encountered opposition or at the very least a pronounced lack of goodwill, which complicated and delayed the negotiations. The discussions held between Scholem and the Council of Jewish Communities of Bohemia and Moravia — which had been given custody of the books that had been transferred from the Terezín ghetto and had originated in the Reich Security Main Office Library in Berlin — were a good example of this type of difficulty.

The community leaders, who were considered to be Zionists, made various arguments — some quite strange — in opposition to Hebrew University's request to receive custody of the books. They argued that they had no right as a community to decide the fate of the books, which had been given to the community in trust; that claims for restitution needed to be made before the books were disposed of; that the books should be kept in Prague because they would be safer there than in Jerusalem; that the

Association of German Jews would have to give its consent to the transfer because the Association had had custody guardian of the books in the past; and that the books were to be set aside for a projected institute of Jewish studies in Prague.

These differences in the attitudes of the Diaspora communities and those of the Hebrew University and JNUL emissaries with regard to the transfer of the communities' collections can only be understood against the background of the internal debates that were held in the immediate postwar era in Jewish Palestine, and later in Israel, as well as in the Jewish Diaspora — regarding the revival, restoration and viability of the Jewish communities in Europe after the Holocaust. This debate also explains the Hebrew University's policy of seeking to establish exclusive right of the Jewish nation — as embodied by the Jews in Palestine (and later, in Israel) — to receive the ownerless and heirless cultural treasures.

It should be recalled that these European communities had essentially been destroyed, and what remained were survivors, including displaced persons, who had come to their current communities from various different countries. Few of them even knew how to read Hebrew. Despite all the destruction and the economic and existential distress, the idea of re-building viable Jewish communities on the remains of the old ones took form. Of course, the Communists and anti-Zionists generally supported this approach, but, surprisingly, even ardent Zionists in the various communities frequently took a similar position. In contrast, the stand taken by the Hebrew University emissaries was fervently Palestine-oriented — they believed strongly that the Jewish communities that had been destroyed during the war should not be revived. And as Hanna Arendt had phrased it: "Only in centers of Jewish scholarship and intellectuality could a living tradition awaken."

The emissaries' activities were also adversely affected by political events that caused various governments to object to the transfer of the books outside the country. For example, after the 1948 Communist Revolution in Czechoslovakia, the majority of the government ministers and of the Zionist leaders who had headed the Czechoslovakian Jewish community retired or were forced to resign, and they were all replaced by individuals with Communist orientations. The process of receiving the many approvals and documents required for the transfer of the books from the Terezín ghetto was consequently slowed down, and the new government placed numerous obstacles in the path of the Hebrew University emissaries, with government clerks doing their jobs as if under duress.

In addition to all of the above-mentioned problems, the Charles University in Prague wished to establish a Central Library of Judaism in the context of its National and University Library and it therefore asked that the Judaica and Hebraica be transferred to it.

The emissaries' reports are worth studying. They supplement each other in terms of the details of the struggle to save the books in Czechoslovakia. They indicate the sense of mission that beat in the hearts of these four emissaries. The first of these had arrived in Prague without any exact instructions, and the absence of any detailed information regarding the locations of the books and of their contents encumbered their activities. Sholem and Shek argued that if they had arrived in Prague in the summer of 1945 at the time of the liberation of the Terezín ghetto, their jobs would have been much easier. Because of the actual timing of their arrivals, the four emissaries required two years of negotiations and tremendous expenses in order to transfer the books to Jerusalem. These negotiations were accompanied

by a struggle with an ungainly bureaucracy, by suspicion, and sometimes by a hostile attitude and deliberate deception. The emissaries had to act with great wisdom, to use a cautious and diplomatic approach, and not a few scams in order to overcome the many obstacles that they faced. The considerable expenses were paid by the University with the assistance of the JDC and the Jewish Agency. On the other hand, despite the bureaucratic obstacles it created, the Jewish community eventually related positively to the transfer of the books to Jerusalem and even took part in some of the financing. In addition, the work of Otto Muneles and Hana Velovková from the Jewish Museum also furthered the goals of the Hebrew University.

The available documentation does not provide a satisfactory answer as to the quantity of books that eventually reached Jerusalem from Czechoslovakia. There are no records of the receipt of the books at the JNUL. The books remained in storerooms in Antwerp for many months. It should be recalled that in December of 1947, transportation to Mount Scopus in Jerusalem became difficult in light of the War of Independence. In April of 1948, such transportation was suspended and at the end of June of the same year, the University's campus and its surroundings were declared to be a demilitarized zone, detached from Jewish Jerusalem. The library was required to carry out all its activity in Jewish Jerusalem, in various buildings spread out throughout the city. Storage areas for the absorption of thousands of books were not available, and the books were therefore delayed in the port at Antwerp. One document from the beginning of 1949 states that 70,000 books had been saved in Czechoslovakia and were being held at the Antwerp port, while efforts were being made to transfer the Terezín books. A later document, from the beginning of 1950, indicates that some 40,000 books had left the port of Antwerp and were en route to Israel.

The Hebrew University adopted a system of guidelines and supervision, in the context of which policies could be determined regarding the distribution of the books among the JNUL and the Hebrew University departmental libraries on the one hand, and among the JNUL and other Israeli libraries outside of the Hebrew University on the other hand. These mechanisms prevented discrimination and ensured as just a distribution as was possible among the various institutions in Israel, i.e., the Hebrew University and the public libraries. One of the system's important components was a public advisory committee comprised of representatives of the institutions that were interested in receiving the books. Such recipients consented to an appropriate set of conditions, such as a ban on the sale of the books and coordinated responses to claims for restitution. An internal university committee determined the policy for the books' distribution within the Hebrew University framework. By the mid-1960s, some 300,000 books had found their way to Israel's cultural institutions, institutions of learning, and scientific and religious institutions.

In recent years, a very important development concerning restitution in the State of Israel has taken place. In February of 2006, a parliamentary commission was established for the purpose of locating and returning assets of Holocaust victims which are located in Israel. Following the commission's deliberations, the Knesset, in December of 2006, enacted the Restitution of Assets of Holocaust Victims Law – 2006. There are, located in the State of Israel, many assets that belonged to individuals who perished in the Holocaust and whose heirs, who have rights to these assets, have not yet been located and whose assets have not yet been restored to them. These include real property assets, personal property, funds, deposits, securities, insurance policies and various rights. Books and manuscripts are included among

personal property. Some of these assets are currently managed by the Custodian General and some are held by private and public entities. As stated above, the books and manuscripts were distributed among many public libraries throughout the country. The Law that was enacted in 2006 is intended to increase the efforts at restoring the assets of Holocaust victims that are located in Israel to the heirs of their previous owners. This is to be done through the establishment of a special Company for this purpose, to whose ownership all the assets of Holocaust victims that are located in Israel will be transferred, and which has been charged:

- ▷ To take steps to locate assets of Holocaust survivors and transfer them to the Company;
- ▷ To take steps to obtain information regarding the assets and to locate heirs and the holders of other rights in the assets; and
- ▷ To return the Holocaust victims' assets or their fair value to those entitled to them.

If there are no heirs or any other parties with rights, the Company may sell the assets and make use of the accumulated funds to provide assistance to needy Holocaust survivors, or to support institutions and public entities whose purpose is Holocaust commemoration, documentation, education or explanation.

But this is a mixed blessing. According to the letter of the Law, thousands of books that were received in Israeli libraries as cultural assets of Holocaust victims are covered by it, thus being a legitimate subjects of the restitution process. In other words, the Law does not distinguish between the different ways in which

the assets came to Israel. It does not distinguish between those bought by European Jews and sent and deposited in Palestine before WW II, those that were contributed to the Israel Museum and those that were purchased by Yad Vashem and – in contrast – those that came to Israel as a result of the work of the University emissaries.

In conclusion, the absence of lists and inventories of the assets that were received and taken in at the JNUL, the distribution and dispersal of some 300,000 books among tens of libraries throughout the State of Israel, the absence of any detailed documentation in the sixty years since they were brought to Jerusalem – all these are factors that make the restitution process a very complex one. Given the current circumstances and conditions, the production of proof for each and every item, by autopsy in the stacks, would seem to be – from the financial and purely practical point of view – an insurmountable task.

► Eleonora Bergman

THE EMANUEL RINGELBLUM JEWISH
HISTORICAL INSTITUTE, POLAND

COLLECTION OF JUDAICA AFTER 1944

The approach taken to looted Jewish property found after WW II was different in Poland than in Western Europe. In the American occupation zone, the redistribution of these findings was based on a firm conviction that, after the presumed total destruction, chances for the rebirth of Jewish life in Eastern Europe were nil, so the decision was made to send these items first of all to Jewish communities in Palestine (later Israel) and the United

States. Other destinations were Great Britain and South America. Therefore, we will most probably never know if the collection of the Mathias Bersohn Museum of the Warsaw Jewish Community (taken by the Germans in March–April 1940) and most of the collection of the Main Judaic Library in Warsaw (taken as early as December 1939) survived, and if so, where they went.

In the occupied Polish territories, we know of at least three collection points where looted Jewish property was stored: objects from Warsaw and its surroundings went to the National Museum in Warsaw; belongings of victims of the Majdanek camp to the Castle of Lublin; and Judaica from the territory of the so-called Warthegau (Warta River District) which had been incorporated into the Third Reich were amassed in the Municipal Museum in Toruń. In the German territory which became Poland after 1945, such as in Lower Silesia, several castles' cellars were used for storage.

In Poland, former Jewish property, when discovered in such places by Polish officials, was declared property of the state. Much of this property was given to the Central Committee of the Jews in Poland, a body that represented all of decimated Polish Jewry. The Committee was established almost immediately after Polish territories began to be liberated by the Red Army in July 1944. The Committee was relatively independent (funded by the Joint) and it provided a reliable address for both the Polish government and the foreign public in all matters involving Jewish claims.

One of the Committee's departments was the Jewish Historical Commission which, on December 28, 1944 officially became the Central Jewish Historical Commission. Its first headquarters was in Łódź which had not been destroyed during the war (except for all the large synagogues that were burnt by the Nazis

in November 1939). By 1945, the Commission had several dozen local branches and correspondents in various towns. The main task of the Commission was to gather documentation of Nazi crimes on the one hand, and testimonies of Jewish survivors and documentation of Jewish resistance on the other. In 1946, the Commission decided to organize an archive, a library, a museum, a photographic collection and a publishing house of its own.

By the end of 1946, the Commission was already in possession of its greatest treasure, the first portion of the clandestine archive of the Warsaw Ghetto (the so-called Ringelblum Archive), found in the ghetto's ruins (the second part was found four years later). Besides that, it already had about 8,000 archival files, several dozen diaries, and about 2,000 survivor testimonies. It had several thousand books found in the ruins of ghettos or preserved by Polish neighbors; roughly 250 paintings, sculptures, items of ritual art, as well as ghetto currency and ghetto stamps; in addition, it had approximately 3,000 photographs taken by Germans during deportations and exterminations.

On May 3, 1947, the Central Committee of the Jews in Poland decided to move the entire Commission, along with all of its collections, to the renovated building of the former Main Judaic Library and to transform the Commission into the Jewish Historical Institute (JHI). It started its full operations in October 1947. It continued collecting archives, books and artifacts. In early 1948, a significant collection was discovered in a Lower Silesian castle in the village of Kunzendorf (now Trzebieszowice); it was secured by the JHI branch in Wrocław and then transferred – certainly with official permission – to the main building of the Institute in Warsaw. This cache included several thousand books (some of them from the Main Judaic Library in Warsaw and the Jewish Theological Seminary in Breslau/Wrocław), several hundred

manuscripts and old prints, three *parokhot* (Torah ark curtains), and eleven *Megilloth Ester* (Scrolls of the Book of Esther).

The state's central and local authorities, as well as municipal institutions, were cooperative in achieving the Institute's goals. In minutes of the board meeting of the Central Committee of the Jews in Poland on September 27, 1947, we read about plans for the Institute: "... We will receive all the archives of Jewish communities from the state archives... We will receive artifacts from the state museums as deposits for our museum..." The first happened indeed, although some of the archival collections were later withdrawn from the Institute in 1968). As for the latter, museum artifacts came to JHI mainly from the German collection points. In June 1949, the Municipal Museum in Toruń, following the instructions of the Ministry of Culture and Art, transferred to JHI 89 artifacts looted from synagogues of the Chełmno Province, among them from the synagogue of Chełmża, one of the largest Jewish communities of the region. The National Museum in Warsaw gave JHI some pieces of a wooden Torah ark, probably from one of Warsaw's small private synagogues, whose number had amounted to over 400 prior to 1939. Because virtually all of them were destroyed, this modest ark took on a special significance as a symbol of what had been. Also in 1949, the Ministry of Culture enriched the JHI art collection by paintings by Jan Gotard, Eliaż Kanarek, David Greifenberg and Efraim and Menasze Seidenbeutel. These paintings had only just returned from London, where they had been sent for an exhibition in 1939. In 1950, JHI received over 100 artifacts, mostly ritual objects, from the Joint, which was not allowed to continue its activity in Poland.

In 1951, the Ministry of Culture and Art passed on to JHI a large collection of Judaica found in another Lower Silesian castle, this one in Eckersdorf (today's Bożków). It included ritual objects of

Greek Jews from Thessaloniki who had been murdered at Auschwitz. In 1952, following instructions from the Central Administration of Museums, an agency of the same Ministry, the State Museum at Majdanek (on the site of the former Nazi concentration camp and extermination center) contributed to JHI approximately 1,100 objects, including those of ritual as well as everyday use that had belonged to the murdered Jews and destroyed Jewish communities of the Lublin region. Part of this find remained in Lublin.

First the Central Jewish Historical Commission and then JHI, its successor, cooperated with two other Jewish institutions: the Central Jewish Library (CJL) – probably established in late 1944 – and the Jewish Society for the Promotion of the Fine Arts which was re-established (it had a prewar predecessor) in October 1946. Both organizations' goal was to recover as much as possible of the scattered Jewish material heritage. The efforts of the CJL in its attempts to find remaining Jewish books stored in attics, the basements of churches and convents and in municipal, state and private collections were supported by the Ministry of Education. In May 1948, the CJL moved, along with its books, to the Jewish Historical Institute building. In early 1950, the CJL was closed down, as were all independent organizations in Poland at the time. Its collection was merged with that of JHI, eventually resulting in the creation of one of the most important scholarly Jewish libraries in Europe.

The Jewish Society for the Promotion of Fine Arts was closed at the same time as CJL and its collection, too, was included in the holdings of the Institute. The Society's collection consisted of approximately 700 paintings, only partly restored. These were works by well-known Polish Jewish artists, such as Maurycy and Leopold Gottlieb, Artur Markowicz, Roman Kramsztyk,

Maurycy Trębacz, Efraim and Menasze Seidenbeutel and Jan Goltard. There were also several dozen sculptures, including *Messiah* by Henryk Glicenstein.

In March 1950, Ber Mark, then JHI director, wrote: "Recently we marked the fifth anniversary of the establishment of the Jewish Historical Commission. For five years we have been working on collecting, unearthing and putting in order materials concerning our most recent, so tragic and heroic past; we have had five years of renewed research of the history of the Jews in Poland."

Other significant collections of Jewish art in Poland are stored in the National Museum in Warsaw, the National Museum in Krakow, the Historical Museum of the City of Krakow and the Historical Museum of the City of Warsaw. Among them, only the Krakow collections came from prewar purchases directly from the owners. The collection at the Historical Museum of Warsaw includes, to a major extent, silverware (candlesticks, chalices, and goblets). It was created based on purchases on the art market.

The newest and one of the largest collections of Judaica is in Oświęcim, at the Auschwitz Jewish Center. In 2004, a number of candlesticks and Chanukah lamps were found, as well as pieces of the permanent interior furnishings of the Oświęcim community's synagogue. They were hidden under its floor and discovered in the course of archaeological excavations. Only a small portion of the collection is on display and only a few exhibits have thus far been renovated.

In December 2004, a small part of the Leon Vit Saraval collection – 34 manuscripts and six incunabula – arrived in Wrocław from Prague. Before WW II, this collection constituted a major part of the holdings of the Jewish Theological Seminary in Breslau/Wrocław.

Plundered by the Nazis, the priceless collections of the Seminary's library have been scattered in many directions. Some fragments are at JHI, some can be found in New York, Moscow and Jerusalem. The former Czech part of the Saraval collection is now preserved at the Wrocław University Library.

To sum up, the position of JHI, after all its transformations over 60 years, was and still is unique. It is recognized both by Jewish organizations in Poland and abroad and by the state authorities as the main repository for Jewish-related cultural treasures in Poland. The Institute's collection bears witness to the Holocaust. It belongs to the history of the destruction of the Jews of Poland, Germany, Austria and Greece. The Institute's mission is to preserve these holdings and to make this history known worldwide.

This paper is based on files of the Central Committee of the Jews in Poland, JHI Archives, File No. CKŻP 303/I and:

- ▷ The first two issues of the "Biuletyn Żydowskiego Instytutu Historycznego przy C.K. Żydów w Polsce" (Bulletin of the Jewish Historical Institute of the Central Committee of the Jews in Poland). March and November 1950.
- ▷ Maurycy Horn. "Działalność Żydowskiego Instytutu Historycznego w Polsce w latach 1944–1979" (Activities of the Jewish Historical Institute in Poland 1944–1979). In 35 lat działalności Żydowskiego Instytutu Historycznego w Polsce Ludowej. Dzieje Instytutu i jego zbiory (35 years of the Jewish Historical Institute's Activities in People's Poland. A history of the Institute and Its Collections). PWN, Warszawa, 1980.
- ▷ Magdalena Sieramska. "Z problematyki wojennych strat żydowskiej sztuki kultowej" (On issues regarding war losses

of Jewish ritual art). In Cenne, bezcenne/utracone (Valuable, priceless/lost), No. 2 (14), April 1999, pp. 8–13, 18.

- ▷ Magdalena Sieramska. "The Jewish Historical Institute Museum". In Jewish Historical Institute. The First Fifty Years 1947–1997, ŻIH, Warsaw 1996, pp. 55–61.

Roundtable

► Lucille Roussin

FASHION INSTITUTE OF TECHNOLOGY/SUNY, USA

FATE OF THE THOUSANDS OF JEWISH RITUAL OBJECTS STOLEN FROM JEWISH FAMILIES AND INSTITUTIONS THROUGHOUT EUROPE DURING THE HOLOCAUST

By the end of World War II little remained of the once prosperous German Jewish community. Most of the synagogues lay in ruins, and their precious Torah Scrolls and ceremonial objects, and those of Jewish families, had been stolen. Much of this property had to be classified as “ownerless” because the rightful owners and all their kin had been murdered by the Nazis. Under normal circumstances such heirless property escheats to the state, but it was unthinkable that heir Jewish property should escheat to the very state that had tried to annihilate the Jews.

This situation had already been contemplated before the end of the war and several Jewish commissions had been formed to deal with the issue and from these organizations the Jewish Restitution Successor Organization was formed. The JRSO was formally recognized in the US zone of occupation, but not officially until 1948. Under Article 13 of Military Government Law 59, Designation of Successor Organizations, which stated that “the organization had to be representative of the entire group or class which it is to be authorized to represent.” Although there is no

specific reference to the Jews, it was clear through correspondence between the Jewish organizations and the American authorities that the regulation referred to the Jewish people as a whole.

The Jewish Cultural Reconstruction, Inc. (JCR) was established in 1947 and charged with the mission of recovering Jewish property of cultural value. A Memorandum of Agreement was signed on February 15, 1949 by the authorized representative of the US Military Governor and Joshua Starr for the JCR, Inc. and Benjamin B. Ferencz as the authorized representative of the Jewish Reconstruction Successor Organization (JRSO).¹ The properties transferred to the JCR were primarily Jewish books, Torah scrolls and Jewish ritual objects that could not be restituted under the authority of Military Government Law 59, which provided for the restitution of property to identifiable owners. The Office of Military Government for Germany, United States (OMGUS) defined such unidentifiable property as “property for which no claims have been received. ... and no identification of prior ownership can be reasonably established.”² The agreement specified that the JCR would act as trustee for the Jewish people, “distributing it to such public or quasi-public religious, cultural or educational institutions as it sees fit to be used in the interest of perpetuating Jewish art and culture.”³ In an appendix to the memorandum of agreement it is specifically stated that JCR, Inc. would file an annual report and would deliver any property identified as restitutable to the military authorities.⁴

¹ National Archives College Park (NACP) RG 260, Ardelia Hall Collection, Box 66 (390 45 18 2–5).

² Plunder and Restitution at SR-188.

³ NACP, RG 260, Ardelia Hall Collection, Box 66 (390 45 18 2–5).

⁴ It is interesting to note that the cost of shipping from the location of the property to the restitutees was to be borne by the restitutees. Ibid.

But how was this property to be identified? In 1946 the Commission on European Jewish Cultural Reconstruction issued a “Tentative List of Jewish Cultural Treasures in Axis-Occupied Countries,” which listed cultural treasures known to have existed before World War II.¹ The extensive list includes only movable objects from known collections and arranged by country. As helpful in identifying known collections as it was, the Commission itself stated that the “lack of readily available, reliable data concerning Jewish cultural treasures in European countries before they were overrun by the Nazis has long been felt as a serious obstacle to intelligent action.”²

Jewish cultural property was sent to the Offenbach Archival Depot. There were over one thousand unclaimed Torah scrolls and over 17,000 Jewish ritual objects, most of them silver. However, of the approximately 9,000 objects nearly 60 percent were beyond repair and were sent to Sheffield, England for melting down.³ The JCR Advisory Committee classified the ritual objects as “art objects suitable for museums” and other ceremonial objects that should be available for presentation to synagogues.⁴ Dr. Mordechai Narkiss, director of the Bezalel Museum in Jerusalem, classified the objects and noted that there were 133 cases of museum quality objects and 54 cases of synagogue materials. Of these, 72 cases of museum materials and 11 cases of synagogue materials were shipped to New York. In all, 40 percent of the

objects went to Israel, 40 percent to the USA and other countries in the Western Hemisphere and 20 percent to other countries.⁵

But not all German Jewish communities had been totally annihilated and the distribution of Jewish cultural objects outside of Europe provoked resentment and criticism from the remaining Jewish communities. In 1950 the JRSO filed a claim for some 450 ceremonial objects that had belonged to the Frankfurt Jewish Museum. Later that year, some members of the Frankfurt Jewish community gained access to the boxes in which the objects were stored and took some for themselves and returned others to the Frankfurt Municipality. Some months later the JCR did return some of the objects to the Frankfurt Museum.⁶ However, there were also surviving Jewish communities in Munich, Augsburg, Nuremberg, Regensburg, Würzburg and Fürth in Bavaria, and Karlsruhe, Mannheim and Heidelberg in Baden.⁷

An exhibition at the Vienna Jewish Museum in 1995, “Beschlagnahmt. Die Sammlung des Wiener Jüdischen Museums nach 1938” (Seized. The Collection of the Vienna Jewish Museum) reunited Jewish ceremonial objects, photographs and other items from the Museum that had been seized immediately after the Anschluss and scattered among other institutions as “historical artifacts of the Jews.”⁸ Many of the objects reunited and exhibited had been found only between 1992 and 1995.

Photographs of many silver Jewish ritual objects, including

¹ Research Staff of the Commission on European Jewish Cultural Reconstruction, Tentative List of Jewish Cultural Treasures in Axis-Occupied Countries (1946), available at <http://www.lootedart.com/commonFiles/template> (hereinafter “Tentative List of Jewish Cultural Treasures”). See also, Plunder and Restitution: The US and Holocaust Victims’ Assets, Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the US and Staff Report (Dec. 2000) at SR-187 (hereinafter “Plunder and Restitution.”).

² Tentative List of Jewish Cultural Treasures at 8.

³ Plunder and Restitution at SR-191.

⁴ Plunder and Restitution at SR-190.

⁵ Ibid. at SR-190–191.

⁶ Ibid. at 191–192.

⁷ Ayaka Takei, “The ‘Gemeinde Problem’: The Jewish Restitution Successor Organization and the Postwar Jewish Communities in Germany, 1947–1954,” *Holocaust and Genocide Studies*, Vol. 16/2 (2002), 266–288; at 271.

⁸ Bernhard Purin, *Beschlagnahmt. Die Sammlung des Wiener Jüdischen Museums nach 1938* (Vienna Jewish Museum, 1995).

objects that were certainly privately owned, as well as synagogue and museum properties, are to be found in a large album in the Ardelia Hall Collection at the National Archives College Park.¹ Publication of these objects, or even an illustrated database placed on the Internet, might result in identification and restitution of some of these objects. Prototypes for such a searchable database are on the Israel Museum web site and on the Judaica section of the Central Registry of Information on Looted Cultural Property, sponsored by the Commission for Looted Art in Europe, which acts as a representative for the European Council of Jewish Communities and the Conference of European Rabbis.²

Torah Breastplate

In 2001 I was privileged to be the attorney who negotiated the first restitution of a valuable Torah Breastplate to the American heirs of the family that had owned it for almost a century. Although the provenance was certain – the piece was published in 1928 in Theodor Harburger's monumental work, *Die Inventarisierung jüdischer Kunst und Kulturdenkmäler in Bayern* – it took a year of negotiating with the municipal government of Fürth before the breastplate was restituted to the family.

Rimmon

Just last year I was able to reconstitute this 18th Rimmon to the heirs of Ernst Levite, from whose house in Monchsroth it was stolen on Kristallnacht. This piece, too, was illustrated in Harburger's book. Theodor Harburger's monumental work, the aforementioned *Die Inventarisierung jüdischer Kunst und Kulturdenkmäler in Bayern* (1928, republished 1998), has not been used efficiently in

doing provenance research on objects of Judaica, nor have the online resources. Both the Council of American Jewish Museums and the European Council of Jewish Museums have endorsed the principle of provenance research and restitution. Further research may reveal that Jewish ceremonial objects currently in museums or private collections around the world were stolen from German congregations that still exist or have been revived and should be returned to them. As archives are opened and provenance research is conducted and objects are posted on the Internet, many more Jewish ceremonial objects may finally go home.

► Hila Tene-Gilad

THE MINISTRY OF JUSTICE, ISRAEL

A DISCUSSION OF POSSIBLE OWNERSHIP OF JUDAICA FROM THE HOLOCAUST ERA

I would like to thank the organizers and honorable members of the workshop for the discussion held here today and for the opportunity to address you today. I come before you this afternoon with no concrete propositions but rather with thoughts about various possibilities when tackling this complicated issue of looted Holocaust era Judaica.

It is unnecessary to go into details before this respectable forum of the Nazi regime's systematic annihilation of an estimated six million Jews – men, women and children – as well as many others during the Holocaust. Throughout the Nazis' twelve years in power, alongside the persecution and unspeakable slaughter they used to "purify" Europe of the Jewish people, the Nazis also

¹ NACP RG 260, Ardelia Hall Collection, Box 106.

² See: <http://www.lootedartcommission.com>.

committed the most enormous pillage, plundering and confiscation of property in history. Thus, the Nazi genocide of the Jewish people was accompanied by the massive and systematic looting of Jewish property, movable and immovable, communal and individual, public and private.

There are several specific and unique agreements and declarations that were mostly established throughout the last decade, such as the Washington Conference on Holocaust-Era Assets (in 1998), Resolution 1205 of the Parliamentary Assembly of the Council of Europe (of 1999), and the Vilnius Forum Declaration (of 2000), all calling for the implementation of identification, registry, and legislation measures to promote the restitution of looted Jewish property. Without a doubt, European countries have made, and are still taking, important steps in the right direction.

I come before you with full conviction that there is an unbreakable bond between the looted Jewish cultural property and the Jewish People and that Judaica artifacts are an irrefutable part of the Jewish people, and as such, should be restituted to the Jewish People – to the State of Israel, Jewish communities, and Jewish Museums worldwide.

Uniting plundered Judaica and Hebraica artifacts, whether it be artwork or religious artifacts and other Jewish cultural property, with the Jewish people by way of returning it to its original, rightful owners or their heirs, holds a sensitive and significant meaning far greater than that attached to restitution of other types of assets. These properties are of high religious and sentimental value not only for their beauty, but mainly for their religious, ceremonial and cultural significance, especially when handed down for many generations.

For those who survived the horrible events of the Holocaust, these artifacts often represent the very last personal link to their families and communities that were ruthlessly lost in the Holocaust. Furthermore, in many cases, one or several Judaica artifacts belonged to entire communities that were decimated during the Holocaust. Preserving these items and commemorating these communities is at the heart of this debate and is of the utmost importance to the Jewish people and to the State of Israel.

Items of Judaica represent the unique bond between the Jewish people and the Jewish culture, heritage and religion passed down from one generation to the next. Judaica is an indispensable part of the Jewish daily life and has shaped Jews' unique identity through the years. Recognition of the Jewish people as the legitimate owners of such looted property will make historic moral justice, defend fundamental rights, both political rights and the right for title and ownership, and will honor the millions of lives lost, as well as those who survived against all odds.

Those few survivors have overcome the greatest hardships known to mankind, in incomprehensible and inhuman conditions. They were bullied and forced into giving up all of their property that was dear to their hearts – property that for moral reasons still belongs to them and to their Jewish culture.

Restitution

Thus, only the return of property pillaged from Jewish individuals and communities during the Holocaust to its original rightful owners, their heirs, their communities or to the homeland of the Jewish people can fully commemorate these persons and communities, as this cultural property symbolizes the last testimony of these communities.

It is important to remember that Israel, the homeland of the Jewish people, and its national commemoration institutions such as Yad Vashem, Beit Hatefutsoth are the continuation of, and memorial to, the legacy of all individuals who perished during the Holocaust, and of the approximately 3,400 communities that were entirely destroyed during that dark time.

The quest for restitution is not only a matter of justice or compensation, but to a greater extent, a matter of morality. Many Holocaust survivors are growing old and needy, and so when it comes to finding a fair and just way out for the injustices committed, time is of the essence.

Major Principles Regarding Judaica

There are several important principles regarding restitution of cultural property, and especially Judaica, that must be implemented.

- ▷ In cases where reliable information regarding the original owners or their heirs exist, all the necessary steps and measures should be taken in order to return this cultural property to its original owners or their legal heirs, in accordance with the above Declarations.
- ▷ Property known or suspected as looted during the Nazi era must be cataloged and published, including on internet websites, particularly in cases when information regarding its owners or their heirs exist.
- ▷ In addition, efforts must be taken to recognize the rights of private persons which owned a small number of Judaica and other cultural property objects, and the struggles and

obstacles they have to face when asking for restitution. This includes the difficulties in locating such property, foreign culture and language barriers, difficulties in dealing with foreign legal systems, not to mention the financial hardships arising from the need to travel to foreign states and managing legal proceedings.

- ▷ Additionally, issues like the opening of archives and full provenance, as discussed in detail for the last two days, should also be addressed.

Possible Alternatives

In light of the aforementioned principles, there is a wide spectrum of alternatives for restitution and action regarding cultural property, and especially Judaica.

All these options of course relate to heirless property, since at the base of this discussion is the notion that when the original rightful owners or their heirs are found, these artifacts shall be restituted to them.

- ▷ One option is maintaining the current status quo, according to which cataloguing, registration and documentation shall continue and when an original owner or heir is located, a specific item will be returned.
- ▷ Another course of action is to reassign Holocaust Era looted Judaica to the State of Israel as part of a moral and ethical amendment on the part of the relevant states, acknowledging Israel as the national home for the Jewish people, as stated, *inter alia*, in the Balfour Declaration and the Declaration of Independence of the State of Israel.

The State of Israel was, and remains, a sanctuary for the largest number of Holocaust survivors gathered together after the Second World War, a place for those survivors to re-build their lives in their national homeland, and a place where perished communities are commemorated.

- ▷ Another possible option is the establishment of a “Successor Organization” for Judaica. The legal basis for such an organization, may be through international legal mechanisms, or through the understanding that “cultural property which has a fundamental significance from the point of view of the spiritual values and cultural heritage of the people”¹ should be returned to that people.

Due to the many years that passed since the horrors of the Holocaust, and the wide extent of Judaica that may be found in the future especially with the opening of new archives in countries in Eastern Europe, it is suggested to establish an organization that will wrestle with the problem and decide on the fate of certain Judaica artifacts, be it in Israel, Jewish communities, Jewish museums, and so on. The Terezín Institute could serve as such an organization.

It is suggested that this Organization shall commence with a detailed cataloguing of existing Judaica artifacts, and later conclude an allocation formula for these artifacts, possibly through two main routes:

- Either through allocation of Judaica artifacts among the relevant stake-holders — the State of Israel, Jewish

communities worldwide, and Jewish museums, according to an agreed allocation mechanism;

- Or by making Judaica artifacts available for long and short-term loans to bodies such as Yad Vashem Israel Museum, Beit Hatefutsoth, and Jewish museums and Jewish communities world-wide for display, as well as for further research, study, and provenance evaluation.

When addressing this issue, the close and intimate ties between Judaica and Jewish individuals and communities, as well as the Jewish people as a whole must remain at the center of the discussion. Judaica represents Jewish religion and heritage that is closely linked to the Jewish people and the Jewish State. Looted Holocaust-era Judaica must be restituted to the Jewish world, firstly to the original owners or their heirs, and in their absence, to Jewish hands for education and commemoration of those who did not survive the Shoah's atrocities.

¹ See: <http://unesdoc.unesco.org/images/0011/001140/114032e.pdf#page=92>.

ANNEXES

Conference Program

(updated as of June 24, 2009)

Friday, June 26	
15.00	Opening of the Exhibition "Memories Returned" (Museum of Decorative Arts) <i>By special invitation only</i>
17.00	Press Conference (Zofin Palace, Small Hall)
18.00	Opening Ceremony (Zofin Palace, Large Hall)

- Welcoming Remarks:**
- **Václav Havel**, Former President, Czech Republic (videomessage)
 - **Stefan Füle**, Minister for European Affairs, Czech Republic
 - **Simone Veil**, Former President, European Parliament, France
 - **Elie Wiesel**, Author, Nobel Laureate, USA

- Special Performance:**
- Cantor Prof. **Naftali Herstik**

19.00	Reception
21.00	Adjourn

HOLOCAUST ERA ASSETS CONFERENCE EU2009.CZ
JUNE 26–30, Prague

Saturday, June 27	
	Informal Expert Discussions
10.00–10.45	Working Group (WG) Looted Art (PCC*, South Hall) Opening Statements WG Holocaust Education, Remembrance and Research (PCC, Meeting Hall I) Opening Statements
10.45–11.00	Coffee Break
11.00–12.30	Informal Expert Discussions

WG Looted Art (PCC, South Hall) CZ | EN
“Archives”

Chair:
● **Michael Kurtz**, U. S. National Archives and Records Administration, USA

- **Patricia Kennedy Grimsted**, Ukrainian Research Institute, Harvard University, USA
Documenting Looted Art: Perspectives from the Archives of the Einsatzstab Reichsleiter Rosenberg (ERR)
- **Petr Bednařík**, Documentation Centre of Property Transfers of Cultural Assets of WW II Victims, Czech Republic
Archive Research on the Issue of Lost Works of Art in the Czech Republic
- **Anne Georgeon-Liskenne**, French Foreign Office/Archives, France
French Archival Sources and Researches about Cultural Jewish Property, Spolied by Nazis before 1945
- **Božena Kovářová**, Moravian District Archive, Brno, Czech Republic
Archival Records in the Moravian District Archive in Brno
- **Marc Masurovsky**, USA
A New Paradigm for Restituting Looted Cultural Property

WG Holocaust Education, Remembrance and Research (PCC, Meeting Hall I) CZ | EN
“Genocide of the Czech Roma and New Educational Projects in the Czech Republic and Abroad”

- **Petr Lhotka**, Museum of Romani Culture, Czech Republic
Genocide of Czech Roma
- **Jana Horváthová**, Museum of Romani Culture, Czech Republic
Education about Roma Genocide: A Czech Example
- **Gerhard Baumgartner**, Austrian Roma Documentation Centre
Austrian Roma Under the Holocaust and the Problems of Restitution

Exhibition Presentation (PCC, Meeting Hall I)
“Library of Rescued Memories”

- **Edvard Serotta**, Centropa, Austria

12.30–13.30	Buffet Lunch (PCC, Zoom)
13.30–15.00	Informal Expert Discussions (cont.)

WG Looted Art (PCC, South Hall) CZ | EN
“Restitutions”

Chair:

- **Inge van der Vlies**, Hoogleraar Staats-en Bestuursrecht, Netherlands Kunst en Recht
- **Graham Beal**, Detroit Institute of Art, USA
Four Cases from One Museum, Four Different Results
- **Agnes Peresztégi**, Commission for Art, Hungary
Recovery, Restitution or Renationalisation
- **Lynn Nicholas**, USA
The Washington Principles: Ten Years Later
- **Jean-Pierre Bady**, CIVS, France
Restitution and Compensation in four Countries of Western Europe: Belgium, France, Luxembourg and Netherlands
- **Raymond J. Dowd**, Dunnington Bartholow and Miller LLP, USA
Fritz Grunbaum's Stolen Art Collection: Legal Obstacles to Recovery

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WG Holocaust Education, Remembrance and Research (PCC, Meeting Hall I) CZ | EN
“Genocide of the Czech Roma and New Educational Projects in the Czech Republic and Abroad” (cont.)

- **Jan Špringl**, Terezin Memorial, Czech Republic
The Terezin Memorial's New Approaches to Education Programs
- **Mirka Ludvíková**, Jewish Museum, Prague, Czech Republic
The Prague Jewish Museum's New Approaches to Education in the ECC
- **Oded Breda**, Beit Terezin, Israel
The Role of Beit Terezin, Education and Remembrance
- **Karl Bernd Vogel**, Foundation Leo Baeck Terezin, Germany
Leo Baeck Center in Terezin
- **Denisa Haubertová**, Office of the Government, Czech Republic
Proposal for a European Institute for Legacy of the Shoah

15.00–15.30	Coffee Break
15.30–17.00	WG Looted Art (PCC, South Hall)

WG Looted Art (PCC, South Hall) CZ | EN
“Feedback: Cooperation of Respective Entities Towards Provenance Research”

Chair:

- **Michael Franz** – Koordinierungsstelle für Kulturgutverluste, Germany (tbc)
- **Shauna Isaac**, Sage Recovery, United Kingdom
Technology and the Accessibility of Information
- **Mečislav Borák**, Documentation Centre of Property Transfers of Cultural Assets of WW II Victims, Czech Republic
Identification of Works of Art Belonging to Holocaust Victims and the Possibility of Restitution to the Original Owners
- **Anna Rubin**, Holocaust Claims Processing Office, USA
Presumptions: Applying Lessons Learned from Compensation Programs
- **Miriam Friedman Morris**, USA
Artist David Friedman: A Daughter's Search for Lost and Stolen Art

- **Angelika Enderlein**, Bundesamt für zentrale Dienste und offene Vermögensfragen, Germany
Introduction of the new database on the 'Central Collecting Point Munich' (CCP)

19.30–21.00	Reception (U.S. Ambassador's Residence)
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Hosted by the Embassies of Austria, France, Germany, Israel, the Netherlands, Poland, Russia, Sweden, the United Kingdom and the United States

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Sunday, June 28	
9.00–9.45	Opening Plenary Session (PCC, South Hall) CZ EN

Chair:
● **Miloš Pojar**, Chairman of the Conference Organizing Committee, Czech Republic

Opening Remarks:
● **Stefan Füle**, Minister for European Affairs, Czech Republic
● **Stuart Eizenstat**, Former Deputy Treasury Secretary and Under Secretary of State, USA
● **Tom Eric Vraalsen**, Chairman, Task Force for International Cooperation on Holocaust Education, Remembrance and Research, Norway

10.00–11.30	Concurrent Expert Sessions I
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*Special Session: Caring for Victims of Nazism and Their Legacy (PCC, Conference Hall) **CZ** **EN***
“History and Perspective of Care Support Provided to Victims of Nazism and Their Legacy”

Chair:
● **Tomáš Kosta**, Ministry of Foreign Affairs, Czech Republic

- **Władysław Bartoszewski**, Chancellery of the Prime Minister, Poland
Remembrance and Responsibility
- **Jiří Šitler**, Ministry of Foreign Affairs, Czech Republic
History of International Discussions on Compensations to Victims of Nazism as Seen by Delegations Representing Central and Eastern European Countries
- **Günter Saathoff**, Remembrance, Responsibility and Future Foundation, Germany
Political Importance and Administration of the Financial Compensation Process According to the Law on the Creation of the Foundation “Remembrance, Responsibility and Future”

- **Hannah M. Lessing**, General Settlement Fund and National Fund of the Republic of Austria for Victims of National Socialism, Austria
Restitution Programs Provided by the Republic of Austria
- **Greg Schneider**, Conference on Jewish Material Claims Against Germany, USA
Providing Sustainable Funding for the Social Welfare of Holocaust Survivors

WG Holocaust Education, Remembrance and Research (PCC, Meeting Hall I)
“Holocaust Education: Experiences Gained and Challenges Ahead”

Opening Remarks:
● **Benedikt Haller**, Ministry of Foreign Affairs, Germany
● **Jan Munk**, Terezin Memorial, Czech Republic

Chair:
● **David Marwell**, Museum of Jewish Heritage, USA

- **Wolf Kaiser**, House of the Wannsee Conference, Germany
Overview of the Field of Education
- **Natalia Rykova**, Moscow Bureau for Human Rights, Russia
Education about the Holocaust in Russia
- **Nancy Petschek-Kohn**, Holocaust and Human Rights Education Center, USA
Holocaust Education over the Past 10 Years

WG Immovable Property (Private and Communal) (PCC, Meeting Hall IV)
“Overview and Political Context”

- Chair:
- **Nigel Ross**, World Jewish Relief, United Kingdom
 - **Tomáš Kraus**, Federation of Jewish Communities, Czech Republic
Opening Remarks
 - **Andrew Baker**, American Jewish Committee, USA
Review of Political Commitments
 - **Herbert Block**, World Jewish Restitution Organization, USA
Status Report on Communal Property
 - **Gideon Taylor**, Conference on Jewish Material Claims Against Germany, USA
Overview of the Restitution Process

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- **Moshe Sanbar**, Center of Holocaust Survivors, Israel
Property Restitution from Jewish Perspective

*WG Looted Art (PCC, South Hall) **CZ** **EN***
“Legal Issues”

Chair:
● **Charles A. Goldstein**, Commission for Art Recovery, USA

- **Olaf S. Ossmann**, IAJLI, Germany
One collection, one persecution, one decision – but different ideas of “Just and Fair Solutions” – hurdles in different national processes for heirs of art collections
- **Georg Heuberger**, Conference on Jewish Material Claims against Germany, Germany
Holocaust Era Looted Art: A World Wide Overview
- **Marc-André Renold**, The University of Geneva, Switzerland
The Renewal of the Restitution Process: Alternative Dispute Resolution Methods
- **Stephen J. Knerly Jr.**, Association of Art Museum Directors, USA
Selected Issues for American Art Museums Regarding Holocaust Era Looted Art
- **Norman Palmer**, Spoliation Advisory Panel, UK
Integrity, Transparency and Pertinacity in the Treatment of Holocaust-Related Art Claims

*WG Judaica and Jewish Cultural Property (PCC, Meeting Hall V) **FR** **EN***
“The State of Provenance Research in State, Public and Private Collections”

- Chair:
- **Felicitas Heimann-Jelinek**, Jewish Museum Vienna, Austria
 - **Karen Heilig**, Conference on Jewish Material Claims against Germany, USA
Holocaust-Era Looted Judaica and Jewish Cultural Property: A World-Wide Overview
 - **Daniel Dratwa**, Jewish Museum of Belgium
Losses of Books and Archives from Public and Private Collections
 - **Karen Franklin**, Museum of Jewish Heritage, USA
Current State of Judaica Provenance Research in Jewish Museums in the US

- **Patricia Kennedy Grimsted**, International Institute of Social History, Ukrainian Research Institute, Harvard University, Netherlands
Perspectives from Remaining Archives of the Einsatzstab Reichsleiter Rosenberg (ERR)

11.30–11.45	Coffee Break
11.45–13.15	Concurrent Expert Sessions II

*Special Session: Caring for Victims of Nazism and Their Legacy (PCC, Conference Hall) **CZ** **EN***
“Responsibility in Partnership: Improving the Social Situation of the Victims of Nazism”

Chair:
● **Martin Salm**, “Remembrance, Responsibility and Future” Foundation, Germany

- **Marta Malá**, Foundation for Holocaust Victims, Czech Republic
The Social Situation of the Victims of Nazism: A Czech Example
- **Nathan Durst**, AMCHA Jerusalem, Israel
Requirements for State Social Systems: the Experience of a Non-profit Organisation
- **Kazimierz Wójcicki**, Office for War Veterans and Victims of Oppression, Poland
Co-operation of the State Social Systems with the Non-profit Sector in Supporting the Victims of Nazism – Experience and Future Outlook
- **Alexander Pochinok**, Council of Federation of the Federal Assembly of the Russian Federation, Russia
Further Development of the State Social Programs for the Victims of Nazism in Co-operation with Local Initiatives
- **Igor Cvetkovski**, International Organisation for Migration, Macedonia/ Switzerland
Supporting Gypsies in Central and South East Europe: A Practical Model of Co-operation between the Non-profit Sector and Local Authorities

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WG Holocaust Education, Remembrance and Research (PCC, Meeting Hall I)
"Remembrance, Memorials and Museums"

Chair:

- **Michael-Thomas Baier**, Federal Ministry for European and International Affairs, Austria

- **Richelle Budd-Caplan**, Yad Vashem, Israel
The Educational Sustainability of Holocaust Remembrance
- **Thomas Lutz**, Topography of Terror Foundation, Germany
Memorial museums and ITF
- **Sara J. Bloomfield**, Director, United States Holocaust Memorial Museum, USA
The Mission and Impact of the United States Holocaust Memorial Museum

WG Immovable Property (Private and Communal) (PCC, Meeting Hall IV)
"Works in Progress – Examples from Communities – Part I"

Chair:

- **Herbert Block**, World Jewish Restitution Organization, USA

- **Faina Kuklansky**, Jewish Community of Lithuania, Lithuania
The Case of Lithuania
- **Joseph Zissels**, Euro-Asian Jewish Congress, Ukraine
The Case of Ukraine
- **Alexander Necak**, Federation of Jewish Communities, Serbia
The Case of Serbia
- **Maxim Benveniste**, Organization of Jews in Bulgaria, Bulgaria
The Case of Bulgaria
- **Marta Malá**, The Foundation for Holocaust Victims, Czech Republic
The Case of the Czech Republic

WG Looted Art (PCC, South Hall) CZ|EN
"The Search for Works of Art and Other Cultural Assets – A Business or Moral Obligation?"

Chair:

- **Anne Webber**, Commission for Looted Art in Europe, UK

- **Nawojka Cieslinska-Lobkowicz**, Freelance Art Historian and Provenance Researcher, Poland
The Obligation of the State or a Hobby of the Few. The Implementation of the Washington Principles in Poland
- **Lucien Simmons**, Sotheby's, USA
Provenance and Private Ownership: Just and Fair Solution in the Commercial Art Market
- **Helena Koenigsmarková**, Museum of Decorative Arts, Prague, Czech Republic
The Museum of Decorative Art in Prague's Experience with Looted Objects in its Collection and their Identification
- **Monica Dugot**, Christie's, USA
Impact of the Washington Conference Principles on Art Market Practices: Moving the Discussion Forward
- **Felicitas Thurn**, Dorotheum, Austria
Dorotheum: Provenance Research and Due Diligence in the Art Trade in Central Europe

WG Judaica and Jewish Cultural Property (PCC, Meeting Hall V) EN|RU
"The Provenance Research in State, Public and Private Collections after 1945"

Chair:

- **Felicitas Heimmann-Jelinek**, Jewish Museum Vienna, Austria
- **Michal Bušek**, Jewish Museum, Prague, Czech Republic
Restitution in Jewish Museum in Prague in Case of Naftali Zvi Kartagener
- **Magda Veselská**, Jewish Museum, Prague, Czech Republic
Where Did All the Pretty Old Things Come From?; The Judaica Provenance Research at the Jewish Museum in Prague

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"Circulation of Judaica and Jewish Cultural Property of Disputed Ownership"

- **Eleonora Bergman**, The Emanuel Ringelblum Jewish Historical Institute, Poland
Collection of Judaica after 1944

13.15–14.30	Buffet Lunch (PCC, Zoom)
14.30–16.00	Concurrent Expert Sessions III

Special Session: Caring for Victims of Nazism and Their Legacy (PCC, Conference Hall) CZ|EN|FR
"Legal and Social Status of Victims of Nazism and Maintenance of their Legacy"

Chair:

- **Reuven Merhav**, Ministry of Foreign Affairs, Israel
- **Michael Teupen**, Federal Association for Providing Information and Consultations to Victims of National Socialism, Germany
Social and Legal Status of Victims of Nazism in Germany
- **Alex Faiman**, B'nai B'rith Europe, UK
Keeping Starvation at Bay for Holocaust Survivors and Other Victims of Nazism
- **Čeněk Růžicka**, Committee for Compensation of the Romany Holocaust, Czech Republic
History, Perception, Memory, Social Care for Romany Survivors
- **Esther Toporek Finder**, The Generation After, Generations of the Shoah International, USA
The Second Generation of Holocaust Survivors
- **Dagmar Lieblová**, Terezin Initiative, Czech Republic
Meaning and Function of Prisoners of Nazism Organisations in Society

WG Holocaust Education, Remembrance and Research (PCC, Meeting Hall I)
"Researching the Holocaust and Access to Archives"

Chair:

- **Paul Dostert**, Conseil National de la Résistance, Luxembourg

- **Steven T. Katz**, Elie Wiesel Center for Judaic Studies, USA
Under-Researched Areas of the Holocaust
- **Paul Shapiro**, Center for Advanced Holocaust Studies, USA
Research Resources Priorities and Opportunities for the Coming Decade
- **Susanne Uslu-Pauer**, Archive of Jewish Community, Vienna, Austria
Archive of the Jewish Community of Vienna

WG Immovable Property (Private and Communal) (PCC, Meeting Hall IV)
"Works in Progress – Examples from Communities" (Part II)

Chair:

- **Tomáš Kraus**, Federation of Jewish Communities, Czech Republic
- **Jehuda Evron**, Holocaust Restitution Committee, USA
The Case of Poland
- **Dan Mariaschin**, B'nai B'rith International, USA
The Case of Romania, Slovenia and Croatia
- **Philip Carmel**, Lo Tishkach Foundation, Belgium
Protection and Preservation of Cemeteries

WG Looted Art (PCC, South Hall) CZ|EN
"Provenance Research"

Chair:

- **Charlotte van Rappard-Boon**, Inspectorate for Cultural Heritage, Netherlands
- **Carla Shapreau**, University of California, Berkeley, USA
Musical Cultural Property: The Nazi Era and Post-War Provenance Challenges
- **Uwe Hartmann**, Arbeitsstelle für Provenienz Recherche, Germany
Project Related to the Promotion of Provenance Research in Germany, Taking Stock after the First Year
- **Jacques Lust**, Belgian Federal Science Policy, Belgium
Provenance and World War II: Art, Research and Illusion
- **Nancy Yeide**, National Gallery of Art, USA
Provenance Research in American Museums
- **Sophie Lillie**, Independent Scholar, Austria
The Backlash against Claimants

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WG Judaica and Jewish Cultural Property (PCC, Meeting Hall V) **FRI EN**
“Methodological Questions Concerning the Provenance Research of Judaica and Jewish Cultural Property”

- Chair:**
- **Felicitas Heilmann-Jelinek**, Jewish Museum Vienna, Austria
 - **Julie-Marthe Cohen**, Jewish Museum Amsterdam, Netherlands
Researching Judaica Looted in the Netherlands during the Second World War: Methods, Results and Needs
 - **Inke Bertz**, Jewish Museum Berlin, Germany
Collecting for Jewish Museums Today
 - **Dario Tedeschi**, Governmental Commission for the recovery of the Jewish Community Library of Rome (looted in 1943), Italy
Research Findings of Commission for General Spoliation in Italy and Research of the Library in Rome

- “Distribution of Collected Judaica and Jewish Cultural Property after 1945”**
- **Bernhard Purin**, Jewish Museum Munich, Germany
The “Informal” Distribution of Jewish Ritual Objects after WW II
 - **Dov Schidorsky**, The Hebrew University of Jerusalem, Israel
The Hebrew University’s Book Salvaging Activities in Postwar Czechoslovakia and the Problems of Restitutions in Israel

16.00–16.15	Coffee Break
16.15–17.45	Concurrent Expert Sessions IV

Special Session: Caring for Victims of Nazism and Their Legacy (PCC, Conference Hall) **CZ EN**
“Legal and Social Status of Victims of Nazism and Maintenance of their Legacy” (cont.)

- Chair:**
- **Reuven Merhav**, Ministry of Foreign Affairs, Israel

- **Frank-Ludwig Thiel**, Law office Görmandt-Heinz-Thiel, Germany
Ghetto-Rente Issues
- **Ehud Moses**, Conference on Jewish Material Claims Against Germany, Israel
Dissemination of Relevant and Updated Information to Victims of Nazism
- **Anděla Dvořáková**, Czech Association of Fighters for Liberty, Czech Republic
Victims of Nazism as War Veterans
- **Christoph Heubner**, International Auschwitz Committee, Germany
Current State of Concentration Camp Memorials

WG Holocaust Education, Remembrance and Research (PCC, Meeting Hall I)
“The Future of Holocaust Remembrance”

- Chair:**
- **Karel Fracapané**, Shoah Memorial, France
 - **Astrid Messerschmidt**, Universität Flensburg, Germany
Europe’s Changing Demography
 - **Monique Eckman**, Geneva School of Social Work, Switzerland
Holocaust Education as a Human Rights Tool
 - **Wesley Fisher**, Conference on Jewish Material Claims Against Germany, USA
Funding Needs of a Sustainable Basis for Holocaust Education, Remembrance and Research

WG Immovable Property (Private and Communal) (PCC, Meeting Hall IV)
“Where do we go from here?”

- Chair:**
- **Andrew Baker**, American Jewish Committee, USA
 - **David Peleg**, World Jewish Restitution Organization, Israel
Presentation: The Role of the WJRO
 - **J. Christian Kennedy**, U.S. Department of State, USA
Presentation: Principles of Property Restitution
- Discussion
Closing Remarks

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WG Looted Art (PCC, South Hall) **CZ EN**
“Where are we now and where do we go from here?”

A brief summary of WG Looted Art conclusions and experts’ recommendations.

WG Judaica and Jewish Cultural Property (PCC, Meeting Hall V) **FRI EN**
“Roundtable”

- **Lucille Roussin**, Fashion Institute of Technology/SUNY, USA
Rate of the Thousands of Jewish Ritual Objects Stolen from Jewish Families and Institutions Throughout Europe During the Holocaust
- **Hila Tene-Gilad**, The Ministry of Justice, Israel
A Discussion of Possible Ownership of Judaica from the Holocaust Era

19.00	Reception (Wallenstein Garden)
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- Remarks:**
- **Přemysl Sobotka**, President of the Senate, Parliament of the Czech Republic
 - **Madeleine Albright**, Former Secretary of State, USA

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Monday, June 29	
9.00–12.30	Plenary Session (PCC, Forum Hall) CZ EN FR

Chair:

- **Alexandr Vondra**, Member of the Senate, Czech Republic

Keynote Addresses:

- **Jan Kohout**, Minister of Foreign Affairs, Czech Republic
- **Ján Figel**, EU Commissioner, Slovakia

Official Signing of the Czech EU Presidency – European Commission Memorandum

Reports by Special Session and Working Groups

- Special Session: Caring for Victims of Nazism and Their Legacy
Felix Kolmer, International Auschwitz Committee, Czech Republic
- WG Holocaust Education, Remembrance and Research
Benedikt Haller, Ministry of Foreign Affairs, Germany
- WG Immovable Property (Private and Communal)
Tomáš Kraus, Federation of Jewish Communities, Czech Republic
- WG Looted Art
Helena Krejčová, Documentation Centre of Property Transfers of Cultural Assets of WW II. Victims, Czech Republic
- WG Judaica and Jewish Cultural Property
Lena Arava-Novotná, Institute of Jewish Studies, Charles University, Czech Republic

Statements by Heads of Delegations

12.30–13.30	Buffet Lunch (PCC, Zoom)
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Speaker:

- **Rep. Robert Wexler**, U.S. Congress, USA

13.30–16.30	Plenary Session (cont.) CZ EN FR
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Chair:

- **Alexandr Vondra**, Member of the Senate, Czech Republic

Opening Remarks

- **Jiří Daniček**, Federation of Jewish Communities, Czech Republic

Statements by Representatives of NGOs:

- **Ronald Lauder**, World Jewish Congress and World Jewish Restitution Organization, USA
- **Julius Berman**, Conference on Jewish Material Claims Against Germany, USA
- **Andrew Baker**, American Jewish Committee, USA
- **Ellen M. Heller**, American Jewish Joint Distribution Committee, USA
- **Anne-Marie Revcolevschi**, Fondation pour la Mémoire de la Shoah, France
- **Martin Salm**, Stiftung Erinnerung, Verantwortung und Zukunft, Germany
- **Noach Flug**, International Auschwitz Committee, Israel
- **Dan Mariaschin**, B'nai B'rith International, USA
- **Jonathan Joseph**, European Council of Jewish Communities, UK
- **Emil Kalo**, World ORT, Bulgaria
- **Lord Janner**, Holocaust Educational Trust, UK

Statements by Heads of Delegations

16.30	Concluding Remarks
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Yehuda Bauer, Historian, Israel

17.00	Press Conference (PCC, Small Theatre)
19.00	Special Performance "Golem 13" (National Theatre)

World Premiere of Kabbalistic Drama by George Whyte set to music by Noam Sheriff

Remarks:

- **Vladimír Špidla**, EU Commissioner, Czech Republic

Reception

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Tuesday, June 30	
9.30	Concluding Ceremony (Former Riding Hall, Terezín)

Welcoming Remarks:

- **Jan Munk**, Director, Terezín Memorial, Czech Republic
- **Jana Vaňhová**, Commissionaire of the Region, Czech Republic

Keynote Address:

- **Jan Fischer**, Prime Minister, Czech Republic

Terezín Declaration

10.30	Concert "Defiant Requiem" by Murry Sidlin
12.30	Closing Lunch (Terezín Memorial, Magdeburg Barracks) Hosted by the European Commission
13.30–15.00	Guided Tours of the Terezín Memorial (optional)

List of Participating Countries

Albania	Italy
Argentina	Latvia
Australia	Lithuania
Austria	Luxembourg
Belarus	Malta
Belgium	Moldova
Bosnia and Herzegovina	Montenegro
Brazil	The Netherlands
Bulgaria	Norway
Canada	Poland
Croatia	Portugal
Cyprus	Romania
Czech Republic	Russia
Denmark	Serbia
Estonia	Slovakia
Finland	Slovenia
France	Spain
FYROM	Sweden
Germany	Switzerland
Greece	Turkey
The Holy See (Observer)	Ukraine
Hungary	United Kingdom
Ireland	United States
Israel	Uruguay

List of Participating Organizations

American Jewish Committee	Bundesamt für zentrale
American Jewish Joint	Dienste und offene
Distribution Committee	Vermögensfragen
Arbeitsstelle für	Bundesverband Information &
Provenienzrecherche/-	Beratung für NS-Verfolgte
forschung	Büro für Genealogie
Archives Nationales	
de Paris	Center of Organizations of
Association of Art Museum	Holocaust Survivors
Directors	Central Council of Jews in
Association of the Jewish	Germany
Academicians	Central Jewish Board of the
Auschwitz Foundation	Netherlands
Auschwitz Institute for Peace	Centropa
and Reconciliation	CET Academic Programs
Austrian Roma	Christie's
Documentation Centre	Commission for Art Recovery
	Commission for Looted Art in
Basel Institute on Governance	Europe
Beit Theresienstadt	Commission pour
Belgian Federal Science	l'indemnisation des
Policy	victimes de spoliations
Ben Uri Gallery, The London	Committee for the
Jewish Museum of Art	Preservation of Jewish
B'nai B'rith International	Cemeteries in Europe
Boston University	Committee for the Redress of
Bucharest University	the Roma Holocaust

Conference of European Rabbis
 Conference on Jewish Material
 Claims Against Germany
 Covington & Burling
 Cultural Heritage Inspectorate
 Czech Bar Association
 Czech Council for Victims of
 Nazism
 Czech Union of the Freedom
 Fighters
 Czech-German Fund for the
 Future

David Friedmann Art
 DePaul University
 Der Beauftragte der
 Bundesregierung für Kultur
 und Medien
 Detroit Institute of Art
 Direction des Archives du
 ministère des Affaires
 étrangères et européennes
 Direction des musées de France
 Documentation Centre of
 Property Transfers of
 Cultural Assets of WW II
 Victims
 Dokumentations- und
 Kulturzentrum Deutscher
 Sinti und Roma
 Dorotheum
 Dunnington, Bartholow &
 Miller LLP

Eisenstein Malanchuk LLP
 Estonian Red Cross
 Euro-Asian Jewish Congress
 European Jewish Congress

Fashion Institute of Technology
 Federation of Jewish
 Communities in Serbia
 Federation of Jewish
 Communities of the CIS
 Federation of Jewish
 Communities in the Czech
 Republic
 Federation of Jewish
 Communities of Hungary
 Fondation pour la Mémoire de
 la Shoah
 Forum 2000 Foundation
 Foundation "Polish-German
 Reconciliation"
 Foundation for Holocaust
 Victims
 Foundation Leo Baeck Terezín
 Fundatia Caritatea

German Insurance Association

Hebrew University of
 Jerusalem
 Herrick, Feinstein LLP
 Holocaust & Human Rights
 Education Center and
 Children & Artists of Terezín

Holocaust Claims Processing
 Office
 Holocaust Claims Processing
 Office of the New York
 State Banking Department
 Holocaust Educational Trust
 Holocaust Restitution
 Committee
 Holocaust Survivors'
 Foundation
 Hoogleraar staats- en
 bestuursrecht, kunst en
 recht, Universiteit van
 Amsterdam
 House of the Wannsee
 Conference
 Hungarian Jewish Archives

Institute of Geography –
 Russian Academy of
 Sciences
 Institute of Jewish Studies –
 Charles University in
 Prague
 Interdepartmental Task
 Force
 International Association
 of Jewish Lawyers and
 Jurists
 International Auschwitz
 Committee
 International Organization for
 Migration

Israel Museum in Jerusalem

J. Paul Getty Trust
 Jewish Agency for Israel
 Jewish Community Austria
 Jewish Community of Bosnia
 and Herzegovina
 Jewish Confederation of
 Ukraine
 Jewish Museum Berlin
 Jewish Museum in Prague
 Joods Historisch Museum
 Jüdisches Museum Wien

Kaldy Foundation
 Koordinierungsstelle für
 Kulturgutverluste
 Kreab Gavin Anderson

Landesstelle nichtstaatliche
 Museen, Ref. Jüdische
 Museen
 Law Firm Pejchal, Nespala and
 Partners
 Law Office of Richard
 A. Altman
 Law Office Turek-Mucha-
 -Kostohryz
 Leuka Trust
 Living memory, p. b. o.
 Lithuanian Jewish Community
 Lo Tishkach Foundation

Memorial de la Shoah	Silesian Land Museum in Opava	United States Commission for the Preservation of America's Heritage Abroad	Vienna Jewish Community
Moravian District Archive Brno	Simon Wiesenthal Center, New York	United States Holocaust Memorial Museum	Weinberg Foundation
Moscow Bureau for Human Rights	Sotheby's	Universitaet Flensburg	World Jewish Congress
Munger, Tolles & Olson LLP	Spoliation Advisory Panel	University of Amsterdam	World Jewish Relief
Musée d'Art et d'Histoire du Judasme	Staatliche Kunstsammlungen Dresden	University of California, Berkeley	World Jewish Restitution Organization
Museum of Decorative Arts in Prague	Sterling and Francine Clark Art Institute	University of Geneva	World ORT
Museum of Jewish Heritage	Stiftung "Erinnerung, Verantwortung und Zukunft"	University of Jyväskylä	World Zionist Organization
Museum of Romani Culture in Brno	Task Force for International Cooperation on Holocaust Education, Remembrance and Research	Urząd do Spraw Kombatantów i Osób Represjonowanych	Yad Vashem
National Archives and Records Administration	Terezín Initiative		
National Fund of the Republic of Austria for Victims of National Socialism	Terezín Memorial		
National Gallery of Art	Topography of Terror Foundation		
Netherlands Museum Association	Ukrainian National Fund "Mutual Understanding and Reconciliation"		
Norton Simon Museum of Art	Ukrainian Research Institute, Harvard University		
Office of Lord Janner	UNESCO		
Organization of the Jews in Bulgaria "Shalom"	United Jewish Organizations of Williamsburg		
Rechtsanwälte Görnandt / Heinz / Thiel			
RESCAM, LLC			
Restitutions Committee			
Sage Recovery			

To the Presentation

**Annex to Presentation by Jiří Šitler on
“History of International Discussions on
Compensations to Victims of Nazism as Seen by
Delegations Representing Central and Eastern
European Countries”¹**

Jiří Šitler

MINISTRY OF FOREIGN AFFAIRS, CZECH REPUBLIC

CZECH PAYMENTS TO NAZI VICTIMS AND RESISTANCE FIGHTERS²

In general, pension entitlements of Nazi victims and participants in the resistance movement, their survivors and other eligible persons are regulated by special provisions of the pension benefits legislation.

In addition, there are several special laws granting these persons access to extra benefits. These include lump-sum payments which are separate from the claimants' statutory pension entitlements and are payable irrespective of whether the claimants are collecting any pension. The criterion of eligibility for these lump-sum payments is Czech citizenship. Another type of payments is extra monthly benefits payable to claimants who are collecting a pension (a supplementary pension benefit and a special pension contribution).

¹ See presentation p. 291.

² Source: Czech Social Security Administration.

In addition to the payments administered by the Czech Social Security Administration (in an aggregate sum of more than EUR 100 million), the Czech government transferred money to benefit Nazi victims into funds and foundations such as the Czech-German Future Fund, the Ezra Foundation, the National Endowment Fund for Holocaust Victims, etc. (in an aggregate sum of approx. EUR 30 million).

Please note that, according to the Czechoslovak legislation, the term “political prisoner” also includes people who were persecuted on the basis of race.

The above-indicated special laws are as follows:

Act No. 217/1994 concerning lump-sum payments to certain victims of Nazi persecution

This legislation granted lump-sum compensation payments to:

- (a) Czechoslovak political prisoners;
- (b) Surviving spouses of Czechoslovak political prisoners;
- (c) Surviving children of executed Czechoslovak political prisoners and Czechoslovak political prisoners who were deceased in prison.

The lump sum payable to Czechoslovak political prisoners and their surviving spouses was CZK 2,300 per each commenced month of imprisonment. In addition, surviving spouses of political prisoners who were executed or died in prison received a lump-sum payment of CZK 100,000. Surviving children of political prisoners who were executed or died in prison received

a lump-sum payment of CZK 100,000 distributed in accordance with the number of the prisoner's surviving children.

Results of Processing:

25,395 claims made under this Act were granted, including:

- ▷ 9,194 claims of Czechoslovak political prisoners;
- ▷ 5,087 claims of surviving spouses of Czechoslovak political prisoners;
- ▷ 11,114 claims of surviving children of Czechoslovak political prisoners.

The total distributed amount was CZK 1,645,398,409; i.e., the average payment per person was CZK 64,792. This included:

- ▷ CZK 441,441,149 paid to Czechoslovak political prisoners;
- ▷ CZK 404,471,500 paid to surviving spouses;
- ▷ CZK 799,485,760 paid to surviving children.

Act No. 39/2000 concerning lump-sum payments to members of Czechoslovak armies formed abroad and of Allied armies in 1939–1945

This legislation granted lump-sum compensation payments to:

- (a) Members of Czechoslovak armies formed abroad or persons who performed military service in Allied armies;

- (b) Their surviving spouses.

Members of Czechoslovak armies formed abroad and persons who performed military service in an Allied army and whose military service lasted at least one year, were eligible for a lump-sum payment of CZK 120,000 plus an extra CZK 1,000 per each month of military service beyond the one-year limit. Members of Czechoslovak armies formed abroad and persons who performed military service in Allied armies whose service was shorter than one year but longer than three months, were eligible for a lump-sum payment of CZK 1,000. A lump-sum payment of CZK 120,000 was available to those who proved that they were wounded in action and granted a disability pension on account of the wound. Surviving spouses were eligible for one half of the amount that would have been payable to the deceased spouse. However, if the deceased spouse was killed in action, the surviving spouse received a lump-sum payment of CZK 120,000.

Results of Processing:

4,202 claims made under this Act were granted, including:

- ▷ 2,639 claims of members of Czechoslovak armies formed abroad or persons who performed military service in Allied armies;
- ▷ 1,563 claims of surviving spouses of members of Czechoslovak armies formed abroad or persons who performed military service in Allied armies.

The total amount distributed was CZK 387,725,325; i.e., the average payment per person was CZK 92,272. This included:

- ▷ CZK 288,710,000 paid to members of Czechoslovak armies formed abroad or persons who performed military service in Allied armies;
- ▷ CZK 99,015,352 paid to surviving spouses.

Act No. 261/2001 concerning lump-sum payments to participants in the national struggle for liberation, political prisoners and persons concentrated in military labor camps because of their race or religion, and amending Act No. 39/2000 concerning lump-sum payments to members of Czechoslovak armies formed abroad and of Allied armies in 1939–1945

This Act granted lump-sum compensation payments to:

- (a) Members of the First Czechoslovak Army in Slovakia, Czechoslovak partisans, participants in foreign or domestic resistance movements, participants in the May 1945 uprising, Czechoslovak volunteers in Spain and members of the State Defense Guard;
- (b) Surviving spouses of the above persons;
- (c) Surviving children of the above persons, provided that both parents were killed in the course of resistance activity or one of the parents was killed and the other parent was no longer alive at the time.

For the purpose of this Act, “participants in the national struggle for liberation” included citizens who, between March 15, 1939 and May 8, 1945, were imprisoned in military labor camps on the territory of Czechoslovakia within its borders as they existed on

September 29, 1938 because of their race or religion, or were hiding in such territory for the same reasons for a total period of at least three months.

Participants in the national struggle for liberation and persons regarded as participants in the national struggle for liberation were eligible for a lump-sum payment of CZK 120,000, provided that their resistance activity lasted at least one year, plus an extra CZK 1,000 per each month of activity beyond the one-year limit.

Participants in the national struggle for liberation and persons regarded as participants in the national struggle for liberation, who participated in such struggle for less than one year but for at least three months (or two months, if they served in a partisan unit) were eligible for a lump-sum payment of CZK 60,000.

A lump-sum payment of CZK 120,000 was available to participants in the national struggle for liberation who were wounded and granted a disability pension on account of the wound. Surviving spouses were eligible for one half of the amount that would have been payable to the deceased spouse. However, if the deceased spouse was killed or executed, the surviving spouse was eligible for a lump-sum payment of CZK 120,000. Surviving children of participants in the national struggle for liberation were entitled to the same lump-sum payments as surviving spouses.

Results of Processing:

5,088 claims under this Act were granted, including:

- ▷ 3,905 claims of participants in the national struggle for liberation;

- ▷ 1,179 claims of surviving spouses of participants in the national struggle for liberation;
- ▷ 4 claims of surviving children of participants in the national struggle for liberation.

The total distributed amount was CZK 438,103,000; i.e., the average payment per person was CZK 86,105. This includes:

- ▷ CZK 368,885,000 paid to participants in the national struggle for liberation;
- ▷ CZK 68,738,000 paid to surviving spouses;
- ▷ CZK 480,000 paid to surviving children.

Act No. 357/2005 concerning the recognition of participants in the national struggle for the establishment and liberation of Czechoslovakia and certain categories of their survivors, a special contribution to supplement the pensions of certain persons, a lump-sum payment to certain participants in the 1939–1945 national struggle for liberation, and amending certain laws

This legislation is of a different nature. It again applies mostly to resistance fighters – holders of certificates of participation in a resistance movement – and to specified categories of their survivors; however, it introduces several types of benefits payable either on a monthly basis, together with the person's pension, or as a lump-sum payment.

Results of Processing:

134 claims for lump-sum payments under this Act were granted, including:

- ▷ 108 claims of direct participants;
- ▷ 25 claims of surviving spouses;
- ▷ 1 claim of a surviving child.

The total amount distributed in lump-sum payments was CZK 3,630,000; i.e., the average payment per person was CZK 27,090. This includes:

- ▷ CZK 3,240,000 paid to direct participants;
- ▷ CZK 275,000 paid to surviving spouses;
- ▷ CZK 15,000 paid to a surviving child.

36,648 claims for monthly payments (supplementary pension benefits or pension contributions) under this Act were granted by March 2009.

The aggregate amount of supplementary pension benefits and contributions distributed to these claimants by March 2009 was CZK 58,015,893.

**Annex to Presentation by Georg Heuberger
on “Holocaust Era Looted Art: A Worldwide
Overview”¹**

► **Georg Heuberger**

CONFERENCE ON JEWISH MATERIAL CLAIMS
AGAINST GERMANY, GERMANY

I. CLASSIFICATION OF COUNTRIES

**Countries That Have Made Major Progress Towards
Implementing the Washington Conference Principles on
Nazi-Confiscated Art**

- Countries in which the Holocaust took place: Austria, Czech Republic, Germany, the Netherlands

**Countries That Have Made Substantial Progress Towards
Implementing the Washington Conference Principles on
Nazi-Confiscated Art**

- Countries in which the Holocaust took place: Belgium, France, Luxembourg, Norway, Slovakia
- Other countries involved in the history of the Holocaust and its aftermath: Canada, Israel, Liechtenstein, Switzerland, United Kingdom, United States

¹ See presentation p. 940.

**Countries That Have Taken Some Steps Towards
Implementing the Washington Conference Principles
on Nazi-Confiscated Art**

- Countries in which the Holocaust took place: Croatia, Denmark, Russia
- Other countries involved in the history of the Holocaust and its aftermath: Australia, Finland, Ireland

**Countries That Do Not Appear to Have Made Significant
Progress Towards Implementing the Washington
Conference Principles on Nazi-Confiscated Art**

- Countries in which the Holocaust took place: Belarus, Bosnia and Herzegovina, Bulgaria, Estonia, FYROM, Greece, Hungary, Italy, Latvia, Lithuania, Poland, Romania, Serbia, Slovenia, Ukraine
- Other countries involved in the history of the Holocaust and its aftermath: Argentina, Brazil, the Holy See, Portugal, Spain, Sweden, Turkey, Uruguay

**Countries for Which There Is Insufficient
Information to Make a Judgment**

- Albania, Cyprus, Kosovo, Malta, Moldova, Montenegro, as well as various other countries – e.g., Japan – involved in the world art trade

II. SUMMARIES BY COUNTRY

ALBANIA

Albania has no restitution law in place that covers movable property.

Albania's cultural institutions do not conduct provenance research, and it is not known if restitution of any objects from cultural institutions has taken place.

Albania participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

ARGENTINA

In 1997, Argentina created the "Argentine Commission of Inquiry into the Activities of Nazism in Argentina" (CEANA). CEANA concluded that no looted art was or is held by the *Museo Nacional de Bellas Artes* but admitted that it had not checked any other state-run museum and that it faced difficulties researching the activities of Argentina's art market during the Holocaust, particularly those of the Witcomb, Wildenstein and Muller art galleries. The work of the Commission as well as its final report was criticized by several historians.

Argentina's cultural institutions do not conduct provenance research. No restitutions of cultural and religious objects have taken place.

Argentina participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

AUSTRALIA

No research has thus far been conducted on looted cultural and religious artworks that might have entered Australia during or after World War II. Due to the lack of research it is not possible to determine if looted cultural and religious artworks are currently held in Australia except for the findings by those of Australia's major museums that have launched provenance research. The organization Museum Australia has not issued any guidelines concerning provenance research.

Australia's cultural institutions do conduct provenance research. It is not known if any restitution has taken place.

Australia participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

AUSTRIA

While Austria had some restitution laws in place immediately after the war had ended, it did not provide a hospitable climate for claimants trying to retrieve their artworks. The situation changed with the 1996 *Mauerbach Auction*, at which the remaining looted artworks kept by the Austrian state were auctioned off for the benefit of its Jewish community. This was followed by the creation of the 1998 Federal Art Restitution Law, the establishment of a Historical Commission, the creation of a Commission for Provenance Research, and the formation of a Restitution

Committee that *de facto* decides on specific restitution cases. While the Restitution Law has several shortcomings and will potentially be revised by Austria's current government, it allows state-run museums to de-accession artworks if they are proven to have been looted or otherwise misappropriated. Thus far, Austria's museums, federal and non-federal alike, have restituted approximately 13,000 objects.

Heirless objects, in accordance with the Federal Art Restitution Law, are to be transferred to the National Fund of the Republic of Austria for Victims of National Socialism. In 2006, the National Fund posted an online database¹ of some of these heirless objects to allow additional claimants to come forward. Currently some 9,000 objects are listed.

Austria's state-run cultural institutions, mostly museums, but also libraries and archives, are conducting provenance research and have restituted objects. However, some private or semi-private museums, notably the Foundation Leopold, are not restituting spoliated objects. Some research has indicated that the Foundation Leopold might hold up to eight paintings that were looted by the Nazis.

Austria participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

BELARUS

Belarus has no restitution law in place that covers movable property. However, some cultural institutions hold objects of unclear

provenance, including the State Museum of History and Culture of Belarus in Minsk, the National Library of Belarus, and the State Historical Archive of Belarus.

Belarus' cultural institutions do not conduct provenance research. It is not known if any restitution has taken place.

Belarus participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

BELGIUM

In 2001, the "Commission for the Indemnification of Members of the Belgian Jewish Community Whose Assets Were Plundered, Surrendered or Abandoned during World War II" was created. In 2008, the Commission released its final report. The Commission was preceded by the so-called "Study Commission on Jewish Assets" which had as its goal research on the provenance of objects held in cultural institutions. The Study Commission unveiled 331 objects with unclear provenance in state institutions, but noted that its provenance research was not completed and that further research was required.

Subsequently, additional research was carried out, and a number of Belgian museums are planning on publishing their research results in the course of the current year. At the same time, no provenance research has been carried out on private and foreign museums and galleries in Belgium.

Belgium participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

¹ See: <http://www.kunstrestitution.at>.

BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina has no restitution law in place that covers movable property.

Bosnia and Herzegovina's cultural institutions do not conduct provenance research, and it is not known if restitution of any objects from cultural institutions has taken place. At the same time, some museums, notably the National Museum of Bosnia and Herzegovina, hold artifacts of unclear provenance.

Bosnia and Herzegovina participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

BRAZIL

In 1997, Brazil set up a "Commission for the Investigation of Nazi Assets" that tried to establish if illicitly confiscated assets were transported into the country, including more than a hundred works of art which were known to have been exported and sold in Brazil. It is not known if the Commission published a final report or issued any recommendations.

Brazil's cultural institutions do not conduct provenance research, and it is not known if restitution of any objects from cultural institutions has taken place.

Brazil participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

BULGARIA

In 1992, Bulgaria passed the Law on Restoration of Property Rights, but it is not clear to what extent there has been restitution of moveable property.

Bulgaria's cultural institutions do not conduct provenance research, and it is not known if restitution of any objects from cultural institutions has taken place.

Bulgaria participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

CANADA

In 2001, the Canadian Museums Association, together with the Canadian Jewish Congress, sponsored the conference "A Matter of Justice" that proposed recommendations on Holocaust-era cultural property. Five years later, a subsequent meeting was held with the participation of the Claims Conference/WJRO at which the decision was made to survey Canadian cultural institutions in regard to their efforts at provenance research.

Consequently, the Department of Canadian Heritage commissioned the Canadian Art Museum Directors' Organization (CAMDO) to conduct a survey of 84 member institutions. While the survey only yielded twelve completed surveys, the total number of works that require provenance research was estimated to be 822, which includes 378 paintings and sculptures. The survey also showed that none of the responding museums have a dedicated provenance research budget. Only three institutions have

had claims made against works in their collections, with one carrying out the restitution. The findings were summarized in a report entitled "Report on Provenance Research Needs for Holocaust-Era Cultural Property in Canadian Art Museums – Summary" (February 2008).

Canada's cultural institutions conduct provenance research and have restituted objects that were previously spoliated. In addition, the "Canadian Heritage Information Network" (CHIN), which is maintained by the Government of Canada, allows cultural institutions to post objects with provenance gaps.

Canada participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

CROATIA

In 1997, the Government of Croatia not only established a Historical Commission to investigate the fate of property of victims of National Socialism but also adopted the Law on Restitution and Compensation for Property Seized During and After World War II. In 1989, some libraries that had been looted from Jews and handed over to the National and University Library were restituted to the Jewish community.

It does not appear that Croatia's cultural institutions conduct provenance research. It is not known if restitutions from museums have taken place. Nonetheless, according to experts, it is very likely that some museums in Zagreb, but especially the *Muzej za umjetnost i obrt* (Museum of Arts and Crafts) hold looted cultural and ritual objects.

Croatia participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

CYPRUS

It is unknown if any cultural property looted from Jews is located in Cyprus. No research has taken place, and it seems unlikely that cultural institutions in Cyprus are conducting provenance research.

Cyprus participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

CZECH REPUBLIC

In 1998, the Czech Republic formed a Joint Working Commission aimed to mitigate property injustices inflicted on Holocaust victims. Two years later, in 2000, the Parliament passed Restitution Act No. 212/2000, which stipulates the responsibility of the director of a contacted cultural institution to return art objects if they were looted. In case of a dispute, the ruling by an independent court is decisive. The original deadline of December 2006 for presenting claims has since been abolished. The database "Restitution-Art", sponsored by the Ministry of Culture, lists about 3,400 cultural objects with provenance gaps.

A year after the restitution law was passed, the "Documentation Centre of Property Transfers of Cultural Assets of WW II Victims" was founded. The Center's major aim is to research historical and economic questions regarding confiscated Jewish cultural property, in particular art objects.

Cultural institutions in the Czech Republic are conducting provenance research and have restituted objects that were spoliated. However, some looted artifacts, notably hundreds of thousands of books that went to the National Library in Prague, have not been researched or restituted. Some private museums, which are not bound by the restitution law, particularly the Jewish Museum, are also conducting provenance research and have restituted objects. Objects that have been restituted may nonetheless be subject to export restrictions.

The Czech Republic participated in the 1998 Washington Conference on Holocaust Era-Assets and is a signatory to ICOM's Code of Ethics.

DENMARK

At a meeting in 2007 with the Claims Conference/WJRO and the Jewish Community of Denmark, the Ministry of Culture of Denmark pledged to make public an investigation of the holdings of the national institutions that was done in 2001. The investigation showed that none of the Danish museums had relevant objects in their collections, and the Ministry of Culture concluded that it is not necessary to have museums research their entire collections, in view of the perception that Denmark does not in fact have any looted items.

Provenance research will only be carried out by Danish museums if they are faced with a restitution claim.

Denmark participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

ESTONIA

At the time Estonia regained its independence in 1991, illegally alienated property was largely restored to former legal owners or compensation was paid. There was no distinction drawn between Jewish property that was nationalized and non-Jewish property, especially since no information is available if valuable works of art belonging to Jews in 1940–1941 or expropriated in 1941 after the German occupation had begun were nationalized.

In 1998 the "Estonian International Commission for Investigation of Crimes Against Humanity" was formed. The specific topic of looted cultural property was not part of the Historical Commission's research task. It does not seem that cultural institutions in Estonia are conducting provenance research.

Estonia participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

FINLAND

Finnish museums have very recently begun to conduct provenance research. A brief overview of provenance research being conducted in Finland's cultural institutions may be found online¹. Until funding ran out, the DEAL project (Distributors of European Art Legacy – Finland as Relocation Region of Nazi-Looted Art), founded in 2001, was carrying out research into spoliated art in Finland.

Finland has no restitution law, and no artwork has been

¹ See: <http://www.museot.fi/provenance-research-in-finnish-museums>.

restituted. At least two museums are believed to hold looted artworks: the Sinebrychoff Art Museum and the Kuopio Art Museum.

Finland participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

FRANCE

Following the end of World War II, France enacted a number of restitution laws. In 2000, a Historical Commission, chaired by Jean Mattéoli ("Mattéoli Commission"), was formed. One of the Historical Commission's recommendations was for the creation of an office dealing specifically with spoliated Jewish property. In 1999, the "Commission for the Compensation of Victims of Spoliation (CIVS)" was formed. The CIVS office deals, among other claims, with requests for looted cultural property, however, it can only provide for monetary compensation payments and does not exert any influence over the restitution of objects held in French cultural institutions.

As there is no restitution law or clear procedure that allows for the restitution *in rem* of a looted cultural object in France's museums, requests for artworks held by France's cultural institutions have to be pursued through lawsuits. The situation is slightly different concerning the approximately 2000 MNR objects (*Musées Nationaux Récupération*), all of which were recovered from Germany after World War II and given to the custody of the French National Museums. Most MNR objects are thought to be heirless, although the French government does not question the fact that the Germans acquired or "appropriated" them in France between 1940 and 1944. Today the remaining MNR artworks are still to be found in museums throughout France, including in

the Louvre, the Musée d'Orsay, and the Centre Georges-Pompidou. In 1996, the Museums Department of the French Ministry of Culture and Communication published an online¹ listing of its MNR collection. Eight years later, in 2004, a *Catalogue raisonné* of some of the MNR collection still being held in France's cultural and governmental institutions was published. Since 1997, 41 MNR paintings, including works by Picasso or Monet, have been restituted.

More recently, in 2008, some of the MNR's were exhibited at the Israel Museum in Jerusalem and then in Paris. The exhibition, entitled *Looking for Owners: Custody, Research and Restitution of Art Stolen in France during World War II*, aimed to potentially find more pre World War II owners. French museums have yet to do provenance research on their collections more generally.

France participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

FYROM

According to experts, it is thought that a number of Macedonia's cultural institutions hold artifacts that may have belonged to Jewish victims of the Holocaust.

Museums in Macedonia do not conduct provenance research, and it is not known if any restitution of Jewish-owned cultural movable artifacts has taken place. There is no specific law in place for the restitution of looted Jewish cultural and religious property.

¹ See: <http://www.culture.gouv.fr>.

Macedonia participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

GERMANY

After the end of World War II, Germany passed several restitution laws that, among other issues, also covered looted cultural objects – e.g., the 1957 Federal Restitution Law (BRÜG). More recently, in 1999, Germany announced a mutual statement and agreement aimed at the identification and restitution of Nazi-looted cultural items, especially if they had belonged to Jews. This mutual agreement is a request, and therefore not binding. It does not obligate Germany's museums to investigate their cultural assets. However, for a number of museums, in addition to the regional finance office (*Oberfinanzdirektion*), the mutual agreement was an impetus to start provenance research.

In 1994, the Coordination Office of the States for the Return of Cultural Treasures was established, and in 2001, the Central Office for the Documentation of Lost Cultural Assets was inaugurated in Magdeburg. 2001 also marked the launch of the web-based database *www.lostart.de*, which serves as a depository for information on public losses, trophy art, and on cultural goods which were transported or stolen as a result of Jewish persecution. One listing deals exclusively with Jewish collectors and their losses. Only very few restitutions have resulted from *www.lostart.de*.

Also in 2001, Germany issued the legally non-binding "Handreichung" (*Handreichung zur Umsetzung der 'Erklärung der Bundesregierung, der Länder und der kommunalen Spitzenverbände*

zur Auffindung und zur Rückgabe NS-verfolgungsbedingt entzogenen Kulturgutes, insbesondere aus jüdischem Besitz) or guidelines outlining ways to discover and restitute looted cultural property. In November 2007, the handout was revised following the disputed restitution of a painting by Ernst Ludwig Kirchner.

In 2003, the Advisory Commission on the Return of Cultural Property Seized as a Result of Nazi Persecution, especially from Jewish possession, also known as the "Looted Art Commission", was inaugurated. The Commission's aim is to serve as a mediator between the current owner of an artwork in question and former owner(s). As both parties need to agree to have the Commission serve as a mediator, until now it has only made recommendations in four cases.

Since 2006, the "Federal Office for Central Services and Unresolved Property Issues" (*Bundesamt für zentrale Dienste und offene Vermögensfragen* or BADV) deals with looted art that is still in German governmental possession, including the Remainder of Stock CCP (Restbestand Central Collecting Point) covering among other objects, approximately 2,300 paintings, sculptures, or graphics. Most paintings were collected for Hitler's planned museum in Linz or belonged to Hermann Göring's vast art collection. In 2007, BADV published an online database.

A number of Germany's cultural institutions conduct provenance research, and restitutions have taken place.

Germany participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

GREECE

Greece initiated a number of directives and restitution laws at the end of World War II and in 1944 was the first European government to clearly state that the Greek state should under no circumstances benefit from abandoned or confiscated Jewish property.

Greece's biggest loss of Jewish cultural property covers the archives of various Jewish communities in Greece, including the archives of Athens, Ioannina, Larissa, Volos, Didymoteicho, Kavala and Salonika; all of which were looted by the Nazis. Most of these archives are believed to be in the Russian State Military Archive. However, part of the Salonika cultural property can be found in Poland.

Little to no provenance research is being conducted by Greece's cultural museums, and no restitutions have taken place. Recently the Ministry of Culture has sent a request for information on the subject to the museums.

Greece participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

THE HOLY SEE

Little to no research has been done on the extent to which the Vatican may have received looted artworks. It does not appear that the Vatican museum conducts provenance research. It is not known if any restitution has taken place.

The Holy See participated in the Washington Conference on Holocaust-Era Assets but is not a signatory to ICOM's Code of Ethics.

HUNGARY

Hungary claims to have lost more than 40,000 objects of art, including paintings, decorative art and other objects such as medals during World War II. However, about 90–92 percent of the artworks taken out of the country were returned between 1945 and 1948, with approximately 20 percent remaining in Hungary's cultural institutions – including artworks looted from Hungarian Jews.

The National Gallery and the Museum of Fine Arts are known to hold looted art. Despite numerous legal attempts, Ms. Nierenberg, who is claiming the artworks of her late father, the Hungarian banker Baron Mor Lipot Herzog, who had collected between 1,500 and 2,500 artworks, has been denied any restitution. The Herzog collection is not the only collection of Jewish artworks kept by Hungarian cultural institutions. According to experts in the field, Hungarian museums still store several hundred works of art obtained under questionable circumstances.

Hungary has never set up a historical commission to investigate Hungary's role and participation in the financial and physical annihilation of its Jews, and it has not initiated any provenance research by its cultural institutions. While a few restitutions have taken place, important works of art have consistently been kept from being restituted to their rightful owners.

Hungary participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

IRELAND

Despite a questionable history involving Dr. Adolf Mahr, it does not appear that the National Museum of Ireland has conducted provenance research. The Hunt Collection's investigatory commission cleared it of all wrongdoing, but the Simon Wiesenthal Center as recently as 2008 published a report entitled "The Hunt Controversy: A Shadow Report".

It is not known if other museums in Ireland conduct provenance research or if any restitution of cultural property has taken place.

Ireland did not participate in the 1998 Washington Conference on Holocaust-Era Assets but is a signatory to ICOM's Code of Ethics.

ISRAEL

Israel was the recipient of much looted cultural and religious property sent to the country by Jewish Cultural Reconstruction (JCR). Some 1,200 artworks and Judaica objects were sent to Israel, specifically to the Bezalel Museum in Jerusalem. Those objects that were kept at the Bezalel Art Institute were later transferred to the Israel Museum in Jerusalem created in 1965. Other objects, especially Judaica items, were distributed among various cultural and religious organizations in Israel.

With the exception of the Israel Museum in Jerusalem, cultural and religious organizations in Israel do not appear to conduct provenance research.

In 2006, the "Company for Location and Restitution of Holocaust Victims Assets" was established under the Holocaust Victims Assets Law (Restitution to Heirs and Endowment for Purposes of Assistance and Commemoration). This organization may be in a position to request the restitution of cultural or religious objects, but no clear understanding is yet in place. However, according to experts in the field, the Company may take on the role of conducting provenance research in a number of Israeli cultural institutions.

Israel participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

KOSOVO

A number of museums and other cultural institutions were either partially or totally destroyed or plundered during the Kosovo war, while other collections were removed from Kosovo to Serbia at the beginning of 1999.

The spoliation of Jewish cultural property in Kosovo has not been researched. Museums and other cultural institutions in Kosovo do not conduct provenance research.

Kosovo, then part of Serbia, did not participate in the 1998 Washington Conference on Holocaust-Era Assets. Kosovo is not a member of ICOM and therefore not a signatory to ICOM's Code of Ethics.

LATVIA

In 1998, the "Commission of Historians of Latvia" was established and instructed to study the issue of "Crimes against

Humanity Committed in the Territory of Latvia under Two Occupations, 1940–1956,” including the topic “Holocaust in Latvia in 1941–1944”. However, the confiscation of privately owned Jewish art collections and the looting of Judaica during World War II have not been researched, and there is little to no information available.

Latvia has no restitution law in place. Nevertheless, in September 2008, Latvia’s prime minister established a “working group” which aims to explore the issue. It does not appear that Latvia’s cultural and religious institutions are conducting provenance research. It is not known if any restitution of cultural property has taken place.

Latvia participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM’s Code of Ethics.

LIECHTENSTEIN

In 2001, the Liechtenstein government appointed an Independent Commission of Historians pursuant to various initiatives and questions raised in public about Liechtenstein’s role during World War II. A final report was published in 2005.

There is no indication that looted cultural property found its way into Liechtenstein’s museums. This assertion was confirmed by research by a member of the Historical Commission that showed that no spoliated artworks historically reached Liechtenstein’s three main cultural institutions.

Liechtenstein did not participate in the 1998 Washington Conference on Holocaust-Era Assets, nor is Liechtenstein a signatory to ICOM’s Code of Ethics.

LITHUANIA

Lithuania has passed a few restitution laws, mostly covering immovable property claims, but no restitution law is in place covering specifically the restitution of Jewish cultural property. In 1998, the “International Commission for the Evaluation of the Crimes of the Nazi and Soviet Occupation Regimes in Lithuania” was formed, which soon split into two separate Commissions with one dealing specifically with the destruction of the Jewish community as a spiritual and religious community, as well as the confiscation of property. Some research is still ongoing.

Lithuania has returned a number of Jewish religious artifacts, notably in 2002 when it returned 309 Torah scrolls and megillot. However a number of cultural institutions in Lithuania still hold looted Jewish artifacts, among them the National Museum (which continues to hold Torah scrolls).

Cultural institutions in Lithuania do not appear to conduct provenance research. In addition, very few of the Jewish cultural and religious objects held have been catalogued or otherwise recorded.

Lithuania participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM’s Code of Ethics.

LUXEMBOURG

In 2001, Luxembourg created a Historical Commission, “The Special Study Commission on the Spoliation of Jewish Assets in Luxembourg during the War Years 1940–1945”, which aimed to research Jewish looted cultural property. In July 2007, the

Commission published an intermediate report entitled *Le Rapport intermédiaire de la Commission spéciale pour l'étude des spoliations des biens juifs pendant les années de guerre 1940–1945*. As part of its work, the Historical Commission was able to identify one silver object in the National Museum that was spoliated during the Holocaust.

The National Museum seems to be the only museum in Luxembourg that conducts provenance research, notably by publishing five lists on its website referencing acquisitions made between 1940 and 1944. There is no restitution law in place for looted Jewish cultural and religious property in Luxembourg.

Luxembourg participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

MALTA

It does not appear that cultural institutions in Malta are conducting provenance research. It is not known if any restitution has ever taken place. It is also not known whether looted art may have historically entered Malta other than possibly through the art trade since the war.

Malta did not participate in the 1998 Washington Conference on Holocaust-Era Assets, but is a signatory to ICOM's Code of Ethics.

MOLDOVA

Moldova has no restitution law in place that covers movable property.

Moldova's cultural institutions do not seem to conduct provenance research, and it is not known if restitution of any objects from cultural institutions has taken place.

Moldova did not participate in the Washington Conference on Holocaust-Era Assets but is a signatory to ICOM's Code of Ethics.

MONTENEGRO

In March 2004, Montenegro passed a restitution law which aims to provide for restitution in kind, when possible, with cash compensation or substitution of other state land when physical return is not possible. The law does not draw a distinction between religious and privately owned property.

It does not seem that cultural institutions in Montenegro are conducting provenance research. It is equally unknown if any restitution of cultural property has taken place.

Montenegro, then part of Serbia, did not participate in the 1998 Washington Conference on Holocaust Era Assets but is a signatory to ICOM's Code of Ethics.

THE NETHERLANDS

Soon after World War II ended, the Netherlands enacted restitution laws that provided for the restitution of looted cultural property. Specifically the SNK (*Stichting Nederlandsch Kunstbezit*) was put in charge of recuperating artworks from abroad but also, if possible, returning some of the objects to their rightful owners and collecting lists of confiscated Jewish property.

By 1950, five years after the war, a number of works of art had been restored to their owners in the Netherlands. The remaining works stayed in the custody of the state subject to an original owner or heir turning up: these non-restituted artworks subsequently became known as the NK-collection, or *Nederlands Kunstbezit-collectie*, of 4,217 artworks.

In 1997, the Ekkart Committee was tasked to carry out a pilot study researching the provenance of parts of the NK-collection. The actual research was then carried out by the project bureau entitled Origins Unknown (*Herkomst Gezocht*) and was completed in 2004. Objects falling under the NK-collection are viewable on the Origins Unknown website, in addition to any recommendations that have been issued for return of cultural objects, such as for the Goudstikker collection.

In 1998, Dutch State Museums launched an investigation for objects acquired between 1940 and 1948, and subsequently published the report entitled *Museale Verwervingen 1940–1948* (Report Museum Acquisitions) in January 2000. However, experts suspect that additional provenance research is necessary, including in regard to non-state museums, and that up to 4,000 artworks that originally belonged to Jews might still be in museums in the Netherlands. As of the beginning of 2009, the museums of the Netherlands have begun to examine their collections for works looted from Jews beginning in 1933 with the aim of publishing a list of such works by 2013.

The Netherlands participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

NORWAY

The process of reclaiming property in Norway after the war was especially difficult for Jews, as catalogues of particularly valuable ownerless property were only printed in 1947. Since 90 percent of the artworks referenced in the catalogue were not reclaimed, the rest were sold off at auctions or donated to the National Gallery or other state institutions.

In an attempt to make up for past insufficient restitution efforts, in 1996 the "Norwegian Commission on Restitution" was appointed and tasked with conducting a survey on what happened to Jewish property in Norway during and after World War II. The so-called minority report was subsequently adopted by Norway's government, and a restitution fund was set up covering the total joint amount of losses endured by Norway's Jewish community. The fate of artworks during World War II is considered to have been fully researched.

Norway's museums do not seem to conduct provenance research, including Norway's National Gallery which was handed a number of looted Jewish artworks. The only exception seems to be the National Library which examined its collection during the work of the restitution committee in 1996/97. Such provenance research is needed in view of the likely importation of looted artworks since the war through the art trade.

Norway participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

POLAND

Cultural losses experienced by Poland began to be recorded as early as September 1939, and by 1944, a first list of objects destroyed and removed from public and private collections was created. In 1945 the Polish Ministry of Culture created the “Bureau for Restitution and Reparations” to identify cultural losses and prepare restitution claims. In 1991 the Foreign Ministry established the “Bureau of the Government Plenipotentiary for Polish Cultural Heritage Abroad” located at the Ministry of Culture and Art (presently the Department of National Heritage). This office seeks to identify and locate cultural losses. As part of the office’s task, catalogues of war-time losses have been created, with parts of the catalogue available online. However, the catalogue does not distinguish between objects that were destroyed, objects that survived, and/or objects that were looted from Jews.

The total amount of confiscated Jewish-owned cultural property in occupied Poland has thus far not been documented and is therefore unknown. Estimates of the spoliation of Jewish book collections are as high as 70 percent, with some libraries, especially private school and religious libraries having been completely destroyed. Nonetheless, remnants of Jewish libraries can be found in a number of Polish libraries, for example in the Jagiellonian University Library.

Cultural institutions in Poland do not conduct provenance research, or in very few cases, do not make any existing provenance research publicly available. At the same time, it is known or in some cases thought that a number of museums such as the John Paul II Collection in Warsaw, the Warsaw National Museum, and the Gdansk Museum not only hold looted Jewish cultural property but also religious objects. In addition, artefacts that

originally belonged to the Jewish Community of Thessalonica, Greece, and other foreign Jewish communities are in the Jewish Historical Institute in Warsaw.

There is no restitution law in place covering the restitution of Jewish-owned cultural and religious property. As a result, referencing all sorts of difficulties, some museums will, when faced with a restitution claim, not reconstitute an artwork if claimed by its former owners or their heirs.

Poland participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM’s Code of Ethics.

PORTUGAL

In 1998, Portugal launched a Historical Commission tasked with researching the country’s involvement in gold transactions between Portugal and Germany between 1936 and 1945. The Commission’s task did not cover any research into looted art reaching Portugal – which served as a transit country – or looted cultural and religious property currently located in Portugal. On the other hand, documents in the United States archives point to the fact that Portugal’s ports served as a transit point for looted art that was subsequently shipped to the United States. The Commission’s work was concluded in 1999 and was criticized by the World Jewish Congress.

Museums in Portugal generally do not seem to conduct provenance research. It is suspected that a number of museums, such as the *Fundação Medeiros e Almeida*, may hold looted cultural property.

Portugal participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

ROMANIA

In 2003, Romania established an "International Commission on the Holocaust in Romania" which released its final report a year later, in 2004.

Cultural institutions in Romania do not conduct provenance research. Romania has no restitution law in place that covers looted cultural property.

Romania participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

RUSSIA

As World War II was ending and immediately after it, Red Army trophy brigades removed enormous quantities of art, books, and archives from Germany and other enemy territory. Since German holdings included cultural property looted from Jews throughout most of Europe and other Jewish cultural property had been left abandoned due to the genocide, large quantities of Jewish cultural property from such countries as Germany, Austria, the Netherlands, France, Belgium, Greece, Bulgaria, and Hungary were removed to the Soviet Union.

While some Russian cultural institutions have published reports on trophy property in their possession, including items that originally belonged to Jews, most research has focused on

documenting Russia's losses (including some originally Jewish property) rather than property looted from Jews in other countries that today can be found in Russia's museums, libraries and archives. The Federal Law on Cultural Valuables Displaced to the USSR as a Result of World War II and Located on the Territory of the Russian Federation (1998/2000) provides for the potential restitution of cultural treasures under specified conditions to governments, primarily governments of those countries that fought against the Nazi regime or were victimized by the Nazis. Restitution of archives to France, Belgium, the Netherlands, Luxembourg, and prospectively Austria and other countries – as well as to the Rothschild family – has included restitution of archives taken from Jewish communities and individuals. There are artworks that were looted from Jews and that remain in Russia's museums, but there is no known case of restitution of such artwork.

Some cultural property taken by the trophy brigades that included items that originally belonged to Jews was distributed under Stalin to what were at the time union republics of the Soviet Union. No research on this distributed cultural property has been done, however.

The Russian Federation participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

SERBIA

In October 2006, Serbia passed a restitution law that enables the restitution of communal movable and immovable property. Applications for restitution of property or payments of

reimbursement or recompense had to be submitted by 30 September 2008. The Federation of Jewish Communities filed a general application for communal movable property that may be identified in future years.

Cultural institutions in Serbia generally do not conduct provenance research. However, it is known that some museums hold looted Jewish cultural property, most notably the National Museum in Belgrade, which holds the *Šlomovič Collection*, known to contain several paintings looted from Jews.

Serbia did not participate in the 1998 Washington Conference on Holocaust-Era Assets but is a signatory to ICOM's Code of Ethics.

SLOVAKIA

The Slovak Republic enacted restitution laws shortly after the end of World War II that also covered looted Jewish cultural property. These restitution laws were soon followed by Czechoslovak laws, which also in some cases were intended to apply to Jewish and non-Jewish properties alike, as long as those assets had been taken by the communist regime.

In 2001, the Central Union of Jewish Communities of Slovakia (UZZNO) was formed and tasked with the identification of unreturned properties of murdered Slovak Jews. In 2007, the Claims Conference/WJRO and the UZZNO reached agreement with the Slovak Ministry of Culture on publication of a provenance research survey previously conducted and on continued encouragement of provenance research by the museums of Slovakia. In June 2008 the Slovak Ministry of Culture reported that it had carried out these activities.

The Slovak Republic participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

SLOVENIA

Slovenia recently initiated research into the fate of real estate and movable property looted from Slovenian Jews during or after the Holocaust. The findings of the research team should contribute to the creation of a restitution law.

It is not known if national institutions hold looted Jewish cultural and religious property, as in-depth research has just begun. It seems unlikely that cultural institutions in Slovenia conduct provenance research. It is also not known if any restitution has taken place.

Slovenia participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

SPAIN

In 1997, Spain established a historical commission aimed at investigating the country's economic relations with the Third Reich. A year later, a final report was issued which has been heavily criticized by experts in the field. The Commission did not investigate Spain's role as a transit country for potentially looted cultural property or art looted from Jews that reached Spain in other ways. Spain does not have a restitution law that covers cultural and religious Jewish property that was spoliated during World War II.

Spain's cultural institutions do not conduct provenance research. It is known, however, that there is looted art in the country – e.g., the Thyssen-Bornemisza Collection is currently embroiled in a lawsuit concerning a painting by Pissarro originally owned by Julius Cassirer.

Spain participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

SWEDEN

In 1997, the Swedish government established "The Commission on Jewish Assets in Sweden at the Time of the Second World War." The Commission's final report "Sweden and Jewish Assets," released in 1999, concluded that cultural property looted from Jews might have entered Sweden but more research was needed. As a result, the "Swedish Committee of Enquiry" was set up and in 2002 was able to present its own final report. Two years prior to that, in 2000, the Swedish Research Council launched a governmental research program entitled "Sweden's Relations with Nazism, Nazi Germany and the Holocaust." While the Council presented its preliminary assessments in 2006, in-depth research has not yet started.

Most of Sweden's museums, with a few exceptions such as the Jewish Museum, do not appear to conduct provenance research. Swedish museums do hold looted art, however. Although the Moderna Museet in Stockholm does not dispute that a painting by Emil Nolde that it holds was looted, it has not to date restituted the painting.

Sweden participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

SWITZERLAND

In 1945, the Federal Council ordered that looted art that had reached the territory of the Federation should be returned and that the art museum in Basel should serve as a depository for remaining looted art. The art restitution law was largely seen as ineffective, mainly due to lack of publicity and the short time frame provided, but also because it only included objects that were had been misappropriated in occupied territories, thereby excluding the looting of cultural property in Germany and Austria.

In 1996, the Swiss Federal Assembly created the "Independent Commission of Experts Switzerland-Second World War" (ICE), which was headed by Jean-Francoise Bergier ("Bergier-Commission"). As part of the Commission's work, research was initiated into cultural assets that found their way into Switzerland during World War II. In 2001, the ICE published its report on looted cultural assets (primarily works of art) in Switzerland.

Four years prior to that, in 1997, the historian and journalist Thomas Buomberger was appointed by the Swiss Federal Office of Culture and the National Informational Office for the Preservation of Cultural Goods to research Switzerland's position as a transit country for looted art. Around the same time, in 1996/97 the Swiss Federal Office of Culture initiated a research study to investigate what art transactions took place with Nazi Germany during World War II and what, if any, artworks were still located in Switzerland's federal museums. In 1998, the research, which focused on the provenance of artworks in Switzerland's federal museums, was published. However, considering that most museums are under the auspices of the cantons and are not federal, in addition to the fact that most important collections are in

private hands, the survey did not cover a lot of artworks. In 1998 the Federal Assembly of Switzerland established an office at the Swiss Federal Office of Culture that exclusively deals with looted-art. Recently this office has been conducting a survey of the cantonal and communal museums.

While some museums in Switzerland conduct provenance research, the results are generally not known or made public. A number of restitutions have taken place.

Switzerland participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

TURKEY

Turkey has not initiated any research into looted cultural and religious property that may have reached Turkey during the Holocaust or afterwards. It does not appear that Turkey's cultural institutions are conducting provenance research. Research into Turkey's role is further complicated by the fact that not all archives are open for public viewing and research.

Turkey participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

UKRAINE

Ukraine holds thousands of objects originally owned by Jews that were looted by the Nazis. Many of these objects belonged to Jews outside the Soviet Union and were either brought directly to Ukraine by Red Army trophy brigades or were distributed

to Ukraine under Stalin. In the 1990's the "National Commission on the Restitution of Cultural Treasures to Ukraine under the Cabinet of Ministers" was established which primarily deals with Ukrainian losses and does not deal with Jewish cultural and religious property currently held in Ukrainian institutions. Although attempts have been made at creating a restitution law, to date nothing concrete has materialized.

Ukrainian museums generally do not conduct provenance research. However, museums, libraries and archives hold cultural and religious artifacts taken from Jews in Ukraine during World War II or taken from Jews in other countries and brought to Ukraine as part of those trophy items that Ukraine keeps based on the law that gives people and organizations that suffered property damage during the German invasion of the Soviet Union during World War II legal title to German property captured by the Red Army.

Although there has recently been some restitution of Torah scrolls to the Jewish communities of Ukraine, there are no known cases of restitution of artworks or other cultural property that originally belonged to Jews.

Ukraine participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

UNITED KINGDOM

In 1998 the National Museum Director's Conference (NMDC) established a working group to examine issues surrounding the spoliation of art during the Holocaust and World War II period. As a result, a statement of principles and proposed actions for

member institutions was drawn up. A year later, in 1999, the Museums and Galleries Commission (MGC) drew up guidelines for dealing with spoliated items in non-national museums. Also in 1999, an independent "Spoliation Advisory Panel" was established which has ruled on a handful of cases.

Some of the United Kingdom's cultural institutions conduct provenance research, namely those 28 that are mentioned on the NMDC's webpage as holding objects with unknown provenance. There is no restitution law in place for looted cultural property, in addition to the fact that under current law, British galleries are barred from disposing of art that they hold in trust for the nation. The "British Museum Act" clearly forbids museums from deaccessioning any part of their collection, with certain exceptions such as duplicates. Changes in the law are currently under consideration by Parliament.

The United Kingdom participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

UNITED STATES

The United States has played a significant historic role in international restitution efforts, but it has also been a recipient of looted art. In the postwar years, looted objects found their way to the United States, but given the intensive demand for cultural objects at the time, it was not standard practice for museum collectors and dealers to investigate the provenance of works that came into their possession. A significant number of works with questionable provenance entered both public and private collections in the United States.

The 1998 Presidential Advisory Commission on Holocaust Assets in the United States (PCHA) only marginally focused on looted art that reached the United States and on provenance research in cultural institutions. However, in its final report in 2000, the Commission recommended that all museums should disclose their known objects and make provenance research information available.

In 1998 the Association of Art Museum Directors (AAMD) established a Task Force on the Spoliation of Art during the Nazi/World War II Era and adopted guidelines detailing procedures on how to deal with Nazi-era looted art. Soon thereafter, in November 1998, the American Association of Museums (AAM) followed suit and published its "Common Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era." These guidelines were subsequently amended in April 2001.

In September 2003, the "Nazi-Era Provenance Internet Portal"¹ was launched: As of April 2009, 164 museums are participating in the Portal, with an additional 33 museums asserting that they do not hold any relevant objects as defined by the AAM. Generally speaking, most major museums in the USA have posted provenance research. However, a number of smaller museums, especially university museums, have not and are pointing to the high cost of provenance research. While the US government can urge museums to participate in the Portal and conduct provenance research, it has no leverage to enforce compliance since most museums are private or are under state and/or municipal authorities. No general claims resolution system has been set up for dealing with Nazi-era art claims, and claims are mostly dealt with on an ad hoc basis that requires claimants ultimately to go through the courts.

¹ See: <http://www.nepip.org>.

In July 2006, the Claims Conference/WJRO published a report entitled "Nazi-era Stolen Art and the US Museums: A Survey". The survey, which covered 332 museums, showed that while there are some good developments, improvements are still needed: among other findings, the report showed that the number of artworks posted on NEPIP (at that time 18,102 items listed by 151 participating museums) only reflected a small percentage of "covered objects" as defined by the AAM.

While many museums are conducting provenance research and a number of artworks have been returned, in a more recent development, some museums have started to file suits against claimants to quiet title, thereby invoking technical legal defenses in order to avoid restituting objects and compelling claimants to spend large sums in legal fees.

The United States participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

URUGUAY

Uruguay has not established a historical commission, and it is not known to what extent looted cultural property entered the country during the Holocaust period or after World War II.

Cultural institutions in Uruguay do not appear to be conducting provenance research. There is no restitution law in place for looted cultural property.

Uruguay participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to ICOM's Code of Ethics.

III. WASHINGTON CONFERENCE PRINCIPLES ON NAZI-CONFISCATED ART

Released in connection with the Washington Conference on Holocaust-Era Assets, Washington, DC, December 3, 1998.

In developing a consensus on non-binding principles to assist in resolving issues relating to Nazi-confiscated art, the Conference recognizes that among participating nations there are differing legal systems and that countries act within the context of their own laws.

- I. Art that had been confiscated by the Nazis and not subsequently restituted should be identified.
- II. Relevant records and archives should be open and accessible to researchers, in accordance with the guidelines of the International Council on Archives.
- III. Resources and personnel should be made available to facilitate the identification of all art that had been confiscated by the Nazis and not subsequently restituted.
- IV. In establishing that a work of art had been confiscated by the Nazis and not subsequently restituted, consideration should be given to unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era.
- V. Every effort should be made to publicize art that is found to have been confiscated by the Nazis and not subsequently restituted in order to locate its pre-War owners or their heirs.

- VI. Efforts should be made to establish a central registry of such information.
- VII. Pre-War owners and their heirs should be encouraged to come forward and make known their claims to art that was confiscated by the Nazis and not subsequently restituted.
- VIII. If the pre-War owners of art that is found to have been confiscated by the Nazis and not subsequently restituted, or their heirs, can be identified, steps should be taken expeditiously to achieve a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case.
- IX. If the pre-War owners of art that is found to have been confiscated by the Nazis, or their heirs, can not be identified, steps should be taken expeditiously to achieve a just and fair solution.
- X. Commissions or other bodies established to identify art that was confiscated by the Nazis and to assist in addressing ownership issues should have a balanced membership.
- XI. Nations are encouraged to develop national processes to implement these principles, particularly as they relate to alternative dispute resolution mechanisms for resolving ownership issues.

Annex to Presentation by Stephen J. Knerly Jr. on "Selected Issues for American Art Museums Regarding Holocaust Era Looted Art"¹

► **Stephen J. Knerly Jr.**

ASSOCIATION OF ART MUSEUM DIRECTORS, USA

REPORT OF THE AAMD TASK FORCE ON THE SPOILIATION OF ART DURING THE NAZI/WORLD WAR II ERA (1933–1945)

June 4, 1998

AAMD Statement of Purpose: "The purpose of the AAMD is to aid its members in establishing and maintaining the highest professional standards for themselves and the museums they represent, thereby exerting leadership in increasing the contribution of art museums to society."

I. STATEMENT OF PRINCIPLES

- AAMD recognizes and deplores the unlawful confiscation of art that constituted one of the many horrors of the Holocaust and World War II.
- American museums are proud of the role they, and members of their staffs, played during and after World War II,

¹ See: presentation p. 953.

assisting with the preservation and restitution of hundreds of thousands of works of art through the US Military's Monuments, Fine Arts and Archives section.

- ▷ AAMD reaffirms the commitment of its members to weigh, promptly and thoroughly, claims of title to specific works in their collections.
- ▷ AAMD urges the prompt creation of mechanisms to coordinate full access to all documentation concerning this spoliation of art, especially newly available information. To this end, the AAMD encourages the creation of databases by third parties, essential to research in this area, which will aid in the identification of any works of art which were unlawfully confiscated and which of these were restituted. Such an effort will complement long-standing American museum policy of exhibiting, publishing and researching works of art in museum collections in order to make them widely available to scholars and to the general public (see III. below).
- ▷ AAMD endorses a process of reviewing, reporting, and researching the issue of unlawfully confiscated art which respects the dignity of all parties and the complexity of the issue. Each claim presents a unique situation which must be thoroughly reviewed on a case-by-case basis.

II. GUIDELINES

AAMD has developed the following guidelines to assist museums in resolving claims, reconciling the interests of individuals who were dispossessed of works of art or their heirs together with the fiduciary and legal obligations and responsibilities of art museums

and their trustees to the public for whom they hold works of art in trust.

A. Research Regarding Existing Collections

1. As part of the standard research on each work of art in their collections, members of the AAMD, if they have not already done so, should begin immediately to review the provenance of works in their collections to attempt to ascertain whether any were unlawfully confiscated during the Nazi/World War II era and never restituted.
2. Member museums should search their own records thoroughly and, in addition, should take all reasonable steps to contact established archives, databases, art dealers, auction houses, donors, art historians and other scholars and researchers who may be able to provide Nazi/World-War-II-era provenance information.
3. AAMD recognizes that research regarding Nazi/World-War-II-era provenance may take years to complete, may be inconclusive and may require additional funding. The AAMD Art Issues Committee will address the matter of such research and how to facilitate it.

B. Future Gifts, Bequests, and Purchases

1. As part of the standard research on each work of art:
 - (a) Member museums should ask donors of works of art (or executors in the case of bequests) to provide as much provenance information as possible with regard to the Nazi/World War II era; and

- (b) Member museums should ask sellers of works of art to provide as much provenance information as possible with regard to the Nazi/World War II era.
- 2. Where the Nazi/World-War-II-era provenance is incomplete for a gift, bequest, or purchase, the museum should search available records and consult appropriate databases of unlawfully confiscated art (see III. below).
- (a) In the absence of evidence of unlawful confiscation, the work is presumed not to have been confiscated and the acquisition may proceed.
- (b) If there is evidence of unlawful confiscation, and there is no evidence of restitution, the museum should not proceed to acquire the object and should take appropriate further action.
- 3. Consistent with current museum practice, member museums should publish, display or otherwise make accessible all recent gifts, bequests, and purchases thereby making them available for further research, examination and study.
- 4. When purchasing works of art, museums should seek representations and warranties from the seller that the seller has valid title and that the work of art is free from any claims.

C. Access to Museum Records

- 1. Member museums should facilitate access to the Nazi/World-War-II-era provenance information of all works of art in their collections.

- 2. Although a linked database of all museum holdings throughout the United States does not exist at this time, individual museums are establishing web sites with collections information and others are making their holdings accessible through printed publications or archives. AAMD is exploring the linkage of existing sites which contain collection information so as to assist research.

D. Discovery of Unlawfully Confiscated Works of Art

- 1. If a member museum should determine that a work of art in its collection was illegally confiscated during the Nazi/World War II era and not restituted, the museum should make such information public.
- 2. In the event that a legitimate claimant comes forward, the museum should offer to resolve the matter in an equitable, appropriate, and mutually agreeable manner.
- 3. In the event that no legitimate claimant comes forward, the museum should acknowledge the history of the work of art on labels and publications referring to such a work.

E. Response to Claims Against the Museum

- 1. If a member museum receives a claim against a work of art in its collection related to an illegal confiscation during the Nazi/World War II era, it should seek to review such a claim promptly and thoroughly. The museum should request evidence of ownership from the claimant in order to assist in determining the provenance of the work of art.

2. If after working with the claimant to determine the provenance, a member museum should determine that a work of art in its collection was illegally confiscated during the Nazi/World War II era and not restituted, the museum should offer to resolve the matter in an equitable, appropriate, and mutually agreeable manner.
3. AAMD recommends that member museums consider using mediation wherever reasonably practical to help resolve claims regarding art illegally confiscated during the Nazi/World War II era and not restituted.

F. Incoming Loans

1. In preparing for exhibitions, member museums should endeavor to review provenance information regarding incoming loans.
2. Member museums should not borrow works of art known to have been illegally confiscated during the Nazi/World War II era and not restituted unless the matter has been otherwise resolved (e.g., II.D.3 above).

III. DATABASE RECOMMENDATIONS

1. As stated in I.D. (above), AAMD encourages the creation of databases by third parties, essential to research in this area. AAMD recommends that the databases being formed include the following information (not necessarily all in a single database):

- (a) Claims and claimants;

- (b) Works of art illegally confiscated during the Nazi/World War II era;

- (c) Works of art later restituted.

2. AAMD suggests that the entity or entities creating databases establish professional advisory boards that could provide insight on the needs of various users of the database. AAMD encourages member museums to participate in the work of such boards.

AMERICAN ASSOCIATION OF MUSEUMS GUIDELINES CONCERNING THE UNLAWFUL APPROPRIATION OF OBJECTS DURING THE NAZI ERA

I. INTRODUCTION

From the time it came into power in 1933 through the end of World War II in 1945, the Nazi regime orchestrated a system of theft, confiscation, coercive transfer, looting, pillage, and destruction of objects of art and other cultural property in Europe on a massive and unprecedented scale. Millions of such objects were unlawfully and often forcibly taken from their rightful owners, who included private citizens, victims of the Holocaust; public and private museums and galleries; and religious, educational, and other institutions.

In recent years, public awareness of the extent and significance of Nazi looting of cultural property has grown significantly. The American museum community, the American Association of Museums (AAM), and the US National Committee of the International Council

of Museums (AAM/ICOM) are committed to continually identifying and implementing the highest standard of legal and ethical practices. AAM recognizes that the atrocities of the Nazi era demand that it specifically address this topic in an effort to guide American museums as they strive to achieve excellence in ethical museum practice.

The AAM Board of Directors and the AAM/ICOM Board formed a joint working group in January 1999 to study issues of cultural property and to make recommendations to the boards for action. The report that resulted from the initial meeting of the Joint Working Group on Cultural Property included the recommendation that AAM and AAM/ICOM offer guidance to assist museums in addressing the problems of objects that were unlawfully appropriated during the Nazi era without subsequent restitution (i.e., return of the object or payment of compensation to the object's original owner or legal successor).

The efforts of the Working Group were greatly informed by the important work on the topic that had gone before. In particular, three documents served as a starting point for the AAM guidelines, and portions of them have been incorporated into this document. These include: Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933–1945); ICOM Recommendations Concerning the Return of Works of Art Belonging to Jewish Owners; and Washington Conference Principles on Nazi-Appropriated Art released in connection with the Washington Conference on Holocaust-Era Assets co-hosted by the US Department of State and the United States Holocaust Memorial Museum.

The Presidential Advisory Commission on Holocaust Assets in the United States (PCHA) was created in June 1998 to study and report to the president on issues relating to Holocaust victims' assets in the United States. AAM and the Association of Art Museum

Directors (AAMD) worked with the PCHA to establish a standard for disclosure of collections information to aid in the identification and discovery of unlawfully appropriated objects that may be in the custody of museums. In January 2001, the PCHA issued its final report, which incorporated the agreed standard for disclosure and recommended the creation of a searchable central registry of the information museums disclose in accordance with the new standard. AAM and AAMD agreed to support this recommendation, and these guidelines have been amended to reflect the agreed standard for disclosure of information.

Finally, AAM and AAM/ICOM acknowledge the tremendous efforts that were made by the Allied forces and governments following World War II to return objects to their countries of origin and to original owners. Much of the cultural property that was unlawfully appropriated was recovered and returned, or owners received compensation. AAM and AAM/ICOM take pride in the fact that members of the American museum community are widely recognized to have been instrumental in the success of the post-war restitution effort. Today, the responsibility of the museum community is to strive to identify any material for which restitution was never made.

II. GENERAL PRINCIPLES

AAM, AAM/ICOM, and the American museum community are committed to continually identifying and achieving the highest standard of legal and ethical collections stewardship practices. The AAM Code of Ethics for Museums states that the "stewardship of collections entails the highest public trust and carries with it the presumption of rightful ownership, permanence, care, documentation, accessibility, and responsible disposal."

When faced with the possibility that an object in a museum's custody might have been unlawfully appropriated as part of the abhorrent practices of the Nazi regime, the museum's responsibility to practice ethical stewardship is paramount. Museums should develop and implement policies and practices that address this issue in accordance with these guidelines.

These guidelines are intended to assist museums in addressing issues relating to objects that may have been unlawfully appropriated during the Nazi era (1933–1945) as a result of actions in furtherance of the Holocaust or that were taken by the Nazis or their collaborators. For the purposes of these guidelines, objects that were acquired through theft, confiscation, coercive transfer, or other methods of wrongful expropriation may be considered to have been unlawfully appropriated, depending on the specific circumstances.

In order to aid in the identification and discovery of unlawfully appropriated objects that may be in the custody of museums, the PCHA, AAMD, and AAM have agreed that museums should strive to:

1. Identify all objects in their collections that were created before 1946 and acquired by the museum after 1932, that underwent a change of ownership between 1932 and 1946, and that were or might reasonably be thought to have been in continental Europe between those dates (hereafter, "covered objects");
2. Make currently available object and provenance (history of ownership) information on those objects accessible; and
3. Give priority to continuing provenance research as resources allow.

AAM, AAMD, and PCHA also agreed that the initial focus of research should be European paintings and Judaica.

Because of the Internet's global accessibility, museums are encouraged to expand online access to collection information that could aid in the discovery of objects unlawfully appropriated during the Nazi era without subsequent restitution.

AAM and AAM/ICOM acknowledge that during World War II and the years following the end of the war, much of the information needed to establish provenance and prove ownership was dispersed or lost. In determining whether an object may have been unlawfully appropriated without restitution, reasonable consideration should be given to gaps or ambiguities in provenance in light of the passage of time and the circumstances of the Holocaust era. AAM and AAM/ICOM support efforts to make archives and other resources more accessible and to establish databases that help track and organize information.

AAM urges museums to handle questions of provenance on a case-by-case basis in light of the complexity of this problem. Museums should work to produce information that will help to clarify the status of objects with an uncertain Nazi-era provenance. Where competing interests may arise, museums should strive to foster a climate of cooperation, reconciliation, and commonality of purpose.

AAM affirms that museums act in the public interest when acquiring, exhibiting, and studying objects. These guidelines are intended to facilitate the desire and ability of museums to act ethically and lawfully as stewards of the objects in their care, and should not be interpreted to place an undue burden on the ability of museums to achieve their missions.

III. GUIDELINES

A. Acquisitions

It is the position of AAM that museums should take all reasonable steps to resolve the Nazi-era provenance status of objects before acquiring them for their collections — whether by purchase, gift, bequest, or exchange.

1. Standard research on objects being considered for acquisition should include a request that the sellers, donors, or estate executors offering an object provide as much provenance information as they have available, with particular regard to the Nazi era.
2. Where the Nazi-era provenance is incomplete or uncertain for a proposed acquisition, the museum should consider what additional research would be prudent or necessary to resolve the Nazi-era provenance status of the object before acquiring it. Such research may involve consulting appropriate sources of information, including available records and outside databases that track information concerning unlawfully appropriated objects.
3. In the absence of evidence of unlawful appropriation without subsequent restitution, the museum may proceed with the acquisition. Currently available object and provenance information about any covered object should be made public as soon as practicable after the acquisition.
4. If credible evidence of unlawful appropriation without subsequent restitution is discovered, the museum should notify the donor, seller, or estate executor of the nature

of the evidence and should not proceed with acquisition of the object until taking further action to resolve these issues. Depending on the circumstances of the particular case, prudent or necessary actions may include consulting with qualified legal counsel and notifying other interested parties of the museum's findings.

5. AAM acknowledges that under certain circumstances acquisition of objects with uncertain provenance may reveal further information about the object and may facilitate the possible resolution of its status. In such circumstances, the museum may choose to proceed with the acquisition after determining that it would be lawful, appropriate, and prudent and provided that currently available object and provenance information is made public as soon as practicable after the acquisition.
6. Museums should document their research into the Nazi-era provenance of acquisitions.
7. Consistent with current practice in the museum field, museums should publish, display, or otherwise make accessible recent gifts, bequests, and purchases, thereby making all acquisitions available for further research, examination, and public review and accountability.

B. Loans

It is the position of AAM that in their role as temporary custodians of objects on loan, museums should be aware of their ethical responsibility to consider the status of material they borrow as well as the possibility of claims being brought against a loaned object in their custody.

1. Standard research on objects being considered for incoming loan should include a request that lenders provide as much provenance information as they have available, with particular regard to the Nazi era.
2. Where the Nazi-era provenance is incomplete or uncertain for a proposed loan, the museum should consider what additional research would be prudent or necessary to resolve the Nazi-era provenance status of the object before borrowing it.
3. In the absence of evidence of unlawful appropriation without subsequent restitution, the museum may proceed with the loan.
4. If credible evidence of unlawful appropriation without subsequent restitution is discovered, the museum should notify the lender of the nature of the evidence and should not proceed with the loan until taking further action to clarify these issues. Depending on the circumstances of the particular case, prudent or necessary actions may include consulting with qualified legal counsel and notifying other interested parties of the museum's findings.
5. AAM acknowledges that in certain circumstances public exhibition of objects with uncertain provenance may reveal further information about the object and may facilitate the resolution of its status. In such circumstances, the museum may choose to proceed with the loan after determining that it would be lawful and prudent and provided that the available provenance about the object is made public.

6. Museums should document their research into the Nazi-era provenance of loans.

C. Existing Collections

It is the position of AAM that museums should make serious efforts to allocate time and funding to conduct research on covered objects in their collections whose provenance is incomplete or uncertain. Recognizing that resources available for the often lengthy and arduous process of provenance research are limited, museums should establish priorities, taking into consideration available resources and the nature of their collections.

Research

Museums should identify covered objects in their collections and make public currently available object and provenance information.

Museums should review the covered objects in their collections to identify those whose characteristics or provenance suggest that research be conducted to determine whether they may have been unlawfully appropriated during the Nazi era without subsequent restitution.

In undertaking provenance research, museums should search their own records thoroughly and, when necessary, contact established archives, databases, art dealers, auction houses, donors, scholars, and researchers who may be able to provide Nazi-era provenance information.

Museums should incorporate Nazi-era provenance research into their standard research on collections.

When seeking funds for applicable exhibition or public programs research, museums are encouraged to incorporate Nazi-era provenance research into their proposals. Depending on their particular circumstances, museums are also encouraged to pursue special funding to undertake Nazi-era provenance research.

Museums should document their research into the Nazi-era provenance of objects in their collections.

Discovery of Evidence of Unlawfully Appropriated Objects

If credible evidence of unlawful appropriation without subsequent restitution is discovered through research, the museum should take prudent and necessary steps to resolve the status of the object, in consultation with qualified legal counsel. Such steps should include making such information public and, if possible, notifying potential claimants.

In the event that conclusive evidence of unlawful appropriation without subsequent restitution is found but no valid claim of ownership is made, the museum should take prudent and necessary steps to address the situation, in consultation with qualified legal counsel. These steps may include retaining the object in the collection or otherwise disposing of it.

AAM acknowledges that retaining an unclaimed object that may have been unlawfully appropriated without subsequent restitution allows a museum to continue to care for, research, and exhibit the object for the benefit of the widest possible audience and provides the opportunity to inform the public about the object's history. If the museum retains such an object in its collection, it should acknowledge the object's history on labels and publications.

D. Claims of Ownership

It is the position of AAM that museums should address claims of ownership asserted in connection with objects in their custody openly, seriously, responsively, and with respect for the dignity of all parties involved. Each claim should be considered on its own merits.

Museums should review promptly and thoroughly a claim that an object in its collection was unlawfully appropriated during the Nazi era without subsequent restitution.

In addition to conducting their own research, museums should request evidence of ownership from the claimant in order to assist in determining the provenance of the object.

If a museum determines that an object in its collection was unlawfully appropriated during the Nazi era without subsequent restitution, the museum should seek to resolve the matter with the claimant in an equitable, appropriate, and mutually agreeable manner.

If a museum receives a claim that a borrowed object in its custody was unlawfully appropriated without subsequent restitution, it should promptly notify the lender and should comply with its legal obligations as temporary custodian of the object in consultation with qualified legal counsel.

When appropriate and reasonably practical, museums should seek methods other than litigation (such as mediation) to resolve claims that an object was unlawfully appropriated during the Nazi era without subsequent restitution.

AAM acknowledges that in order to achieve an equitable and appropriate resolution of claims, museums may elect to waive certain available defenses.

E. Fiduciary Obligations

Museums affirm that they hold their collections in the public trust when undertaking the activities listed above. Their stewardship duties and their responsibilities to the public they serve require that any decision to acquire, borrow, or dispose of objects be taken only after the completion of appropriate steps and careful consideration.

1. Toward this end, museums should develop policies and practices to address the issues discussed in these guidelines.
2. Museums should be prepared to respond appropriately and promptly to public and media inquiries.

IV. COMMITMENT OF AAM

As part of its commitment to identifying and disseminating best practices, AAM will allocate resources:

1. To disseminate these guidelines widely and frequently along with references to other guidelines, principles, and statements that exist on the topic;
2. To track the activity and purpose of the relevant databases and other resources and to compile bibliographies for dissemination to the United States museum community;

3. To collect examples of best practices and policies on Nazi-era provenance research and claims resolution from the museum field, both in the United States and abroad, as guidelines for other museums;
4. To make the above information available to the museum community through reports, conference sessions, and other appropriate mechanisms;
5. To assist in the development of recommended procedures for object and provenance information disclosure;
6. To provide electronic links from AAM's Web site to other resources for provenance research and investigate the feasibility of developing an Internet tool to allow researchers easier access to object and provenance information about covered objects in museum collections;
7. To encourage funding of Nazi-era provenance research.

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Annex to Presentation by Karen Heilig on “Holocaust-Era Looted Judaica and Jewish Cultural Property: A Worldwide Overview”¹

► **Karen Heilig**

CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST
GERMANY, USA

SUMMARIES BY COUNTRY

This country-by-country overview focuses on where Judaica looted by the Nazis and their allies is known to be located and whether provenance research has been conducted on Judaica in the given country. This overview does not focus on restitutions that have already taken place or on the legal provisions or procedures in each country for restitution. (Please see the Claims Conference/WJRO paper on looted art for a worldwide overview of restitution issues.) Because items distributed by Jewish Cultural Reconstruction (JCR) clearly were looted by the Nazis and their allies, information on Judaica distributed by the JCR that entered a country is listed first.² More detailed information on each country, including sources, may be found in the Claims Conference/WJRO Descriptive Catalogue of Looted Judaica at <http://forms.claimscon.org/judaica/>.

¹ See presentation p. 1068.

² Information on object distribution by the JCR/JRSO kindly provided by Dana Herman (Herman, Dana, Hashavat Avedah: A History of Jewish Cultural Reconstruction, Inc. PhD thesis, Department of History, McGill University, Montreal, October 2008, p. 264).

ALBANIA

Little or no information is available as to whether Albania holds any significant Judaica. So far as is known, no provenance research has been conducted on Judaica holdings in Albania.

ARGENTINA

Argentina received 5,053 books and 150 museum and synagogue pieces from the JCR after World War II. So far as is known, no provenance research has been conducted on these JCR holdings or on other Judaica that may have reached Argentina during or after World War II.

AUSTRALIA

Australia received 33,077 books from the JCR after World War II. While some provenance research has been carried out on looted art holdings in Australia's cultural institutions, so far as is known, no provenance research has been conducted on these JCR holdings or on other Judaica that may have reached Australia during or after World War II.

AUSTRIA

A number of provenance research projects in Austria have focused at least in part on Judaica holdings. Some Judaica objects have been restituted by Austria's Ministry of Culture following research conducted by the Commission for Provenance Research and a positive recommendation by the Restitution

Committee. The database of the National Fund of the Republic of Austria for Victims of National Socialism (National Fund) provides an online listing of art objects “which might have been, according to latest provenance research, seized under the National Socialist regime.” The database does not provide a separate listing for Judaica, but a few Judaica objects can be found in various categories.

The Jewish Museum of Vienna has been conducting provenance research on most of its holdings, but is currently still working on the remaining part of the collection. Past research has shown that the Museum, which is not the legal successor to Vienna’s pre-war Jewish museum, holds 50 percent of the collection of the pre-War museum, while the other 50 percent has been lost. Some of the ongoing research is on private donations – e.g., objects from the Max Berger collection. In addition, provenance research has been carried out on the Jewish Community’s library holdings, which, like the ceremonial objects, are on permanent loan to the Jewish Museum. Preliminary research indicates that due to restitution errors after the war, part of the Community’s holdings today do not correspond to the holdings of the original library.

It is not known to what extent provenance research is being conducted on Judaica holdings in Austria’s state and regional museums.

(See also Israel, Poland, Russia.)

BELARUS

Libraries in Belarus, in particular the National Library of Belarus (NBB), hold books and other Judaica looted by the Nazis and

their allies from a number of Jewish communities in Europe. Many of these books have not been identified or catalogued. Specific library collections known to be held by the NBB include the Library of Jewish Societies of France (“Bibliothèque ‘Efim Pernikof’”) and the libraries of prominent French Jewish families, such as that of the Rothschild family. Some books stemming from Yugoslav Jewish communities, as well as a few books from the Jewish Sephardic community in Salonika are also held in Belarus.

In addition to books, Jewish religious artifacts are in various archives and museums such as the State Museum of History and Culture of Belarus in Minsk. Torah scrolls are known to be in the State Historical Archive of Belarus, the Historical Museum of Mogilev, and the Historical Museum of Vitebsk., and presumably are to be found in other state institutions as well.

So far as is known, no provenance research is being conducted on Judaica held in Belarus.

BELGIUM

Belgium received 824 books from the JCR after World War II.

Between 1944 and 1967 the Office de Récupération Économique (ORE) became the official Belgian service for the discovery, identification, and restitution of cultural goods on an international level. Among other responsibilities, the ORE was also entrusted with auctioning off objects, including 565 Hebrew books whose origins were unknown but were assumed to have been plundered and were of Jewish origin. The books were sold to the Central Jewish Consistory of Belgium in 1948.

The Jewish Museum of Belgium conducted full provenance research in 2002 in conjunction with the country's Historical Commission. Additional provenance research, as far as is known, especially on the above-mentioned Judaica or on other Judaica held in Belgium, is not being conducted.

(See also Russia.)

BOSNIA AND HERZEGOVINA

It is unclear how much Judaica and of what sort is in Bosnia and Herzegovina. The Library of the National Museum of Bosnia and Herzegovina holds ancient Jewish books, including a Haggadah, but the provenance of these books is unclear.

So far as is known, no provenance research is being conducted on Judaica held in Bosnia and Herzegovina.

BRAZIL

Brazil received 2,463 books from the JCR after World War II. In addition, the Advisory Council on the Question of Jewish Cultural and Religious Objects that was established by the Jewish Trust Corporation under the British Occupation Authorities donated looted Jewish books to the Jewish community in Sao Paulo.

So far as is known, no provenance research is being conducted on these books or on other Judaica that may have reached Brazil during or after World War II.

BULGARIA

Due to the lack of a Jewish library within the boundaries of contemporary Bulgaria, the Jewish Research Institute at the Central Consistory of Jews was founded in 1947. An infusion of money allowed the purchase of several hundred manuscripts as well as 6,000 books in Hebrew, Ladino and Bulgarian. By 1951, the decision was made to move the institute into the system of the Bulgarian Academy of Sciences, first to the Institute of Bulgarian History and, from January 1964 onwards, to the Institute of Balkan Studies. Religious objects, on the other hand, were kept at the Central Sofia Synagogue. Today most of these pieces may be found at the General Religious Council of Israelites and at the Jewish Museum of History in Sofia, founded in 1993 (under the guidance of the National Museum Centre at the Ministry of Culture). During the 1960s and 1970s, some of the Hebraica was moved from the Ashkenazi synagogue to the library of the Bulgarian Academy of Sciences and in 1980, this collection became part of the Central Record Office.

So far as is known, no provenance research is being conducted on Judaica held in Bulgaria.

CANADA

Canada received 2,031 books and 151 museum and synagogue pieces from the JCR after World War II. Special attention in the distribution of objects was given to the Jewish Studies Department at the University of Manitoba and to the Dominican Institute of Medieval Studies in Montreal. In addition, one special book, an Usiel Hague book on Jews in China, was presented to the Royal Ontario Museum in Toronto. The Canadian Jewish Congress was responsible for distributing these books and ceremonial objects. There are

no surviving inventories that would help establish what kinds of objects were distributed and where they went, so the current location of many of these objects is unknown. Generally speaking, most objects were silver chanukiot, Torah ornaments, and old books, including prayer books. No or few items were Torah scrolls or other items with a quality of holiness. About 400 books are still in the collection of the Canadian Jewish Congress, though some may have gone to Montreal's Jewish Public Library. About 45 European ceremonial objects are also still with the Canadian Jewish Congress, although a few are on loan to various museums. In addition, the Aron Museum in Montreal, Canada's first museum of Jewish ceremonial art objects, holds an extensive Judaica collection that includes objects that surfaced on the antiques market in the aftermath of World War II, as well as Judaica objects received from Jewish Cultural Reconstruction.

Canada maintains a national on-line database of cultural and religious objects in Canada's cultural institutions: Canada Heritage Information Network (CHIN), "Artefacts Canada National Database". As the result of discussions called for by the Claims Conference/WJRO and the Canadian Jewish Congress, this database, which contains listings of Judaica (e.g., a silver Torah breastplate held by the Royal Alberta Museum), will be expanded to allow institutions to add provenance information to artefact files.

So far as is known, little to no provenance research is being conducted on Judaica objects held in Canada's cultural institutions.

CROATIA

Jewish archival sources, including items presumably looted by the Nazis and their allies, are held by the Central State Archives

in Zagreb and 12 regional archives in Croatia as well as by the National and University Library in Zagreb, the Archive of the Croatian Academy of Sciences and Arts in Zagreb, and many museums throughout Croatia. The Museum of Arts and Crafts likely holds looted cultural and ritual objects.

The Jewish community of Zagreb holds about 7,000 Hebrew books (Talmudim, prayer books, etc.) that most likely belonged to Jews who moved to Yugoslavia after the Nazis' accession to power. These books were transferred from the National and University Library to the Jewish Community in 1990. A selection of these books has been kept at the National Library to ensure their preservation.

So far as is known, little to no provenance research is being conducted on Judaica objects held in Croatia's cultural institutions.

CYPRUS

No information is available on Judaica that may have entered Cyprus during or after World War II. So far as is known, no provenance research has been conducted on Judaica objects held in Cyprus' cultural institutions.

CZECH REPUBLIC

Large numbers of Jewish ritual objects, books and other individual and communal Jewish property resulting from Nazi looting policies in the Protectorate of Bohemia and Moravia as well as elsewhere are located in the Czech Republic.

The Jewish Museum in Prague has been conducting provenance research on most of its holdings, including its library collection (based on owner's marks, dedications, ex libris, and other provenance clues). As part of the Museum's continuous research efforts, war-time inventories and postwar catalogues are being digitized. According to the Museum's "Preliminary Report for the Holocaust Era Assets Conference"¹ the Museum currently does not have any registered institutional claims but is working on one individual claim for artworks involving 46 prints and drawings by Hella Guth.

Additional provenance research is being carried out by the Czech Republic's governmental institutions, with information on objects with provenance gaps being noted in "The Database of Works of Art from Property of Victims of the Holocaust." The database holds approximately 3,400 looted works, including Jewish ritual objects. A brief survey of the database shows that probably more than 380 religious objects are held in Czech government museums. These objects include rare Hebrew books and manuscripts, Torah scrolls and ceremonial objects. The database lists 42 manuscripts that were originally from the Jewish seminary in Wroclaw that were deposited in the National Library of the Czech Republic. These manuscripts have since been restituted to Wroclaw. Similarly, 40 manuscripts and incunabula stemming from the Saraval Collection that were identified in the National Library were subsequently restituted to Poland. Prague's National Library, the "Clementinum," holds books that either belonged to the "Terezín collection" or that were looted by the RSHA.

Provenance research is being carried out on Judaica holdings

¹ See: <http://www.jewishmuseum.cz/en/avice25.htm>

in cultural institutions in the Czech Republic. Some restitutions have already taken place.

(See also Israel, Russia and United Kingdom.)

DENMARK

So far as is known, no provenance research is being carried out on Judaica holdings in Denmark's cultural institutions other than the Danish Jewish Museum.

ESTONIA

So far as is known, no provenance research is being carried out on Judaica holdings in Estonia's cultural institutions.

FINLAND

So far as is known, no provenance research is being carried out on Judaica holdings in Finland's cultural institutions.

FRANCE

France received 8,193 books and 125 museum and 219 synagogue pieces from the JCR after World War II. Specifically, the Musée d'art et d'histoire du Judaïsme, the successor museum to the Musée d'art juif de Paris, established in 1948 by a private association in order to pay homage to a culture that had been destroyed by the Holocaust, received Judaica objects

from the JCR and the Centre de Documentation Juive Contemporaine received books.

Although provenance research on art objects is carried out in France – e.g., the MNR collection – so far as is known, no provenance research is being conducted on Judaica holdings in France’s cultural institutions.

(See also Belarus, Poland, Russia.)

FYROM

Little is known regarding what Judaica is held in Macedonia. Some Judaica from Macedonia was transferred during the communist period to the Jewish Museum in Belgrade, Serbia.

So far as is known, no provenance research is being carried out on Judaica holdings in Macedonia’s cultural institutions.

(See also Serbia.)

GERMANY

Germany received 11,814 books and addition 31 museum and 89 synagogue pieces from the JCR after World War II.

Germany is home to numerous provenance research projects, some of which also include research into Judaica holdings. For example, the Municipal Library of Nuremberg is researching its collection entitled “Sammlung Israelitische Kultusgemeinde” (Jewish Community Collection), formerly the “Stürmer-Bibliothek.” Some

of these objects are noted on Germany’s looted art database *www.lostart.de*, for example a Tanach dating from 1800. Another example of a research project that includes Judaica concerns the remnants of the library “Forschungsabteilung Judenfrage” (Research Section Jewish Question) of Walter Frank’s “Reichsinstitut für die Geschichte des neuen Deutschlands” (Reich Institute for the History of the New Germany) which can today be found at the University of Munich’s Historicum Library. Additional relevant research projects include those at the Bavarian State Library, the Stiftung Preussischer Kulturbesitz, and the University of Leipzig.

Some provenance research into Judaica holdings is also carried out by Germany’s museums and other cultural institutions: most researched objects can be found on *www.lostart.de*.

It is not known how many restitutions of Judaica objects have been taking place. It is also not known whether all relevant cultural institutions that hold Jewish ritual and religious objects are conducting provenance research.

(See also Israel, Poland, Russia, United States.)

GREECE

The Jewish Museum of Greece in Athens holds a few looted Judaica objects, with the Central Board of Jewish Communities in Greece being responsible for these items.

So far as is known, no provenance research is being conducted on Judaica holdings in Greece’s cultural institutions.

(See also Belarus, Poland, Russia.)

THE HOLY SEE

The staff of the Institute of Microfilmed Hebrew Manuscripts of the Jewish National and University Library, Jerusalem, reviewed the provenance of Hebrew manuscripts held by the Holy See in the 2008 publication *Hebrew Manuscripts in the Vatican Library, Catalogue*, and found that none had been looted by the Nazis and their allies. Provenance research remains to be done on 108 additional Hebrew manuscripts more recently acquired by the Vatican.

So far as is known, no provenance research has been done on other types of Judaica held by the Holy See.

HUNGARY

In 1998 Laszlo Mravik published *The "Saccoco di Budapest" and the Depredation of Hungary 1938-1949: Works of Art Missing as a Result of the Second World War* (Budapest: Hungarian National Gallery Publications, 1998/2), a catalogue that lists works of art taken from Hungary by the Red Army. While most data refer to fine art, two looted Judaica collections are mentioned: a) the Judaica collection of Dr. Ignac Friedmann, and b) the Judaica collection of Dr. Fülöp Grünwald.

So far as is known, no provenance research is being conducted on Judaica holdings in Hungary's cultural institutions.

(See also Russia)

ICELAND

Iceland recently conducted provenance research in 45 state funded institutions and concluded that there are no indications that any cultural institution is holding artworks or other objects that may have been spoliated by the Nazis. It is unclear whether there are any Judaica holdings in Iceland's cultural institutions.

IRELAND

So far as is known, no provenance research is being conducted on Judaica holdings in Ireland's cultural institutions.

ISRAEL

Israel received 191,423 books, as well as 2,285 museum pieces, 976 synagogue pieces, 804 Torah scrolls and 87 Torah fragments (in addition to 127 scrolls that had to be buried) from the JCR after World War II. Israel was the recipient of the largest number of Judaica objects distributed by the JCR after the war, but the distribution itself was mostly carried out outside of the JCR's control. The Ministry of Religious Affairs, which assumed responsibility, was subsequently put in charge of the distribution of religious objects to various synagogues, yeshivas, and other organizations.

Numerous Israeli institutions, including the Israel Museum and the Hebrew University, both located in Jerusalem, hold religious "heirless" objects that were sent to Israel by the JCR. Among other Judaica objects, the Hebrew University holds, for example, the Berlin Gemeinde Library as well as the Breslau collection (part of the original library of the Breslau Jewish Theological Seminary, as well as

samples of the Baltic collection that was discovered after the war. Because of its position, the Hebrew University and the Jewish National and University Library (JNUL) soon started to claim property held in German libraries and noted that the Jewish people were entitled to demand specific compensation in the form of literary Judaica and Hebraica held by public libraries in Germany. These included manuscripts and old Hebrew and Jewish printed books held in public libraries. In book-hunting trips by officials of the Hebrew University, notably to the Czech Republic and to Austria, numerous books were successfully claimed by its representatives. So far as is known, no provenance research is being conducted by the Hebrew University on its collections.

Overall, Israel was the recipient of approximately 700,000 to 800,000 books that had been looted by the Nazis and their allies from Jewish individuals and communities, with some 300,000 books finding their way to Israel's cultural, scholarly, scientific and religious institutions, in particular the newly founded universities in Tel Aviv, Bar Ilan, Haifa and Ben Gurion. Provenance research is almost non-existent.

Other cultural institutions, in particular museums such as the Tel Aviv Museum, also hold looted Judaica, such as items that originally belonged to Frankfurt's Jewish Museum as well as objects from synagogues in Frankfurt. So far as is known, no provenance research is being carried out in the Tel Aviv Museum and in most other cultural institutions in the country.

The only exception appears to be the Israel Museum in Jerusalem, which has posted online provenance information on its collections, including a section on Judaica. As of August 2007, about 720 objects were listed, most of which stem from the Wiesbaden collecting point and were handed over to the

museum by JCR. The database provides a description and, in many cases, a picture of the object, as well as the Wiesbaden collecting point number and information on whether the object was received through the JCR. Most objects were originally brought to Israel by Mordechai Narkiss, the director of the Bezalel National Museum, the predecessor of the Israel Museum. Throughout his missions to lay claim on "unclaimed" Jewish property, he brought back about 1,200 objects of Judaica, paintings, and works on paper that had not been returned to their owners and were presumed heirless. Most of the Judaica objects are Torah decorations, such as curtains, finials, mantles, shields and pointers that came largely from ransacked synagogues. Some other items originated from private residences or institutions such as homes for the aged, community centers and schools, which were also looted. These include Seder plates, etrog containers and Chanukiot, as well as smaller, easily concealed items such as Sabbath cups and spice boxes.

ITALY

The only known ongoing research project aimed at researching Judaica – albeit outside of the country – is the search for the Jewish Community Library of Rome, which was looted in 1943. The research is carried out by the Commission for the Recovery of the Bibliographic Heritage of the Jewish Community in Rome.

So far as is known, no provenance research is being conducted on Judaica holdings in Italy's cultural institutions.

KOSOVO

Little or no information is available as to whether Kosovo holds any significant Judaica. So far as is known, no provenance research has been conducted on Judaica holdings in Kosovo.

LATVIA

So far as is known, no provenance research is being conducted on Judaica holdings in Latvia's cultural institutions.

LIECHTENSTEIN

The Independent Commission of Historians, established in 2001, was tasked with researching if Judaica objects found their way into Liechtenstein. According to the Commission members, no evidence was available as to whether looted Judaica holdings entered Liechtenstein and/or are currently in Liechtenstein. Archival holdings, restitution files and other documents did not provide sufficient information.

LITHUANIA

In 2002, the Lithuanian government returned more than 309 Torah scrolls and megillot that had been hidden during World War II to world Jewry at a ceremony in Vilnius. However, the government has not yet returned Torah scrolls remaining in Lithuania's National Museum and in the National Library of Lithuania. The National Library of Lithuania's Judaica Catalogue provides over 1,500 bibliographic records of prints in

Hebrew and Yiddish published in Lithuania (from the beginning of Jewish book printing in 1789 to 1940). The largest single bloc of Jewish books now part of the Library belonged to the "Hevrah Mefitse Haskalah", the biggest Jewish library that operated under the Jewish community in Vilnius. The National Library also holds library records that originally belonged to the Yeshiva Telz as well as to YIVO.

So far as is known, no provenance research is being conducted on these or other Judaica objects held by cultural institutions in Lithuania.

LUXEMBOURG

According to information provided by Luxembourg's Historical Commission, one Judaica object (a silver pitcher) was handed over to the National Museum in 1941. There is currently discussion of persuading the Museum to transfer this object to the Jewish Community. Aside from this one object, no Judaica is known to have been spoliated. Torah scrolls were hidden with private persons to avoid their confiscation and generally handed back to the Jewish Community after the war. Private Judaica objects were hidden among Luxembourg's community and subsequently generally returned to their original owners.

So far as is known, beyond the work of the Historical Commission, no provenance research is being conducted on Judaica objects held by cultural institutions in Luxembourg.

(See also Russia.)

MALTA

Little or no information is available as to whether Malta holds any significant Judaica. So far as is known, no provenance research has been conducted on Judaica holdings in Malta.

MOLDOVA

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Moldova.

MONACO

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Monaco.

MONTENEGRO

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Montenegro.

THE NETHERLANDS

The Netherlands received 1,813 books from the JCR after World War II.

Provenance research has been taking place on the Judaica objects in the so-called NK-collection. The online database ("Origins Unknown Database"), lists among other objects four Judaica

pieces in the NK collection. Partly as a result of the restitution of an eighteenth-century tin Maccabee lamp, an exhibition was launched entitled "Geroofd, maar van wie?" (Looted, But From Whom?) in Amsterdam's Hollandsche Schouwburg (Dutch Theatre). In addition, the Jewish Historical Museum of Amsterdam has launched research and has been able to complete an inventory of Jewish ritual objects in the Netherlands, in addition to researching its own history. As part of its own research, the Museum discovered that it holds objects that were erroneously restituted to the Museum after the war, such as a pair of zinc finials and a finial by Peter van Hoven. The Museum is working on a database of missing and misplaced objects.

While the extent to which other cultural institutions conduct provenance research on Judaica objects is not known, a study of Dutch State Museums showed that some museums held Jewish property for safekeeping during the war as temporary gifts or purchases to prevent art belonging to Jews being confiscated by the Nazis. It further showed that the Ministry of Culture, Education and Science purchased several collections from Jewish owners in 1943 and 1944 with the aim of keeping these artworks in the Netherlands. In almost all cases the artworks were returned. Where owners did not survive and the items were not claimed, the artworks were investigated, and some restitution took place. In the case of ritual objects from Jewish synagogues that were hidden during World War II, these were often given to Dutch museums following the end of the war. As there were few to no survivors who would have made the reopening of synagogues possible, many of these objects remained in the museums. However, there are no "transfer" registries that would officially confirm this.

(See also Russia.)

NORWAY

Historical research on movable property was completed by the Norwegian Commission on Restitution, and compensation was given to the Jewish Community of Norway. However, so far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Norway.

POLAND

Looted Judaica is in many cultural institutions throughout Poland. For example, the Jagiellonian University Library (Biblioteka Jagiellonska¹) holds the remnants of Krakow's Jewish libraries. Other looted Judaica is in the Jewish Historical Institute in Warsaw, the Warsaw National Museum, the Krakow Historical Museum and elsewhere. A problem in assessing which Polish museums may hold looted Judaica is that, while most museums have inventories of their collections (which are almost never accessible to outsiders), Judaica is very often not even catalogued.

The Jewish Historical Institute in Warsaw holds over 11,000 Judaica pieces, most of which were transferred to it by the Government of Poland. Some of these objects came in the late 1940s from former German territories, such as Lower Silesia, Breslau/Wroclaw and Western Prussia. The Institute holds objects from Berlin's Jewish Community, from the Jewish Community in Vienna, several hundred objects from Greece, as well as some files from Paris regarding what was taken from Jews in Paris. The Institute also holds objects from Maidanek and Auschwitz.

¹ See: <http://www.bj.uj.edu.pl>.

The Museum of the History of Polish Jews has created a Judaic Collection Database that lists Torah scrolls and other Judaica objects currently held in museums and other institutions in Poland. However, the database is not publicly available. In general, even though provenance research may have been conducted in some Polish cultural institutions, the results are not generally accessible.

(See also Russia, United States)

PORTUGAL

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Portugal.

ROMANIA

Torahs and other Judaica objects are known to be in government collections in Romania, but there is little information.

A number of ritual objects are located at the Jewish Museum in Bucharest that were originally collected by Rabbi Rosen during his tenure as Chief Rabbi of Romania. The organization "Menora – The Authority for the Restoration of Diaspora Synagogues to Israel" is currently working on 192 Torah scrolls brought to Israel for needed repairs from the following Romanian communities: Klusich, Targu, Borish, Yassi, Dorochoi and Shatz. All of these 192 Torah scrolls were initially stored in the basement of the Jewish Community Center of Bucharest.

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Romania.

RUSSIA

Much Judaica looted by the Nazis and their allies was among the vast numbers of items brought to Russia by the Soviet Trophy Brigades. The largest holdings of Judaica in Russia are in the Special (Osobyi) Archive (TsGOA, TsKhIDK 1982–1989), now part of the Russian State Military Archive (RGVA), Moscow. These include historical archives of Jewish international organizations, of Jewish political organizations and parties as well as papers of Jewish intellectuals. The holdings originally included part of the archive of the Alliance Israelite Universelle (series of records from the Paris headquarters, the Vienna Allianz and the Alliance from Brussels), of the B'nai B'rith Order (archives of lodges from Germany, Austria, Poland, Yugoslavia, Greece and Czechoslovakia), and of the Zionist organizations and parties (from France, Germany, Austria, Belgium, the Netherlands and Greece). Most material that was or is currently held in the Moscow archive was initially gathered by the National Socialist movement in their effort to create a Research Institute on the Jewish Question in Frankfurt and, to a lesser degree, for possible display in the projected "Führermuseum" in Linz. In addition to the holdings of the RGVA, Judaica brought by the Trophy Brigades is known to include Torahs that were transferred to the Historical Museum in Moscow, Hungarian Judaica that was transferred to libraries and museums in Nizhnii Novgorod, among other institutions and locations.

In terms of provenance research, extensive efforts have been made to describe the cultural losses of Russia as a result of World War II (for a variety of reasons little is known concerning Russia's losses of Judaica, though the database *www.lostart.ru* of the Federal Agency for Culture and Cinematography does list a few such items), but there have been fewer efforts to describe foreign Judaica looted by the Nazis and their allies that is currently

located in Russia. The latter have mostly been done in cooperation with foreign institutions: for example, the Catalogue of Manuscripts and Archival Materials of Jüdisch-Theologisches Seminary in Breslau Held in Russian Depositories (Project Heritage Revealed. Moscow: Rudomino, 2003).

Restitution of archives from the RGVA to the Governments of France, Belgium, the Netherlands, and Luxembourg – as well as planned restitution of archives to the government of Austria – has included Jewish archives that have subsequently been returned by the respective governments to individual heirs and communities, while the Austrian Rothschild Archives were returned directly to the Rothschild family.

So far as is known, no provenance research is being conducted on Judaica objects other than archives held in the cultural institutions of the Russian Federation, and no Judaica objects other than archives have been restituted. It is unknown whether Judaica objects were among those items returned by the Soviet Union to the communist governments of Eastern Europe in the 1950s and 1960s.

SERBIA

It is likely but not known whether Torah scrolls and other Judaica are held in the cultural institutions of Serbia other than the Jewish Historical Museum in Belgrade. Some Jewish cultural property looted by the Nazis and their allies that was restituted to Jewish communities in Croatia, Macedonia, and elsewhere in Yugoslavia after the war was subsequently given to the Jewish Historical Museum in Belgrade and is currently located there.

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Serbia.

(See also Russia.)

SLOVAKIA

The Museum of Jewish Culture in Bratislava holds Judaica, as do smaller museums and small Jewish communities throughout Slovakia, some of which was looted by the Nazis and their allies.

The Ministry of Culture surveyed the art museums and galleries of Slovakia, which claim not to hold artworks taken from Jews during the Holocaust. So far as is known, this research did not include Judaica, and no provenance research is being conducted on Judaica objects held by cultural institutions in Slovakia.

(See also Russia.)

SLOVENIA

Some research into the historical fate of Jewish movable property, including Judaica, has been started, but so far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Slovenia.

SOUTH AFRICA

South Africa received 7,269 books and 150 museum and 66 synagogue pieces from the JCR after World War II. Books sent

to the Jewish Board of Deputies in Johannesburg in November 1949 were distributed to Cape Town, to the University of Witwatersrand in Johannesburg, and to the Landau collection, the original Hebrew and Jewish Studies collection. Most books were kept in Johannesburg but have disappeared since and are presumably privately held. It is assumed that some of the books were sent to synagogues and school libraries. However, Yiddish books could have also gone to the library of the South African Yiddish Cultural Federation, which no longer exists. The Jewish Studies Library at the University of Cape Town holds a collection of approximately 280 books (of the approximately 400 originally sent to Cape Town) looted by the Nazis during World War II and distributed by the JCR after the war.

As for ceremonial objects, these are now partially displayed at the Jewish museums in Johannesburg (Beyachad Jewish Museum) and Cape Town and the Durban Jewish Club and are being used in synagogues. A few objects have gone into private collections. Some provenance research has been carried out on the ceremonial objects received from the JCR.

So far as is known, aside from that done by the Jewish museums, no provenance research is conducted on Judaica objects held by cultural institutions in South Africa.

SPAIN

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Spain.

SWEDEN

Sweden received 696 books from the JCR after World War II. There is no concrete information on other Judaica looted by the Nazis and their allies currently held in Sweden. However, the Nordiska Museet (Nordic Museum) in Stockholm is known to have a large Judaica collection, much of which was purchased by Mr. Klein, the Museum's curator before World War II. Mr. Klein conducted business in Hamburg, Germany around 1920, and purchased Judaica from an antique dealer called Mr. Weil. Mr. Weil's Judaica may have come from German Jews. In addition, the Jewish Museum in Stockholm holds a Judaica collection.

So far as is known, with the exception of the Jewish Museum in Stockholm, no provenance research is being conducted on Judaica objects held by cultural institutions in Sweden.

SWITZERLAND

Switzerland received 7,843 books from the JCR after World War II, including part of the Breslau collection that had been stored in the Wiesbaden collecting point and which was deposited into the Genf, Zürich and Basel libraries.

Switzerland's Historical Commission was not specifically tasked with researching Judaica that might have entered the country during the war. However, information regarding Judaica also did not surface in the course of the Commission's work.

Various museums of Switzerland hold isolated Judaica pieces in their collections. Some provenance research has been conducted, but none of it has been made public.

TURKEY

So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Turkey.

UKRAINE

There is no central database that lists Judaica looted by the Nazis and their allies that is held in Ukrainian cultural institutions, but various local projects exist that try to document the very large number of Jewish artifacts held by various Ukrainian museums, libraries and archives.

Although provenance research is not generally conducted, some information is nonetheless available. For example, the Museum of Historical Treasures of Ukraine has made an online listing of more than 400 Jewish silver ritual objects in its collections that were originally used by Jewish communities in Kyiv, Zhytomir, Vinnitsa, Belopolie, Elisavetgrad, Lohvitsa, Meldzhibozh, Tul'chin, Odessa, Kherson, Yampol', Volochisk, or were owned by former Jewish museums in Odessa, Chernovtsy or Lvov. Central to the collection are the Torah crowns, 39 in total, with a special one made by Zhitomir masters in 1875. The museum also holds Torah scrolls, 50 rimonim, some 100 Torah shields, 50 yadim (Torah pointers), 5 Chanukah lamps, 7 oil lamps, and more than sixty bsamin or godes. (Without further provenance research, it is not possible to distinguish what was taken by the Nazis and their allies from what was nationalized by the communists.)

Ukrainian government archives, museums, and libraries hold a large number of Torahs and other ritual scrolls confiscated from synagogues. A list of Torahs compiled by the State Archives of

Ukraine indicates that a total of 679 Torahs are held in Ukrainian archives, 105 Torahs are held by museums under the Ministry of Culture, and one Torah is held by a library under the Ministry of Culture. Some of these Torahs – mostly Torah fragments – held by the State Archives of Ukraine have recently been turned over to the Jewish communities of Ukraine.

Archives and libraries hold large collections of Jewish records, manuscripts, and books. In particular, the National Vernadsky Library of Ukraine holds about 150,000 Jewish books as well as many manuscripts.

So far as is known, with few exceptions no provenance research is conducted on the Judaica objects held in cultural institutions in Ukraine. However, German and other archival records concerning the looting in Ukraine and elsewhere have been made available.

UNITED KINGDOM

The United Kingdom received 19,082 books, 245 museum pieces, 66 synagogue pieces and 12 Torah scrolls from the JCR after World War II. The Jewish Museum in London is one of the institutions holding these items.

The National Museums Directors Conference's searchable list of objects with incomplete provenance for the period 1933 to 1945 also lists museums with Judaica holdings: for example, the Victoria and Albert Museum lists two Judaica objects with gaps in their provenance. The British Library holds eleven or twelve thousand books seized from German libraries and institutions between June 1944 and 1947 that may include looted Judaica.

Libraries at major universities, such as the Cambridge University Library, the Trinity College and Girton College libraries and the Bodleian Law Library at Oxford University hold vast Judaica collections.

Up to 1,564 Torah scrolls were sold in 1963–1964 by the Czechoslovak state and what was then the State Jewish Museum in Prague to the Westminster Synagogue. From Westminster Synagogue in London, where the scrolls were renovated under the auspices of the Czech Memorial Scrolls Trust, over 1,400 of the scrolls have been entrusted on loan to Jewish and non-Jewish organizations around the world, of which more than 1,000 are in the USA. However, all Torah scrolls remain the property of the Trust. While the majority of the scrolls are currently entrusted to synagogues and other Jewish institutions, some were placed with universities and libraries, including the Royal Library Windsor and the White House. In September 2008, a newly designed Czech Scroll Museum was opened at London's Kent House displaying some of the remaining scrolls lying on the original wooden racks where they were placed when they arrived, along with some of the Torah binders that were tied around the scrolls.

It is not known if libraries and museums, other than those participating in the National Museums Directors Conference spoliation project, conduct provenance research on their Judaica collections.

UNITED STATES

The United States received 160,886 books, 1,326 museum pieces, 1,824 synagogue pieces and 110 Torah scrolls (of which an unknown number had to be buried) from the JCR after World War II.

Objects distributed by the JCR entered more than 400 recipient institutions, including university and other libraries, archives, museums, and synagogues.

Major recipients of objects distributed by the JCR include, among others, the Jewish Museum New York and the Hebrew Union College Museum Cincinnati; the libraries of Harvard, Brandeis, Yale, and Columbia Universities; Yeshiva University; and The Library of Congress. In 2000, the Presidential Advisory Commission on Holocaust Assets in the United States and the Library of Congress reached an agreement which stipulated that the "JCR collection should be handled in a manner suited to its special provenance" and that the Library of Congress should further identify and provide special access to the JCR collection. As a result of this agreement, the Library of Congress created the Holocaust-Era Judaic Heritage Library.

After Germany's invasion of Poland, including the free city of Danzig, the Jewish Community of Danzig sent most of their ritual objects to the United States for safekeeping. Some of these objects can now be found at New York's Jewish Museum.

Some museums in the United States are conducting provenance research on their Judaica collections. A listing of Judaica objects with provenance gaps may be found on the Nazi-Era Provenance Internet Portal of the American Association of Museums.

Except for the Library of Congress, so far as is known, little or no provenance research is being conducted on Judaica held by libraries in the United States.

(See also United Kingdom.)

URUGUAY

Uruguay received 1,670 books from the JCR after World War II.










So far as is known, no provenance research is being conducted on Judaica objects held by cultural institutions in Uruguay.

Additional countries that may have holdings of Judaica looted by the Nazis and their allies but for which there is little to no available information include, but are not limited to, Algeria, Libya, Morocco, and Tunisia, as well as former republics of the USSR to which items brought by the Soviet Trophy Brigades were reportedly distributed such as Georgia, Kazakhstan, and Uzbekistan.

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