

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.

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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>.