

City Council of Amsterdam

To the Members of the City Council of Amsterdam

19 February 2021

Subject: Response to the Evaluation Report of the Kohnstamm Committee on restitution policy

Enclosing: Evaluation report of the Kohnstamm Committee 'Striving for Justice'.

Honourable members of the City Council,

The suffering inflicted on Jewish citizens in particular during the Second World War is unprecedented and irreversible. The Jewish citizens were deprived of their possessions, rights, dignity and in many cases their lives. To the extent that something can still be restored of the great injustice that was done to them, we as a society have a moral obligation to act accordingly. This certainly applies to the many works of art that were owned by Jewish citizens and were looted by the Nazis or otherwise lost to their owners. Returning these works of art can mean a great deal to the victims and is of great importance in recognising the injustice done to them.

As a city, we have a role and responsibility in this. That is why the City of Amsterdam advocates a fair restitution policy. A policy that, on the basis of a reasonable and appropriate assessment framework, enables as many art works as possible to be returned to their rightful (heirs of) owners. That is the least we can do for the victims of the Nazi regime.

The evaluation committee for Nazi art restitution policy, chaired by Jacob Kohnstamm (hereafter referred to as the Kohnstamm Committee), which investigated the Dutch restitution policy to date at the request of the Minister of Education, Culture and Science emphasised the urgency of restitution of looted art in its report 'Streven naar Rechtvaardigheid' ('Striving for Justice') published in December 2020. For the Kohnstamm Committee, restitution is the only option to redress some of the inhuman injustice. In its report the Committee writes: 'Art stolen from Jewish citizens has become an important symbol of what was taken from them during the war: not only their possessions, but also their rights as citizens, their dignity as human beings and, in the vast majority of cases, their lives. Now, more than seventy-five years after the end of the Second World War, this art represents one of the last tangible chances for legal redress for the original owners or their heirs.

The Board fully endorses these statements by the Kohnstamm Committee, which particularly emphasise the primary importance of the (heirs of the) rightful owners in the principles of restitution policy. The Board attaches great importance to responding to this report, which has implications for future as well as current and completed restitution applications.

## **Restitutions policy**

Internationally, the Washington Principles were adopted in the late 1990s. These principles offer governments a guideline for investigating and restoring (returning) looted or lost art from 1933 to 1945. In the Netherlands, based on the recommendations of the Ekkart Committee, the Minister of Culture established the Restitutions Committee in 2001, which advises on applications for restitution. The aim is to return works of art whose ownership was involuntarily lost due to circumstances directly related to the Nazi regime to (the next of kin of) their rightful owners.

In Amsterdam, the Municipal Executive adopted a restitution policy in 2013, stipulating that applications for the return of works of art will be submitted to the Restitutions Committee for binding advice, together with the applicants.

## **Amsterdam Collection**

The Amsterdam Collection also still contains works of art and objects that may have a problematic provenance and may therefore belong to what is collectively known as 'looted art'. See also Appendix 1.

This applies, for example, to the painting 'Bild mit Häusern' by Wassily Kandinsky (1866-1944) in the Stedelijk Museum Amsterdam. This expressionist painting was purchased by the then director of the Stedelijk Museum, David Röell, at an auction in Amsterdam in October 1940. According to the auction catalogue, the work came from the 'L. estate, Amsterdam'. Research by the Stedelijk Museum into the provenance of the painting revealed that the Jewish person Hedwig Lewenstein-Weijermann had inherited the painting in 1930 from her husband Emanuel Albert Lewenstein, who had owned it since 1923. It was not clear who and under what circumstances brought the work to the auction in 1940. For this reason, in 2013 the City of Amsterdam and the applicants submitted an application to the Restitutions Committee for further investigation and binding advice on this work.

You were informed of the outcome of this investigation in the Council letter of 1 November 2018. In a binding opinion, the Restitutions Committee ruled that the City of Amsterdam is not obliged to return the painting 'Bild mit Häusern' to the applicants. The Restitutions Committee weighed up the interests involved. With regard to the claim, the Committee believes that the sale of the painting cannot be seen in isolation from the Nazi regime but must also have been caused by the deteriorating financial circumstances in which Robert Lewenstein and Irma Klein found themselves before the German invasion. In the Committee's opinion, this provides a less strong basis for restitution than a case involving looting or confiscation. In its final judgement, the Restitutions Committee considered the interests of Irma Klein's heir and those of the municipality. After weighing up these interests, the Committee came to the conclusion that the Municipality is not obliged to retribute the painting. As a result of this advice, the applicants instituted legal proceedings, which resulted in the ruling on 16

December 2020 that the binding advice of the Restitutions Committee should stand.

### **Evaluation report by the Kohnstamm Committee**

At the request of the Minister of Education, Culture and Science, the Kohnstamm Committee investigated the restitution policy pursued to date in the Netherlands. On 7 December 2020, this evaluation committee published its report 'Striving for Justice'. You can find this report in Appendix A. Response to this report from the Minister of OCW (Education, Culture and Science) is expected in the spring of 2021.

The Kohnstamm Committee advocates a reassessment and intensification of current Dutch restitution policy, so that justice can be done to the Washington Principles as much as possible and restoration of rights can best take place. The Committee believes that the basic principles of Dutch restitution policy as formulated by the Ekkart Committee between 2001 and 2004 are still adequate as a foundation. But the Committee also concludes that the possibility included in the current assessment framework to weigh up the interests is not conducive to restoring the injustice done to the victims. The Committee believes that it is fundamentally wrong to include the 'importance of the work to its owner' aspect in the weighing of interests. The Committee believes that it is wrong in principle to include the 'importance of the work for the owner' aspect in the weighing up of interests: 'Often, that owner is the national government, the municipality, province or foundation that has entrusted the work to a museum. Although the evaluation committee values the museum as a public place where cultural heritage is displayed, the restoration of injustice prevails here' (Evaluation report, p. 28).

The Kohnstamm Committee therefore proposes a new assessment framework based on the principle that applications for restitution should seek a just and fair solution as referred to in principle 8 of the Washington Principles.

### **Response of the Municipal Executive to the Kohnstamm Committee Report**

The Committee endorses the recommendations of the Kohnstamm Committee and agrees with the Committee that the weighing of interests as included in the current assessment framework of the Restitutions Committee does not serve the purpose of restoration of rights that should be pursued. The Board also believes that the new assessment framework proposed by the Kohnstamm Committee should apply not only to new restitution cases, but also to current and finalised cases, and will of course bear the consequences.

This means that the Board advocates that the Restitutions Committee reassess the application for restitution of the work 'Bild mit Häusern' by Wassily Kandinsky on the basis of an amended assessment framework. For a reassessment of a restitution application on which binding advice has already been given, the applicants' cooperation and consent is required. The Board will contact the applicants.

As the city of Amsterdam, we will in the future - together with the residents and museums involved and also in an international context - continue to make active efforts to ensure that, where possible, works of art that were involuntarily removed to the possession of the museum during the Second World War due to circumstances directly related to the Nazi regime are returned to the heirs of the former owners.

We hope that this information is sufficient.

Kind regards,

On behalf of the Mayor and Aldermen of Amsterdam,

Femke Halsema  
Mayor

Touria Meliani  
Alderman for Art and Culture