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Network of European  
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# EDITORIAL

It might seem redundant here to mention the spread of Sars-CoV-2 and the attempts to contain it, but it is in the nature of pandemics that they infiltrate and change all aspects of life. That being the case, this short editorial to our Newsletter cannot close its eyes to the situation either.

At the beginning of 2020, when Austria took over from France as chair of the Network of European Restitution Committees, Clemens Jabloner, chairperson of the Austrian Art Restitution Advisory Board, stated in Newsletter 5/2020 that he was looking forward “to intensifying our knowledge of one another and of striving to maintain the excellent level of international cooperation, mutual understanding and learning.” A noble goal and one that, in view of the mobility that we took so much for granted, at least in the globalized Western European world, at the time appeared on the surface to be easy to achieve. Representatives of our committees and commissions were supposed to meet in pursuit of this goal at events such as the workshop “Nazi looted art: new interdisciplinary perspectives in provenance research and restitution practice in a Franco-German context” to be held in Bonn, Germany, in March, or in particular at the conference “Terms of Art: Understanding the Mechanics of Dispossession During the Nazi Period” in New York in May. The mid-term 2020 meeting of the Network was also to have taken place in New York, with the support of the Austrian Cultural Forum there.

In this issue and even more so in the planned August issue of our Newsletter, many reports on events will therefore be missing or much shorter, if not written entirely in the conditional perfect tense. With some delay, we are now nevertheless able to present the first issue of the Newsletter under the Austrian chairmanship. It has a new look thanks to the logo designed by Lisa Frank, a provenance researcher for the Commission and also a trained graphic artist, in the form of a round table that gives equal status to every country in our Committee. France is a slight exception to this principle, since it has shown as having only one national representative but is in fact represented in the Network by two commissions, the Commission pour l'indemnisation des victimes de spoliations intervenues du fait des législations antisémites en vigueur pendant l'Occupation (CIVS) and the Mission de recherche et de restitution des biens culturels spoliés entre 1933 et 1945 (M2RS) founded last year.

The round table image was inspired above all by the idea that all members have an equal place in the Network and also that new members could be integrated easily in this

way. The existence of the Network has already given rise to inquiries regarding the formation of commissions in other countries, and we would like to extend an invitation to them to proceed in this direction and to notify us of their progress.

The planned follow-up to the question of what has been happening outside of our Network can also be found in this Newsletter in the Addendum section. It starts with a presentation of the work of the HCPO in New York, which we are now bringing to Europe in this way as we cannot visit it in person. In a sense, the situation has come a full circle, since provenance research and art restitution, at least in Austria, began in New York with the Egon Schiele exhibition at the MoMA and the seizure of two paintings in January 1998, paving the way over the past twenty years for the restitution of tens of thousands of artworks and cultural objects and the establishment of provenance research as a new discipline. Apart from the familiar news and case studies sections, there is also a field report by an heir tracer, whose work creates the necessary link between provenance research and the restitution of works to their rightful owners.

Planning and forward-thinking, and the construction of great ideas on the drawing board are activities that in other times were regarded as vital skills. One of the main things that we have learned from the coronavirus – as societies and as individuals – is the art of improvisation. I will therefore conclude not with a forecast of how the Network will work for the rest of 2020 or whether the conference scheduled for the end of the year in Vienna will take place. Unless the socioeconomic situation changes radically, all that can be said for certain is that, despite the pandemic, the practice that has existed for thousands of years of writing letters and articles, of researching and reflecting, carried out today on digital media, will continue to provide the tools for our Commission to work and for an intensive exchange within the Network.

*Pia Schölnberger*, Administrative director | Commission for Provenance Research





# NEWS

## COMMISSION FOR PROVENANCE RESEARCH & ADVISORY BOARD

### Personalia

There have been two changes in the membership of the Art Restitution Advisory Board following the departure of Eva Blimlinger, long-standing research coordinator in the Commission for Provenance Research and deputy chair of the Board, who was sworn in as a member of the Austrian parliament in October 2019. Birgit Kirchmayr has joined the Commission as research coordinator, and Reinhard Binder-Krieglstein took over the position of deputy chair of the Board.

Birgit Kirchmayr is an associate professor at the Institute of Modern and Contemporary History at the Johannes Kepler University of Linz. She studied History and Russian Studies in Salzburg and completed her doctorate in 2003 with a thesis on Nazi art looting in Austria. In addition to her academic career, she has worked as a freelance adviser and curator of public history projects, including documentaries and exhibitions on the history of National Socialism and the culture of remembrance (e.g., "Sonderauftrag Linz", 2007; "Kulturhauptstadt des Führers", 2009). She was editor of the biographies of Shoah survivors Marco Feingold (2000, with Albert Lichtblau) and George Wozasek (2012). Her latest publication (2020) "Zeitwesen" contains biographies and self-presentations of early twentieth-century artists.

Reinhard Binder-Krieglstein studied law at the University of Vienna, obtaining his master's degree in 1993 and doctorate in 1998. He also has a master's degree in Advanced International Studies from the Diplomatic Academy in Vienna. In 1995 he was assistant at the Institute of Austrian and German Legal History and from 1998 to 2003 legal assistant of the President of the Supreme Administrative Court, Clemens Jabloner. From 1999 to 2002 he was secretary of the Austrian Historical Commission for Restitution and Compensation. In 2003 he joined the Austrian Ombudsman Board, becoming its presidial director in 2005.

Reinhard Binder-Krieglstein has published several books and articles on Austrian nobility law 1868–1918/19, on Austrian monument protection law and on restitution and compensation law. He has been an alternate member of the Art Restitution Advisory Board since 2007, when Jabloner was appointed chairman of the Board, and he became its vice-chairman in 2020.

### Advisory Board Decisions

The 95th session of the Art Restitution Advisory Board was held on 6 March 2020. It considered objects from two Viennese institutions. In the first case, the Board recommended the restitution of the painting "Four Trees / Autumn Allée" by Egon Schiele in the Österreichische Galerie Belvedere, which used to belong to Josef Morgenstern ([www.provenienzforschung.gv.at/beiratsbeschuesse/Morgenstern\\_Josef\\_2020-03-06.pdf](http://www.provenienzforschung.gv.at/beiratsbeschuesse/Morgenstern_Josef_2020-03-06.pdf)). The details are contained in the Case Study in this Newsletter. The second case concerned a collection of over 370 maps (mountain, hiking, road maps, etc.) acquired by the Austrian National Library from the Gestapo from late autumn 1938 onwards. Some of the maps are among the objects collected in the synagogue in Trieste, most likely taken from the homes of Jews deported from the "Operational Zone of the Adriatic Littoral", as it was called. In view of the absence of indications of the previous owners that would make it possible to identify the persons to be restituted to, pursuant to the Art Restitution Act, the Board recommended that the maps be handed over to the National Fund of the Republic of Austria for Victims of National Socialism ([www.provenienzforschung.gv.at/beiratsbeschuesse/Kartensammlung\\_2020-03-06.pdf](http://www.provenienzforschung.gv.at/beiratsbeschuesse/Kartensammlung_2020-03-06.pdf)).

### Commission for Provenance Research

The project by Gabriele Anderl "The art market as reflected by the export forms in the archive of the Federal Monuments Office 1938–1945", is being expanded in 2020 to include the role of logistics companies in this context ([www.provenienzforschung.gv.at/en/partner/projekte/](http://www.provenienzforschung.gv.at/en/partner/projekte/)). The results will be published in the Commission for Provenance Research series.

In February, provenance researcher in the Commission's bureau Lisa Frank resumed and will conclude the provenance research at the mumok Museum moderner Kunst Stiftung Ludwig Wien.

### Lunchtime Lectures & Events

Franci Lazarini (University of Maribor, France Stele Institute Ljubljana) gave the first and so far only lunchtime lecture on 22 January in 2020. He spoke on the topic "Confiscation and destiny of private art collections in Slovenia after 1945" ([www.provenienzforschung.gv.at/wp-content/uploads/Mittagsgespraeche\\_2020-01-22.pdf](http://www.provenienzforschung.gv.at/wp-content/uploads/Mittagsgespraeche_2020-01-22.pdf)). On 26 February Francesca Coccolo (IMT School in Lucca) was to have given

a talk on “Debated provenance and power politics: Italian retrievals of works of art from Vienna after WW1” ([www.provenienzforschung.gv.at/wp-content/uploads/Mittags-gespraech\\_2020\\_02\\_26.pdf](http://www.provenienzforschung.gv.at/wp-content/uploads/Mittags-gespraech_2020_02_26.pdf)). Because of international developments in connection with the spread of COVID-19 in Italy, the lecture was cancelled at short notice. Subsequent lectures have also been shelved for the time being.

The coronavirus crisis and the measures to prevent its spread in Austria have also meant that the event planned for 23 March, “In search of justice: background, art history and restitution of Karl Spitzweg’s painting ‘Justitia’”, with talks by Rainer Schuster (Munich) and Leonhard Weidinger (Vienna), was cancelled. The internal workshop on the subject of Restitution in post-war Austria scheduled for 1 April has also been postponed indefinitely. Although the events and guided tours planned for the second International Day of Provenance Research were cancelled, some of the programme was shifted to the Internet, with the participation of the provenance researchers Konstantin Ferihumer (Vienna Academy of Fine Arts), Monika Löscher (Kunsthistorisches Museum Wien) and Christian Klösch (Technisches Museum Wien).

## Publications

Three new publications on provenance research in libraries are now available:

Markus Stumpf, “Erinnerungsarbeit, Restitution und historische Verantwortung: Ein Überblick zum Arbeitsbereich NS-Provenienzforschung”, in Stefan Alker-Windbichler et al., eds., *Menschen im Aufbruch: Universitätsbibliothek und Archiv der Universität Wien im Selbstverständnis ihrer Mitarbeiter\_innen*, Festschrift für Maria Seissl (Göttingen, 2019), pp. 67–70; DOI: <https://www.vr-elibrary.de/doi/pdf/10.14220/9783737010986.67> (open access)

Christina Köstner-Pemsel, “28 sacs’ de livres français pour la bibliothèque universitaire de Vienne: une recherche de provenance en cours”, in Martine Poulain, ed., *Où sont les bibliothèques françaises spoliées par les Nazis?* (Villeurbanne, 2019), pp. 99–108.

Markus Stumpf, Regina Zödl, Olivia Kaiser, Johannes Koll, “Übergabe an die Erben der Buchhandlung ‘Brüder Suschitzky’”, in *Mitteilungen der VÖB* 72 (2019), no. 2, pp. 57–58; DOI: <https://doi.org/10.31263/voebm.v72i2.2840> (open access).

Further entries in Lexikon der Österreichischen Provenienzforschung are planned for this summer ([www.lexikon-provenienzforschung.org](http://www.lexikon-provenienzforschung.org)). In addition, a number of articles will be translated into English during 2020.



## CIVS & M2RS

### New series of Franco-German conferences in Bonn “Provenienzforschung / Recherches de provenance”

After the success of the first Franco-German workshop on looted art (Bonn, 20 and 21 February 2019), the Commission for the Compensation of Victims of Spoliations (CIVS) and the Institut français in Bonn decided to create and develop a series of conferences on provenance research. The main goal of this cycle is to present French researchers, scholars, institutions and research projects to the German and international audience. The interdisciplinary approach is situated at the intersection of art, art history, law, cultural studies and sociology.



David Zivie, Institut français Bonn

The conferences take place in Bonn at the Institut français in cooperation with the Deutsches Forum für Kunstgeschichte / Centre allemand d’histoire de l’art (Paris) and the University of Bonn, the latter being one of the main poles of provenance research in Europe, with three specialised chairs. The organisers propose two or three conferences per semester. The lectures are free of charge and open to the general public, from experts to the families of victims, as well as cultural institutions and auction houses; they are held in French (without interpretation).

The first event took place on 14 October 2019 with the art historian Emmanuelle Polack, whose work focuses on looted art in the period of occupation and provenance research in the context of the Second World War. Her presentation on the art market in France during the Occupation and its repercussions on the Gurlitt affair reached a large audience in the follow-up to the exhibition of the same name at the Mémorial de la Shoah in Paris.

The second lecture on 20 January 2020 was given by David Zivie from the French Ministry of Culture, who is head of the new Mission for Research and Restitution of Spoliated Cultural Property between 1933 and 1945. He presented the new French policy, which is supported by a revised interministerial structure operating in a wider framework.

Because of the global health crisis, the events for the summer semester have been suspended for the time being. The next lectures will be given by Ines Rotermund-Reynard (Institut national d'histoire de l'art), about her project "Le répertoire des acteurs du marché de l'art sous l'Occupation" and Xavier Perrot, professor of law at the University of Limoges, specialist in the history of law and cultural institutions, on the topic "How to reconstitute Nazi-looted art".

## Translations of the Guide to the French Archives

Since May 2019, France and Germany have been cooperating on the basis of a three-pronged agreement providing for the exchange of information and research results, the development of new tools and the joint organisation of events and publications.

In that context, the Commission for the Compensation of Victims of Spoliations (CIVS) and the Mission for Research and Restitution of Spoliated Cultural Property between 1933 and 1945 (M2RS) have decided to make the French guide to archival sources accessible to a larger audience. In the next few months, the Guide will be translated into German and English in order to make it available to researchers other than French-speaking ones.

<https://francearchives.fr/fr/section/82632085>

It is hoped that this initiative will open and promote an important field for the identification of Nazi-looted art. The Guide to the French Archives contains a complete overview and a detailed map and is thus an important point of reference for international provenance researchers. Many of them have asked in the past how to access the Guide and how to use it without knowledge of French. That is why the CIVS and the M2RS decided to invest significantly in its translation in order to overcome language barriers. The German and the English versions of the Guide will be available online in September 2020. Online access will be free.



## ADVISORY COMMISSION

### Personalia

As of 1 May, the secretariat of the Beratende Kommission im Zusammenhang mit der Rückgabe NS-verfolgungsbedingt entzogenen Kulturguts, insbesondere aus jüdischem Besitz has moved to Berlin. This was accompanied by a personal change. After 17 years, Michael Franz has left the secretariat and now serves as head of the administration

of the Deutsches Zentrum Kulturgutverluste. New head of the secretariat is Benjamin Lahusen, who would like to introduce himself in the following:

I was born in Stuttgart in 1979. After a largely unspectacular school time, it was mainly illusions, mistakes and false promises that drove me to study law, and a confusing mixture of ambition and sense of duty that kept me there. My studies took me to Tübingen and Lausanne, to Humboldt University in Berlin, and to Columbia University in New York. Unfortunately, I could never develop an enthusiasm for the applicable law that would have exceeded the necessities of the curriculum; with legal history and philosophy of law, my passion has instead chosen two subjects that are far removed from any prospect of practical use.

After my studies, I thus went to the Max Planck Institute for European Legal History in Frankfurt am Main, where, inspired by systems theory, I worked on a reconstruction of 19th century legal positivism. A subsequent project was devoted to an intellectual biography of Friedrich Carl von Savigny, the founding father of German jurisprudence. Afterwards I was a lecturer in legal history at the University of Rostock for five years, before in 2015, I joined Humboldt University to head a research group on National Socialist legal history.

Through this last project, I also came into contact with questions of restitution and compensation, but so far only from a historical perspective. I am therefore all the more pleased that I now have the opportunity to eventually channel my fascination for legal history in a practical direction. Michael Franz, my predecessor, has left me well sorted files, a tidy desk and an excellent work plan. I would like to thank him warmly for his thorough work and his friendly support, and I am very much looking forward to the new tasks, not least in the Network of European Restitution Committees!

## New service tools from the Deutsches Zentrum Kulturgutverluste (German Lost Art Foundation) to find and return Nazi-looted art

### Help Desk

Since January 1<sup>st</sup>, 2020, the German Lost Art Foundation is offering a new service: It has established a contact and information point (so-called "Help Desk") in Berlin. The Help Desk will offer victims of the NS regime and their descendants advice and assistance in matters relating to Nazi-looted art. It is intended as a low-threshold first and central point of contact in Germany and is aimed in particular at residents from abroad who may be unfamiliar with German practices, especially with regard to cultural federalism. The Help Desk will assist with initial steps and

provide further information and contacts e.g. with museums and other institutions.

The Help Desk is staffed five days per week, with telephone availability offered at regular hours (Monday to Thursday 14h to 18h – Berlin time) and by appointment as well as via e-mail any time. It can be reached as follows:

Deutsches Zentrum Kulturgutverluste  
Außenstelle  
Susanne Meyer-Abich  
Director "Help Desk"  
Seydelstraße 18–19  
10117 Berlin  
Telephone: +49 (0) 30 / 2338 493 85  
Telefax: +49 (0) 391 / 727 763 6  
Email: [helpdesk@kulturgutverluste.de](mailto:helpdesk@kulturgutverluste.de)

### Leitfaden Provenienzforschung (Guidelines for Provenance research)

In December 2019, the German Lost Art Foundation, together with five partners, published the "Leitfaden Provenienzforschung" ("Guidelines for Provenance research") with respect to Nazi-looted art. The Leitfaden serves as a practical toolbox for employees of museums, libraries and archives, for the art and antiquarian trade as well as for private collections. Those who have doubts about the provenance of cultural assets – paintings, sculptures, books, coins, porcelain, graphics, etc. – in their own holdings will find the necessary tools in the Leitfaden such as practical tips, case studies, addresses, and sources.

The Leitfaden is a joint effort of the Lost Art Foundation together with the Arbeitskreis Provenienzforschung e. V., the Arbeitskreis Provenienzforschung und Restitution – Bibliotheken, the Deutscher Bibliotheksverband e. V., the Deutscher Museumsbund e. V., and ICOM Deutschland e.V. The Leitfaden can be found at <https://www.kulturgutverluste.de/Webs/DE/Recherche/Leitfaden/Index.html> or can be ordered at:

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### First Provenire-Volume: Provenienzforschung in deutschen Sammlungen (Provenance Research in German Collections) published

In October 2019, the first volume of the book series "Provenire" by the German Lost Art Foundation has been published.

The volume "Provenienzforschung in deutschen Sammlungen – Einblicke in zehn Jahre Projektförderung" ("Provenance Research in German Collections – Insights into Ten Years of Project Funding") presents results and experience of research on Nazi-looted art in Germany, funded by the Federal Government.

It compiles material from ten years of research in Germany's cultural institutions such as museums and libraries. Sorted according to the places (e.g. Berlin, Bremen, Dresden, Duisburg, Görlitz, Heidelberg, Magdeburg, Munich, Potsdam), persons (e.g. Heinz Berggruen, Henry and Emma Budge, Conrad Doebbecke, Alfred Flechtheim, Alfred Hess, Rudolf Mosse, etc.) as well as additional information, the book presents a dynamic research field.

The history of institutions involved as well as activities and networks of the acting people, research methods of the museums and fair and just solutions according to the Washington Principles are presented in this volume. In the book series "Provenire", scientific articles on provenance research from the various fields of work of the Lost Art Foundation are published.



## SPOLIATION ADVISORY PANEL

There are currently no claims before the Spoliation Advisory Panel. The Secretariat, which is part of the Department for Digital, Culture, Media and Sport and whose members work on a wide range of cultural property functions, continue to work remotely. In line with other countries, UK museums are currently closed but staff who are engaged on provenance research and related collections issues are working from home, as far as possible. This enforced break from our normal public life, provides an opportunity for the Secretariat to review its procedures and to consider how remote working might work for the Panel, should this become necessary.





## RESTITUTIONS COMMITTEE

### Recommendations by the Dutch Restitutions Committee

In the first case, in 2015 heirs of Herbert Gutmann asked the Minister of Education, Culture and Science to restitute fourteen items from a Meissen service that originally belonged to Herbert Gutmann. The Minister asked the Restitutions Committee to advise her with regard to this application. The fourteen items are from the Stadholder Service, a Meissen porcelain service decorated with scenes in the Netherlands and the Dutch East Indies. The items are part of the Dutch National Art Collection and are in Het Loo Palace, the Rijksmuseum and the Zuiderzeemuseum. The Restitutions Committee concluded on the basis of the investigation conducted in this case that the items from the service had been the property of Herbert Gutmann until 1934. Gutmann was persecuted by the Nazis because of his Jewish descent. Gutmann had his art collection, including the fourteen items from the service, sold at auction in 1934. The available information indicates that Gutmann was forced to do so by circumstances directly related to the Nazi regime. In formulating its advice, the Restitutions Committee took into account the interests of the current owner, the Dutch State, which acquired the items from the service after the Second World War through normal channels. The Committee came to the conclusion, however, that Herbert Gutmann's heirs' interests in restitution of the items from the service must prevail over the interests of the Dutch State in retaining them. The Committee has therefore advised the Minister of Education, Culture and Science to restitute the fourteen items from the Meissen service to Gutmann's heirs. The Minister has accepted this advice.

The second case concerned an application for the restitution of 107 groups of Meissen porcelain items to the heirs of the original German owner Franz Oppenheimer. The 107 groups of Meissen porcelain items were returned after the Second World War and were taken into the custody of the Dutch State with the express instruction to return them – if possible – to the rightful claimants or their heirs. The objects are still on loan to the Rijksmuseum, the Kunstmuseum Den Haag and Museum Boijmans Van Beuningen. In 2015 heirs of Franz Oppenheimer asked the Minister of Education, Culture and Science to restitute the items of Meissen porcelain. The Minister asked the Restitutions Committee to advise her with regard to this application.

The Restitutions Committee concluded on the basis of the investigation conducted in this case that the 107 groups of

Meissen porcelain items had been the property of Franz Oppenheimer. Oppenheimer was persecuted by the Nazis in Germany because of his Jewish descent and he fled to Austria in December 1936. After the annexation of Austria into Nazi Germany in March 1938 Oppenheimer had to flee once again. It can be concluded from the available information that Oppenheimer sold the 107 groups of Meissen porcelain items between the beginning of 1936 and March 1938. The Restitutions Committee came to the conclusion that Oppenheimer lost possession of the porcelain involuntarily as a result of circumstances directly related to the Nazi regime. The Committee therefore advised the Minister on these grounds to restitute the 107 groups of Meissen porcelain items to the heirs of Franz Oppenheimer.

The full text of both recommendations is available on the website of the Restitutions Committee:  
[www.restitutiecommissie.nl](http://www.restitutiecommissie.nl)

### Committee appointed to evaluate Dutch restitution policy on Nazi-looted art

A committee chaired by Jacob Kohnstamm is to evaluate Dutch restitution policy in respect of artworks and cultural objects looted by the Nazis during the Second World War, mostly from Jewish owners. Set up by the Netherlands Council for Culture at the request of Ingrid Van Engelshoven, Minister of Education, Culture and Science, this body will take several months to complete its work. The committee's formation follows a commitment made to Parliament in 2016 to evaluate the restitution policy in 2020.

The evaluation will focus particularly upon the legal and moral aspects of Dutch restitution policy. The minister has asked the committee to compare this with the situation in other countries, and especially to look at the relationship between Dutch policy and the international guidelines on the restitution of Nazi-looted art. The committee will also discuss awareness of the policy and its accessibility, bearing in mind the suffering of victims and the dialogue with heirs. For further details please visit:

[www.raadvoorcultuur.nl](http://www.raadvoorcultuur.nl)

The evaluation committee is happy to discuss its work with concerned parties. It can be contacted through its secretary at [evaluatiecommissie@cultuur.nl](mailto:evaluatiecommissie@cultuur.nl)



# CASE STUDIES

## THE NETHERLANDS ART PROPERTY COLLECTION (NK COLLECTION)

After the end of the Second World War, the allies returned thousands of artworks from Germany to the Netherlands with the instruction to manage those artworks and to ensure they were returned (restituted) to the rightful owners or their heirs. In the Netherlands, the Netherlands Art Property Foundation (SNK) was tasked with the recovery and restitution activities. Some of the art works that were not restituted after the war were auctioned off by the Dutch State during the nineteen-fifties. The remaining works were incorporated in the Netherlands Art Property Collection (NK collection), as part of the Dutch National Art Collection.

Around the turn of the century, interest in the Nazi looted art issue arose again in the Netherlands and elsewhere. One of the consequences was research by the Origins Unknown Agency into the provenance of the approximately 4,000 works of art in the NK collection. The results were published on the website [www.herkomstgezocht.nl](http://www.herkomstgezocht.nl). Former owners or their heirs were actively approached and advised of the possibility of submitting a restitution application to the State Secretary for Education, Culture and Science (OCW). In 2001 the State Secretary decided to

establish the Dutch Restitutions Committee. Its primary task was to issue independent advice to the State Secretary about decisions to be taken concerning the restitution of artworks from the NK collection. The State Secretary also decided to implement a more liberal restitutions policy for assessing these restitution applications based on the recommendations of the Origins Unknown Committee (also known as the Ekkart Committee).

The Dutch Restitutions Committee, referred to below as the DRC, can also advise about claims to artworks from collections other than the NK collection. They can belong to the other holdings of the Dutch State (Dutch National Art Collection) or collections of owners other than the Dutch State, such as local and provincial authorities, foundations or private individuals. A review of the recommendations issued by the DRC in its 162 cases so far shows that the lion's share, namely 128, concerned works from the NK collection. These recommendations related to the restitution of 462 artworks from the NK collection. This proportion is declining however. Of the fifteen cases that the DRC currently has under consideration, only one involves works from the NK collection.

*Dirck Franchoisz Hals and Dirck van Delen, "Banquet Scene with Musicians and Shuffle Board Players in an Interior" (1628)*





In 2012 the State Secretary decided to change the policy for assessing restitution applications. This change applied to both the Dutch National Art Collection and NK collection. The change for the NK collection concerns restitution applications that were submitted to the Minister of OCW on or after 30 June 2015. The first NK recommendation in which this change played a role was issued by the DRC in 2019 in the case of Lierens (RC 1.169). This case study discusses the case in depth.

### The Lierens Case



Jan Davidsz. de Heem, "Still Life with Glass, Glass Stand and Musical Instruments" (1665-70)

In 1946 two seventeenth-century paintings were returned from Germany to the Netherlands. They were "Banquet Scene with Musicians and Shuffle Board Players in an Interior" by Dirck Franchoisz Hals and Dirck van Delen and Still Life with Glass, Glass Stand and Musical Instruments by Jan Davidsz. de Heem. It was known that these paintings had been sold at auction in 1941 in Amsterdam and afterwards were sold by Dutch art dealers to Hans Posse for the Führer Museum in Linz. It was furthermore known that the painting by Hals and Van Delen had belonged to one "Jac. Lierens". Although the SNK made attempts after the war

to establish whether and to whom both paintings could be restituted, this did not result in restitution. The works were subsequently included in the NK collection. The painting by Hals and Van Delen was loaned to the Frans Hals Museum in Haarlem, and the painting by De Heem was loaned to the Centraal Museum in Utrecht. Around the turn of the century the provenances of both works were investigated by the Origins Unknown Agency and the results were published on line. Neither of the provenances was conclusive, however, and initially the paintings were not restituted.

This changed at the beginning of 2017 when grandchildren and great-grandchildren of the Dutch businessman Jacob Lierens (1877-1949) contacted the Dutch Minister of OCW and requested restitution. This Jacob Lierens was of Jewish descent and owned an extensive art collection before the Second World War. Many of his possessions, including artworks, were taken from him as a result of anti-Jewish measures taken by the German occupying forces during the occupation. In 1943 Lierens and his wife were interned in Westerbork transit camp, from where they were released after they had surrendered jewellery worth a substantial sum. They then went into hiding. After the war Lierens was not able to get all his possessions back.

### Assessment by the DRC

Lierens's descendants were assisted by Mondex Corporation of Canada. This firm conducted its own research into the provenance of both paintings, elaborating on the investigation already carried out by the Origins Unknown Agency. The DRC also conducted research. Among the information unearthed during the Mondex investigation was a post-war statement from the person who had helped Lierens to sell his possessions during the occupation. The DRC was able to conclude quickly on the basis of this statement and other information that the painting by Hals and Van Delen belonged to Jacob Lierens's collection when it was sold by auction in 1941. It took longer to reach this conclusion for the painting by De Heem. The available provenance information, as available on [www.herkomstgezocht.nl](http://www.herkomstgezocht.nl), did not link this painting directly to Lierens. There is furthermore a copy of this painting, the provenance of which is sometimes confused in art historical sources with that of the work in the NK collection. The Applicants did not have any conclusive evidence that the painting by De Heem was Lierens's property at the time of the sale in 1941, but they were able to make it sufficiently plausible on the grounds of what was known about the provenance of the painting before the war and what was known about another painting from Lierens's collection with a comparable provenance.

After the DRC had resolved the ownership issue for both paintings, it addressed the question of whether Lierens lost possession of both paintings involuntarily as a result of circumstances directly linked to the Nazi regime. In this regard it could be concluded that Lierens had both paintings sold at auction in 1941. Part of the more liberal restitutions policy based on the proposal by the Ekkart Committee is the third recommendation by that same Committee of 26 April 2001, which stipulates that a sale by a private Jewish individual in the Netherlands after 10 May 1940 must be considered to be involuntary, unless the facts expressly show otherwise. This recommendation has remained significant since the policy was changed in 2012. In conformity with this recommendation, the Restitutions Committee deemed the sale of both paintings by Lierens to be forced sales.

On the grounds of the policy that was valid until the change in 2012, the requirements for restitution were met by establishing the ownership and the involuntary nature of the loss of possession. As a result of this change, the DRC had to advise in the Lierens case on the basis of the yardsticks of reasonableness and fairness, meaning that it can include other interests in its assessment. In this case

it followed from two recommendations from the Protection Worthiness Assessment Committee, which advises on the grounds of the Dutch Heritage Act, that both paintings were of great importance to Dutch public cultural heritage. However, the DRC came to the conclusion that giving advice about claims to works from the NK collection on the basis of the yardsticks of reasonableness and fairness does not change the underlying principle that if, as in this case, the requirements of ownership and involuntariness are met, the recommendation has to be to reconstitute without further weighing up of interests. The DRC therefore saw no reason to involve the Assessment Committee's recommendations in its assessment.

The DRC advised the Minister to return both paintings to the heirs of Jacob Lierens. The Minister accepted this advice.

The full text of the recommendation (RC1.169) is on the Restitutions Committee's website: [www.restitutiecommissie.nl](http://www.restitutiecommissie.nl)

*Eric Idema, Secretaris, Restitutiecommissie*



## EGON SCHIELE, FOUR TREES/AUTUMN ALLÉE FORMERLY ALICE UND JOSEF MORGENSTERN, VIENNA

In an unanimous decision pursuant to Section 1 of the Federal Act on the Restitution of Art Objects from Austrian Federal Museums and Collections of 6 March 2020, the Austrian Art Restitution Advisory Board recommended that Egon Schiele's painting "Four Trees/Autumn Allée" be returned to the legal successors by death of Josef Morgenstern.

On the basis of the research report submitted in August 2019 by Sabine Loitfellner, IKG (Jewish community) historian, together with sources published for the first time, the hitherto incomplete history of the painting's provenance was finally completed. The provenance research department at the Österreichische Galerie / Austrian Gallery Belvedere had been investigating the provenance of the painting since 2003, after the museum had acquired it in 1943 from the Vienna art dealership L.T. Neumann.

Thanks to the documentation on Alice Morgenstern in the Austrian State Archive in relation to the War and Persecution-Related Material Loss Act (Federal Act of 25 June 1958 on the Granting of Compensation for Loss as a Result of the War of Household Goods and Objects Required for

Exercising Professional Activities – KSVG), the missing proof was established that the painting in question – previously demonstrated to have been in the possession of Alice and Josef Morgenstern from 1924 to 1930 – was still in their home in Vienna after the annexation of Austria to the National Socialist German Reich in March 1938.

The Viennese art dealer Paul Wengraf had acquired this autumn landscape directly from Egon Schiele in 1917, the year it was painted. It was acquired by Josef Morgenstern at the latest in 1924 through Galerie Nebehay.

The commercial agent Josef Morgenstern, born in present-day Hungary in 1886, and his wife Alice, née Freund (born 1885 in Prague) lived from 1922 in a large apartment with interior design by the architect Otto Bauer in Apfelgasse in Vienna. Pictures of the interior published in 1924 in the magazine "Innendekoration" show the "Four Trees" hanging over the fireplace in the music room. Four years later, Josef Morgenstern is listed as having loaned the painting to the Neue Galerie for its Egon Schiele Gedächtnisausstellung (Egon Schiele Commemorative Exhibition) in Vienna;



he made “Four Trees” available to the gallery owner Otto Nirenstein (later Kallir) as “without a doubt one of Schiele’s most beautiful landscapes”. The catalogue text was written by the art historian Bruno Grimschitz, curator at the Österreichische Galerie, who became director of the museum during the Nazi era. In the Schiele catalogue raisonné by Nirenstein in 1930, Josef Morgenstern is listed as the owner of the painting.



Anonymous, undated photo of the music room in the Morgenstern apartment in Vienna © Bildarchiv der Österreichischen Galerie Belvedere, Vienna.

Following the annexation of Austria in March 1938, Alice and Josef Morgenstern were subject as “Jews” to the racial repression of the Nazi regime. According to historical records, the childless pair left Vienna on 13 August 1938. Before their escape to Yugoslavia, they were forced to sell off the precious furnishings in their four-room apartment at a “ridiculously low price”. The long-standing family lawyer Robert Röhr, who was given general power of attorney, took Schiele’s “Four Trees” in trust for safekeeping.

Alice and Josef Morgenstern fled in December 1938 from the Yugoslavian island of Korčula to Brussels. After German troops invaded Belgium in May 1940, Josef Morgenstern was arrested and initially interned in southern France. In September 1942 he was deported from Drancy near Paris to Auschwitz, where he was murdered at an unknown date. Alice Morgenstern survived in Brussels in hiding. She remained living in Belgium under precarious financial circumstances until her death in 1970.

Various post-war testimonies confirm that the landscape painting in question was still in the Morgensterns’ Vienna apartment in 1938. They were presented in January 1960 in addition to Alice Morgenstern’s application submitted in August 1959 under the War and Persecution-Related Material Loss Act. For example, Fritz Sedlak, concertmaster of

the Vienna Philharmonic and long-standing family friend, stated that he had been in the apartment for the last time in June 1938, after the annexation. In terms of interior furnishings, apart from a Steinway piano and a “very large library”, he explicitly mentions seeing an original Schiele painting.

Alice Morgenstern’s application of 26 August 1959 to the Finanzlandesdirektion für Wien, Niederösterreich und das Burgenland (Provincial Tax Office for Vienna, Lower Austria and Burgenland) to register a claim for compensation for war and persecution-related loss consisted of several sheets with details of the persecution she had suffered, her current financial situation and precise information about the claimed interior furnishing items. In a supplement she added:

*I should also like to point out that the picture Four Trees by Egon Schiele, which used to be owned by us, is now hanging in the Upper Belvedere. We never sold the picture but gave it to a friend, Robert Röhr, lawyer in Vienna, Gumpendorferstrasse, for safekeeping. He unfortunately died, and I do not know how the picture landed in the nineteenth-century [recte twentieth-century] collection in the Belvedere. I have never undertaken any steps to recover the picture and therefore request that this be taken into account in the compensation.*

The application was approved on 27 April 1960 with maximum compensation of 10,500 Austrian Schilling (equivalent to around 5,000 Euro). The loss of the artwork was not covered by this amount.

It is interesting to note that Alice Morgenstern knew of the whereabouts of the painting in the Österreichische Galerie collection in the Upper Belvedere, where it had been on show since the post-war reopening in 1954.

On the occasion of the Austria Week in Luxembourg in 1959, the Musée de l’État, now Musée National d’Histoire et d’Art, presented an exhibition of Austrian painting from 1830 to 1930 organised by the Österreichische Galerie with items from the museum’s inventory. The exhibition was subsequently shown in December 1959/January 1960 in the Cultuurcentrum in Mechelen, Belgium. A few days before the end of the exhibition, Alice Morgenstern once again wrote to the Finanzlandesdirektion to point out that “the picture formerly owned by me is currently being shown in Malines (Mechelen), Belgium, in an exhibition of the Österreichische Galerie Vienna.”

It is clear that in the post-war period the Austrian state regarded the restitution of seized assets as a “Holschuld” (responsibility of the victim to claim restitution) rather



Egon Schiele, "Four Trees/Autumn Allée", 1917 © Österreichische Galerie Belvedere, Vienna

than a "Bringschuld" (responsibility of the beneficiary to instigate restitution). This is also demonstrated by the failure of the Finanzlandesdirektion to inform the Österreichische Galerie about the former owner's claim. There is no evidence of personal contact by Alice Morgenstern with the museum management regarding return of the picture. It is a matter of speculation whether the victim's modest circumstances and precarious financial situation might have made "compensation" more attractive. It is also possible that Alice Morgenstern was aware of the legally hopeless situation regarding restitution of the picture itself.

In 1946 Fritz Novotny, in his function as acting director of the Österreichische Galerie, reported twenty-six of the artworks acquired during the Nazi era under Grimschitz's directorship as "Aryanised" assets in accordance with the Vermögensentziehungs-Anmeldungsverordnung (Asset Seizure Reporting Regulation), which entered into force on 17 September 1946 (Regulation [...] of 15 September 1946 on implementation of the Act of 10 May 1945 on the reporting of Aryanised assets and other assets seized in connection with the National Socialist assumption of power – VEAV). Listed as OWNER UNKNOWN (sic), Schiele's "Autumn Landscape with Four Trees" was described as follows:

*This picture was acquired in January 1943 by the art dealership L.T. Neumann (proprietor: Eymer), Vienna I, Michaelerplatz 4. The management is aware that at the time of the National Socialist overthrow the picture was owned by Dr. (sic) Wengraf in Vienna. No claim for restitution has been made to date.*

Whether the name "Dr. Wengraf" was entered deliberately to hide the fact that the picture was owned in 1938 by

Josef Morgenstern can only be speculated at. The art dealer Paul Wengraf acquired the picture in 1917 directly from the artist. Bruno Grimschitz, who was relieved of his post as director of the Österreichische Galerie in October 1945 on account of his membership of the NSDAP, must have known the former owner, Josef Morgenstern, who loaned the painting for the Schiele-Gedächtnisausstellung in 1928. As mentioned earlier, Grimschitz wrote the foreword to the exhibition catalogue.

Following the VEAV report, there is no record of any attempt by the museum management to find the legal owner of the seized artworks. Eighty-two years after the expulsion of the Morgensterns from Vienna and more than sixty years after Alice Morgenstern's attempts to "obtain compensation for the loss of this valuable picture", the Art Restitution Advisory Board recommended that the painting be returned to the legal successors of Josef Morgenstern.

In its grounds, the Board, referring to the Federal Act of 15 May 1946 on the Declaration of Annulment of Legal Transactions and Other Legal Acts Occurring During the German Occupation of Austria, established the loss of title as a result of persecution and flight, during the "political and economic National Socialist penetration".

The Art Restitution Advisory Board decision can be found at: [www.provenienzforschung.gv.at/beiratsbeschluesse/Morgenstern\\_Josef\\_2020-03-06.pdf](http://www.provenienzforschung.gv.at/beiratsbeschluesse/Morgenstern_Josef_2020-03-06.pdf)

Monika Mayer, head of the archive of the Österreichische Galerie Belvedere Vienna, member of the Commission for Provenance Research.





# REPORTS

## PROVENANCE RESEARCH AT THE VICTORIA & ALBERT MUSEUM

### The NDMC Statement and the Washington Principles

Shortly before the landmark 1998 Washington Conference on Holocaust-Era Assets, the directors of Britain's national museums gathered at the Victoria & Albert Museum. They were horrified to learn that objects which the Nazis had confiscated or extorted from their Jewish victims may have ended up in UK collections. The National Museum Directors' Council (NMDC) immediately established a Spoliation Working Group which drafted a "Statement of Principles and Proposed Actions" to address this disturbing legacy. The text condemned the "wrongful taking of art" during the Holocaust and implored museums to research their collections for pieces which had not been restituted after the war, and to always consider this dark history when making new acquisitions or borrowing objects for exhibitions. The British delegation took this statement to Washington. The Conference's outcome was an eleven-point statement, the first of which directly addressed the vital question of provenance research: "Art that had been confiscated by the Nazis and not subsequently restituted should be identified." This changed the face of provenance research forever.

### Challenges

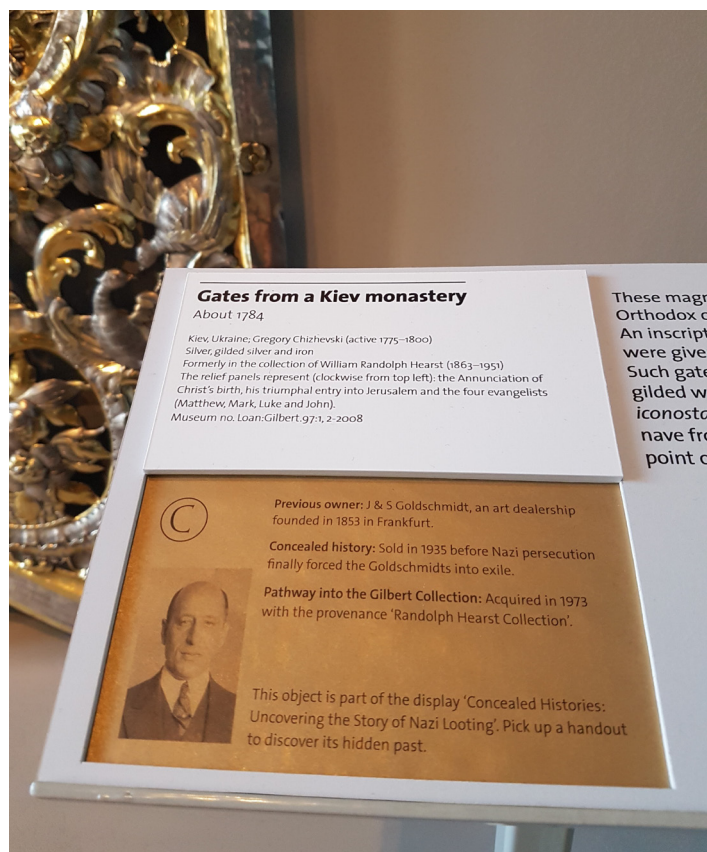
Britain's curators soon realized this would be anything but straightforward. The V&A's collections, for example, comprised more than two million items. Beyond the scale of the collection, the real problem was that provenance records had never been designed to outline an unbroken chain of ownership. For 140 years, the curators had always recorded from whom an object was received, but further information was rarely recorded unless an object had once belonged to a famous or historically significant individual. As such, gaps in the provenance were not seen as a cause for concern. After the war, even curators who had served as "Monuments Men" did not deviate from this standard practice. As a result, from 1933 onwards, the V&A had acquired hundreds of thousands of objects with very limited information concerning their provenance. At the same time, there was no easy way for the Nazis' victims or their families to discover if their property had ended up in a museum collection. Museums like the V&A therefore decided to first publish objects with gaps in their provenance and then to put their entire catalogues online. This enabled the swift discovery of a Meissen piece which had originated

from the forced sale of the Budge Collection in 1937. V&A curators were able to identify two additional pieces from the same sale; all three were successfully restituted in 2012 (Case study in Newsletter no. 4/2019).

### Provenance Research into the Gilbert Collection

In 2018 the V&A became the first art museum in the UK to appoint a dedicated full-time Provenance Curator. While the V&A's initial efforts were focused on paintings and drawings, this research is focused on the Gilbert Collection, which comprises more than 1,000 items of gold and silver, portrait miniatures, pietre dure and micro mosaics. This work is necessary because in many cases it is unclear who owned these pieces before they were acquired by Rosalinde and Arthur Gilbert from the 1960s onwards. As children of Jewish immigrants from Eastern Europe, the Gilberts were acutely aware of Nazi crimes. But, like many other collectors, they did not ask in-depth questions about the provenance of these masterpieces. It was only towards the end of Arthur Gilbert's career as a collector that attitudes towards provenance research changed profoundly following the Washington Conference.

### Concealed Histories: Uncovering the Story of Nazi Looting



The "Concealed Histories" display in the V&A's Gilbert Galleries



histories: More than 5,000 visitors come to the Gilbert Galleries each month to visit “Concealed Histories”. The display has also received positive coverage in major national and international newspapers.

### Collaboration

For those wanting to discuss provenance issues in-depth, the V&A established in 2018 a Provenance Research Seminar featuring monthly talks by provenance experts from across the UK and Europe in the museum’s lecture theatre. To empower smaller and regional museums to carry out this vital research, the NMDC Spoliation Working Group is developing a Provenance Training which will be delivered by curators from the National Gallery, the British Library and the V&A.

*Jacques Schuhmacher*, Rosalinde and Arthur Gilbert Provenance and Spoliation Curator

The special provenance display “Concealed Histories: Uncovering the Story of Nazi Looting” provides insight into this ongoing research. The first provenance display of its kind by a UK museum, “Concealed Histories” includes a selection of objects which were looted by the Nazis, restituted after the war and later acquired by the Gilberts, who knew nothing of their troubling history. “Concealed Histories” puts these objects on show to give visitors from all over the world the opportunity to learn more about the Nazi persecution of Jews. Other objects in the display have gaps in the provenance despite extensive archival research. This is of course deeply troubling when we know that these objects once belonged to a Jewish collector in Nazi Germany. The V&A is putting these objects on show to illustrate the challenges involved in provenance research and to widen the appeal for further information to fill the gaps in the historical record. It is very reassuring to see that, as the Holocaust grows more temporally distant, there is no sign that public interest in its legacy and significance is fading. Visitors are more interested than ever in object

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Concealed Histories: Uncovering the Story of Nazi Looting, runs at the V&A South Kensington, Friday, 6 December 2019 – Sunday, 10 January 2021. Admission is free.

To be added to the mailing list for the provenance research seminar, email: [j.schuhmacher@vam.ac.uk](mailto:j.schuhmacher@vam.ac.uk).



*Lucy Wasensteiner’s talk about the Nazi campaign against so-called “degenerate art” (2 October 2019).*





## TWO CONFERENCE REPORTS

At the end of January a workshop was held in Paris entitled “La musique spoliée – sources et méthodes de recherche / Looted Music – Sources and Research Methods”. It was organized by Claire Andrieu (Centre d’histoire de Sciences Po, Paris) and Jean-Marc Dreyfus (University of Manchester) with the assistance of Pascale Bernheim, who in 2017 founded the organization “musique et spoliations – looted music” to highlight the issue of looted musical instruments, which had long been ignored by French researchers.

The notorious Reichsleiter Rosenberg Taskforce (ERR) sent a music commando (Sonderstab Musik) to France as early as August 1940 to collect musical instruments and important manuscript scores and other documents relating to the German repertoire. Few of these instruments were held in public or institutional collections. Most belonged to people who came under the anti-Semitic legislation. After the war, the search for looted instruments did not command as much official attention in France as the search for lost works of art.

This workshop was the first meeting of researchers from a dozen countries, including the USA, Mexico, France, Switzerland, Italy, Germany, Austria and Poland. It highlighted the different approaches and methods, ranging from provenance research in museums in Paris (Jean-Philippe Echard, Christine Laloue, Musée de la musique, Paris) and Vienna (Monika Löscher, Kunsthistorisches Museum) to the identification of networks, such as those of luthiers in Switzerland (Mark Wilhelm) or violin dealers in Paris (Carla Shapreau), or disappeared private collections, such as that of the Polish Chopin expert Leopold Binental (Katarzyna Naliwajek).

The foundation “Instrumentos de la Esperanza”, a commemoration project launched a few years ago in Mexico, was also presented. It is a non-profit organization founded to rescue instruments connected with the Holocaust. One of its aims is to give victims of the Shoah a voice again by playing instruments but also to make the Nazi terror tangible for the younger generation through real objects, an aspect that is all the more important as there are fewer and fewer eyewitnesses remaining.

The workshop also drew attention to the Polish Jewish composer Simon Laks, born in 1901, who was arrested in 1941 by the Nazis and later sent to Auschwitz. He survived as a member and then the leader of the male orchestra in Birkenau. He later settled in France. His moving memoirs were published initially in 1948 as “Musique d’un autre monde”

and reissued in 2014 and translated into German with the title *Musik in Auschwitz – “Die Geige, die ich halte, ist mein Schutzschild geworden”* (“Music in Auschwitz – the violin I am holding has become my shield”). As a composer he is still little known today and it is only in the last few years that his name has begun to crop up more. In summer 2014, for example, the Bregenz Festival included a performance for the first time of his only opera “L’Hirondelle inattendue” (“The Unexpected Swallow”).

The international participation once again reflected the European dimension of Nazi looting. Looted instruments circulated throughout Europe and many of them ended up in Switzerland. This topic was the theme of a further event two weeks later, at which the Commission for Provenance Research was again represented by Monika Löscher.

To mark the centenary of the Schweizer Verband der Geigenbauer und Bogenmacher (Swiss Association of Luthiers and Archetiers) in Bern, the Swiss luthier Mark Wilhelm, who has been conducting research into looted instruments for many years and also took part in the Paris workshop, invited Monika Löscher to talk about provenance research in the Kunsthistorisches Museum’s Collection of Historic Musical Instruments. The idea was to raise the awareness of members of the association of the possible origins of the instruments on the market. The two-day conference was open to the public, with events including a performance by the Swiss Youth Symphony Orchestra on instruments made specially for this anniversary and talks on topical issues and the challenges of violin-making in Switzerland.

As in Paris, Monika Löscher once again presented some of the results of the 2019 final report on the Collection of Historic Musical Instruments. The museum’s database contains 1,362 instruments. The origins of around seven hundred of them are not in question, since they were acquired for the most part before 1933; in the other cases the provenance can be completely accounted for. Between 1933 and 1945 the Collection acquired 212 items, around 15 per cent of the current total. The provenance of forty of these instruments is certainly questionable, and twenty-six of them have been restituted – either under the immediate post-war restitution legislation or according to the 1998 Austrian Art Restitution Act. The provenance of over six hundred objects still remains unclear. Many objects were acquired on the music market, in most cases without any surviving documentation. Since the Art Restitution Act entered into force in 1998, however, the Austrian Art Restitution Advisory Board has dealt with eleven cases from

the Collection of Historic Musical Instruments. In this way, around one hundred instruments have been returned to their legal owners.

The subject of seized instruments also gives rise to the often discussed question of the monetary value of items that are the object of provenance research. In many cases the items being considered today have little monetary value. But this also highlights the fact that Nazi art looting cut across the whole of society. The looted objects were often everyday items: a rustic chest, fashion magazines or a simple musical instrument. These objects have an intrinsic value in their own right. They have their own history and also stand for Austrian and European history, and for people and their fates. And they are objects that were taken from people and need to be returned to their descendants.

Löscher cited the example of a pianoforte acquired by the Collection of Historic Musical Instruments in 1940 that had stood hitherto in the living room of the Gerngross family. It was sold for a giveaway price, officially to the instrument maker Anton Jirowsky, who also made a profit from the transaction in this way. The family, originally from Forth near Nuremberg, had established in Vienna one of the largest department stores in the monarchy, which still exists today. Frida Gerngross was a singer, performing under the name Maria Gardi. Fortunately, some recordings of her have survived, including her version of the evergreen "Mir ist alles einerlei" from the film "Geld auf der Strasse" ("Money on the Street"), the first Austrian feature-length talkie, starring Hans Moser and Rosa Albach Retty, not to mention – in her first role – a certain Hedwig Kiesler, later to become famous as Hedy Lamarr.

As the lyrics say: "Mir ist alles einerlei, ganz einerlei, Wer wird denn das Leben so tragisch nehmen [...] Heute ist das Glück bei mir und morgen anderswo [...] das Leben ist nun einmal so" ("It's all the same to me, who takes life so seriously [...] Today I'm the lucky one, tomorrow it will be someone else [...] That's how life goes"). Four years earlier, in 1926,

Robert Gerngross was asked by the magazine *Bühne* "Do you still like it in Vienna?" He replied: "As every child knows, Vienna is still the most beautiful city, and the depressing situation does nothing to change that. [...] I am confident that better times will come, more carefree and agreeable."

This hoped-for agreeable atmosphere ended at the latest in March 1938. Robert Gerngross was taken into "protective custody" immediately after the annexation of Austria to Nazi Germany. His family were turned out of their apartment on Reichsratsstraße and forced to live in collective housing. In April 1942 they were deported to Izbica and killed there.

At its meeting of 15 October 2015, the Art Restitution Advisory Board recommended that the piano be returned to the legal successors. At present we do not know whether Robert and Frida Gerngross have any descendants. The search for them is underway and will no doubt continue for some years.

The extinguishing of a name is regarded in the Jewish religion as a terrible curse: "Nicht gedacht soll Deiner werden" ("Yours shall not be remembered"). In our work we are too often confronted by the fate of victims who have no grave, no mortal remains, no date of death. Sometimes not even the death itself can be verified. One task of provenance research should therefore be to help recall the lives of people like Robert and Frida Gerngross.

Programme of the event in Paris: <http://chsp.sciences-po.fr/en/evenement/la-musique-spoliee-looted-music>  
Video recording: <http://www.akadem.org/sommaire/colloques/la-musique-spoliee/>  
Programme of the event in Bern: <https://dederer.ch/geigenbau/wp-content/uploads/Flyer-SVGB-ASLA-100.pdf>

Monika Löscher, Provenance Researcher Kunsthistorisches Museum Wien | Commission for Provenance Research



## ROSE VALLAND: EN QUÊTE DE L'ART SPOLIÉ

From 5 November until the start of the health crisis, the Musée du dauphinois in Grenoble showed an exhibition dedicated to Rose Valland, art historian, prominent figure in the French resistance and the most decorated woman in the French military history. She secretly made notes and inventories of Nazi-looted art at the collecting point at the Jeu de Paume in Paris during the Occupation. About 45,000

items of looted art were saved thanks to her efforts, and many of them were restituted to their legal owners, mostly Jewish families, just after the end of the war.

Rose Valland continued her work in 1945 with the Monuments Men and dedicated her life until 1980 to the research and restitution of Nazi-looted art. In spite of her



essential contribution to the reparation of Nazi spoiliations, she never really received the acknowledgement she deserved during her lifetime.

The exhibition “Rose Valland: En quête de l’art spolié” retraces her career, highlights her achievements and spotlights some of the works she saved from spoliation. It is taking place in cooperation with the Association for the memory of Rose Valland and the Musée de la Résistance et de la Déportation de l’Isère, where Rose Valland came from, and is dedicated to the 75<sup>th</sup> anniversary of the end of the Second World War.

The looted artworks are the main focus of the exhibition. Many of them can be seen as testimony to the history of spoliation. The immersive and interactive approach



invites visitors to become detectives. One of the achievements of the exhibition is to demonstrate the challenges of provenance research on looted art and the practical deductive skills that are required. Some objects shown in the exhibition could never be returned to their rightful owners, either because information was missing or because the rightful owners could not be found. In this way, the exhibition incites visitors to reflect on the difficulties of provenance re-

search but also shows the potential success, which could be achieved through improved research strategies in the future.

As a travelling exhibition, it will be translated into German and English and will move to Berlin in September 2020.



## FIELD REPORT

### SEEKING HEIRS FOR AUSTRIAN ART RESTITUTION

The focus of my work as heir seeker for the Commission for Provenance Research is to locate the legal heirs entitled to take repossession of art objects whose restitution is recommended by the Art Restitution Advisory Board in Austria. In the cases I am asked to research, the objects have already been identified in the respective institutions and the decision as to their restitution already made pursuant to the Art Restitution Act. The objects, seized during the Nazi era, mostly in connection with anti-Jewish persecution, are to be returned to the heirs of their former owners. At the time of the restitution recommendation by the Art Restitution Advisory Board, however, in most cases these heirs have yet to be identified. This circumstance is also due to the fact that there is no claim-based procedure in Austria, and provenance research and art restitution by national museums and collections are conducted proactively.

The search involves research in Austrian and foreign archives and registers and, not least, in historical documents from the Nazi era, in the relevant literature and here, above all, writing about exile and regional Jewish communities, as well as correspondence with researchers, archivists and specialists in the relevant official departments or diplomatic missions abroad.

Each case is completely different. Sometimes the life stories of dozens of people have to be researched, while in other cases the search is confined to a more manageable number. As a result of flight and expulsion, the members of a family are often scattered in different countries and continents, and connections between the individual family branches have frequently been lost.

The method of working in a single case can change quickly and often, calling for new tools to establish succession. Initially, relevant files and documents (registry office, emigration/immigration, lists of refugees and victims of National Socialism, for example) have to be amassed. Apart from an understanding of present-day archive structures, this requires an idea of the local administrative structures during and after the Nazi era. It is always based on international and national inheritance law, guided by the nationality of the decedent, which in turn needs to be documented (registry office, estate, and compensation documents, etc.). Once living heirs or legal successors have been found, social aspects have to be considered: the establishment of trust and understanding, quite often confronting the family (escape) history and the question of identity, origins, and heritage. After everything has been clarified, there are

legal matters to be dealt with (power of attorney, liability declarations) and assistance with the logistics of handing over and shipping the returned objects, less commonly also their sale, renunciation, or donation.

The search for heirs is always closely and directly linked with the history of the persecution and murder of the European Jewry. In the initial stages and when establishing the genealogy, it is vital to identify and locate all conceivable heirs, find out where they lived, what their names are (now), where they fled to, or whether they were murdered during the Shoah; then, whether there were children who might, for example, have survived through the Kindertransports, or whether successors contacted the Republic of Austria after 1945. In other words, the first step is always a confrontation with the victims' fate. Ultimately, the research shifts from a focus on those who have perished to those who managed to escape and survive. Thus, a case that starts with dozens of names and data about victims, gradually evolves into one with a large number of successors or heirs. Finding these people, reconstructing their lives, collecting birth certificates of children and grandchildren, and finally contacting them, is the very real and vital proof of the underlying intention of the Art Restitution Act: to return to the original owners or their descendants and heirs the objects that were once taken from them and their families.

The research cannot be closed until all legal heirs have been identified. As long as there are gaps, the case cannot be concluded. The heirs can be natural persons with an entitlement either through family relationship or by will. They can also be associations or other bodies, if they have been designated as heirs. Contact with heirs produces a variety of reactions, sometimes requiring convincing and in all cases tact and sensitivity. Regardless of whether it is an animal sanctuary in Pennsylvania, a scientific institute in Israel, an 80-year-old woman in New York, or a 30-year-old Australian, the first contact, be it by phone, letter or e-mail with "art restitution" as the subject line, is usually met with surprise and sometimes with suspicion (on account of Internet fraud, phishing and data protection). In all cases it has to be explained to the persons concerned why they have an entitlement, since many of them have little notion of their ancestors' history.

The objects being restituted have quite different significance for the recipients. For some it is a question of satisfaction that some fragmentary justice has been done and of an albeit belated gesture by the Republic of Austria. The objects can also establish an emotional link with lost or

murdered family members or distant relatives or be seen as a commemoration and memorial to them. In other cases, the objects – however insignificant their material value – are the starting point for an interest in the family or an awareness of their history of persecution or even of the fact that they were Jewish. For others, particularly if they are in difficult financial circumstances, these objects or the proceeds from their sale can improve their situation.

The research concludes with documentation of the succession on the basis of international inheritance law showing who the heirs are. In some cases this is quite clear and only a handful of documents are needed to prove the succession. In other rarer cases, dozens of pages of explanation and hundreds of documents, coupled with translations and legal appraisals, are required. The final say belongs to the Financial Procurator's Office as legal adviser of the Republic of Austria, which verifies that everything is as it should be before the objects are released.

As mentioned, the search for heirs is the third phase in an art restitution case. The first phase consists of provenance research and the compilation of a dossier, with a focus on the object, its characteristics and description, the original acquisition and its seizure by institutions and perpetrators during the Nazi era, and its acquisition by an Austrian federal museum (whether during or after the Nazi era). The second phase involves consideration of the case by the Art Restitution Advisory Board and its recommendation for restitution to the Federal Minister for the Arts and Culture. If the recommendation is followed, as has always been the case to date, the initial provenance research now shifts to a search for the heirs. At this point the object – be it a valuable painting or a single book – is of secondary significance. Once contact has been made with the heirs and the situation explained and communicated, the object and its history takes centre stage again. At the end of the search for heirs, the object and its history are thus the main focus again, this time in a new context.

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# ADDENDUM

## ART RESTITUTION IN THE UNITED STATES AND THE ROLE OF THE NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES HOLOCAUST CLAIMS PROCESSING OFFICE

Even before the war came to an end, the Allied forces were contemplating what should be done with the cultural objects displaced during the Nazi period. In January 1943, the “Inter-Allied Declaration Against Acts of Dispossession Committed in Territories Under Enemy Occupation or Control” (London Declaration) articulated what would become the Allied policy that, to whatever extent possible, reparations should be made to the victims of Nazi persecution and the transfers of property, rights and interests carried out by the Nazis would be deemed invalid and illegal. This ultimately served as the fundamental premise of the policy promoted by the United States government that all looted cultural objects should be restituted.

Restitution varied in the countries that were either under the direct or indirect control of Nazi Germany. If the property to be restituted came under the control of the local government, the process was relatively simple, but, when the property was in the hands of private individuals, the methods of return were more complex. In some countries, legislation was enacted immediately after the war; in others it took far longer to implement restitution programs. The authorities overseeing the processes varied based on jurisdiction and included administrative bodies, courts, and specially created semi-judicial entities.

In the US zone of occupation, the US supported an external restitution policy whereby items were returned to their countries of origin including objects that belonged to victims of persecution. The Office of Military Government for Germany, United States (OMGUS) “Law 59: Restitution of Movable Property of Those Who Had Been Persecuted by the Nazi Regime because of Race, Religion, Nationality, Ideology or Political Opposition to the NSDAP. In the absence of current restitution laws in most jurisdictions, MGL 59 still serves as a basis for requesting restitution of a lost object.

Domestic restitution efforts from the late 1940s through early 1960s were spearheaded by the US Department of State under the leadership of Ardelia Hall.<sup>1</sup> For 16 years, Hall saw to the recovery and restitution of movable cultural property. Cases were also filed through the US court system for property lost by victims of Nazi persecution. Then, as now, the results of such cases varied. By the 1960s

without Hall at the State Department urging possessors to return items, the State Department’s role in the resolution of cases diminished, and the topic of Nazi looted art faded from the public eye.

In the late 1990s, Swiss banking practices during the war were thrust into the spotlight, and discussions of unrecovered assets lost as a result of Nazi persecution expanded to include unpaid Holocaust era insurance policies and cultural objects. In 1997, the Association of Art Museum Directors (AAMD) established a task force<sup>2</sup> to draft guidelines advising members how to handle works of art that changed ownership during the Nazi period and were never restituted.



*From left to right: Inna Kushnirsky, Anna B. Rubin, Rebecca Friedman, Eleanora Vyadro, Connie Walsh*

The discourse on Holocaust-era looted assets reached a crescendo when the State Department convened the Washington Conference on Holocaust Era Assets in November–December 1998. One of the outcomes of this international meeting was the acceptance of the “Washington Conference Principles on Nazi-Confiscated Art” that were heavily based on the guidelines<sup>3</sup> formulated 6-months earlier by the task force of the AAMD.<sup>4</sup> The Washington Conference guidelines were intended to facilitate research and restitution when warranted and were adopted by all 44 nations present. They did not, however, create any legal obligations or rules that institutions are compelled to follow but merely encouraged nations to “develop national processes to implement these principles, particularly as they relate to alternative dispute resolution mechanisms for resolving

ownership issues.” In Europe, several countries used these principles to further restitution efforts either with the passage of hard law or the establishment of commissions to adjudicate claims and allocation of funding to enable provenance research.

However, in the United States unlike in Europe, most museums are private entities, and there exists no agency akin to a ministry of culture to implement such processes. In the months prior to the Holocaust Era Assets Conference in Prague in June 2009, the State Department assembled domestic stakeholders to discuss the possibility of creating a European style commission to review and arbitrate claims for the US, but those conversations were not fruitful and the idea ultimately abandoned.

### Museums in the United States

The two prominent museum associations in the United States, the American Alliance of Museums (AAM) and the AAMD, assumed roles slightly similar to European cultural ministries in the years preceding and immediately following the Washington Conference. After the 1998 conference, the AAM created the Nazi-era Provenance Internet Portal (NEPIP)<sup>5</sup> as a means to “expedite searches for information about covered objects in museum collections,” and the website launched in 2003. Its purpose was to make information about objects in museum collections centrally accessible. It is unclear to what extent the registry is used by museums and the public at large.

Over the course of the past decade, the US museum community has commendably focused on provenance research, making great strides in educating museum professionals, scholars, and the public about the resources and methods available for studying the ownership history of objects.<sup>6</sup> US museums have also partnered with foreign counterparts to make information more accessible and available online.<sup>7</sup> Nevertheless, the museum community has not really focused on Holocaust restitution policy.

### The HEAR Act of 2016

The most notable recent development in the US regarding restitution of works of art was the passage of the Holocaust Expropriate Art Recovery (HEAR) Act<sup>8</sup> in late 2016. The law establishes a federal statute of limitations for civil claims to recover works of art that were lost between January 1, 1933 and December 31, 1945 due to Nazi persecution. Individuals have six years from the time of actual discovery of the object to bring their case to court. The law will remain in effect until January 1, 2027.

Some contend that since the act states that claims should be decided on their “facts and merits” it provides Holocaust victims and their heirs with a legal remedy for restitution. Others argue that the legislation constitutes a public policy statement by the US federal government supporting the restitution of “looted art” and thereby confers a private right of action to pursue such legal claims. However, the plain language of the act merely addresses the time limitations imposed on bringing a case. The hope that fewer cases will be dismissed on statute of limitation grounds so that claims can ideally be decided on their merits has not truly come to pass, since the law does not bar the use of other technical defenses. Even with the enactment of the HEAR Act, the merits of restitution cases are still rarely addressed, albeit thus far very few cases cite the act.

The full impact the law has had on restitution cases remains to be seen, and since most claims are handled outside of the court system, we may never know how much influence it has had.

### The Holocaust Claims Processing Office

New York State has been at the forefront of efforts to ensure the just resolution of unresolved claims for assets lost due to Nazi persecution. Recognizing the need for an agency to assist individuals attempting to navigate the maze of restitution that was formed in the wake of numerous class action settlements, international treaties, regulatory investigations, and litigation, it established the Holocaust Claims Processing Office (HCPO)<sup>9</sup> in 1997. The HCPO was initially intended to assist individuals hoping to recover assets deposited in Swiss banks. However, it soon became apparent that claimants also needed help recovering a range of other property, and by the end of its first year of operation, the office expanded its mission to assist in the recovery of assets held in non-Swiss banks, proceeds from Holocaust-era insurance policies, other material losses, and works of art that were lost, looted, or sold under duress between 1933 and 1945.

From its inception through the end of December 2019, the HCPO has received claims from over 5,900 individuals from 46 states, the District of Columbia, and 40 countries. In total, the HCPO has successfully resolved more than 16,000 claims in which an offer was presented, or the asset was deemed non-compensable.<sup>10</sup> To date, the HCPO has secured over 8,500 offers; the combined total of offers for bank, insurance, and other material losses amounts to over \$180,000,000. Of the claims filed with the HCPO, 176 (from 19 states, the District of Columbia, and 13 countries) are for cultural objects and include thousands of works of art. The



office has facilitated restitution settlements involving 167 cultural objects from 33 different collections.

Although each case is unique and highly fact dependent, we encourage all parties to seek resolution outside the courts given the many disadvantages of litigation such as the lengthy process litigation entails, stringent evidentiary rules, conflict of laws, attorney's fees, statute of limitations, and unpredictable outcomes. We seek to resolve each case in a just, prompt and fair manner relying on moral persuasion and historical and current international principles of restitution.

## The HCPO Methodology

The HCPO is the only government agency in the United States that assists individuals regardless of their place of residence with a variety of multinational restitution claims be it through a formal claims process or by negotiating directly with the current possessor of the object being claimed. Claimants pay no fee for our services, nor do we take a percentage of the value of the assets recovered. The HCPO's goal is to advocate for claimants by helping to alleviate any costs and bureaucratic hardships they might encounter in trying to pursue claims on their own. Unlike claims for financial assets, claims for Holocaust-era "looted art" do not lend themselves to centralized settlements. Instead, given the individualized nature of these cases, they require working with a variety of entities and must be resolved on an object-by-object basis. Given the complex political, economic and legal history of this period and the intricate nature of restitution claims, the HCPO developed a systematic method to handle cases, which can broadly be described in four steps.

### I. Genealogical Research

First, we undertake extensive genealogical research to identify the heirs of the asset owner. To accomplish this, we search in city and state archives, probate offices and religious communities all over the world for vital records (birth, death and marriage certificates) as well as last wills and testaments, for aside from lacking documentary evidence of asset ownership, many Holocaust survivors and their heirs possess little or no documentation regarding their families.

The HCPO has a long-standing history of working together with numerous entities and processes to ensure the claims of Holocaust victims and their heirs are dealt with fairly and swiftly. Building on our expertise at genealogical research, the office has been able to provide various claims

processes and organizations across Europe and in the US with the critical assistance necessary in finding heirs of potentially looted assets. In recent months we have seen an increase in requests for assistance of this nature from auction houses, libraries, and museums.

### II. Documenting the Loss

Once we establish who all the rightful heirs are, we begin to reconstruct the original asset owner's holdings. Claims received by the HCPO range from the partially or even fully documented to the purely anecdotal. Some claimants provide documentation such as prewar collection catalogues and inventories; photographs of the family home with works of art in situ; handwritten lists kept by families that itemized their assets; and wartime records related to tax payments or shipping records in connection with emigration. In other instances, claimants document ownership through Nazi-era asset declarations, seizure orders or postwar compensation files.

The second step necessitates comprehensive research in domestic and international public and private archives and specialized libraries as well as and the utilization of other resources to compile detailed and accurate evidence that substantiates restitution claims. As a result, the HCPO has cordial working relationships with archives, historical commissions, financial institutions, trade associations, and governmental colleagues at the federal, state, and local levels in many different countries.

### III. Locating the Missing Objects

In order to locate the missing items, these works must be uniquely identifiable. This stage transcends the application of a rigid methodology as it frequently relies on resourcefulness, meticulous research, and a bit of luck. One tool utilized in this process is provenance research, which even under ideal circumstances is a difficult endeavor 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; art dealers may not wish to reveal their sources; and the records of dealers and auction houses are frequently lost, destroyed or publicly inaccessible. More frequently than not there are gaps in the provenance of any artwork. When you then couple this 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 – the mission of reconstructing provenance can seem insurmountable.

The proliferation of online resources and the regular updating of online databases such as the Database of Art Objects at the Jeu de Paume, the database of German art trade records,<sup>11</sup> Art Database of the National Fund in Austria, Catalogue of the Musées Nationaux Récupération in France has provided claimants, claimant representatives, researchers and advocates in the field greater access to information than ever before. As part of our efforts, we regularly search online resources for traces of the objects we are seeking, monitor the art market and work together with agencies that register art theft like the Art Loss Register and the German Lost Art Foundation.

#### IV. Facilitating Resolution

Once our research is complete and the missing object has been located, the HCPO's role changes from detective to advocate and facilitator with the goal of reaching a mutually agreeable resolution to the claim. The HCPO facilitates cooperation between parties through open and amicable discussion and by sharing all available supporting documentation. With our dual roles in mind, when approaching an institution with a restitution claim we present the detailed narrative of the object owner's personal persecution and loss within the context of general European economic and legal history of the period.

Explaining the historical context of a claim so that the current owner of the work is persuaded to retribute it is only one challenge we encounter in the restitution process. The difficulty in contextualizing a claim is exacerbated by inconsistencies across and within stakeholder groups in how various forms of loss are defined. It is undisputed that each case is unique, not only with respect to the facts of the original owner's experience of Nazi persecution, but the circumstances of an object's loss can differ from one object to the next even within the same collection. The lack of widely agreed upon understanding of the terms used to specify a type of loss creates uncertainty with respect to restitution and compensability.

Other factors that can make it difficult to reach the point of determining a "just and fair" solution include the factual complexity of many claims; the frequently opaque and inconsistent methods for handling cases across industries; the lack of uniform standards to assess the claims; and in the United States, the specter and use of litigation can obstruct a claimant's pursuit of a claim.

#### The Future of Restitution Claims

Claims for cultural objects lost as a result of Nazi persecution are far from diminishing, and although the Washington Conference instigated significant change in the field, most notably with respect to provenance research and increased availability of archival records, remarkably little progress has been made on how claims should be handled. It is abundantly clear that the time has come for both national and international attention to shift toward establishing uniformity and consensus on the standards for what facts provide the elements of a claim. More certainty and predictability in the claims process are desperately needed.

The HCPO's door is always open, and we welcome the opportunity to work with institutions and the trade as they undertake research on works in their collections or consigned to them for sale. We are happy to assist with any and all research efforts. Additionally, anyone who believes they may have a claim for a cultural object and would like assistance should feel free to contact us.

*Anna B. Rubin and Rebecca Friedman*

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<sup>1</sup> Reed, Victoria. "Ardelia Hall: From Museum of Fine Arts to Monuments Woman." *International Journal of Cultural Property*, vol. 21, no. 1, 2014, pp. 79–93., doi:10.1017/S0940739113000325.

<sup>2</sup> [Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era \(1933-1945\)](#)

<sup>3</sup> *Ibid.*

<sup>4</sup> The American Alliance of Museums (AAM) published its guidelines in 1999 and last updated them in 2001. <https://www.aam-us.org/programs/ethics-standards-and-professional-practices/unlawful-appropriation-of-objects-during-the-nazi-era/>

<sup>5</sup> <http://www.nepip.org/>

<sup>6</sup> <https://www.si.edu/events/prep>

<sup>7</sup> <https://www.getty.edu/research/tools/provenance/>

<sup>8</sup> <https://www.congress.gov/114/plaws/publ308/PLAW-114publ308.pdf>

<sup>9</sup> [https://dfs.ny.gov/consumers/holocaust\\_claims](https://dfs.ny.gov/consumers/holocaust_claims)

<sup>10</sup> In addition to assisting claimants obtain offers of compensation, the HCPO has helped thousands of Holocaust victims and their heirs resolve their claims by: demonstrating that the assets sought were previously compensated via postwar restitution, compensation proceedings that were active from the 1950s through the 1970s, or in some cases through a present-day claims process; showing that the claimed asset has otherwise been handled appropriately (i.e., in accordance with the original owners' wishes); or confirming that the asset was not lost as a result of Nazi persecution.

<sup>11</sup> <https://digi.ub.uni-heidelberg.de/en/sammlungen/artsales.html>

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