

# Spils of War

**International Newsletter. No. 6. February 1999**

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**Editorial Note:**

The following contributions in this Newsletter deal with all kinds of aspects on looted art. Due to the historical and political sensibility of this topic, and irrespective of our gratitude towards all authors, we allow ourselves to emphasize the fact that all contributions reflect exclusively the authors' personal conviction.

**Contents:**

<b>Editorial</b> .....	5
------------------------	---

**Special Reports*****Legal Issues***

Test Case on Looted Art Decided: Painting by Wtewael Returned to Germany – by Michael M. Franz.....	7
New York State Law Initiative (Part I) - by Thomas R. Kline.....	11
New York State Law Initiative (Part II) - by Lloyd Goldenberg.....	12
Looted Art: A Practical Response - by Sarah Jackson.....	16

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The Commission for Art Recovery of the World Jewish Congress - by Constance Lowenthal.....	19
Review of the 1998 Russian Press on the Issue of the Restitution of Cultural Values - by Evgenia Korkmazova.....	21
Involuntary Journey of Books from Paris to Minsk – by Vladimir Makarov.....	25
The Conference “Libraries in World War II: History of Collections, Aspects of Research and Reconstruction” – by Evgenia Korkmazova.....	26
For Germany and Themselves: The Motivation behind the Nazi Leaders Plundering and Collecting of Art. – by Jonathan Petropoulos.....	29

**Country Reports**

Belgium - by Nicolas Vanhove .....	37
Estonia – by Anu Laansalu.....	37
France – by Marie Hamon.....	41
The Netherlands - by Josefine Leistra .....	42
Russia – by Nikolay Nikandrov.....	49

**Archival Reports**

The Return of Archival Documents, Moved to the USSR as a Result of World War II – by Vladimir P. Tarasov.....	52
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**Restitutions**

Valuable Document Returned to German Freemasons by the US – by Petra Kuhn.....	54
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**Bibliography**

Books and Articles on General Aspects.....	56
Books and Articles on Specific Countries .....	57

**Latest News**

Principles With Respect to Nazi-Confiscated Art.....	62
Different Views of the Spoils of war – A Bibliography on Internet.....	63
New Address .....	64
Museum Issues on Internet.....	64

# Spoils of War

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## Editorial

In the past months, the issue of cultural property losses caused by World War II has gained even more attention through several events; some of them receive attention in this issue (e.g. the "Washington Conference on Holocaust-era Assets" in November/December 1998; the conference "Libraries in World War II", the current New York State Law proposal related to the recovery of stolen cultural objects). Furthermore, you will find contributions on the Commission for Art Recovery of the World Jewish Congress, the third part of the 1998 Russian press-review of the restitution of cultural values, accounts on special conferences and – as always – a number of country reports, special reports, etc.

In September 1998, the High Court in London has ordered the painting "The Holy Family" by Joachim Wtewael, looted from Germany in the final days of World War II, to be returned to its owners in Germany. This judgment is evaluated as a test case on looted art also because of the fact that the painting had to be handed back more than 50 years after its removal irrespective of the German limitation period of 30 years. An article deals with the main aspects of this judgment.

We are very content to tell you that the grant we received from the Open Society Institute for the Russian edition has been saved, in spite of the economic crisis in Russia. In this context, we remind you that we publish in English and in Russian and that we are also to be found on the Internet (English version: <http://www.beutekunst.de>, Russian translation: <http://Spoils.libfl.ru/>). Any of our contributors who do not want their contribution translated into Russian or included in the Internet publications are asked to let us know.

In issue 4 of this newsletter, we already informed you that it is getting too difficult to provide all private persons with a printed newsletter-copy due to the fact that the numbers of copies can not be augmented at present time and that institutions have priority. We therefore can not continue to keep private persons in future on our mailing list and ask you for understanding.

On October 24-27, 1998, the editorial board met in Brussels; we would like to thank the Directorate of Economic Relations of the Ministry of Economic Affairs and its head, Alain Bourlet, for their very friendly hospitality and support.

Since January 1999, Dr. Michael M. Franz has taken up the post of the Project Leader of the Coordination Office of the Federal States for the Return of Cultural Property (Magdeburg). Dr. Franz wrote his doctoral thesis on legal problems of

German Civil Law related to the exchange of cultural property. Since then, he is specialized on legal aspects concerning cultural property.

This issue would not have been possible without the very impressive commitment of Christiane Kienle (Magdeburg) on planning and editing this newsletter. Therefore the members of the board express their thanks to Ms Kienle for her helpful contribution to this matter.

Please note that the Coordination Office has got a new e-mail-address: [kstdrvk@uni-magdeburg.de](mailto:kstdrvk@uni-magdeburg.de).

As we did already in the past, we will continue to inform those who are interested in the latest news concerning all aspects of looted art. Therefore do not hesitate to contact us if there are any questions. In this context, we would be very glad if you could assist us in providing information by sending your news, suggestions, articles, and copies of your publications to the editorial address or any of the board members. Against this background, we are going to inform you about the next issue's publication-date as soon as possible.

Yours sincerely

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## Special Reports

### *Legal Issues*

#### Test Case on Looted Art Decided: Painting by Wtewael Returned to Germany



*The Holy Family with Holy John, Holy Elizabeth and Angels*  
by Joachim A. Wtewael (ca. 1566 – 1638)

#### **I. Introduction**

In September 1998, the Hon Mr Justice Moses (High Court, London) ordered the painting "*The Holy Family with Holy John, Holy Elizabeth and Angels*" by the Dutch mannerist artist Joachim A. Wtewael (ca. 1566 – 1638), looted from Germany in the final days of World War II, to be returned to its rightful owners in Germany.

Although it has only been pronounced some months ago, this decision – establishing a precedent - is already evaluated as one of far-reaching implications for the topic of looted art in general and the international art market as well, because of only one of its several important aspects: The painting had to be returned more than 50 years after its removal irrespective of the fact that the plaintiffs (i.e. the City of Gotha, located in Thuringia/ Germany, and the Federal Republic of Germany) meanwhile could have – in general – run out of time according to the limitation period of 30 years (§ 195 BGB, see section III for details) to reclaim cultural objects stolen during the Second World War.

This article deals with the main historical facts (see section II) and legal aspects (see section III) of the very extensive (102 pages) official judgment as stated by the Hon Mr Justice Moses.

## **II. Historical facts according to the judgment**

Until now, the details of what had happened exactly to the painting since its disappearance at the end of World War II are unclear: Several rumors lead one to assume that the painting should have been since then e.g. in the possession of Soviet soldiers, their relatives, agents of SMERSH (the pre-cursor of the KGB), Russian art smugglers, a dependant of the Togo ambassador to Moscow, an art dealer in Berlin, etc. Some of these assumptions are correct while others are not.

According to the judgment, this is what happened to the painting:

Since 1826 at the latest – when appearing in a catalogue of paintings - the picture, a notable masterpiece of the Dutch mannerism, painted in 1603 on copper and measuring 21 x 16 cm (eight inches by six inches), was in the ownership of the "Herzog von Sachsen-Coburg-Gotha" (Duke of Saxe-Coburg-Gotha). In 1928, it became part of the collection of the "Kunststiftung des Herzoghauses Sachsen-Coburg-Gotha" (The Duke of Saxe-Coburg-Gotha Foundation for Art and Science, located in Gotha/ Thuringia).

During World War II and until the arrival of the Russian forces in early July 1945, the picture remained in Gotha. In July 1946 at the latest, the painting had disappeared and was transferred to the former Soviet Union.

In the 1980s, the painting was taken from the former Soviet Union to West-Berlin, where it emerged briefly in 1987 only to disappear again. Concerning these last mentioned years, one of the main questions was whether the picture has been misappropriated by one of those who were involved in its disposal. According to the judgment, the painting was handed over to a Mrs. D. in 1987 and was misappropriated by her. The significance of this fact becomes clear by evaluating its legal consequences, especially concerning the dispute on the question of limitation (see section III.).

In 1988, the painting was acquired by a Mrs. B.; in March 1989, Mrs. B. sold the painting to one of the two defendants, a Panamanian Corporation named "Cobert Finance S.A." ("Cobert"). In April 1992, the masterpiece was withdrawn from sale at the London office of the second defendant, Sotheby's in London, (estimated

worth: £ 700,000) due to doubts concerning its provenance: The painting has been identified by its former owner while researching the auction catalogue especially published on occasion of the auction where the sale also of the controversial picture should have taken place.

### **III. Legal aspects according to the judgment**

The defendants claim ownership respectively a possessors title towards the painting. In contrast to the account told until the trial started - that the picture was a gift to a so-called K., a colonel in the Soviet forces, Cobert conceded already at the beginning of the trial that neither it nor anyone else acquired the painting in good faith. This legal evaluation is of importance on the questions discussed later in this section.

First of all, one of the most important aspects in this case was the approach to Foreign Law:

According to the so-called "lex rei sitae"-rule, the validity of a transfer of a movable object is governed by the law of the country where the movable is at the time of the transfer. In this context, the court refers also to *Winkworth -v- Christie Manson and Woods Limited* which is one of the most important decisions concerning the legal aspects of cultural property. Due to the above-mentioned "lex rei sitae"-rule and the fact that the painting was in the plaintiffs ownership and that it was misappropriated in 1987 by Mrs. D., German law had to be applied. Furthermore and accurately, the Hon Mr Justice Moses transfers the teleological approach which can be found in numerous verdicts by German courts to the present case. This is a very important aspect especially against the background of switching the point for the following application of the relevant section of German Law on the question whether the claim is time-barred.

Secondly, the dispute concentrated on the question, if the plaintiffs have lost their rights of possession respectively ownership of the picture under the German "Bürgerliches Gesetzbuch" ("BGB", German Civil Code), which gave them only 30 years in general (§ 195 BGB) from the removal in the mid-1940s to reclaim it.

According to the decision, such a loss of rights of possession and ownership of the object has not taken place:

The judge concentrated on the questions of direct and indirect possession in connection with the above-mentioned loss of rights due to §§ 195-225 BGB, especially § 221 BGB and the question, whether this rule is inapplicable if the succeeding possessor obtains possession with the consent of the preceding possessor but subsequently misappropriates the asset as it has been stated already within the historical facts (see section II.). In order to form his opinion, he also consults some of Germany's most important commentators on the BGB to decide these questions. Thereby, the judge did not make his decision by the quantity but the quality of these commentator's arguments. Furthermore, and in contrast to the so-called case-law, one main approach in German law is by evaluating the rule and its goal. And so did the judge: On this issue, it did not seem rational to him that a direct possessor who

changes the nature of his possession by misappropriating should have been able to pass to a transferee the benefit of the limitation period; therefore, he concluded that the limitation period of § 195 BGB had not expired at the beginning of the trial. This period started to run out; thereby, it was insignificant, if either Mrs. D. misappropriated the painting in 1987 or Mr. R. did so in the same year. Summing up, it can be said that in both cases, the plaintiff's claim does not fail by the limitation period of 30 years according to § 195 BGB.

In addition to this teleological subsuming, two of the key sentences of the decision are that "(...) the law favours the true owner of property which has been stolen, however long the period which has elapsed since the original theft. (...) To allow Cobert to succeed, when, on its own admission it knew or suspected that the painting might be stolen or that there was something wrong with the transaction or acted in a manner in which an honest man would not, does touch the conscience of the court."

#### **IV. Summary**

This judgment has to be seen as a test case for the dealing of looted art on the international art market, due to its uniqueness concerning historical facts and legal questions. The judge fulfilled his very difficult task supremely good and successfully. As he himself admits, it was unfamiliar territory he dealt with; therefore, he consulted also international experts on special legal questions such as the internationally renowned Professor Dr. Siehr from Zürich who has also contributed to this international Newsletter in the past.

Summing up, it can be said that the court dealt with all kinds of legal questions in a very careful and conscientious manner, also to those which even are for German jurists not easy to cope with such as police-orders, "Verfügungen" and "Verordnungen", the difference between "nichtig" and "rechtswidrig", SMAD (Soviet Military Administration) - laws, direct and indirect possession, etc. Against the background of the judges' dealing with these numerous details of historical facts and legal aspects, this verdict has to be evaluated as a very impressive one. It is well-known that because of the large amount of looted art, art dealing becomes more difficult, due to the possibility of claims by these objects' rightful owners. As only one consequence on far-ranging repercussions on the international art market, this dealing with looted art will be even more difficult after this verdict. As concerning the above-mentioned main statements of the judgment, it can be said that an unlawful way of acting can not be healed by the law itself due to its limitation standards.

Today, the painting with the holy motifs, after finishing its unholy odyssey of more than 50 years in different states, is back in Gotha.

Michael M. Franz, Project Leader of the Coordination Office  
of the Federal States for the Return of Cultural Property, Magdeburg  
The following three contributions deal with the current New York law proposal on art theft (statements by T. Kline and L. Goldenberg) and a special wartime losses database of the Art Loss Register (by S. Jackson).

Because of the fact that the text of the above-mentioned proposal is not available for printing in this issue until now, and due to the historical and political sensibility of the topic, we allow ourselves to emphasize the fact that all contributions reflect the authors' personal conviction.

## New York State Law Initiative (Part I)

As I am sure you know, the law of New York State is of critical importance to art theft victims because the art market in that state has reached a position of pre-eminence in the world. In addition, New York has a sad history as the point of entry into the United States for much art that was stolen during the Second World War and its immediate aftermath as well as for antiquities looted from around the world.

New York has, up to now, attached a high priority to preventing the free movement of stolen art and cultural property. As part of that effort, New York's statute of limitations law presently permits theft victims to make claims on the possessor of their stolen property and declares that a subsequent lawsuit is timely if it brought within three years after demand for return and refusal of that demand. If the current possessor asserts the defense of laches, arguing that he has been prejudiced by unreasonable delay on the part of the original owner in bringing the lawsuit, the current possessor will be called upon to establish that he took reasonable precautions in connection with the acquisition of the object. Under New York law, only in that way can the current possessor retain a stolen object whose recovery has been diligently pursued by the theft victim.

Under a proposed change to New York law that is currently being considered by the legislature of that state, all theft victims around the world would be required to list their claims with the Art Loss Register, a for-profit data base in London, if they wish to preserve their right ever to bring suit in New York State. Failure of a theft victim to register the claim within three years of the theft would forever bar the bringing of suit in New York, no matter how diligent the victim had otherwise been. Equally troubling, a prospective buyer of art would be considered diligent if he consulted with the Art Loss Register, even if he ignored many other potential sources of information about the theft.

It is apparent that this proposal springs from a depth of naivete about the world, and a desire to see art move briskly through New York markets at all costs. Given the thousands and thousands of outstanding and unresolved thefts, and those additional ones occurring daily, whether from museums, churches, private collections or out of the ground, it is inconceivable that the world's victims could ever register their claims on one data base. At the same time, many other sources of information exist that allow art buyers to research the history of particular art objects and obtain some comfort that the objects are lawfully being offered for sale. Only by ignoring the magnitude of theft – or by ceasing to care about the victims – could New York State

ever enact such a sweeping revision to its law. For New York to go from being one of the jurisdictions with the highest regard for protecting theft victims' rights to one of the worst neglectors of those rights is hard to conceive. But, that is exactly what will occur if the dealers, collectors and museums in New York get their way and the proposed legislation is enacted.

Thomas R. Kline, Lawyer, Andrews & Kurth L.L.P., Washington D.C.

## New York State Law Initiative (Part II)

A legislative proposal ("Proposal") is pending in the State of New York that would enable an acquiring person or institution to cut off forever a competing ownership claim to works of art and antiquities of all kind ("Art") by a theft victim three years after the acquiring person confirms with a single registry of 50,000 art losses that the particular item is not listed with that registry as being stolen. This proposal would negate the current judicial requirement in New York that acquiring persons undertake reasonable precautions against acquiring stolen Art and overturn judicial pronouncements that it is unreasonable to require theft victims to report losses to any particular registry.

### **Introduction and summary: Why the "Single Registry" Proposal Must Be Rejected**

The Proposal represents an attempt to emasculate the law governing judicial actions to reclaim stolen and looted Art in order to protect their illegal past acquisitions and to defeat efforts by theft victims to recover stolen materials in their possession. The Proposal even would allow collectors who have obtained stolen materials in derogation of their legal and ethical responsibilities to retain ownership of these items, and would shift the burden of diligent investigation to theft victims exclusively.

### **Current Law Requires U.S. Museums and Private Collectors to Take Reasonable Precautions Against Acquiring Stolen Art**

The law U.S. and New York courts currently apply to decide judicial claims by theft victims seeking to recover stolen Art requires collectors to take reasonable precautions against acquiring stolen Art in order to protect their legal ownership rights in stolen materials they mistakenly may have obtained. Under the commercial law that applies throughout the U.S., good title to stolen property never can be acquired, regardless of how many times it has been bought and sold in good faith or the number of years that have elapsed since it was stolen. Because good title cannot be conveyed under substantive U.S. commercial law, the question that often determines the outcome in lawsuits brought to recover stolen Art is whether the claim will be barred by the applicable limitation period. To decide this question, U.S. courts have declared they will "balance the equities between the parties", and "will weigh the measures collectors observed to avoid acquiring stolen art with the steps theft victims took to report their losses and make them known to the art

world." Theft victims suffer losses involuntarily, frequently lack resources and art world sophistication, and face difficulties locating their stolen property in the art industry. To prevail under this equitable balancing test courts have required collectors to show they took reasonable measures to avoid acquiring stolen Art and to genuinely attempt to find out whether a particular object has been stolen in fact. Current New York law rewards inquiries to multiple Art world authorities and resources and is best calculated to locate stolen Art.

**A. The Proposal Repudiates the Affirmative Responsibilities of U.S. Museums and Private Collectors to Take Reasonable Precautions Against Acquiring Stolen Art and Shifts the Burden of Due Diligence Investigation and Inquiry to Theft Victims**

The Proposal disclaims Any responsibilities of collectors to avoid acquiring stolen art beyond merely consulting the single registry, even though reasonable inquiries and consultation with experts and Art world professionals often have disclosed a particular object in fact to have been stolen. Moreover, the Proposal improperly shifts the affirmative burden of due diligence investigation to theft victims, and may even permit collectors who failed to consult a registry to defeat the claims of theft victims who reported their losses to it. Enabling collectors to clear title by consulting a single registry would allow manipulation of the system. Commentators have noted that in a leading judicial decision

Courts deciding ownership disputes between theft victims and collectors in mistaken possession of stolen Art repeatedly have empathized with the position of theft victims, and underscored that collectors have a variety of ways to protect themselves from the consequences of acquiring stolen property. This reasoned approach should not be abolished.

**C. The Proposal Would Improperly Validate the Prospective Acquisition by U.S. Museums and Private Collectors of Much Stolen Art that Readily Could be Identified as Such Through Reasonable Investigation**

Not only would the Proposal wrongfully enable collectors to extinguish the ownership rights of theft victims in materials collectors currently have acquired, it also would permit them to secure legal title to untold quantities of stolen Art objects in the future, which reasonably could be identified as stolen through an appropriate investigation. Many theft victims will not – and indeed cannot – report their losses to a registry. Persons who sustained losses as a result of the Holocaust are a prime example. Many Holocaust victims may not have lineal descendants, or their descendants may be unable to identify the specific items that were looted from their families. It would be morally offensive to extinguish the legal ownership rights of Holocaust victims and their descendants if they failed to immediately report the loss to a registry. Other international collectors doubtlessly have sustained losses of Art objects as a result of war and genocide since the Holocaust. Casualties of the Cambodian "killing fields" of the late 1970's and the more recent "ethnic cleansing" in Bosnia come to mind. The Proposal would work an injustice to them as well. Many international theft victims will never learn about the Proposal or a registry and its requirements, of course, and others will be unable to determine within the prescribed time that a particular object has been stolen. The inability or failure of even sophisticated collectors such as prominent U.S. museums to realize in a timely manner that materials have been stolen from them has been an issue in several reported judicial decisions.

**D. The Proposal Disavows Resources Currently Available for Finding out Whether a Particular Art Object not Reported to a Stolen Art Registry Nonetheless Has Been Stolen.**

The Proposal ignores the many resources that have proven effective in helping to identify stolen Art objects not reported to a stolen Art registry. The reported judicial decisions alone offer many suggestions for appropriate additional inquiries that often can help identify stolen Art. These include consulting the applicable catalogue raisonné for the particular artist, when available, relevant experts and academicians concerning the particular artist or type of art object in question, art world journalists, insurance representatives, restorers and conservators, collectors groups and organizations with an interest in the particular type of object, and publicly available catalogues of losses published by Art theft victims. Depending upon the particular type of Art and the circumstances, additional inquiries may be reasonably indicated. These additional Art world authorities and resources – which provide an invaluable "backstop" for identifying stolen materials stolen even from museums are imperative in helping to locate Art objects belonging to theft victims. Since many

theft victims are not able to report their losses, the identification of such losses must depend upon information gained from third parties. While some theft losses may never be identified, U.S. museums and wealthy private collectors should not be permitted to extinguish the ownership rights of theft victims without at least taking the reasonable precautions that are available for trying to find out.

**E. The Proposal Raises Hidden Obstacles for Theft Victims Seeking to Recover Stolen Art Objects by Giving Wealthy Collectors – Including U.S. Museums – Even More Unfair Leverage in Litigation than They Already Enjoy.**

For nearly thirty years U.S. courts and commentators have decried the casual, "ask no questions" conventions by which valuable Art objects are bought, sold and donated to museums. Courts repeatedly have enjoined collectors to take greater precautions against acquiring stolen Art. By shifting due diligence investigative responsibilities to theft victims exclusively the Proposal would enhance the capability of U.S. collectors to defeat the ownership claims of theft victims in litigation and to deter such claims. The inequitable due diligence obligations the Proposal would impose upon theft victims would give collectors several hidden advantages in judicial actions brought to reclaim stolen Art objects.

**F. The Proposal Digresses from the developing international legal consensus seeking to curtail the illicit flow of Stolen Art and cultural property by imposing reasonable "Due Diligence" investigative responsibilities upon collectors and dealers**

The Proposal contravenes recent international legal developments that encourage buyers and dealers to take informed due diligence precautions against buying or trading stolen art. These developments include the recent decision of the highest civil law court in Switzerland in *Insurer X v. A.*, as well as the recently enacted UNIDROIT Convention on the International Return of Stolen or Illegally Exported Cultural Objects (UNIDROIT or Convention). In *Insurer X*, the court held that in order to qualify as a "good faith" purchaser under Swiss commercial law (and thereby to extinguish legal ownership rights of a theft victim in stolen property offered for sale), when dealing with a type of good that has a tradition of being stolen (including artwork and antiquities) a high degree of diligent inquiry as to title is necessary, regardless of whether one is a merchant. The Proposal also diverges from the due diligence investigative precautions the UNIDROIT Convention encourages. UNIDROIT has been described as "an innovative and workable mechanism for controlling the illicit international trade in art", and approaches the problem of international art theft from the perspective of private international law. It is designed to prevent the transit of stolen Art objects across international borders and applies broadly to cultural objects looted from private homes and collections, dealers, galleries, museums, religious institutions as well as public sources. UNIDROIT seeks to remedy the "motley assortment of laws currently governing ownership rights in cultural property". It aspires to prevent stolen Art traffickers from manipulating choice of law and substantive commercial law differences in various countries in order to launder title to stolen cultural property. To accomplish these goals, UNIDROIT requires collectors found in mistaken possession of stolen

Art objects and other cultural property items to return them, but allows them to be compensated in an amount reflecting the current fair value of the item if they can show that they could not have known that the object was stolen and they had reasonably available precautions against acquiring stolen property. The Proposal offers collectors a "quick fix" solution that repudiates the type of extensive investigation UNIDROIT entails.

## **II. Conclusion**

The Proposal seeks legislative reversal of current judicial standards mandating legally informed, multi-source, reasoned due diligence inquiries as to whether a work of Art has been reported as or is reasonably believed to have been stolen.

The Broader the Scope of Due Diligence Investigation and Inquiry, the More Likely Losses Will Be Identified in Fact

Because many losses will never be formally reported because owners of property perished or objects were looted from the ground or another source without the knowledge of the true owner, the need arises to consult experts and other authorities who may have suspicions or indications a particular work of Art belonged to a particular person, institution or government. Only consulting one registry thus would repudiate important potential resources for locating losses.

In a 1989 New York Times article, the former general counsel of The Getty Trust and Christie's defined "due diligence" for acquirers of works of Art as "everything a reasonable and cautious buyer can do to be in good-faith and avoid purchasing stolen property." This is the current law in New York. It should not be replaced by a single inquiry approach that severely disadvantages theft victims and in many cases will terminate forever their ownership rights in stolen Art.

Lloyd Goldenberg, Trans-Art International, Washington D.C.

## **Looted Art: A Practical Response**

With much attention being focused on outstanding assets from Holocaust victims and an international conference devoted to the issue in December 1998, several recent initiatives have taken root in the last year to encourage practical steps to help resituate looted art to the rightful owners. The Art Loss Register (ALR), the world's largest private database of stolen art is able to play a key role in this process.

The Art Loss Register was formed in 1990 principally by the art trade and insurance industry in order to help identify and recover stolen art, to deter the trade in stolen art and to provide a central checkpoint to prospective purchasers and lenders (see "Spoils of War", no. 1, pp. 13). With offices in London, Düsseldorf and a branch opening in St. Petersburg, Russia in Spring 1999, the database now comprises more than 100,000 items reported to have been stolen world-wide. A staff of ten art historians registered these losses and reports are accepted in English, French,

German, Italian, Flemish, Dutch and Czech. Each year, the Art Loss Register examines 400,000 auction lots to uncover stolen or looted items. Major auction houses participating in this screening program include Sotheby's, Christie's, Phillips, Bonhams (world-wide), the Dorotheum (Austria), Lempertz, Villa Grisebach (Germany), Bukowskis (Sweden), Butterfields (USA) and Finarte (Italy). The majority of items on our database consist of contemporary thefts. Earlier this year, however, with the financial support of certain of our shareholders, principally Sotheby's and Aon Corporation, we began the expansion of our activity relating to Holocaust era assets. Based on our extensive experience in helping to recover stolen and missing art, we are convinced that a practical approach will result in identification and recovery of looted art. In general, the approach relies on two steps. First, to the fullest extent possible, all looted items should be entered on a database open to all organizations working in this area. Second, items on the database should be continuously checked against art entering the commercial market at the point of sale.

There is at present no single international listing of looted art and many of the existing publications produced mainly just after the war are now inevitably out of date. Our aim, working with others, is to create as complete a database as possible of works of art looted by the Nazis, Soviets or others from public or private collections in World War II, preferably, though not exclusively, with claims attached. The Art Loss Register has carefully built bridges to the World Jewish Congress Commission for Art Recovery, the New York State Holocaust Claims Processing Office and the Holocaust Art Restitution Project. Our effort represents an unusual level of cooperation between the private sector, government and philanthropic agencies and has resulted in an exchange of data and a unified Wartime Losses Claims Form.

Claims are accepted where there is a reasonable chance of identifying the item and the claim is judged to be authentic. Additional validation of claims would be required at the point of identification. During the past year, several hundred works of art looted from Jewish families have been reported to The Art Loss Register to add to the approximately 4,000 missing artworks from museum collections in Belgium, France, Germany, Hungary, Italy and Poland. All registrations of looted art from private individuals are free of charge and The Art Loss Register waives its usual recovery fee when it is able to identify an individual's looted artwork in an auction house catalogue or elsewhere. Wartime Losses Report Forms can be requested by claimants from any ALR office or e-mail it directly from our website ([www.artloss.com](http://www.artloss.com)).

The range of art reported to us during the past year is striking. For example, a portrait of Gauguin's son Emile, painted by the artist, was reported to us from a claimant in Florida. This painting was seized from the collection of Jakob Goldschmidt in Germany in the early 1930's. It was then sold at the Hans Lange auction house in September 1941 with other works confiscated from Jewish collections to raise money for the Hitler Jugend. Other Jewish collections include Impressionist and Post-Impressionist pictures from the Paul Rosenberg collection, looted in France; a Marieschi painting looted by the Gestapo in Vienna in 1940; a

series of five hunting tapestries seized from the Berlin Oppenheimer collection on the orders of Hermann Goering; a collection of Dutch Old Masters apparently seized by Allied troops in Austria in 1945 and other paintings seized as war loot by the Red Army.

In addition to inclusion on the database, the ALR publishes looted and stolen art in the Art Newspaper each month, free of charge. This leading newspaper for the art world has an English language circulation of 20,000 world-wide. A reader has recognized a looted painting that was circulated in June 1998. Additional paintings lost in the Holocaust are being circulated in December.

Besides the building of a comprehensive database of losses, the second pillar of our practical approach is the continuous examination of the commercial art market. Our staff examines auction house catalogues from around the world, responds to art dealers, customs and police enquiries and is identifying the location of a stolen item nearly every day. Since our formation in 1991, we have recovered in excess of \$ 75 million in value. In the last eighteen months, for example, we have identified a Manet, a Monet, two Picassos, a Giacometti and a de Kooning among many items of lesser value, some of these works being stolen more than twenty years ago.

As far as looted art is concerned, we are committed to providing a pragmatic response to the task of identifying, and where possible, returning looted art to its rightful owners. We would recommend that the following practical guidelines be followed with respect to the purchase, sale and ownership of looted art:

- that galleries and auction houses should undertake due diligence, prior to sale, to determine the rightful provenance of a work of art through consultation with relevant databases and experts on art looting. Our screening process of 400,000 auction lots is a key part of this process. We are underpinning this screening program by providing the auction houses with a research effort that pinpoints a potentially problematic provenance in a catalogue which suggests that the lot might have been looted. This flagging of provenance names will enable the auction houses to appreciate the wartime history of a picture so that all known information can be made available to potential buyers. Setting the record straight for the art sellers and in turn, potential buyers, is a key service we can offer.
- that, unless already done so by the seller, a potential purchaser should consult the databases and appropriate experts on art looting to determine the rightful provenance of the item in question.
- that works of art purchased and held by public and semi-public institutions be subject to a thorough examination in line with the statement adopted by the American Association of Museum Directors in June 1998. Seventeen museums in the United States including the Metropolitan Museum, MOMA, Art Institute of Chicago, National Gallery in Washington, Boston Museum of Fine Arts, Indianapolis Art Museum and Cleveland Museum of Art are checking acquisitions, donations or existing exhibits against the ALR database. Other museums are considering this service. All such institutions should then create an inventory of "problem" pictures when the provenance is unclear or has

problematic gaps. The creation of such a database, stored alongside the register of losses, would allow researchers, claimants and others to focus on potentially looted works.

Nothing that The Art Loss Register or others do today can compensate for the cultural destruction imposed by the Nazis and Soviets and others during the Second World War. The Art Loss Register is determined to see to it however that all practical steps are taken to return stolen property to their rightful owners.

Sarah Jackson,  
Historic Claims Director, The Art Loss Register, New York



## The Commission for Art Recovery of the World Jewish Congress

The Commission for Art Recovery was formed to reunite Jewish pre-war art owners (or their heirs) with art that was stolen from them by the Nazis and their collaborators. It will also locate and recover looted heirless art for the benefit of Jewish communities. The formation of the Commission for Art Recovery was announced at a September 1997 meeting of the World Jewish Restitution Organization (WJRO). Ronald S. Lauder, treasurer of the World Jewish Congress and former United States Ambassador to Austria, is the Chairman. The Commission operates under the umbrella of the World Jewish Congress and the WJRO. Constance Lowenthal, formerly executive director of the International Foundation for Art Research (IFAR) and Wall Street Journal column writer, is the director; she began in mid-January 1998. Menachem Rosensaft serves as Special Counsel. The Commission for Art Recovery will be comprised of an international group of experts who will guide the Commission's policies and work. Two Israeli members have been named so far: Martin Weyl and Dan Eldar. The staff consists of four full-time members (head of research, head of claims, and two multi-lingual assistants) and a part-time librarian. The Commission hosts interns and volunteers.

To re-unite families with their missing art, we must identify those works that the Nazis sold or traded which have not yet been recovered. These works entered the international art market wherever hard currency could be obtained. Works of art are sold privately more often than at auction, but the post-War art world was not very attentive to the possibility that a painting might have been stolen from a Jewish family by the Nazis. We believe these works have been widely scattered. Now, almost 60 years later, many will be discovered in museums by combing through the published catalogues of permanent collections, and others will be identified through monographs and catalogue raisonnés. Works in private hands may be found if they were lent to an exhibition documented by a scholarly catalogue.

### **Database**

The core of the Commission's work will be a relational database designed to assist Holocaust-era art claimants. It will not be on the internet or open to the public. It can compare claims with published art that has gaps in its ownership history. Since many victims of Nazi looting do not have sufficient information to identify their art, the Commission will assist original owners by finding additional information in old insurance policies, if the policyholder's name matches a victim name, and if the policy had an art schedule. It is also feasible to compare claimant family names with those in Nazi looting records. None of this has been done before systematically. Customized software is being developed by Gallery Systems, Inc. of New York. Installation is scheduled to be completed by the end of November, 1998. The

Holocaust Claims Processing Office of the New York State Banking Department (cf. "Spoils of War", no. 5, June 1998, p. 97) will be linked to the Commission's system electronically. The Commission and the Art Loss Register will share information on claimed art items; the Art Loss Register will search them against upcoming auction sales and other queries while the Commission will check them against its growing list of works of art with provenance gaps. A professional Advisory Committee for the database is in formation. Committee members will include Jane Kallir, President of the Galerie St. Etienne, New York, an expert on Egon Schiele; Dr. Robert Bergman, Director of the Cleveland Museum of Art; and Charles Moffett, Sotheby's Co-Chairman of Impressionism, formerly Director of the Phillips Collection in Washington, D.C. The Commission is developing a website that will be hosted by Virtual Jerusalem ([www.virtualjerusalem.com](http://www.virtualjerusalem.com)).

### **Claims**

The Commission is already accepting claims and has received correspondence and telephone calls about claims from 55 families whose art was taken in 8 countries: Austria, Czechoslovakia, France, Germany, Italy, Netherlands, Poland, and Yugoslavia. We have met with relatives of Alphonse Kann, Jacques Goudstikker, Jacques Helft, and Georges Wildenstein.

### **Research**

The Commission's researchers have been looking in libraries for published works of art with dubious provenances; these works of art might be matches for art that is claimed. Using the publications "The Rape of Europa", "The Lost Museum", Theodore Rousseau's report on the Goering Collection, and James Plaut's on the ERR, they compiled a provisional list of looted collections and names of agents, dealers, and middlemen connected with the trade in looted art. With the list in hand, they looked at provenances in 230 catalogues, chiefly museum catalogues of permanent collections. In three months, they have found 1,500 suspicious provenances in eight countries.

### **Plans**

The director has established dialogue with many art world and art restitution groups and Jewish organizations in the United States and in Europe. She has also conferred with some key professionals among museums, attorneys and mediators, art dealers, and government officials. She will make a brief presentation at the Washington Conference on Holocaust-Era Assets, November 30 - December 3, 1998 and at the U.S. National Archives and Records Administration Symposium on Records & Research Relating to Holocaust-Era Assets on December 4, 1998.

In the coming months, the Commission will work with scholars of international law and others to study and develop Principles of Return to guide its work and encourage returns. The Commission will also develop a policy on heirless art (a)

when there is one work of art in a private or public collection, and (b) when countries have not returned art to pre-war owners and a large number of the works is under a single, national administration.

Constance Lowenthal,  
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### Review of the 1998 Russian Press on the Issue of the Restitution of Cultural Values. Part III

Many times we have written about the complicated way of the Federal Law "On Cultural Values Removed to the USSR. as a Result of World War II" and how Russian newspapers and magazines were reflecting the discussion of this document. In 1998, on one hand, a dispute around the above-mentioned Law approved by both Parliament Chambers is still on, and on the other hand, concrete facts of research and the discovery of looted objects in various regions of the world are being publicized.

The first peak of interest of the mass media toward restitution problems was at the end of January and the beginning of February. It was the time when the Constitutional Court was hearing the claim against actions of President Yeltsin, who refused to sign the Federal Law on Removed Cultural Values, approved by both Parliament Chambers. The hearings were delayed because of the illness of the responsible Judge Vladimir Strekozov. And probably it was not by chance, that an official presentation and press-conference was devoted to the ready-to-publish two-volume "Full catalogue of cultural objects stolen and lost from the territory of Russia during World War II". This is the first edition of this kind in our country, where the losses of the suburban Palaces of St. Petersburg are being enumerated in detail, with photos and scientific data. The media gave a different evaluation of this event. The author of the article in "Kommersant-daily", for example, noticed, that only 53 years after the War, Russia at last started to count its losses. Yadviga Yuferova from "Izvestia", writes in her article on "trophy" cultural values: "...The most important thing is not to divide the trophies, but to preserve them and make them accessible".

In the "Obzshaja Gazeta" of January, 22, E. Skvortsova writes about the facts of Russian mismanagement of removed cultural objects, which were returned to us by our allies or found by Russian troops on the territory of Germany. Some of them were lost on the way and part of them were not returned to where they were kept before the war, which is why they are still considered missing. In this connection it was mentioned that former German Chancellor H. Kohl handed to the President

Yeltsin a CD of descriptions of art objects, which were returned to Russia by the allies after the War.

In opposition to the declarations of the political parties leaders, who are supporting the Federal Law on Removed Cultural Values, Russian media's main idea is that there is the Hague Convention which is about the impossibility to keep cultural objects as trophies of war, and if Russia considers itself a democracy, it should follow the international legislative norms. The special correspondent of "Rossijskaya gazeta", Andrey Scherbakov, entitled his article of February 3, 1998 with: "There is no double standards for the arts". He writes that the Allied Control Council - winners in World War II issued a "Four-sided procedure of restitution", which took into consideration the interests of Russia as a country which greatly suffered from World War II. At the same time the author stresses that it would be a violation of international law to consider the objects, moved to the USSR from the allied and other European countries, a compensation for Russian losses.

The second wave of interest in restitution problems appeared in March and was caused by the Constitutional Court's hearings which were to prove President Yeltsin's refusal to sign the Federal Law on Removed Cultural Values to be a non-constitutional action. An interview of the Director of the Pushkin Museum of Fine Arts, Irina Antonova, appeared in the newspaper "Kommersant-daily". In this interview, the director of one of the largest storages of trophy art in the country, stated that the norms of the Hague Convention were out of date and that there was a necessity to create a new document on the responsibility for annihilation and theft of cultural monuments during the war period. She also mentioned that in the 50s and 60s we returned to Germany many art works, but we received nearly nothing. As to object to Irina Antonova, a portrait by Kiprensky was returned to Russia. The painting was given to the Russian Museum by the son of Estee Lauder, who bought it at an auction without any knowledge that the portrait was stolen by Hitler's troops from Russia. This restitution fact was positively marked by many periodical editions such as "Moskovskije Novosti", "Vechernaja Moskva", "Rossijskaja Gazeta", "Kommersant-daily", and others).

Following discussions about Russian losses during World War II, Grigory Kozlov of the "Nezavisimaja Gazeta" stresses the fact that in the Louvre there were found many art works from Italy, Germany and Hungary, which went to the museum as a result of Napoleon's seizure of Italy or the allied troops' usurpation of parts of Germany. But nobody is going to return them. The correspondent drew the following conclusion - what is lost is lost. Ekaterina Degot of the "Kommersant-daily" demonstrates a different point of view in her article "Constitution of Restitution". She thinks that the essence "of our restitution problem" is "whether Russia feels itself a part of the international community or an alternative to this community". If we oppose ourselves to the whole world, the attitude towards our country will change as well.

In April, a line was drawn under previous discussions in the Russian media. On April, 6 the Constitutional Court made a decision and obliged the President to sign and publicize the Law " On Cultural Values Removed to the USSR as a Result of

World War II and Located in the Territory of the Russian Federation". Sergey Shakhray, who represented the President at Court, made an official statement, that the question of the cultural values was not closed yet, because President Yeltsin was going to apply to the Constitutional Court, firstly, concerning the violation of the procedure of voting for the Law (at the meeting of the Federal Council the number of deputies was less than the number of bulletins, supporting the Law), and, secondly, due to the discrepancy of the Law to the Constitution of the Russian Federation and to international agreements, signed by Russia with other countries. We need to note that this claim did go to the Constitutional Court and that hearings are scheduled for November 1998.

The decision of the Constitutional Court caused reactions of many Russian papers. Among them there were: "Procedure retreat" by M. Zhukov from "Kommersant-daily"; "There is no full stop in the restitution problem" by V. Kuznetsova from "Izvestija"; "Difficult fate of restitution in Russia" and "Constitutional Court Judges will never come to a decision" by P. Mirzoyev from the "Russkij telegraph"; "There is nothing to veto - we will need to retribute" by S. Ofitova and "Schliemann's gold will stay in Russia" by S. Sorokina from "Vechernaja Moskva". In particular, some of the publications said that Sergey Shakhray mentioned that, due to the complexity of the question of removed cultural objects, Russia proposed a creation of a special international foundation, which would manage all trophy objects of art and would hold exhibitions of these works in all the countries of the world. The income from these exhibitions should be spent on the preservation and restoration of the objects of art, and then, probably, all passions around the "trophies" would be calmed and all interested countries would be able to find a decision, acceptable for all. According to S. Shakhray, the German side was interested in this proposal.

At the same time in April, the question of the Amber Room was once again raised in Russian periodicals and it was said to be located in the North of the Czech Republic. Helmut Heinzl started excavations in regard to the famous German treasure in the area of St. Miculash's pit where, according to his suggestions, at the end of World War II, under Himmler's order, a SS special detachment hid the famous Amber Room (even if not the Amber Room certainly some unique treasures). The "Obschaja Gazeta", the "Literaturnaja Gazeta", the "Vechernaja Moskva", all spoke about this project without much hope for brilliant results.

The April issue of the journal "Itogi" featured G. Kozlov's publication "Stolen Twice". This article was interesting because of the new facts for Russian readers about cultural items, found in Western countries and which changed owners after World War II. The conclusion, drawn by the author after analyzing the facts, raised the problem of private ownership, which still does not have any legal status in our country: "Museums and governments of Europe and America are panic – stricken of accusations of appropriation, straight after the fascists, of ownership of their victims. It seems to be that the Russian doesn't know this kind of fear yet."

From May to October publications on restitution rarely appeared in the Russian media. On May 1, Armenian President R. Kocharyan signed a Decree on returning to the Federal Republic of Germany cultural objects, moved to Armenia (the article

"Restitution in Armenian" in the newspaper "Inostranets"). The report about the meeting of the Presidential Political Consultation Council was published in "Rissijskaja Gazeta" on May 15. The meeting was entitled "Fate of cultural values, problems of ownership and legislative regulation". Chairperson Ivan Rybkin, Sergey Shakhray, Valentin Rodionov, Irina Antonova, Mikhail Shvydkoy, Boris Zolotukhin, Pavel Khoroshilov, Galina Starovojtova and others took part in the discussion. The basic thought of the meeting was: "We do not want to have anything of somebody else's, but we will never give away anything of our own".

One of last publications was a review of U. Freitag from Berlin on Ulrike Hartung's book "Raubzüge in der Sowjetunion: Das Sonderkommando Künsberg, 1941-1945", published in Bremen in 1997. This review was published in the October issue of the journal "Biblioteka" and was translated from German. It was very difficult to judge the book by a review, but it is obvious that it should attract attention of Russian researchers, dealing with restitution problems.

And, at last, on October 21, in "Nezavisimaya Gazeta" you could read a long interview with the recently appointed Minister of Culture of Russia Vladimir Egorov. One of the questions of the correspondents N. Efimov and G. Zaslavski was about the Law on Removed Values. V. Egorov mentioned, that he, as well as the majority of his colleagues, was looking forward to a time when all trophy values would become accessible to everyone. On the other hand, the Minister of Culture stressed, that "the Law is quite flexible, even being so strict. It allows, providing observation of very clear norms, to practice exchange. The other thing is that exchange should be equal. The Law also allows selling items. All these opportunities should be used. Otherwise we would look uncivilized".

It is very true, that for a long time Russia was a country, standing apart from the world community, and, as Vladimir Egorov fairly noticed, the time came, "to follow traditions, which exist in the world, concerning book and museum collections".

Evgenia Korkmazova, Library for Foreign Literature, Moscow

## Involuntary Journey of Books from Paris to Minsk

In the National Library of Belarussia there are numerous books in French that have a particular destiny: Confiscated in Paris by the Nazis in 1940 or 1941, they were shipped to Germany and later, in 1945, as spoils of war, transferred to Minsk (in November 1993). About this I published a brochure and an article in the Belarussian magazine "Evropeyskoe Vremya" ("European Time"). These books were published mainly in the 1920-1930s. Thanks to bookplates and stamps it is possible to determine the organizations where the books belonged, e.g. the Society of Lithuanian Jews in France ("Société des Juifs lithuaniens en France"), Theosophical Society in France ("Société théosophique de France"), Turgenev Russian Library ("Bibliothèque russe Tourguénev"). Books from private libraries are also interesting. They have an inestimable value: as gifts and signs of attention or respect, they bring

us, often by means of the author's handwritten dedications, the remembrance of people and their relationship at the time. And they have a special moral significance: these books did miraculously escape the holocaust. Sometimes they were more lucky than their owners, Georges Mandel or Jean Zay perished - while books from their collections survived, and some of them came to Minsk.

I would like again to call attention to such books, with some items from the personal library of Emmanuel Berl, the well-known publicist (1892-1976). Some authors who had presented him their books belonged to the intellectual and artistic elite of France. The importance of such personalities as André Gide and André Malraux now oversteps the national limits and acquires the character of the highest symbols on the European level. Here are some unique facts: "A Emmanuel Berl cordialement et attentivement. André Gide" ("Esprit non prévenu", 1929); "A Emmanuel Berl son ami André Malraux" ("Royaume farfelu", 1928). And some other autographs: "A Emmanuel Berl très amicalement. Léon-Paul Fargue" ("D'après Paris", 1932); also from a historian, an eminent statesman before World War II: "Au preux Emmanuel Berl son débiteur d'écriture et son créancier d'amitié. Anatole de Monzie" ("Les veuves abusives", 1936) or from a cartoonist: "A Mireille et Emmanuel Berl très affectueusement. Jean Effel" ("Deuxième ritournelle. 100 dessins", 1939). This shows an attentive and friendly style, affinity of kindness and sympathy towards the addressee.

But a few years later the war will confuse everything in the turmoil of events and sometimes gives it a tragic turn. Today the dedication "A Emmanuel Berl, avec le meilleur souvenir d'une profonde conversation et mes amitiés. Paul Valéry" is read like a sinister trick of fate. It was written in 1931 in a booklet containing a welcome address by Valéry to Marshal F. Petain, hero of Verdun, on the occasion of his election to the Academie Francaise. Nine years later Petain would betray his country. In 1935 R. Brasillach presented to Berl a gifted book "Histoire du cinéma" with the autograph: "A Emmanuel Berl cette image des morales bourgeoises". In 1945 Brasillach would be sentenced and shot as collaborationist for high treason.

On the eve of the war, in 1938, Berl seemed to foreknow this terrible national and human breaking down. With his sharp critical mind he tried to forecast the behavior of some of his pen colleagues in the circumstances of a dictatorship that very soon turned into a real one. This prognosis concerns two writers who gave him their books, namely Louis-Ferdinand Céline (play "L'église", 1933) and P. Nizan (essay "Les chiens de garde", 1932). In his opinion, these two irreconcilable political opponents (one - of the very right and the other - very left), under certain conditions, would meet on the common position of serving a 'strong hand'. "Céline would become a Nazi...". And so it was in reality. As for P. Nizan, the prediction was wrong: in the summer of 1940 he fell in a battle.

As regards E. Berl himself, his destiny did not much differ from that of thousands of his compatriots: Exodus from Paris, loss of rights, loss of everything that had filled his pre-war life. Seizure of all his personal belongings, confiscation of his books and their involuntary journey to Germany and then, after the war, to Belarussia.

Today these books are eloquently speaking about their past, and silently questioning their future.

Vladimir Makarov,  
Minsk State Linguistic University, Minsk

### The Conference "Libraries in World War II: History of Collections, Aspects of Research and Reconstruction"

The third scientific conference, devoted to the problems of libraries' history, took place in St. Petersburg on October 14-16, 1998. This time the conference topic was "Libraries in World War II: History of Collections, Aspects of Research and Reconstruction". For the third time, on initiative of the Russian National Library, with support of the Russian Library Association, librarians, bibliographers, book historians, professors, archivists and scientists got together in the largest Russian library to discuss the history of Russian libraries, to share information and exchange ideas. Despite the financial crisis and the lack of targeted financing (invited specialists from other regions and international guests had to cover their participation themselves), the conference took place and was a success. Seventeen papers were presented during the first two days, more than 100 people took part in their discussion. Many aspects, mentioned in presented papers, caused vivid dialogues. Various points of view have been expressed both about Russian archives and book collections, that disappeared during World War II and Western European collections, and were moved to our country at the same period of time.

Among presentations of the first day, devoted to "Librarianship and Libraries of Russia in War Time", a talk of O. M. Fedorova from the Central Military and Marine Library of St. Petersburg attracted special attention. In great details, based on archival documents, the speaker described the hard life of her colleagues during the blockade of Leningrad, their everyday work, which now looks like a deed to us. There were no people in the audience who were not touched by O. M. Fedorova's story, filled with warmth towards our colleagues, who were fulfilling their duties at such a hard war time. M. Ya. Dvorkina, Moscow Library Association, suggested that information about prominent Russian librarians, their curricula vitae and photos should be kept and then be included in the database of the Section of Library History, which will be launched in the near future by the Russian Library Association. Supported by many participants, M. Ya. Dvorkina stressed that we do not have enough information about our colleagues who were working at our institutions before us and were devoting their whole lives to their work.

On the second day of the conference devoted to the aspects of research and collection reconstruction, the discussion was especially hot. E. S. Kuzmina, member of the State Duma Commission on moved cultural values, made an attempt in her paper to substantiate the legal status of the Federal Law on Cultural Values Removed to the USSR and Located in the Territory of the Russian Federation.

Despite the fact that President Yeltsin notified the Constitutional Court that some clauses of the Law contradict the actual Constitution of the Russian Federation and international legislation, the Law is ratified by both Parliament Chambers, signed by the President, and therefore considered to be in action. The most surprising fact is, that, according to Kuzmina's words, that the Commission did not receive a single claim from official representatives of European countries with requests to return cultural values to their pre-war owners.

A slightly different interpretation of the question of return of "trophy books" was demonstrated by N. I. Nikolayev, Head of the Rare Book Collection of St. Petersburg State University. Due to the fact that international laws, including those which were signed by Russia as well, prohibit keeping cultural objects as "trophies", we are to return all manuals, incunabula, archives and editions of the 16th century, moved to Russia after the Second World War (1941-45). At the same time the books, published in the 17th-20th centuries should be kept in Russian libraries as a partial substitute of items lost and destroyed. The certainty of this decision should be reflected in an appropriate agreement with Germany and if it would be necessary, with other countries. At the same time Germany should be obliged for 50 years to supply to the ten largest Russian libraries one copy (ten copies altogether) of all editions, published in the country. Nikolayev's paper caused a vivid dispute. The majority of the participants spoke against the return of cultural values to Germany. It is well known, that in the mid' 1950s the Soviet Union returned to the German Democratic Republic an important part of German cultural treasures moved to Russia after the war (Dresden Picture Gallery, Pergamon Altar, Gotha Library), but did not get anything in return, though hundreds of thousands of cultural items were lost as a result of the war (the exact number of losses is very difficult to reconstruct, because catalogues and inventories were destroyed by the war as well). There is another well known fact, that part of the Russian cultural objects came into private collections in Germany and the USA, but nobody is going to return them to Russia because of the legislation, protecting private property.

Quite a contradictory reaction caused the paper of the American researcher P. K. Grimsted "New archival materials about the removal and return of book values of Novgorod and the suburban palaces of St. Petersburg". Unfortunately, the paper was delivered not in the original, but in Russian. This fact, without any doubts, caused some shift of accent in the interpretation of archival materials and did not give P. K. Grimsted the opportunity to express more carefully her point of view on the very complicated question of the availability of exact data about the items from the St. Petersburg palaces in Russian archives. The matter is that researchers, talking about cultural objects removed from Russia are basically forced to use fascist archives, containing inventories of items, taken to Germany. St. Petersburg colleagues interpreted P. K. Grimsted's statement about the necessity of the search for Russian documents, containing proper data on losses, as the attempt to question the fascists' guilt in what happened during the war.

I would like to say a few words about the last day of the conference and the round table on "Book losses: Problems of Search". Forty people took part in the discussion, there were many different points of view, but the main focus was put on

the fact that the Russian losses should be searched for not only abroad, but also inside the borders of the former USSR, because the Soviet cultural objects, coming back from Germany and Western Europe, often were not placed in their pre-war locations. It was decided, that in the resolution, issued by the conference, there should be a special request to the Ministry of Culture of the Russian Federation for the creation of a commission on looted cultural objects inside the USSR, but especially inside Russia. The round table was held in the library-museum "Books of Blockade City". Participants were invited for the tour of the library. The Enthusiasm of the employees of the library, their attention to our colleagues, who were working in the Leningrad libraries during the war and to the history of their city, was rewarded with great respect.

In conclusion I would like to thank the organizers of the conference and especially its chairman, I. G. Matveeva, researcher of the Center on the Problems of the Transferred Book Collections in St. Petersburg, for the attention and warmth towards all the participants of the conference.

Evgenia Korkmazova, Library for Foreign Literature, Moscow  
Ministry of Culture of the Russian Federation, Moscow

### For Germany and Themselves: The Motivation behind the Nazi Leaders Plundering and Collecting of Art. Part III

Based on the book "Art as politics in the Third Reich" (Chapel Hill, London 1997), this is the last part of a series of articles by Jonathan Petropoulos.

The self-image of the NS leaders had not only a racial element, but also a national one. They fashioned themselves as model Germans, and believed that they represented a nation which was culturally superior to the rest of Europe and the world. The leader's collecting of art expressed this national chauvinism. Hitler sought to create the most important museum in the world as a symbol of this superiority (just as he wanted to build the world's largest suspension bridge in Hamburg and the largest domed hall in Berlin, his "gigantomania" leading him to believe that bigger was always better).<sup>1</sup> His plundering raids in the neighboring lands were a vulgar manifestation of the drive for cultural hegemony. The Germans were to dominate the continent and to demonstrate the fact by physically controlling Europe's cultural heritage. It is especially significant that under no circumstances was a foreign country to possess German artworks or cultural objects. Regarding the latter, it might be noted that there were operations during the war to "rückführen" ('repatriate') not only artworks, but also musical scores and literary manuscripts of German origin. The most noteworthy of these operations began in August 1940 under Goebbels' aegis. The Propaganda Minister enlisted art historians, musicologists, and museum specialists to compile lists of objects which were either of German origin, or had previously belonged to Germans (dating back to 1400).<sup>2</sup> The plundering commandos in the occupied lands were then supplied with this research to aid them in their tasks. The build-up to this radical undertaking can be seen earlier in the years prior to the war as the Nazi leaders had implemented rigid

laws to prevent the export of artworks abroad (except for "degenerate" art). For the Nazi leaders, a nation's possession of its cultural patrimony related directly to its sovereignty; beyond the issue of controlling a cultural legacy, it served as an expression of military power and national vitality.<sup>3</sup>

One development to emerge from this cultural nationalism was the attempt to revalue the art of the past. Hitler and his subleaders sought to valorize German art to convince people both inside and outside the Reich that German art deserved to be regarded as superior to the products of other nations. This project can be seen as an example of what Michael Geyer and Konrad Jarausch have called the "symbolic enactments of the past in order to shape an inchoate, even incomprehensive, contemporary reality".<sup>4</sup> Hitler was specially interested in establishing the reputation of 19th century Austro-Bavarian artists such as Spitzberg, Makart, and Grützner: for him, they were the successors to Titian, Vermeer, and Rembrandt. Yet even the director of the museum, Hans Posse, found this project problematic, and attempted to reign over Hitler by rejecting the inclusion of certain unexceptional German works in the collection.<sup>5</sup> In his Führermuseum, Hitler planned to exhibit the 19th century Germanic art in rooms adjoining Old Masters.<sup>6</sup> He was not planning to place a Spitzweg and a Vermeer side by side: that would have been too disorganized, and the direct comparison might not have flattered the German painter (despite his being a leading exponent of the Munich School). Still, the organizations of the rooms suggested a line of art history which honored the Germans.<sup>7</sup> The accomplishments of the French in the 19th century, for example, would not be accorded their due recognition.

The second tier of the hierarchy of reasons for art collecting concerns those of self-promotion. Most of the Nazi leaders amassed collections as a means of simple self-glorification. Hitler considered his Führermuseum to be an important part of his legacy. In his "Private Will", drafted in the Berlin bunker in late April of 1945, he expressed the hope that he be remembered for his art collection and grandiose cultural ambitions.<sup>8</sup> Previously, he had confided to his staff that he wished his crypt to be located in Linz on a hill near the museum and cultural complex.<sup>9</sup> Göring also talked, although with less specificity and credibility, of eventually transforming Carinhall into a museum, one of course inseparable from his person. Himmler planned an SS museum in Berlin and took steps to this end: the art exhibited here would have included contemporary works glorifying him and his troops for their supposedly superior racial make-up and their military prowess.<sup>10</sup> Himmler also rebuilt the castle Wewelsburg in Paderborn, Westphalia. This site served as an SS retreat and a kind of spiritual center for the order.<sup>11</sup> Himmler left his personal imprint on the renovated castle by commissioning contemporary artists to paint murals and create sculptures - mostly of German heroes - and by carefully selecting the artworks for purchase.<sup>12</sup> Goebbels also arranged to be surrounded by art in his official quarters. The redecoration of a Wilhelmstraße palace, the home of the Propaganda Ministry, involved an enormous quantity of art: sculptures by Arno Breker and Fritz Klimsch were among the more than one 1000 pieces which were placed in the building in order to convince the visitor that he or she was witnessing a great cultural epoch, the implication being that the Propaganda Minister deserved

credit for his renaissance.<sup>13</sup> The artworks acquired by the Nazi leaders were thus part of their efforts to publicize, and even mythologize, their respective personalities.

Related to this attempt at self-promotion was their sense of social class. The Nazi elite were arrivistes who believed that artworks would ennoble them and show the propriety of their wealth and status. It should be noted that the top leaders rarely came from truly humble backgrounds. They were not the uncultured and illiterate types often depicted.<sup>14</sup> Michael Kater has shown that they emerged from middle-class backgrounds.<sup>15</sup> And many of them enjoyed considerable privilege while growing up: Göring attended exclusive schools (including the Lichterfelde Akademie); Goebbels, although from a modest socioeconomic milieu, spent five years at eight universities and had enough familial support to obtain his doctorate; even Hitler, who fabricated the myth of humble beginnings, had certain advantages as the son of a customs official ("Zollbeamter").<sup>16</sup> The future NS elite grew up exposed to, and respecting, traditional European culture, the dominant art forms of the pre-World War I era described by Arno Mayer in *The Persistence of the Old Regime*.<sup>17</sup> They were rarely raised in urban or cosmopolitan environments (where the Avant-garde usually found support). They were provincial but not underprivileged. And typically, they had a long-standing admiration for traditional culture, including not only painting, but also architecture, opera, classic music, and theater. This background proved important in shaping their mature worldviews.

The possession of cultural products, they believed, was essential to their elite status. In hoping to displace the traditional aristocracy atop of the social order, they also endeavored to dislodge artworks in the hands of the old elite. Many of the Nazi leaders took great pleasure in buying artworks from the nobility because it symbolized in their minds a changing in the guard. In 1942, Hitler granted a Hohenzollern prince a tract of land in exchange for Watteau's painting "La Danse", an ironic act for the non-noble ruler and the royal subject in that it harkened back to feudal lords' patronage of their vassals.<sup>18</sup> Others who sold to Hitler included Georg Prinz von Sachsen, Freiherr von Frankenstein, Herzog von Oldenburg and Prinz Schaumburg-Lippe.<sup>19</sup> As a pleasure secondary to purchasing works from aristocrats, the NS leaders would employ individuals from this class as agents or advisers. Hitler, for example, turned to Philipp Prinz von Hessen to procure artworks in Italy (the Prince had married the daughter of the Italian King Victor Emmanuel III and hence had many connections). Alfred Rosenberg commissioned Eberhard Freiherr von Künsberg to plunder art, while Ribbentrop engaged Kurt Freiherr von Behr to lead looting commandos in the occupied territories.<sup>20</sup> Using these aristocrats to carry out unlawful tasks was one technique used to attempt to debase them.

Beyond using aristocrats as sources and procurers of art, it should be underscored that the simple possession of great works made the NS elite feel more powerful, and more elegant in their wielding of power. Albert Speer recognized this principle, and noted that it was not unknown to Hitler himself. Speer wrote:

"Today, I sometimes think that Hitler consciously tolerated or even promoted the corruption. It tied the corrupt men to him - doesn't every potentate attempt to consolidate his rule by gestures of favoritism? Besides, corruption corresponded to

his notion of the right of those wielding power to take possession of material goods. Authority, he thought, also needed outward show; the common man was impressed only by display. He liked his satraps to live in castles and palaces; he definitely wanted them to be ostentatious."<sup>21</sup>

Because there was competition for artworks and because it was an enterprise in which many of the NS elite participated, art collecting provided an important barometer of both status and power. It was no coincidence that Hitler had the largest and most valuable assemblage of artworks, and that the rest of the leaders' collections corresponded roughly to their rank within the government hierarchy. Because the acquisition of art required financial resources and personal contacts - both related to power - it is logical that the collections should bear some relation to status.

The third but by no means unimportant tier in the hierarchy of reasons for their collecting is anthropological in nature. The National Socialist leaders used artworks instrumentally to help define and articulate interpersonal relationships. More specifically, they developed a culture of gift-giving in which reciprocal exchanges served to express ties and elucidate power relations. During the first half of the Third Reich, art emerged as the most popular type of gift. For the reasons noted above, it was viewed as both welcome and consistent with the desired self-image. The Nazi leaders entered into an elaborate cycle of exchanges, where birthdays, holidays, and anniversaries elicited recognition. Although it appears that not all such occasions prompted gifts - in certain years a minister's birthday or anniversary in office might attract little notice from the other elite - all of the leaders regularly engaged in this custom. Anthropologists such as Marcel Mauss and Clifford Geertz have studied the use of gifts and symbolic behavior as related to social and political interaction.<sup>22</sup> While they have tended to study archaic or developing cultures, their theories have import here because the NS elite were a similarly closed group who also relied on ritual, myths, and symbols as means of communication.

The message most commonly expressed by the giving of art entailed tributes and praise. All of the leaders discussed above received artworks from underlings or lesser ranking officials. Hitler, of course, emerged as the prime beneficiary. The presents given to him each April 20, on his birthday constituted an important means of expanding his collection. Examples include Goebbels presentation of a Lenbach painting in 1936 (which he described in his diary: "(Hitler) is very touched and takes the greatest joy in my Lenbach"); Schirach's gift that year, Spitzweg's "Traveling People", which hung for many years in a guest bedroom at the Berghof; Ribbentrop's statuette of Frederick the Great in 1944; and Göring's gifts of a Lenbach portrait of Bismarck in 1939 and Rembrandt's "Democritus and Heraclitus" in 1940.<sup>23</sup> A range of institutions also regularly gave gifts to Hitler and other national leaders. The city of Munich, represented by Bürgermeister Karl Fiehler, presented Hitler with a small sculpture by Josef Thorak in 1939, while the Reichsbank in the person of its president Walter Funk offered Hitler Titian's "Venus Before the Mirror" that same year.<sup>24</sup> Foreign leaders also frequently expressed ties to the Third Reich by the presentation of artworks to Hitler and other top leaders: among Mussolini's gifts to Hitler -all coming after 1936- was a landscape by Paolo

Pannini in 1938, and Hans Makart's renowned triptych "The Plague in Florence" in 1940.<sup>25</sup> The following year, Mussolini gave Göring the eight-paneled Vipiteno (or Sterzing) altar by Hans Multscher in an attempt to gain favor with the Nazi government.<sup>26</sup> Artworks given by subordinate or clientele states served to express a message of tribute. This included gifts from Francisco Franco, who gave Hitler three paintings by the Spanish painter Ignacio Zuloaga in 1939; Emil Hácha, the president of "rump-state" Czechoslovakia, who presented Hitler with Spitzweg's "Customs Guard" in 1939; and Hungarian Minister-President Lazlo Bardóssy, who gave Ribbentrop a Lenbach portrait of Bismarck in 1941.<sup>27</sup> Hitler, in fact, bureaucratized the reception of gifts: those coming from abroad or having diplomatic significance were handled by the Presidential Chancellery headed by Otto Meißner; the others usually went through Hans Lammer's Reich Chancellery.<sup>28</sup>

The anthropologist Marcel Mauss's exploration of gift giving has focused on the concept of reciprocity; in noting the responsibilities normally incumbent in the exchange of gifts in indigenous Oceanic societies, Mauss wrote that "although prestations and counter-prestations take place under a voluntary guise they are in essence strictly obligatory".<sup>29</sup> The same generalization applied during the Third Reich, as Hitler frequently presented gifts to the NS subleaders and to the heads of the allied states. These gifts from Hitler affirmed relationships, and in many cases, sent clear messages. One vivid example occurred in 1941, amidst Italy's military difficulties in the Balkans and their disappointing contribution to the war effort, when Hitler reciprocated to Mussolini for the Makart triptych by giving him a marble Führerbüste by Josef Thorak: the glaring inequality of these gifts captured the relative imbalance of power within the Axis alliance.<sup>30</sup> When presenting artworks, Hitler often selected pieces which contained a pun or joke, or somehow commented upon the recipient. Examples included a painting by Paul Hey, "The Old Post Coach", for Wilhelm Ohnesorge, the Reich Minister of the Post; a Spitzweg landscape featuring a train for Reich Minister of Transport Julius Dörpmüller; Wilhelm van der Velde's "A Naval Battle" for Grand Admiral Erich Raeder; Hans Makart's "The Falconer" for Reich Hunting Master Göring; and Hans Grützner's "The Carousing Monk" for Robert Ley, the alcoholic head of the German Labor Front.<sup>31</sup>

The practice of giving art became so common for the NS elite, and the communicative (or propagandistic) aspects so evident, that Hitler moved to place controls on the giving of art. In early February 1938, he took the unusual step of issuing a decree through his Führer's Chancellery, that the gifts he presented were not to be reported in the press without official permission, "weder bildlich noch textlich" (either in picture or in text).<sup>32</sup> The impetus for this measure was the publicizing of his birthday present of a medieval artwork to Foreign Minister Konstantin Freiherr von Neurath just one week prior to dismissing him.<sup>33</sup> Realizing the messages inherent in gift-giving, Hitler felt a need to maintain complete control. His wartime gifts to the subleaders, which served as a type of barometer of their status and momentary standing, were carefully regulated by Hitler, with help from Bormann and Lammers.

While anthropological reasons for collecting art appear to stand third in significance behind the ideological and social, they are an undeniably important component in this phenomenon. What is perhaps most consequent in the Nazi leader's collecting artworks is the fact that it was shared behavior. It provided them with a forum for group interaction and an expressive means of symbolic communication. Most of the messages sent ran consistent with our understanding of the Nazi leaders: the overriding Führerprinzip, the competing subleaders, the racist and nationalist worldview, and the amoral approach to methods. But art collecting, it need be underscored, was important for more than its theatricality: the leaders' drive to amass was closely intertwined with their foreign adventurism and genocidal policies. Hitler was a "strong leader" in the sphere of visual arts administration (at least from 1936 onwards), just as he was assertive in military affairs and foreign policy.<sup>34</sup> As Edward Peterson has observed,

"The singular ability to remember ships and librettos is significant in that it indicates what interested him: power-war and art-music... It is precisely these interests which dominate Hitler's role as government head ..."<sup>35</sup>

The NS elite followed him, with minimal deviation, in ruthlessly seeking personal and national aggrandizement. They all did this while viewing themselves as "men of culture" ("Kulturmenschen"). A more apt appraisal - acknowledging the mental energy and worldly resources they invested in the collecting of art- would describe them as "men interested in exploiting culture". The Nazi leaders may have had some appreciation for the beauty of the artworks, but the works were clearly more important for the many uses to which they were put.

In attempting to gain some perspective on the instrumentalist approach to art policy-making and collecting, it is necessary to recognize certain limitations. Art was not the driving force behind the leaders' policies. Nor was it the sole "discursive object", to use Lynn Hunt's term, which attracted their attention. But the leaders learned to recognize and exploit the potential of artworks and did so in pursuit of more fundamental objectives (conquest, genocide and totalitarian control). The value of the study lies in both what it tells us about the NS regime, and more generally, what it says about the manipulation of culture. It hopefully, in one scholar's words, "poses useful questions to theory (and) practice", and suggests the centrality (though not in an exclusive way) of culture to the project of understanding modern German history.<sup>36</sup>

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**Notes:**

<sup>1</sup> See, for example, Jochen Thies "Hitler's European Building Program", *Journal of Contemporary History* 13 (1978), 423-31. Monumentality is also explored in depth by Dieter Bartetzko, *Zwischen Zucht und Ekstase: Zur Theatralik von NS-Architektur* (Berlin 1985); Robert Taylor, *The World in Stone: The Role of Architecture in the National Socialist Ideology* (Berkeley/ Los Angeles, University of California, 1974; and Alex Scobie, *Hitler's State Architecture: The Impact of Classical Antiquity* (University Park, College Art Association, 1990).

<sup>2</sup> The project undertaken by Goebbels in August of 1940 was officially called the "Rückforderung von Kulturgütern von Feindstaaten". A commission of art historians was formed under the guidance

of Dr. Otto Kümmel, the Generaldirektor der Staatlichen Museen, Berlin. For Goebbels's efforts to coordinate the project, see BAK, R55/1476. Goebbels also sent out an appeal to the Reichspropagandaleitung offices in all 35 Gaue, as well as to various Reich ministries, to assist with the formation of lists. See BAK, R55/1200, 1201 and 1203 for examples of their efforts.

<sup>3</sup> For the various decrees from 1938 restricting the export of artworks, and the ensuing jurisdictional battles between Goebbels, Minister of the Interior Wilhelm Frick and Minister of Education Bernhard Rust, see BAK, R2/12947. For more on the quest for domination through cultural policies, see John Tomlinson, *Cultural Imperialism: A Critical Introduction* (London 1991).

<sup>4</sup> Michael Geyer and Konrad Jarausch, "The Future of the German Past: Transatlantic Reflections for the 1990s", in *Central European History* 22, no. 3-4 (1989), 249.

<sup>5</sup> Speer, *Inside the Third Reich*, 245.

<sup>6</sup> Hitler conceived very elaborate plans for the Linz museum and the cultural complex: he went so far as not only to specify the layout of the gallery, but also the type of windows used in each of the rooms (they should be contemporary with the art housed therein). See Henry Picker, ed., *Hitlers Tischgespräche im Führerhauptquartier, 1941-1942* (Stuttgart 1976), 220-22 and 244-45.

<sup>7</sup> Note that similar tactic was used in the regime's official art magazine, *Kunst im Deutschen Reich*, as Nazi art and Old Masters were frequently placed in close proximity. See Jan Tabor, "... Und Sie Folgten Ihm. Österreichische Künstler und Architekten nach dem 'Anschluss' 1938. Eine Reportage", in Siegwald Ganglmair, ed., *Wien 1938* (Vienna 1988), 403.

<sup>8</sup> For the text of the "Private Will", see Werner Maser, *Hitler's Letters and Notes* (New York 1973), 205.

<sup>9</sup> See the April 26, 1942 entry in Henry Picker, ed., *Hitlers Tischgespräche*, 245-46.

<sup>10</sup> The SS museum was to be located in Berlin. Himmler ordered the creation of an "SS-Traditionsammlung" consisting of weapons, uniforms, pictures, insignia and symbols, and "wertvolle Bilder (Ölgemälde, Aquarelle und Zeichnungen der Waffen-SS)". See BAK, NS19/498: Schedelmann to Himmler, June 17, 1941, and Hans Jüttner (on behalf of Himmler) issuing a general order of December 1941. Himmler's adjutant even created an "Abteilung SS-Museum" within the SS-Führungsamt to coordinate the project: see BAK, NS19/498, Rudolf Brandt to Jüttner, June 20, 1941. Jean Vlug also listed a number of works -mostly landscapes- belonging to the SS, and these quite likely were intended for the SS museum. See Vlug, *Objects Removed to Germany*, 123-24.

<sup>11</sup> Karl Hüser, *Wewelsburg, 1933 bis 1945: Kult - und Terrorstätte der SS. Eine Dokumentation* (Paderborn 1982).

<sup>12</sup> Peter Padfield has noted that Himmler was "... far from shunning grandeur (with) the seat of his order, Wewelsburg, still under construction by forced concentration camp labor, (was) as bizarre and extravagant a folly as anything Göring conceived". Padfield, *Himmler: Reichsführer-SS* (New York 1991), 248.

<sup>13</sup> See, for example, Goebbels's entry for June 13, 1941, where he notes, "examined my picture collection. We have already collected a wonderful treasure. Gradually the Ministry will be a great art collection. So it must be, because yes, art is administered here". See Joseph Goebbels, *Die Tagebücher von Joseph Goebbels: Sämtliche Fragmente*, vol. IV, 688. For specific references to works by Breker and Klimsch, see *ibid.*, 421.

<sup>14</sup> See, for example, Wolfgang Zapf, *Die Wandlungen der deutschen Elite* (Munich 1965), 51-53, and Daniel Lerner, *The Nazi Elite* (Palo Alto 1951), for his portrayal of the Nazi leaders as "marginal men".

<sup>15</sup> Kater writes, for example, "Among the seventeen Reichsleiters who were members of the elite, all but three or four were so well established socially that they would certainly have succeeded in their chosen occupations". See Michael Kater, *The Nazi Party: A social Profile of Members and Leaders, 1919-1945* (Cambridge: Harvard U.P.), 174.

<sup>16</sup> For Hitler's considerable privileges as a youth, see Schwarzwäller, *Hitler's Geld*, 13-32.

<sup>17</sup> Arno Mayer writes, "As part of their effort to scale the social pyramid and to demonstrate their political loyalty, the bourgeois embraced the historicist high culture and patronized the hegemonic institutions that were dominated by the old elites. The result was that they strengthened classical and academic idioms, conventions, and symbols in the arts and letters instead of encouraging modernist

impulses". Mayer, *The Persistence of the Old Regime: Europe to the Great War* (New York 1981), 14.

<sup>18</sup> Faison, Consolidated Interrogation Report No. 4: Linz, 8.

Also relevant here is Robert Koehl, "Feudal aspects of National Socialism", in Henry Turner, ed., *Nazism and the Third Reich* (New York 1972), 151-74.

<sup>19</sup> S.L.: Faison, Supplement of January 15, 1946 to the Consolidated Interrogation Report No.4, Attachment 76: "Partial List of Purchases For Linz Made in Germany".

<sup>20</sup> For Profiles of Philipp Prinz von Hessen, Künsberg and Behr, see Faison, Consolidated Interrogation Report No. 4. Note that the Prince and his wife were both sent to concentration camps in the wake of the overthrow of Mussolini, as Hitler held them responsible for the turn of events.

<sup>21</sup> Albert Speer, *Spandau: The Secret Diaries* (New York 1976), 116.

<sup>22</sup> See Marcel Mauss, *The Gift: Forms and Functions of Exchange in Archaic Societies* (Glencoe 1954), where he stresses the personal dynamics of gift-giving; and Clifford Geertz, *Negars: The Theater State in 19th century Bali* (Princeton 1980), who focuses upon the dynamics of a coherent group, and explores the political import of symbolic action. See also Geertz, "Art a a Cultural System", *Modern Language Notes*, 91 (1976), 1473-99.

<sup>23</sup> Goebbels, *Tagebücher: Sämtliche Fragmente*, vol. II, 603. Schirach's gift, bought from the Galeria Helbing in Munich for RM 3,000, is described in Henriette von Schirach, *Der Preis der Herrlichkeit*, 92. For Ribbentrop's gift, see BAK, NL/163, Binder 11: bill dated June 19, 1944. For Göring's presents, see Hoffman, *Hitler Was My Friend*, 181, and Faison, Consolidated Interrogation Report No. 4: Linz, 22 and 64.

<sup>24</sup> For Fiehler's gift, see the Berlin Document Center file on Josef Thorak: Bormann to Thorak, June 14, 1939. For the Reichsbank birthday gift of the Titian painting, see Thomae, *Die Propaganda-Maschinerie*, 163-64. For Hitler's gift of the Thorak Führerbüste, see BAK, R43II/98a, BL. 2: a Reich Chancellery Vermerk, December 5, 1941.

<sup>25</sup> The story of the Makart painting appears in many Bundesarchiv files, but it is told most succinctly by Faison, Consolidated Report No. 4: Linz, 28. The Pannini painting is discussed in BAK, NS10/6, Bl. 41-47.

<sup>26</sup> Rousseau, Consolidated Interrogation Report No. 2, 98.

<sup>27</sup> Franco's gift of the Zuloaga paintings is noted on the front page of the *Völkischer Beobachter*, July 6, 1939. Additionally, he gave Göring, the head of the Condor Legion, a valuable antique sword from Toledo in the same year: see Thomas Howe, *Salt Mines and Castles: the Restitution of Looted European Art* (Indianapolis/New York 1946), 209. For Hácha's gift of Spitzweg's "Custom Guard" ("Zollwachtmann") - of special significance because it was the profession of Hitler's father - see BAK, NS10/9, Bl. 1-2: a letter from Liewitz to Brückner, April 6, 1939. For the Bardóssy gift, see BAK,NL/163, Binder 8.

<sup>28</sup> The volume of gifts and letters handled by the Presidential Chancellery increased during the 1930s to reach extraordinary proportions: in 1937, Meissner's office received 5,478 letters and telegrams (an increase of 1,228 from the previous year) and 130 gifts. BAK, R54/88 and R54/90.

<sup>29</sup> Mauss, *The Gift*, 3.

Note also that the word *prestation* has feudal overtones (providing a link to another point in this essay). See the first definition for the entry "*prestation*", in Gove, ed., *Webster's Third New International Dictionary*: "from feudal law - a rent, tax, or due paid in kind or in services (as in return for the lord's warrant or authority for taking wood)."

<sup>30</sup> Hitler and his agents had tried repeatedly without success to purchase the Makart triptych from the Landau-Finally family in Florence (they were related to the Rothschilds, who were prominent victims of the Nazis). Mussolini exhorted his influence to induce the family to sell the painting for nine million lire. See Faison, Consolidated Interrogation Report No. 4, 28. For Hitler's gift of the Thorak sculpture, which would have been no more than a tenth of the price, see BAK, R43II/985a, Bl. 2: a Reich Chancellery Vermerk, December 5, 1941.

<sup>31</sup> Hoffmann, *Hitler Was My Friend*, 179-80.

<sup>32</sup> Thomae, *Die Propaganda-Maschinerie*, 163.

<sup>33</sup> For the gift of a "superb piece of medieval art", see John Weitz, *Hitler's Diplomat* (New York 1992), 150-51.

<sup>34</sup> There has been a long-standing debate whether, in Ian Kerhaw's words, Hitler was " 'master in the Third Reich' or a 'weak dictator' ". For an overview of the historiography, see Ian Kershaw, *The Nazi Dictatorship: Problems and Perspectives of Interpretation* (London 1990).

<sup>35</sup> Edward Peterson, *The Limits of Hitler's Power* (Princeton 1969), 9.

<sup>36</sup> The quotation stems from Caplan, "Postmodernism", 269.

## Country Reports

### Belgium

As mentioned in the last issue of "Spoils of War", the Study Commission on the Fate of the Jewish Goods Spoliated or Left behind during the Second World War continues its work. In July, 1998 the Commission gave its first intermediary report to the government. To summarize it very briefly, the report mainly contains the methodology that the Commission intends to use in order to fulfill its mission and the material and human additional means needed. The major difficulties that the Commission has to face are the lack of archives and the poor knowledge of the Jewish Community in Belgium before and during World War II. So, in addition of an intensive search for archives of all types, a non-conflictual approach has been chosen in order to work with all public and private institutions that were involved in the spoliation of the Jews in Belgium. Also, a database containing information on the Jewish population in Belgium during the war will be created in the next months.

All of what is mentioned above raised some questions and some problems. For example, the creation of a database including personal information is illegal as it is against the law protecting private life, also some commercial institutions (mostly banks) were reluctant to open their archives and to give a free access to personal documents. In order to solve this problem, the government proposed a law that the Parliament recently approved, giving to the Commission all the legal facilities to complete its researches.

Thanks to the work of that Commission there is now in Belgium a greater interest for all the questions related to spoiled goods. Consequently to the signature of the Russian law on restitution and the declaration of the Russian delegation at the Washington conference, a working group has been created that gathers the needed information in order to introduce claims for the artworks, archives and libraries that are supposed to be in Russia.

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### Estonia

The cultural heritage of the Estonian Republic and its people has suffered important losses in the 20th Century. Individual artefacts and collections of artefacts were removed from Estonia during World War I, in 1940 when Estonia was forcibly annexed into the Soviet Union during World War II and the long post war period until Estonia regained its political independence. Estonia and Russia have had various negotiations on cultural values since 1989.

Some examples of removed cultural items are the art collection of Tartu University, the archival documents of the Foreign Ministry of the Estonian Republic, a

ceremonial insignia of the President of the Estonian Republic, the medals and orders of merit awarded by the Estonian Republic to its high state officials, the collection of the Estonian Postal Museum, the documents which detail the political repression in Estonia by Soviet authorities from the 1960s through the 1980s.

1. The historic art collection of Tartu University was evacuated to Russia during World War I. This collection should have been returned under the terms of the Tartu Peace Treaty concluded in 1920 between the Republic of Estonia and Soviet Russia. The collection, however, is still kept in Voronezh, Russia. The status of this collection prompted from Estonia its first appeals for the return of cultural artefacts held in Russia. Official government to government contacts began in April, 1988 with a proposal from the Estonian SSR to the USSR Ministry of Culture for restitution negotiations. An Estonian-Russian mixed commission was set up to settle the dispute in December 1989. Despite the passage of nearly a decade, no artefacts from this collection have been returned.<sup>1</sup>

2. The archival documents of the Foreign Ministry of the Estonian Republic were seized in 1940 and incorporated into the archives of the Foreign Ministry of the USSR. The documents are currently held in the archives of the Foreign Ministry of the Russian Federation.

3. A ceremonial gold chain and emblem in the shape of an eight pointed star with the National Coat of Arms at its center that symbolizes the Office of the President of the Estonian Republic was removed in 1941 to Russia upon the arrest of Konstantin Pats, the last President of the Estonian Republic before its forced annexation into the Soviet Union.

*A ceremonial gold chain of the President of Estonia Konstatin Pats*

Since 1963 this golden and jeweled insignia has been kept within the Kremlin itself in the Armoury of the State Museum. Efforts through the Estonian Foreign Ministry

to recover this artefact commenced in 1992. The Russian Federation no longer disputes that the chain and emblem are the property of the Estonian Republic, but the necessary political decisions have not been made in Russia for fear that the return of this artefact will establish a precedent for the return of others.<sup>2</sup>

4. The medals and orders of merit awarded by the Estonian Republic to its high state officials were confiscated and removed to Russia when these officials were arrested in 1940 and 1941 by Soviet authorities.

5. The collection of the Estonian Postal Museum has been held in St. Petersburg since 1951. Soviet authorities attempted to remove this collection to the Popov Central Museum of Communication in Leningrad already in 1941, but the outbreak of hostilities between Germany and the Soviet Union delayed the realization of this project until 1951. The collection has not survived as single unit but has been splintered into the various collections of the Museum of Communication.

Unfortunately the complete collection of Estonian stamp sheets has also been damaged while being held in Russia. The Estonian Postal Museum established contacts with the Museum of Communication in St. Petersburg in December, 1997.

6. The documents which detail the political repression in Estonia by Soviet authorities from the 1960s through the 1980s were removed from Estonia and preserved in undisclosed Russian Archives. These documents contain information on the various operations of the KGB in Estonia and information on Soviet censorship activities. No access is allowed to these documents so that it is not possible for scholars to construct a complete and accurate history of Estonia under Soviet rule.

From 1990 to 1992 the Ministries of Culture of Estonia and Russia worked on a treaty of cultural co-operation. The negotiations were concluded and a treaty signed by the respective Ministries in May 1992. Article 6 of the Treaty covered historical and cultural artefacts which for various reasons were held in the respective territories of signatory states. The practical effect of this article of the Treaty for the restitution of Estonian artefacts so far has been nil. But already a year before the Treaty of the Cultural Cooperation between two states was completed, a return took place from the Estonian side.

On March 22, 1991 the University of Tartu returned a collection of books to the Uspenski Monastery of Pechory, Russia. Restored to the Monastery were 2,292 items (among them 90 manuscripts and 170 rare prints from the 16th to the 18th centuries) that had been kept in Tartu University since 1940. This part of the Monastery's Library was transferred to Tartu University by an order of the People's Commissariat of Education of the Estonian SSR in 1940 (Pechory county was then a part of Estonia). This transfer was not desired by the University, but in 1940 the University was just as helpless in the face of Soviet power as the Uspenski Monastery. The Estonian Government and the University of Tartu viewed the return not as gesture of good will but as a simple return of property to its legal owners. A historic injustice to the Monastery was rectified and a step taken towards a more ethical society.

From 1992 to 1995 governmental delegations from the Estonian Republic and the Russian Federation conducted further negotiations. A working-group formed from these delegations and prepared a proposed treaty of co-operation for the preservation of cultural property. In this treaty the two Governments, in accordance with the norms and standards of international law, agreed in Article 5 to return cultural property which had been illicitly exported from or imported to their respective territories. Each Government also undertook to search for cultural objects belonging to the signatories that might be held within their territories. The treaty was ready for signing in May, 1994 but at the end of 1998 this treaty remains unsigned.

Despite the good faith efforts of the Estonian delegations in these bilateral negotiations, the government of the Russian Federation has chosen to delay signing this treaty.

The Estonian Government established on August 5, 1997 an Expert Commission on Estonian Cultural Property Situated Abroad. The members of the commission have made continuing efforts on the two most significant aspects concerning restitution of Estonian cultural property: the compiling of lists of cultural artefacts held in the Russian Federation in contravention of bilateral agreements and international law and the reopening of negotiations with Russian delegations.

Since the beginning of 1998, the Commission has worked with a high level inter-governmental commission on cultural co-operation between Estonia and Russia. In a plenary session of that intergovernmental commission in June 1998, the Estonian appeals for the return of the presidential golden emblem and the art collection of Tartu University were discussed. The next working session is scheduled for December, 1998. There is now a renewed hope for the conclusion of a treaty on the preservation of cultural heritage. Until then, the Government of the Russian Federation is expected to provide access to the materials and ensure their preservation. Perhaps, after all, the 20th Century will close with the restoration of important elements of Estonia's cultural heritage.

Anu Laansalu, Director of the Art Museum of Tartu University,  
Member of the Expert Commission on Estonian Cultural Property Situated Abroad,  
Tartu

**Notes:**

<sup>1</sup> See: Anu Laansalu, "A Lost Art Collection", in: Art, Antiquity and Law, Vol. 3, Issue 1, March 1998, Pp. 27-30.

<sup>2</sup> At the time this article was written, press reports indicated that a decree on the return of the Presidential insignia to Estonia had been signed by the President of the Russian Federation.

**France**

**Publication of the Catalogue of the Schloss Collection**

The French Foreign Ministry has just published a catalogue of the works from the Adolphe Schloss collection which have not yet been recovered and so have not been returned to their owners or other people with legal entitlement to them.

A world-renowned art lover between the wars, Adolphe Schloss bequeathed to his wife a magnificent collection principally consisting of Flemish and Dutch paintings. This internationally recognized collection of 333 paintings was a particularly fine one, which leading experts consider to have been the last of the major collections of Dutch art established in France in the nineteenth century. It included works by early masters such as Petrus Christus' *Pieta*, Isenbrandt's *Virgin*, and Gossaert's *Venus*, as well as masterpieces by great seventeenth-century Dutch painters such as Jan Brueghel the Elder (also known as Velvet Brueghel), Brouwer, Van Der Heyden, Ven Der Neer, Rembrandt and Ruisdael. Other paintings had been selected for their quality and bore the signatures of lesser-known artists such as Boursse, Brekelencamp, Molenaer, etc. who were poorly represented in French collections and whose works are, in most cases, very rare. After Lucie Schloss's death, the collection was bequeathed jointly to her children who, in 1939, placed it in a provincial château for safekeeping.

From the start of the occupation in France, the German authorities were under orders to use all available means to locate the collection and take it to the Linz Gallery established by Hitler. It took them until 1943 to find it. The Louvre managed to pre-empt 49 of the 333 listed paintings and keep them safe, so that they could be returned. This was done as early as 1945. However, the bulk of the collection was sent to the Musée du Jeu de Paume and then, on 27 November 1943, to Munich. Twenty-two other paintings were sold to a Mr Buittenweg by Jean-François Lefranc, the official to whom the Germans had entrusted the task of finding the collection.

Currently, 171 of the works have still not been recovered, but others, recognized in foreign galleries or in sales, are or have been the object of legal actions or requests for restitution through diplomatic channels.

This catalogue of unrecovered works has been drawn up for two reasons: to help the heirs in their search for the missing works and to prevent possible purchasers from unwittingly becoming or being handlers of stolen goods and consequently facing legal problems. Under French law, the offence of handling stolen goods is not subject to statutory limitation. The catalogue includes all works listed as unrecovered on 1 July 1998 and was drawn up with the help of information from the Commission de récupération artistique archives held at the Foreign Ministry. Since there are no negatives of the photographs taken in 1943, the reproductions are not always of the highest quality, but they will, we hope, help in the search for the pictures. 5,000 copies of the catalogue have been published and will be distributed free of charge world-wide, particularly to museums and art galleries. The catalogue will also be available very shortly on the Foreign Ministry's web site. If you would like a copy of the Schloss catalogue or information on specific paintings, please send your request to the Foreign Ministry, giving your name, address, occupation and the number of copies you wish to receive.

Marie Hamon,  
Ministry of Foreign Affairs, Paris

**Please note:**

Requests by journalists may be addressed to:

Direction de la Presse, de l' Information et de la Communication

Requests in general may be addressed to:

Direction des Archives

37 Quai d' Orsay, 75007 PARIS

Fax: 00331 43 17 48 44

Email: marie.hamon@diplomatie.fr

If you live in Austria, Germany, Belgium, Spain, the United States, Israel, Italy, the Netherlands or Portugal, you can send your request to the nearest French Embassy or Consulate. A provisional catalogue of works of art recovered after the Second World War and held in MNR (Musées Nationaux Récupération) category national museums and galleries can be consulted on the Ministry of Culture's web site: <http://www.culture.fr> (click on Documentation) or <http://www.culture.fr/documentation/mnr/pres.html/>.

**Note:**

In a joint venture, the Dokumentationsstelle des Bundes (Documentation Office for the Registration of Cultural Property Displaced as a Result of the War) in Berlin and the Koordinierungsstelle der Länder für die Rückführung von Kulturgütern (Coordination Office of the Federal States for the Return of Cultural Property) in Magdeburg have already distributed the copies of this very significant Schloss catalogue they have received by the French Foreign Ministry to the most important and most influential museums within Germany. Both, the Coordination Office and the Documentation Office, hope that this joint venture will help in the search for the missing objects. The details and results of this distribution will be made public on the occasion of the next expert meeting.

Michael M. Franz, Project Leader of the Coordination Office  
of the Federal States for the Return of Cultural Property, Magdeburg

## The Netherlands

### Introduction

The activities of the Ekkart Committee were already mentioned in "Spoils of War", No. 5, p. 69. The Committee was installed to oversee a pilot research project into the so-called NK collection of works of art recovered after the War that remained in the custody of the State. In this article, the results of this pilot project are presented, together with the first results of the 1940-1948 Museum Acquisitions Project, which was launched by a number of Dutch museums in March, 1998.

### Historical Context

Even before the liberation of the Netherlands in May 1945, the Netherlands' government in exile in London prepared an extensive and complex set of measures designed to remedy, wherever possible, the actions taken by the German occupying forces. After the liberation, these measures were extended and added to, giving rise in the end to an extensive corpus of legislation and legal protection in the field of the restoration of legal rights.

The legal restitution in the field of art, stated briefly, meant the restitution of artworks shipped out of the country during the war. After the war, the looted and displaced artworks from occupied countries found in Germany and Austria were gathered together by the Allies in several (Central) Art Collecting Points and one Archival Depot, from which the restitutions took place. Repatriation was carried out in close cooperation with special units of the Allied Forces of the United States, France and the United Kingdom in accordance with the regulations drawn up jointly by the allied powers, for example in the Inter-Allied-Declaration issued in London on 5 January, 1943. In order to establish which works of art should go to which claimant state, documents were gathered from a range of sources in the countries in which looting had taken place and were forwarded to the Art Collecting Points in Germany. Only states could claim and receive objects, by signing a receipt obliging them to find the original owners of looted and stolen works of art in their country.

In the Netherlands, the task of gathering documents was entrusted to the Netherlands Art Property Foundation (SNK). In doing so, it collected information not only from the original owners, but also from the records of the occupying forces (such as lists of confiscated Jewish property), as well as from lists compiled by the haulage firms which had transported works of art to Germany and from the records of dealers and auction houses which had sold works of art to the Nazis. The Foundation was also given the task of tracing the original owners, or their heirs, of works of art that had been looted or removed to Germany. In spite of its endeavors, its efforts were not always successful since essential documents (i.e. insurance policies, inventories, etc.) had often disappeared during the War. Moreover, in those difficult times, with cities like Rotterdam, Arnhem and Nijmegen heavily bombed, when many Jewish survivors of the Holocaust were trying to rebuild their lives, not all the original owners filed claims for works of art lost during the war.

In 1947, guidelines for restitution were set by the Council of the Netherlands Art Property Foundation and approved as basic principles by the Ministry of Education, Arts and Sciences. Article 11 states:

"The Foundation will restore artworks to the original owners or their legal successors at their request, but only in cases where the Foundation is satisfied that the rightfulness of the claim has been established and that the remaining conditions stated in these guidelines have also been satisfied.

Works will only be returned in cases where all of the following conditions have been satisfied simultaneously:

- a. the identity of the original owner or owners must be clearly established;
- b. there must be no doubt as to the involuntary nature of the loss of property;

c. there must be no mutually inconsistent claims submitted and there should be no reason to suppose that such claims will be entered in the future.

Involuntary loss of property will be basically defined as cases in which the original owners did not lend their cooperation to the loss of the artwork or artworks belonging to them. Cases will also be included in which such cooperation was given, but where it can be demonstrated to the satisfaction of the Foundation that this took place under force, duress or improper influence, direct or indirect, of the enemy."

Issues for which no clear answers could be found, especially those relating to whether a sale constituted a voluntary or involuntary transaction, were put before the Council for the Restoration of Property Rights or a court of law.

According to a report of August 1950, by 1 July 1950, 386 *works of art* had been restored to their owners by the Netherlands Art Property Foundation; at that moment, 484 claims were submitted as a result of the viewing days. These figures refer to items which could only be returned on the basis of further investigation or claims; during the initial period, artworks of which the origins were indisputably established had already been returned. By 1 July 1950, three cases involving restitution of property rights had been brought before the Council for the Restitution of Property Rights.

During the period between the end of the Second World War and 1953, approximately 470 *paintings* were restored to their rightful owners. Further research is necessary to establish the total number of artworks returned to their rightful owners. From 1947 onwards, a discussion on the sale of part of the recovered artworks took place between the Netherlands Art Property Foundation and the Ministry of Finance. According to the August 1950 report, 719 paintings were sold at auction, 18 paintings were sold in direct sales, 120 carpets and an unspecified number of items of furniture and applied art objects were sold at a total value of NLG 51,667.76.

The remaining works were all registered and given an inventory number and held in custody of the State subject to the provision that whenever an original owner or his/her heir turned up or could be identified, the work would in principle be returned if it had been involuntarily lost. As a result, several works of art were returned to their owners or their heirs in the 1950s and 1960s. A summary of the Old Master paintings involved in this process was published in *Old Master Paintings. An Illustrated Summary Catalogue*, Zwolle/The Hague 1992, p. 409.

Of all the works of art taken from the Netherlands during the war more than 10,000 paintings alone are still missing. They sometimes turn up in unexpected places; a portrait by Govaert Flinck was discovered in Canada two years ago and has since been returned to the Netherlands (see "Spoils of War", no. 5, p. 90).

### **Recent Pilot Investigation of the State collections**

Questions have recently been asked about the provenance of the works of art from the Netherlands Art Property Collection that remained in the possession of the State,

the so-called NK-collection. Might not modern methods of documentation and registration unearth more facts than were known after the war? To test this hypothesis, in October, 1997 the State Secretary for Education, Culture and Science, ordered a thorough investigation into the provenance of the Netherlands Art Property Collection. This investigation took the form of a pilot project encompassing a representative sample of 113 paintings, prints, and objects of decorative art, the results of which would determine whether or not a similar enquiry should be conducted into all the other objects in the NK-collection. In conducting this pilot research project, the Inspectorate of Cultural Heritage has made a careful examination of a number of sources in order to reconstruct the history of each investigated object for the years 1940-1945. These sources include the records of the Netherlands Art Property Foundation, documents containing information on the victims of the Holocaust and art history information systems. These same methods are used in responding to the queries of individuals seeking works of art lost during the Second World War. In particular, documentation centers such as the Netherlands Institute for Art History now contain much more information than in the 1940s and 1950s, and it is far easier to have access. The Netherlands Institute for War Documentation and the American National Archives were also checked for any relevant information. The Inspectorate of Cultural Heritage, as government agency involved in recovery matters, maintains close contact with counterparts in other countries to coordinate findings and investigation methods. The investigation took place under the supervision of the Ekkart Committee, an advisory committee whose members include representatives of the Dutch Jewish community.

In April 1998, the Committee published its findings. The investigation covered 113 inventory numbers. The present inventory provided limited information concerning the origin of 37 items and absolutely no information about a further 76 items. As a result of the investigation, it was possible to arrive at a definite history for the years 1940-1945 in the case of 30 out of the 113 inventory numbers; that is to say that the ownership history of the items in question was documented throughout the period from the beginning of the war to the time at which the items fell into German hands.

Details of origin were found in the case of a further 38 pieces, but proved to be insufficient to provide a definite ownership history for the period 1940-1945 in that there remained gaps, mostly relating to the early years of the War. For 45 of the 113 items, no relevant details were found in this investigation to permit a reconstruction of the pieces' history in the years 1940-1945.

A few incidental cases came to light where the information derived from the Netherlands Art Property Foundation archive was such that it was considered desirable to point out the uncertainties existing. In these cases, only the recommended specific research will provide answers concerning the original ownership and the nature of their sale.

### **Further Research into the State Collection**

On the basis of these results and the recommendations made by the Ekkart Committee, the government decided to extend the pilot research into provenance, to cover all ca. 3900 numbers in the NK-collection. This research is now under way. It will be completed in September 2001 and will be carried out under supervision of an advisory committee. Interim reports will be published and requests for information and claims will be studied as they are sent in and will not have to wait until completion of the research project.

At the start of the pilot investigation, in October 1997, the Ministry of Education, Culture and Science published a brochure on the NK-collection, explaining its history and informing the public it is still possible in principle for a private person to file a claim on an object in the NK-collection, providing it regards a work of art which has not been previously claimed by the same person and of which sufficient proof of the original ownership can be found. Also earlier claims which were not accepted before can be filed again if substantial new facts have come to light. This year two paintings have already proved to belong to Jewish families that did not file claims after the War. These paintings are being returned to their rightful owners.

### **Recent Investigations of Museum Collections**

Of equal importance are the initiatives recently launched by the museum world itself. In March, 1998 several major Dutch museums took the initiative to launch a nation-wide check into the provenance of objects they acquired in the 1940-1948 period to establish whether any might be dubious. A committee chaired by Professor Ronald de Leeuw, director of the Rijksmuseum, Amsterdam, is coordinating the project. The museums are well aware that not only the government, but also they themselves are responsible for conducting a thorough investigation of their acquisitions during and shortly after the Second World War. As a result, the 1940-1948 Museum Acquisitions Project was launched under the aegis of the Dutch Museums Association, a national organization to which the majority of Dutch museums are affiliated. Its 382 members include all national, provincial and municipal museums as well as museums registered as private legal persons.

The Ministry of Education, Culture and Science encourages and supports this initiative, and the Inspectorate of Cultural Heritage, as government agency that specializes in this field, is assisting the museums in their investigations.

### **Openness**

The aim of the 1940-1948 Museum Acquisitions Committee is to find out as much as possible about the provenance of the art objects acquired by Dutch museums during and shortly after the Second World War. Openness and accessibility will be the key words in presenting the findings. These will be published in Dutch and English, in a report that is expected to be completed in the autumn of 1999.

In principle, if there is any evidence that objects were acquired unlawfully, i.e. were nazi confiscated Jewish property, it is expected that the governing bodies of the museums will make every effort to ensure that they are returned to their original owners, or their heirs.

## Method

To start with, a method had to be devised to discover which museum acquisitions could be regarded as problematic. Guidelines were issued pinpointing the factors museums should pay particular attention to, for example, whether objects were acquired at dubious auctions, or from German or Aryanised agencies, or from custodians of art belonging to Jewish owners. The guidelines were sent to all 382 members of the Dutch Museums Association in April 1998, with the request that they use them as the basis for a thorough investigation of the origins of all works they acquired between 1940 and 1948. The museums were asked to inspect all their records to establish whether any of the objects they acquired during this period could be regarded as suspect, and to draw up lists of their acquisitions, specifying where and how they obtained them. After completing this preliminary investigation, they will report to the Inspectorate of Cultural Heritage, which will conduct a more in-depth study. The Inspectorate was asked to perform this task, since it has the necessary expertise, and liaises with the relevant bodies. The next step is for the Inspectorate to check the information and the acquisition lists submitted by the museums. In dubious cases, the Dutch Museums Association carries out further inquiries consulting, for instance, the National Archives, the Netherlands State Institute for War Documentation (RIOD), the Netherlands Institute for Art History (RKD) and the records of the various ministries. A number of reputable Dutch art dealers and auction houses have given the Inspectorate access to their records.

## Progress of the investigation

It is now possible, in late 1998, just over six months after the Dutch museums were first asked to conduct their inquiries, to make a provisional assessment of the results.

The museums were quite willing to take part in the study. Of the 382 members of the Dutch Museums Association 263 have now responded and more museums are expected to do so in the near future. Their responses varied. As was to be expected, many museums knew that the study was not applicable to them, because they had acquired no new works in the period in question, or had no permanent collection, or because they were not established until after 1948. Investigations by those to which the study was indeed applicable have so far yielded few unexpected results. Very few objects have been found which could be assumed to have been Jewish property confiscated or looted by the Nazis. In these cases, the museums involved will consult with the Inspectorate of Cultural Heritage on further steps. In some cases it has proved difficult to establish whether the provenance of certain acquisitions is indeed dubious. These objects were acquired through transactions with art dealers and auction houses which are known to have sold Jewish property confiscated by the Nazis. Further research is needed to provide more information about the provenance of these objects. This is no simple matter, since the records of some firms no longer exist.

The study has also shown that some Dutch museums temporarily held Jewish property in safekeeping during the War, usually at the request of the owners themselves. Such transactions mainly took the form of temporary gifts or purchases to prevent art belonging to Jews from being confiscated by the Nazis. The Department of Education, Science and Culture in the occupied Netherlands also bought several collections from Jewish owners in 1943 and 1944 with the aim of keeping them in the Netherlands and protecting Jewish property from confiscation. In practically every case, these works were returned to their Jewish owners or their heirs after the war. A few were not returned because the owners or their relatives decided either to donate them to the museum or to waive their entitlement to restitution. The cases in which works were not returned because their rightful owners did not return after the war are currently being investigated.

### **Members of the 1940-1948 Museum Acquisitions Committee**

Ms P.W. Kruseman, director, Amsterdams Historisch Museum  
Prof. R. de Leeuw, general director, Rijksmuseum, Amsterdam (chair)  
Dr J.W. ter Molen, deputy director, Museum Boijmans Van Beuningen, Rotterdam  
Ms E. Muller, research officer, Inspectorate of Cultural Heritage, The Hague  
Ms C. van Rappard-Boon, head, Inspectorate of Cultural Heritage, The Hague  
Dr E.J. van Straaten, director, Kröller-Müller Museum, Otterlo  
Mr. K. Schoemaker (secretary)  
Mr. R.H.C. Vos, chair of the board, Dutch Museums Association

### **Liaison**

Mr. K. Schoemaker, secretary  
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Rijksmuseum  
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Josefine Leistra, Inspectorate of Cultural Heritage, The Hague

#### **Please note:**

The results of the investigations of both the State and museum collections will be published. At this moment, the following material is available:

- (Dutch:) Commissie Ekkart, HERKOMST GEZOCHT. Rapport van het proefonderzoek naar de herkomst van de onder beheer van het Rijk gebleven uit Duitsland gerecupereerde kunstwerken, Den Haag April 1998, (explanatory texts and reports of all 113 investigated objects).
- (Translation:) Ekkart Committee, ORIGINS UNKNOWN. Report on the pilot study into the provenance of works of art recovered from Germany and currently under the custodianship of the State of the Netherlands, The Hague April 1998 (explanatory texts).

Copies of both reports may be ordered from:

Sdu-Servicecentre, P.O.Box 20014, NL-2500 EA The Hague, the Netherlands, phone + 31 70 378 9830 / fax + 31 70 378 9783.

## Russia

Since 1993 the group of experts of the Ministry of Culture of the Russian Federation, in the framework of the State Commission on Restitution of Cultural Values, accumulates and systematizes archival materials on cultural losses of Russia in World War II. First archival research brought some hope, but further work in this direction has shown, that the creation of a full, detailed and, more than that, scientifically based list of losses is hardly possible.

This conclusion - a very sad one for the Russian side - to some degree it could be explained by the fact, that neither the Ministers of Culture of the USSR, Russia, Ukraine, Belorussia nor the central and specialized archives have dealt with this problem since the end of World War II... It seems that the "taboo" laid on so called "trophy art", was transferred to our own, national art destroyed and removed by the occupants during World War II.

In the meantime, massive archival materials of the Special State Commission on the investigation of crimes of German invaders (SSC), studied by our group, made us very enthusiastic at the first stages of our research: this Commission, launched in November 1942, led investigations in 28 regions of eight Union Republics, studied 54,000 acts and more than 250,000 protocols and descriptions given by witnesses. Information, submitted by the SSC, in accordance with article 21 of the Nuremberg Tribunal, was accepted without additional evidence. An account and estimation of the damage, caused to the collections of the largest museums of Russia, was also accomplished under the SSC order. One methodological mistake was made during all these activities, and this mistake made after-War research very difficult: SSC grouped information about losses under one title "Destroyed, Damaged, Lost and Removed". The list of losses, compiled by the SSC, consists of 21 books (Books 1-14: objects of art from art galleries; Books 15-21: museum objects from historical, ethnic and other cultural institutions of the USSR). In these books you can find losses from the 64 most valuable and prominent museums (of 173, ransacked in the territory of the occupied Russia).

Total figures of the losses, found in the archives of the SSC and other ministries, were estimations only and strikingly incomplete, incomplete and chaotic ("Destroyed, Damaged and Removed" - all in one line!). Also total figures were associated with different numbers of museums suffering from it. In one case they talked about 73 especially valuable museums, which lost about 600,000 items, in the other case they mentioned more than 760,000 lost items but... related to 64 museums. In appendix II to the report of the Commission on Claims of the USSR toward Germany of February 27, 1948, the total figure is indicated: "the Germans removed from the museums 465,286 items" (without any indication of the number of museums).

In 12 years after the Second World War, the Ministry of Culture of the USSR, working actively on the return of about two million items of German origin,

suddenly realized, that the SSC had not taken into consideration another 18 museums and 302,141 lost items. At the same time the Ministry of Culture of the Ukraine reported to Moscow that "it does not have full information about cultural losses, because...all documents, which might help to estimate the damage, were destroyed during the occupation. An approximate value of losses - 700 million rubles and hundreds of thousands of lost items".

And it became very clear: we could not possibly find a ready-made full list of losses, or results of research, or a real picture of the scale of the damage. Moving further, we met another obstacle: more than 30 provincial Russian museums were completely destroyed together with objects, equipment and documentation. And if you could find the number and list of losses of the largest museums in the archives of the Committee of Arts of the USSR (for fine arts museums) and of the Committee of Cultural and Educational Institutions (for ethnic museums), the lists of losses of more than 100 museums of Russia (mostly of local origin) were lost, most likely, forever.

It is worth mentioning that we risked to study the archives, containing information about the transfer of items from Moscow and Leningrad museums to local museums, starting from 1918 to 1941. Thereby, some parts of losses of local museums could be restored and listed.

Another side of reconstruction of the real picture of losses - an after-war return of items to the USSR - is extremely complicated, and, in some cases, deliberately intricate. Struggling through the chaotic piles of documents and descriptions, spread over a great number of archives of various departments and ministries, researchers manage to find and untangle tiny threads and knots of interesting facts.

From one side, this situation with the archives mirrors tactics of fascist Germany, which was giving the rights to remove Soviet cultural objects to various departments of the Wehrmacht, the Ministry of Foreign Affairs of Germany, the SS and the SD, the ministries of the occupied territories etc. On the other side, all the German archives, moved to the USSR from occupied Germany, were distributed accordingly to the archives of the Ministry of Defense, the Ministry of Foreign Affairs, Vneshtorg, the Academy of Sciences, the Ministry of Economy, etc.

Archival study has shown: only an insignificant part of removed items was found and returned to the USSR from the Soviet zone of occupied Germany. The main parts of museum items of Soviet origin was noticed in the South-Western part of Germany, occupied by the Americans, who found more than 1,500 points of concentration of cultural objects. Between 1945-47, the Americans handed over 13 loads of museum exhibits, books, archives, etc. to the Soviet Government. As we understand now, detailed lists of contents were not submitted together with the loads, at least we are still unable to find any trace of them. We also have witnesses that cultural items, which arrived to Berlin, terminal Derutra, did not have item lists attached. In November 1947, the train of 18 coaches, under supervision of responsible representatives nominated by governments of Russia, Ukraine and Belarussia, was sent to Pushkin, to Novgorod - 8 coaches; to Kiev - 8 coaches and to Minsk - 2 coaches.

The recipients of the load were supposed to accomplish a proper inventory and to evaluate each item and send it to the original location. As a result of this, some parts of returned items stayed in different institutions, and the museums which suffered could only guess at their location.

Apart from this, we found out that hundreds of objects, lost during World War II, were taken off the balance of the largest Russian museums and this fact also added difficulties to the process of research.

Lack of space does not give me the opportunity to even just enumerate all the difficulties we experienced, trying to follow the way of cultural objects, lost by Russia. Some fragments of information about the removal of cultural values from Russia could be restored with the help of materials of central and local archives, of the Rosenberg Headquarters Archives and of the private archive of George Stein.

Valuable help has been provided to us by the Center of Eastern European Studies of the University of Bremen, Germany. We are working now with data about 5,000 items, handed over from the American zone of the occupied Germany. But even these materials do not give us a full picture. Nevertheless, with difficulty, but step by step, we are moving towards the creation of a full multi-volumed catalogue of Russian cultural losses during World War II (the first 5 volumes, devoted to the losses of the Ekaterininskij and Pavlovskij Palaces, the Russian museum and the State Tretyakov Gallery and Archives, are being published at the moment; we plan to print them in Russian and in English in 1999 with 3,000 copies of each language).

We hope to have the opportunity to inform you about special aspects of our research work in the next issues of the newsletter.

Nikolay Nikandrov,  
Ministry of Culture of the Russian Federation, Moscow

## Archival Reports

### The Return of Archival Documents, Moved to the USSR as a Result of World War II

The problem of the return of archival documents, moved to the Soviet Union as a result of World War II and being kept in Russia, became, as is well known, especially important at the beginning of the 90s, when the public received access to looted archival materials of the Depository Center of Historical and Document Collections (DCHDC) in Moscow.

A whole row of European countries, including France, made claims for these kinds of archives. On November 12, 1992, Russia and France signed two intergovernmental agreements: On the Cooperation in the Sphere of State Archives and On the Return of Archival Documents. Within the framework of these Agreements the countries started the bilateral exchange of archives. Between December, 1993 and May, 1994 France received six loads of archival documents of French origin, moved to the Soviet Union as a result of the Second World War and kept in the DCHDC. These loads included 900,000 files. In return, Russia started to receive from France archival materials, for example, 12 logbooks of Russian and Soviet ships, which were cruising in the Mediterranean sea in the 20s. At the same time the French side financed the microfilming of the documents, selected by Russian experts from the archives that been handed over (7mln frames).

Kolchak's government. This archive had been bought by the Prince at a Sotheby's auction.

On June 13, 1996, the State Duma issued a decree, containing a recommendation to the Russian Government to implement a Russian-Liechtenstein exchange of archival documents. This fact became a practical exclusion from the moratorium, approved by the State Duma in 1995. The Government of the Russian Federation approved the exchange of archival documents with Liechtenstein and signed the appropriate bilateral intergovernmental agreement. On September 3, 1996, this agreement was signed in the form of the exchange of letters, signed by the Minister of Foreign Affairs of the Russian Federation E. M. Primakov and the ruling Prince of Liechtenstein Hans-Adam II. The Federal Archival Service of Russia, responsible for the practical implementation of the exchange reached an agreement with the representative of the ruling Prince of Liechtenstein on the protocol of time and order of the exchange of archival documents on May 13, 1997. At the end of June - the beginning of August of the same year the exchange, was accomplished. In September 1997, the most interesting documents from the Liechtenstein Archive and the archive of N. A. Sokolov were exhibited in Moscow. By this fact the process of the exchange and return of archival documents was successfully completed, because it had started before the introduction of the Federal Law on Cultural Values Removed to the USSR and Located in the Territory of the Russian Federation.

On April 21, 1998 the Federal Law came into effect. At the same time, the President of the Russian Federation, who vetoed the Law and whose veto was successfully beaten by the State Duma and the Council of the Federation, sent an official inquiry to the Constitutional Court, where it is under discussion now. Issuing of the above mentioned Federal Law would never solve the problem of claims of foreign states regarding their removed archival documents kept in Russia. France, for example, accused Russia of violation of its obligations under the Agreement of November 12, 1992, by holding back the return of French documents. To soothe this burning point of the Russian-French relations, the Speaker of the State Duma G. N. Seleznev and the Chair of the National Assembly L. Fabius, during the third meeting of the Russian-French Interparliament Commission in Paris on December 10, 1997, signed a memorandum, in which they expressed their recommendation to proceed with the research and return of archives and to restart the archival exchange. Taking these recommendations into consideration, the State Duma passed a decree on May 22, 1998, activating the archival exchange with France on the mutual and equal basis, in accordance with the above mentioned Agreements and the Federal Law. At the moment this decree is under discussion in the Government of the Russian Federation. At the same time practical steps towards realization of this decree are being curbed by the inadequacy of procedure mechanisms, mentioned in the Federal Law. For example, an Interdepartmental Council on Cultural Items, mentioned in § 4, art. 16 of the Federal Law, still has not been established. The United Kingdom Government applied for the return of personal documents of the British Expedition Division, captured by the German army. The documents of British prisoners were kept in Germany and were then removed to Moscow. Now they are being kept in the DCHDC. Taking into consideration this request, the State Duma on September

16, 1998 passed a decree, recommending to implement the handing over of personal documents of the British Expedition Division as family relics to the British side, providing that all necessary letters of attorney's would be presented. This decree is under discussion in the Government of the Russian Federation as well.

In conclusion it is necessary to mention that the archival exchange with France and the handing over of personal documents to the United Kingdom, as well as all similar procedures with other countries, will be implemented in accordance with the Federal Law "On Cultural Values Removed to the USSR as a Result of World War II and Located in the Territory of the Russian Federation".

Vladimir P. Tarasov,  
Deputy Head of the Federal Archival Service of Russia, Moscow

## Restitutions

### Valuable Document Returned to German Freemasons by the US

On Friday, 27 November 1998, a charter deemed lost since 1935 was handed over in the house of the Große Landesloge of the freemasons of Germany in Berlin-Dahlem.



*Foundation Charter of Frederic II of Prussia of 1774  
for the Grand Landesloge of the Freemasons of Germany*

This gratifying event was stimulated by an article by Ulrich Wolfgang in the third edition of this Newsletter of December 1996, where the author drew the attention to the fate of library and archive properties as well as other cultural properties

belonging to German freemason lodges and confiscated during the National Socialist era and looted as a consequence of the war. Based on the good will of all parties concerned, this exemplary return action was uncomplicated.

Following the publication of his article, the author was informed by Ely Maurer from the US State Department that a foundation charter of King Frederic II of Prussia of 1,774 for the Grand Landesloge of the Freemasons of Germany had been found in the Library of Congress. This document, personally signed by King Frederic the Great, is one of the most significant documents in the history of the freemasons in Germany. For the Große Landesloge it is the most important written instrument amounting to a foundation charter. The lodge sees itself as a brotherhood committed to Christianity and to striving for the humanitarian ideal of man seeking perfection.

The exhibition of this charter goes back to a request addressed by the Große Landesloge to the Prussian King in 1774 asking for the award of a document ensuring the brothers unified in the lodge the right to exercise the laws of their order in public, in freedom and without impediment. Frederic the Great, inclined to freemasonry and the idea of tolerance, complied with this request. In the following decades, the protectorate was carefully kept in the chest of the master of the order and read every year to the brothers assembled on Midsummer's Day.

In the era of National Socialism, the freemason lodges were persecuted for ideological reasons, declared dissolved or forced to break up.

So far it has remained unclear if the charter – following the ban of all German freemason lodges and the confiscation of their entire property - belonged to the documents that had been compiled centrally in the Reichssicherheitshauptamt in Berlin since 1935 or whether it was one of the documents that were saved from the Gestapo by courageous freemasons acting in conspiracy. Hence it has not been possible to find out how the protectorate with the seal of the Prussian King came into the library of Schloß Burgk in Thuringia where it was discovered in 1945 by an officer of the US army, who, accidentally, was a freemason himself. The unknown officer feared that the Soviet occupying power might take the document and so handed it over to the American Library of Congress for storage.

After the end of the war, the bulk of freemasonic records confiscated by the National Socialist state was deported to the former Soviet Union by so-called trophy brigades. Essential parts were handed over to the GDR at the end of the fifties and stored in the Central State Archive of the GDR, in the office in Merseburg, until the collapse of communism. Only the German re-unification has enabled the freemasonic lodges to exercise their rights to this material again.

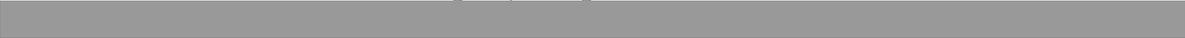
In early September 1998, the charter was forwarded to the German embassy in Washington in an excellent condition in conservation and restoration terms. Peter Limbach as the representative of the Commissioner of the Federal Government for Cultural and Media Affairs handed over the charter to the Große Landesloge of Freemasons in Germany as the lawful owner.

Immediately after the transfer, the charter was added, as document No 1, to the depositary agreement between the lodge and the Foundation of Prussian Cultural Property (Stiftung Preußischer Kulturbesitz). Hence this document will be stored in the Secret State Archive in the future.

In a festive and moved atmosphere the work of all those was honored who had been involved in saving and recuperating the document, especially the Library of Congress in Washington and the US State Department; in addition, the hope was expressed that a solution can be found, in compliance with the principles of international law, for some 80,000 books owned by German freemasons deposited in the library near Poznan and the documents of German lodges (among those also Jewish lodges) still kept in the former special archive in Moscow.

Efforts of the Federal Republic of Germany to this end are the expression of the special historic and moral responsibility of the German state towards all those who had to suffer property losses caused by persecution through the National Socialist state.

Petra Kuhn, Documentation Office for the Registration  
of Cultural Property Displaced as a Result of the War, Bonn/Berlin



## Bibliography

The bibliography gives an overview of books in two parts: 1. Books on general aspects, giving a good insight into the history of spoils of war, policy of restitutions after the war and into legal issues which are related to cultural property and published during the last years; 2. important publications about looted art of various countries. Articles of the daily press are only included in special cases.

### Books and Articles on General Aspects

**Buchfeld, Stéphane and Fisher, Wesley A. and Gauvin, Nicolas:** International Directory of Organizations in Holocaust Education, Remembrance, and Research. A project of the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research, December 1998.

[An electronic searchable version is being made available on the website of the Holocaust Museum that will be updated on a regular basis. The home page of this Museum's website may be found at [www.ushmm.org](http://www.ushmm.org).]

**D'Arcy, David:** International museum director's meeting in Prague. Europeans support US museum over Schiele Nazi loot. World Jewish Congress proposes a museum of art stolen from Jews, in: *The Art Newspaper*, Vol. IX, No. 80, April 1998, p. 9.

**D'Arcy, David:** Report on the Washington Conference on Holocaust Era Assets. Much piety and hot air. No binding agreements were made reached and little effect on the restitution is expected, in: *The Art Newspaper*, No. 88, January 1999, p. 3.

**Franz, Michael M.:** Wenn der Kunstkauf vor dem Kadi endet. Wie Sammler verhindern können, gestohlene Bilder zu erwerben – Internationale Register bieten Hilfe, in: *Die Welt*, February 21, 1998.

["When art trade ends at court. How collectors of art can prevent to buy stolen art – International registers offer their help". This article deals with some legal aspects concerning all kinds of databases on lost art. The author enumerates several requirements in connection with an adequate database.]

**Hochfield, Sylvia:** Statute with Limitations, in: *ARTnews*, Vol. 97, No. 10, November 1998, p. 57.

**M.L.:** Case in progress, New York. A grand jury is grander than even international art loans, Schiele judge is told. New York law does not shield artwork imported from abroad, says District Attorney, in: *The Art Newspaper*, Vol. IX, No. 81, April 1998, p. 6.

**Petropoulos, Jonathan:** Exposing 'Deep Files'. Fearful of 'getting Swissed', museums are still barring researchers from certain archives - hindering the return of war loot to Holocaust victims or their heirs, in: *ARTnews*, Vol. 97, No. 12, January 1999, p. 143.

### Books and Articles on Specific Countries

## AUSTRIA

**"Austria makes legal amends"**, in: The Art Newspaper, Vol. X, No. 87, December 1998, p. 1.

[This article deals with the Austrian restitution law.]

**Czernin, Hubertus:** The Austrian evasion, in: ARTnews, Vol. 97, No. 6, June 1998, p. 112.

[On the disputed paintings by E. Schiele, the so-called "Mauerbach case".]

**Czernin, Hubertus:** Vienna - wrestling with restitution, in: ARTnews Summer 1998, p. 59.

[The article deals with the Rothschild's collection and the investigations in Austrian museums concerning acquisitions during 1938-1960.]

**Czernin, Hubertus, and Anderl, Gabriele:** Law of Return?, in: The Art Newspaper, Vol. X, No. 87, December 1998, p. 80.

[On the Martin Bormann collection in the "Oesterreichische Galerie" and the restitution law.]

**D'Arcy, David:** Oesterreichische galerie may lose seven Klimts. in: The Art Newspaper, Vol. X, No. 87, December 1998, p. 5.

[On the claim of seven paintings by Klimt, the heir to the estate of Ferdinand Bloch-Bauer.]

**Decker, Andrew:** International News – Vienna, in: ARTnews, Vol. 97, No. 12 January 1999, p. 60.

[This article deals with the restitution law that mandates an auction of objects that came into Austria's possession with an unknown provenance during the war]

**Kallir, Jane:** Letters - Tracing stolen Schieles, in: ARTnews, Vol. 97, No. 8, September 1998, p. 26.

**Levin, Itamar:** The transfer from Austria to Jerusalem of books seized during the Holocaust (Hebrew, with English summary), in: Yad Lakore-Israel Journal of Library, Information and Arhive Science, Vol. 30, September 1998, p. 7.

**Lufkin, Martha:** Schiele appeal. New York district attorney claims that MoMA's complaints are 'phoney', in: The Art Newspaper, No. 85 October 1998, p. 11.

## BRAZIL

**Hinchberger, Bill:** Sao Paulo - Brazil uncovers Nazi War Loot, in: ARTnews, Vol. 97, No. 8, September 1998, p. 67.

**Saidel, Rochelle G.:** Brazilian commission hunts for artworks looted by Nazis, in: Jewish Telegraphic Agency Inc. (JTA), 2 October 1998.

[Article published on the Internet by Museum Security Network, copyright: JTA]

## FRANCE

**"Collection Schloss - Oeuvres spoliées pendant la deuxième guerre mondiale non restituées (1943-1998)"** Published by the Ministère des Affaires Étrangères, Direction des Archives et de la Documentation, Paris 1998.

["Collection Schloss – Works of art spoiled during the Second World War not restituted (1943 – 1998)"]

**D'Arcy, David:** Seattle Art Museum sues New York dealers Knoedler. The heirs of Parisian dealer Paul Rosenberg demand the return of a Matisse stolen during World War II, in: The Art Newspaper No. 85, October 1998, p. 11.

**"International News Briefs":** The law suit against H. Feliciano brought in France by the Wildensteins over damage by Feliciano's book "The lost museum" allegedly caused to the Wildenstein reputation, in: ARTnews, Vol. 97, No. 9, October 1998, p. 72.

**Lasnier, Jean-François:** Jewish family loses out to Louvre. After an emergency ruling, the Louvre retains five Italian paintings that were salvaged after the war and the aggrieved Gentili family must now await appeal. Meanwhile, the Musée national d'art moderne has approved the return of more works, in: The Art Newspaper, No. 85, October 1998, p. 10.

**Liechtenhan, Francine-Dominique:** Le grand pillage du butin des nazis aux trophées des Soviétiques, Rennes 1998.

["The great pillage from the exploitation by the Nazis to the trophies of the Soviets"]

## GERMANY

**Bailey, Martin:** Restitution matters. Princess Leonie of Sachsen-Weimar-Eisenach lays claim to \$820 million worth of property. Weimar, Cultural Capitol of 1999, negotiates over its cultural treasures, in: The Art Newspaper, No. 88, January 1999, p. 4.

**Buomberger, Thomas:** The Baron's share, in: ARTnews, Vol. 97, No. 10, November 1998, p. 57.

[The article deals with art works from the "Eduard-von-der-Heydt-collection", since 1964 in the Smithsonian Institute after having been seized by the US under the Trading-with-the-Enemy-Act in 1951.]

**D'Arcy, David:** 'Back to Dresden' exhibition – A return symphony, in: The Art Newspaper No. 86, November 1998, p. 19.

[On 9 drawings missing since World War II that were returned to Dresden by a Russian family living in New York.]

**Eichwede, Wolfgang and Hartung, Ulrike (edt.):** Betr.: Sicherstellung; NS-Kunstraub in der Sowjetunion, Bremen 1998.

["Subject matter: Taking possession; Spoils of Art by Nazis in the Soviet Union."]

**Fiedler, Wilfried:** Unterwegs zu einem europäischen Beutemuseum? Zum Vorschlag der Errichtung einer deutsch-russischen Kulturstiftung (DA 6/1997), in: Zeitschrift für das vereinigte Deutschland, Nr. 1998 (Jg. 31.), March/April, 1998, p. 258.

["On the way to a European Museum for Spoils of War? On the proposal of establishing a German-Russian Cultural Foundation".]

**Goldmann, Klaus:** In staatlichem Gewahrsam - Zum Schicksal archäologischer Funde aus dem Berliner Museum für Vor- und Frühgeschichte, in: Nürnberger Blätter zur Archäologie (Sonderdruck), Nr. 13 (Jg. 1996/1997).

["In state custody - About the destiny of archaeological findings of the Museum for Pre- and Early History in Berlin".]

**Goldmann, Klaus:** Der Schatz des Priamos - Ein Plädoyer für seine vollständige Rückkehr nach Berlin, in: MUT - Forum für Kultur, Politik und Geschichte, No. 373, p. 51.

["The Treasure of Priam - An address for the complete return to Berlin".]

**Hochfield, Sylvia:** Back to the drawing Room, in: ARTnews, Vol. 97, No. 11, December 1998, p. 61.

[The article deals with the return to Dresden of 9 drawings missing since World War II.]

**de Vries, Willem H.:** Sonderstab Musik - Organisierte Plünderungen in Westeuropa 1940-1945, Köln 1998.

["The Confiscation of Music in the occupied countries of Western Europe by the Sonderstab Musik, 1940-1945".]

**Weyl, Martin:** The lost Jewish patrons. New research aims to uncover the full extent of Jewish support for Berlin museums before World War II, in: The Art Newspaper, No. 85, October 1998, p. 21.

## HUNGARY

**Bailey, Martin:** Bedo Collection [from Budapest]. Holocaust Educational Trust seeks missing art. Compensation is being sought for works of art seized by the British after World War II, in: The Art Newspaper, No. 85, October 1998, p. 12.

**"International News - News Briefs":** A report is to be found, that compensation is being demanded by the son of a Hungarian Jewish art collector who placed some 200 paintings in London for safe keeping before World War II, only to have them seized - and later sold - by the British government, in: ARTnews, Vol. 97, No. 8, September 1998, p. 70.

**"International news..in brief":** An item on Vasari's The Marriage Feast of Cana, now in Montreal, lost by the Budapest Fine Arts museum after having been bombed during World War II is to be found, in: ARTnews, Summer 1998, p. 64.

## ITALY

**"Florentine seizure of war-theft paintings",** in: The Art Newspaper, Vol. 80, No. 9, April 1998, p. 9.

[This article is about five Macchiaioli paintings from a New Zealand museum allegedly stolen from the collection of Cino Vitta in Florence during World War II.]

**Francaviglia, Vincenzo:** Rome-Axum. The obelisk to go home? The return to Ethiopia may be even more complicated than during the Fascist era, in: *The Art Newspaper*, Vol. 80, No. 9, April 1998, p. 6.  
[The article deals with the technical and conservation aspects of an eventual transport of the obelisk back to Ethiopia.]

### LITHUANIA

**"International News - News Briefs":** According to a report that in Vilnius a cache of medieval Lithuanian objects has been unveiled that was hidden during World War II, rediscovered by archeologists 13 years ago, but then hidden again to avoid confiscation by Soviet authorities, in: *ARTnews*, Vol. 97, No. 8, September 1998, p. 70.

### RUSSIA

**Akinsha, Konstantin and Grigorii Kozlov:** Russian Deposits: No Return?, in: *ARTnews*, Vol. 97, No. 6, June 1998, p. 62.

**Hochfield, Sylvia:** The Russian Surprise. Moscow invites victims of the Nazis to reclaim their looted art. But who exactly is the victim?, in: *ARTnews*, Vol. 97, No. 12, January 1999, p. 56.

**Kennedy Grimsted, Patricia:** Trophy-Archives and Non-Restitution - Russia's cultural cold War with the European Community, in: *Problems of Post-Communism*, Vol. 45, No. 3, May/June 1998, p. 3.

**Kennedy Grimsted, Patricia:** Increasing reference access to post-1991 Russian Archives, in: *Slavic Review*, Vol. 56, No. 4, Winter 1997, p. 718.

**Somers Cocks, Anna:** Russia/Germany. Dear Mr. Kohl. How to end booty impasse, in: *The Art Newspaper*, Vol. 81, No. 9, April 1998, p. 7.

### SWITZERLAND

**Federal Office for Culture (edt.):** Bien culturels de la Confédération. Enquête sur la période de 1933 à 1945. Rapport du groupe de travail de l'Office fédéral de la culture, Berne, 1998.

["Cultural Properties of the Confederation. Survey on the period from 1933 to 1945. Report of the working group of the Federal Bureaus of Culture"]

### THE NETHERLANDS

**Bockxmeer, J.M.L. van and Lamboo, P.C.A. and Schie, H.A.J. van:** *Onderzoeksgids. Archieven Joodse oorlogsgetroffenen. Overzicht van archieven met gegevens over roof, recuperatie, rechtsherstel en schadevergoeding van vermogens van Joden in Nederland in de periode 1940-1987 vervaardigd in opdracht van de Commissie van Onderzoek Liro-archieven*, Den Haag (Algemeen Rijksarchief), 1998.

[Research guide. Archives Jewish victims and war. Overview of archives containing information about looting, recovery, restitution of rights and compensation of possessions of

Jews in the Netherlands in the years 1940-1987, compiled at the order of the Committee of Research Liro-archives, The Hague (State Archives), 1998. The guide has more than 300 pages, an index and references to literature. The index and the list of contents enable researchers to search on subjects (gold, insurance, art) and lists archives formed by institutes and persons working for the German occupying forces, by Netherlands state organizations, such as ministries and committees, and by private individuals. The location of the archives is given in a list of addresses at the end of the book.]

**Hoogewoud, F.J.:** The looting of a private and a public library of Judaica and Hebraica in Amsterdam during World War II, in: Ulf Haxen a.o. (eds.), *Jewish Studies in a New Europe, Proceedings of the Fifth Congress of Jewish Studies in Copenhagen 1998*, p. 379.

**"International news..in brief":** According to a report that Van Gogh's Olive Trees, recently left to New York's Museum of Modern Art, and was sold to an unidentified German during the Nazi occupation, will not be claimed by the Dutch government, in: *ARTnews*, Summer 1998, p. 62.

**Origins unknown.** Report on the pilot study into the provenance of works of art recovered from Germany and currently under the custodianship of the state of the Netherlands, Publication of the Ekkart Committee, April 1998.

[Copies of the English edition may be ordered from the publisher: Sdu-Servicecentrum, P.O. Box 20014, NL-2500 EA The Hague; phone +31 70 378 98 30, fax +31 70 378 97 83.]

## USA

**Failing, Patricia:** Seattle - suit to fit, in: *ARTnews*, Vol. 97, No. 9, October 1998, p. 56.

[This article deals with the law suit brought by the heirs of P. Rosenberg against the Seattle Art Museum over Matisse's 1928 *Odalisque*.]

**Lauria, Joe:** Chicago - An amicable resolution, in: *ARTnews*, Vol. 97, No. 9, October 1998, p. 54.

[Article is dealing with the settlement in the dispute between the Gutmann family and D. Searle over Degas' pastel.]

## Latest News

### Principles With Respect to Nazi-Confiscated Art

In the following you will find the "Principles With Respect to Nazi-Confiscated Art" as stated by the Washington Conference On Holocaust-Era Assets/ U.S. Holocaust Memorial Museum (U.S. Department of State):

#### **Principles With Respect to Nazi-Confiscated Art**

In developing a consensus on non-binding principles to assist in resolving issues relating to Nazi-confiscated art, the Conference recognizes that among participating nations there are differing legal systems and that countries act within the context of their own laws.

- I. Art that had been confiscated by the Nazis and not subsequently restituted should be identified.
- II. Relevant records and archives should be open and accessible to researchers, in accordance with the guidelines of the International Conference on Archives.
- III. Resources and personnel should be made available to facilitate the identification of all art that had been confiscated by the Nazis and not subsequently restituted.
- IV. In establishing that a work of art had been confiscated by the Nazis and not subsequently restituted, consideration should be made for unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era.
- V. Every effort should be made to publicize art that is found to have been confiscated by the Nazis and not subsequently restituted in order to locate its pre-War owners or their heirs.
- VI. Efforts should be made to establish a central registry of such information.
- VII. Pre-War owners and their heirs should be encouraged to come forward and make known their claims to art that was confiscated by the Nazis and not subsequently restituted.
- VIII. If the pre-War owners of art that is found have been confiscated by the Nazis and not subsequently restituted, or their heirs, can be identified, steps should be taken expeditiously to achieve a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case.
- IX. If the pre-War owners of art that is found to have been confiscated by the Nazis, or their heirs, can not be identified, steps should be taken expeditiously to achieve a just and fair solution.

X. Commissions or other bodies established to identify art that was confiscated by the Nazis and to assist in addressing ownership issues should have a balanced membership.

XI. Nations are encouraged to develop national processes to implement these principles, particularly as they relate to alternative dispute resolution mechanisms for resolving ownership issues.

## Different Views of the Spoils of War – A Bibliography on Internet

This bibliography was compiled by the research project "Fate of Cultural Treasures of the Soviet Union Looted by the Nazis during World War II" which was established at the East European Research Center/University Bremen in 1992.

The bibliography was developed parallel to the research in international archives (Ukraine, Belorussia, Russia, U.S.A. and Germany). At the beginning of the project the East European Research Center understood that there were only few publications about art-looting during World War II in Eastern countries (even less than about Western countries). After the East European Research Center collected a lot of very important documents in Bremen we started to analyze them and finally we published the first results. See the first collection of manuscripts from different authors in *Betr.: Sicherstellung, NS-Kunstraub in der Sowjetunion* ("Subject Matter: Taking Possession - Spoils of art by Nazis in the Soviet Union"), published by Wolfgang Eichwede and Ulrike Hartung (Bremen, 1998).

The topic of the bibliography touches various complex problems like the German attack on the Soviet Union in general or German policy in the occupied territories 1941-1944; questions about the American and Allied occupation, power and restitution policy in Germany 1945-1948/1952. The collected titles of those large problems has always to be seen in light of the main theme: actions of German organizations against the Soviet Union and questions about whereabouts of transferred cultural treasures.

The user will also find publications about general aspects and international law for the protection of cultural treasures in war times. The bibliography contains approximately 600 titles. It does not pretend to be complete in any of the subjects concerned. It starts with a nucleus of about 100 titles, which seemed to us to be the most interesting publications for people who want to find an entry on the topic.

Provisional address: [http://www.forschungsstelle.uni-bremen.de/ger/astbib\\_.html](http://www.forschungsstelle.uni-bremen.de/ger/astbib_.html).  
Correspondence may be addressed to Ulrike Hartung, e-mail: [uhartung@osteuropa.uni-bremen.de](mailto:uhartung@osteuropa.uni-bremen.de).

New Address

The Netherlands State Institute for War Documentation (Rijksinstituut voor Oorlogsdocumentatie, RIOD) in Amsterdam will have a new name from January 1, 1999: From that date on, it will be called The Netherlands Institute for War Documentation, because it will no longer fall under the Ministry of Education, Culture and Science, but under the Royal Netherlands Academy of Sciences. This change of name does not involve a change of tasks which are to collect and store archives on World War II and the Netherlands and to make them accessible and available. Further tasks are to conduct academic research and to publish the research findings. Also information to institutions and private persons is provided.

Netherlands Institute for War Documentation  
Herengracht 380

NL-1016 CJ Amsterdam, The Netherlands

Tel.: 31-20 523 38 00 / fax: 31 20 523 38 88

e-mail: [info@oorlogsdoc.knaw.nl](mailto:info@oorlogsdoc.knaw.nl)

Website: <http://www.oorlogsdoc.knaw.nl>

## Museum Issues on Internet

At the Internet address <http://www.museumsworld.com>, news is given about matters relating to museums, conservation issues, conferences and lectures. Attention is given to World War II losses as well: recently, the information included short reports on the Washington conference and news about a painting attributed to Rembrandt in Prague claimed by the French government.

**You are glad you are on the mailing list of  
"Spoils of War"?  
You want the project to continue?  
Then please read the following:**

Until now this newsletter is not funded by any foundation. This means that we cannot afford to pay people to work on it. All editorial board members work on the newsletter during their free time. You, as our readers, can help us to make the work a little easier. How to do that?

- Send us all your contributions without being asked for and in time.
- If you don't want your article translated or published on the internet ([www.beutekunst.de](http://www.beutekunst.de)), please let us know.
- Tell us about which aspects you would like to publish an article in the next issue(s).
- Give us all information which might be of interest to us.
- Send us all new bibliographical data you can get hold of.
- Send us your contributions in English, so that we do not have to translate them, and on disk.
- Tell us about the restitutions you know about.
- Ask your colleagues to write us about their research.
- Send us press articles related to the topic of World War II losses.

**Thank you for your cooperation - we certainly will appreciate it!**

**Technical note:**

Please send your papers in form of a printout as well as on disk. Possible text processing programs are: Winword 6.0, Winword 2.0, WordPerfect, Word. Please don't make any special formats, just write the plain text. If you have notes, please don't insert them; attach the notes on a separate page. Indicate on the printout where to put them.

The reports should have a size of 2-3 pages maximum. Any longer report will be either shortened by us or must be rejected.

Two clear black & white photographs with full photo credits may be included (One for the English, one for the Russian edition).

For the bibliography, please give the correct title reference, a translation into English, and a short annotation.

Please send your papers to the addresses given in the imprint.

