

*ADVISORY COMMITTEE ON THE ASSESSMENT OF RESTITUTION APPLICATIONS  
FOR ITEMS OF CULTURAL VALUE AND THE SECOND WORLD WAR*



**Report 2006**

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Cover:  
A silver Kiddush cup (RC 1.30)



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**Frequently used abbreviations:**

BHG:	Origins Unknown Agency
ICN:	Netherlands Institute for Cultural Heritage
NK collection:	Netherlands Art Property Collection
OCW:	Culture, Education and Science
SNK:	Netherlands Art Property Foundation

## Foreword

The event that provoked most discussion this year was undoubtedly the decision taken by the State Secretary in the Goudstikker case, a decision that was founded on the recommendation issued by the Committee on 19 December 2005 but based on different grounds.

The year under review was a busy one. Twelve recommendations were published, but the backlog did not get any smaller. Due in part to activities undertaken by the Ministry of Culture, Education and Science (abbreviated as OCW in Dutch) so many new applications for restitution were filed that by the end of December, twenty-three new cases were waiting to be dealt with. The expectation is justified that the Committee will need at least to the end of 2008 to complete its task. Talks have started with the Ministry to secure the continued existence of the Committee.

Although it passed without much comment either internally or externally, another event that attracted attention was the fact that on 16 November 2006, the Committee celebrated its fifth anniversary. This first and presumably last anniversary is an opportunity for some reflection, however.

Originally, the establishment of the Committee was based on the Dutch parliament's perception that there could well be a discrepancy between the interests of those applying for the restitution of works of art, on the one hand, and the government's interest in preserving public art collections, on the other. The fear that a conflict of interests might arise has not materialised. In these past five years, the Netherlands' restitution policy has achieved a certain level of self-evidence, which must not lead to complacency, however. Although restitution policy has not been able to compensate the serious shortcomings of post-war restoration of rights, the independence and visibility of the recommendations made and the transparency in decision-making has inspired confidence in current policy. Nevertheless, when dealing with the claims, it has repeatedly become obvious how delicate the issues are for the relatives of the original owners of the looted items of cultural value.

The international example the Netherlands has set with its restitution policy obliges the Restitutions Committee to continue to handle all present and future applications with the utmost care. In the period to come, the Committee will pursue its task with enthusiasm and with the assistance of a strong, dedicated secretarial staff.

B.J. Asscher  
chairman



# 1. Introductory remarks

## 1.1. The Restitutions Committee

This is the fifth annual report of the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War, ‘the Restitutions Committee’. The Restitutions Committee took up its duties in January 2002. On the basis of a liberalised restitution policy, it advises the Minister of Culture, Education and Science (OCW) on the restitution of items of cultural value of which the original owners relinquished possession involuntarily due to circumstances directly related to the Nazi regime. The large majority of claims involve works in the Netherlands Art Property Collection (NK collection). The Collection comprises works of art with a ‘war history’, objects that were confiscated during the Nazi regime or sold and taken to Germany, whereupon they were recovered by the Allied Powers in Germany after 1945 and returned to the Netherlands, under whose administration they then fell. To this day, the NK collection still contains over 4,000 items, most of which were originally Jewish property.<sup>1</sup>

As a consequence of the distribution of portfolios at the Ministry, responsibility for restitution policy rested with the State Secretary of Culture, Education and Science until the end of June 2006. Since Ms M.C. van der Laan's resignation, this task has rested with the Minister and therefore the Restitutions Committee advised Ms. M.J.A. van der Hoeven. The Restitutions Committee has so far prepared recommendations in 33 cases, advising the restitution of the claimed works in by far the majority of cases. A total of about 400 works of art have been restored to (the heirs of) the original owners.<sup>2</sup>

The Restitutions Committee comprises the following members:

B.J. Asscher (chair)

J.Th.M. Bank

J.C.M. Leijten

P.J.N. van Os

E.J. van Straaten

H.M. Verrijn Stuart

I.C. van der Vlies

J.M. Polak assists the committee as advisor.

In the performance of its duties, the Restitutions Committee enlists the support of its secretarial staff under the management of Ms E. Campfens (secretary/rapporteur). In 2006, the secretariat also employed Ms A. Marck (deputy secretary), Ms T. Brandse (office

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<sup>1</sup> For a detailed description of the origins of the Restitutions Committee, see the 2002 and 2005 annual reports.

<sup>2</sup> Most of these concerned the Gutmann case (RC 1.2) and the Goudstikker case (RC 1.15).



manager) as well as Ms E. Muller, Ms A.J. Kool, Mr F.M. Kunert and Ms A.M. Jolles. Given the large number of applications for recommendations and the maternity leave of one employee, Ms M. Stek and Mr A.J. Bonke were assigned to the secretariat in 2006.

## 1.2. A review of the year 2006

The start of the year 2006 was dominated by the cabinet discussion on the Restitutions Committee's recommendation in the Goudstikker case of 19 December 2005, which was also accompanied by considerable media interest. This was followed in February 2006 by the decision of the State Secretary of OCW to return over 200 paintings to J. Goudstikker's heirs. The actual transfer of the works took place in 2007.

As in previous years, a large number of applications for restitution were filed in 2006. The reason for the influx has to do with the fact that the deadline for filing an application for restitution under the liberalised restitution policy officially expires on 4 April 2007.<sup>3</sup> To draw attention to this closing date, the Minister for OCW launched a publicity campaign as of March 2006. Announcements were placed in daily newspapers in the Netherlands and abroad and an exhibition was organised in the Hollandsche Schouwburg theatre in Amsterdam. Entitled *Geroofd, maar van wie? (Looted, but from whom?)*, fifty works of art and paintings whose owners had not yet been traced, were put on display. The exhibition ran until 19 March 2007.

At the time this report was to going to press, it has become clear that claims can still be filed with the Ministry of Education, Culture and Science after 4 April 2007 and that the Restitutions Committee is to retain its advisory role. However, the Ministry will terminate its active search for original owners of looted objects.

With a view to the large number of applications for restitution still awaiting advice, the Restitutions Committee tried to issue as many recommendations as possible in 2006. In the past year, the Committee has prepared twelve recommendations, which are discussed in chapter 3. Of the twelve, eleven led to a partial or full granting of the claim. In one case (relating to several objects of Anne Frank's estate), the Committee deemed itself unauthorised to issue a recommendation.

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<sup>3</sup> Government response to the Final Recommendations of the Ekkart Committee in a letter from the State Secretary of OCW to the President of the Lower House on 8 March 2005, Government Gazette. 4 April 2005, no. 64.

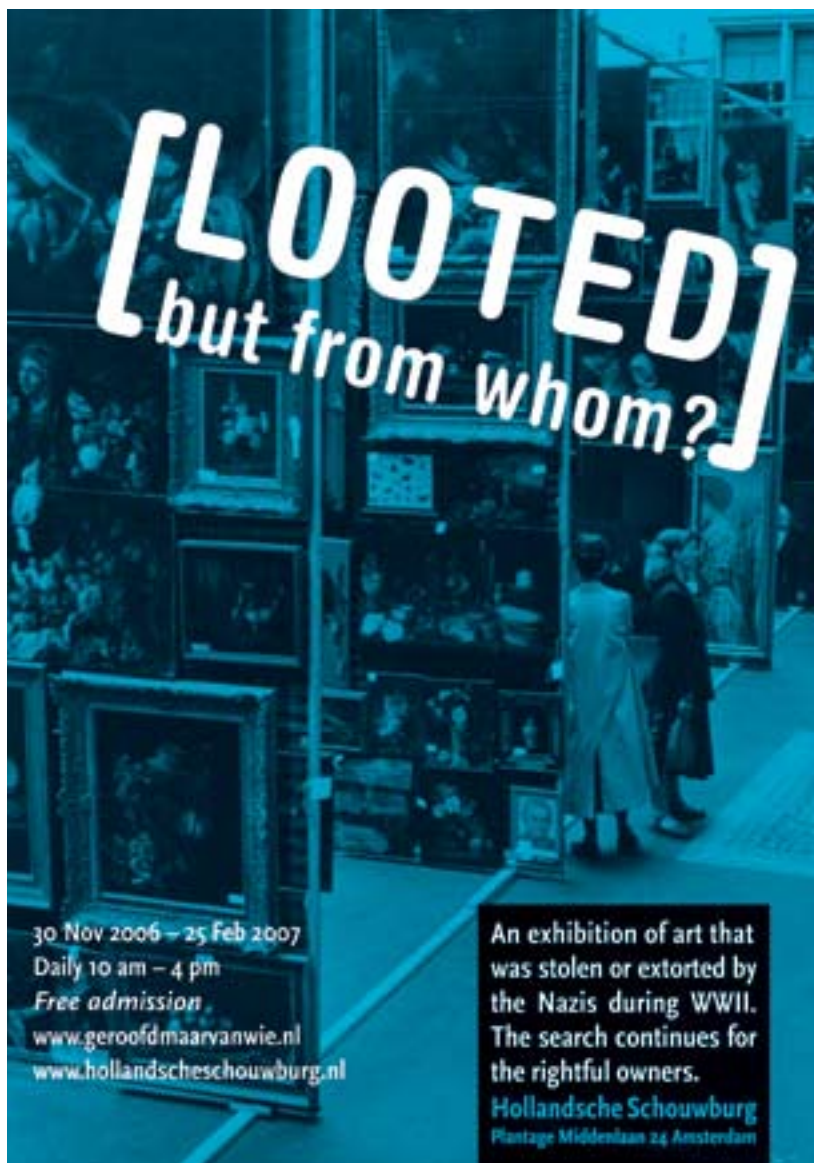
### 1.3. Annual report in brief

Chapter 2 comprises a description of the Restitutions Committee's tasks and an overview of the principles on which the liberalised restitution policy is grounded. The term of office of the Restitutions Committee is also discussed here.

A survey of the number of recommendations made by the Committee in the 2002-2006 period is found in chapter 3 as is a summary of the recommendations made in 2006.

Unlike previous years, complete recommendations are not included in the appendix. Those interested in the full texts can consult the Committee's website ([www.restitutiecommissie.nl](http://www.restitutiecommissie.nl)) or order copies from the secretariat.

Chapter 4 addresses the procedures applied in the recommendations.



1. Brochure of the exhibition in the Hollandsche Schouwburg theatre, with a picture of the claim exhibition held in the Amsterdam Rijksmuseum from 20 April to 9 June 1950.

## 2. Restitution policy

### 2.1. Mandate and policy framework

Based on the Decree establishing the Restitutions Committee of 16 November 2001, the committee's task is to advise the Minister for OCW, at the latter's request, on:

- decisions to be taken concerning applications for the restitution of items of cultural value of which the original owners involuntarily lost possession due to circumstances directly related to the Nazi regime and *which are currently in the possession of the State of the Netherlands* (article 2, paragraph 1);
- on disputes concerning the restitution of items of cultural value between the original owner who, due to circumstances directly related to the Nazi regime, involuntarily lost possession of such an item, or the owner's heirs, and the current possessor which *is not the State of the Netherlands* (article 2, paragraph 2). In the latter case, the parties are required to have jointly requested advice from the Restitutions Committee.

The Decree establishing the Restitutions Committee is included in appendix 1. The decision concerning the (re)appointment of the members of the Restitutions Committee is included in appendix 2.

If a work of art for which an application for restitution has been made is in possession of the State (in the National Art Collection), the Committee will observe 'national policy' in its recommendation. If there is a dispute between private persons, then the concepts of 'reasonableness and fairness' will define the assessment framework, as stipulated in article 2, paragraphs four and five of the Decree. To date, the Committee has almost exclusively issued recommendations on the restitution of works of art that are part of the

AANGIFTE-FORMULIER  
(Alvorens in te vullen raadpleeg men de brochure „Richtlijnen voor het invullen van de Aangifte-formulieren“)

1. Voorwerp: Eikenhouten kabinet ~~compositie~~

2. Kunstenaar, maker, auteur:

3. Voorstelling of titel en beschrijving:  
Balconen identiek aan de best. afgebeeld in  
Huytenman, Huisraad en Binnendeel in Ned. L. d. d. v. p. 183.  
2 v. l. v. r.

4. Materiaal: Eikenhout.

5. Afmetingen:  
± 150 x 210 cm.

6. Handtekening, uitgever, merk:

7. Datering: XVIII<sup>e</sup> eeuw.

2. Part of a Netherlands Art Property Foundation declaration form.

National Art Collection.<sup>4</sup> However, in 2006, two cases were brought before the Committee involving works that were not held by the State. These cases are still at the investigation stage.

## 2.2. National policy

In a memorandum published in the summer of 2000 entitled ‘Restitution and recovery of items of cultural value’, the government outlined the basic assumptions on which restitution policy is grounded.<sup>5</sup> It was argued that applications for restitution would be handled even if the claim was already legally prescribed, provided:

- *it is a new application, i.e. not one already settled by a decision of a competent restoration of rights body or by amicable restoration of rights (settlement); or*
- *it is an application already settled as part of a restoration of rights in respect of which new, relevant facts have subsequently come to light.*

The government named as the key criterion for granting an application for restitution *‘the involuntary nature of the loss of possession and the establishment in law of the rights of the claimant as original owner or heir of the original owner’*.

On the instructions of the Dutch government, the Origins Unknown Committee (the Ekkart Committee) formulated a number of recommendations providing a framework for these basic assumptions, i.e. ‘Interim Recommendations on Private Art Property’ of April 2001, the ‘Recommendations regarding the restitution of works of art belonging to art dealers’ of January 2003 and the ‘Final Recommendations’ of December 2004. The government adopted most of their recommendations, thus establishing national policy on the restitution of works of art. Given their importance for the Restitutions Committee’s work, the Ekkart Committee’s recommendations for private art property are cited below. The recommendations with regard to art dealers are not included in this year’s annual report because no recommendations concerning such cases were made in 2006.

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<sup>4</sup> In all but one case, in which the Committee declared itself unauthorised.

<sup>5</sup> See the letter dated 14 July 2000 from the State Secretary of OCW to the President of the Lower House and the accompanying government memorandum concerning the restitution and recovery of items of cultural value (Dutch Lower House 1999-2000 session year, 25 839, no. 16).

## Interim recommendations of the Ekkart Committee in respect of private art property

1. The committee recommends that the notion of ‘settled cases’ be restricted to those cases in which the Council for the Restoration of Property Rights or another competent court has pronounced judgment or in which a formal settlement was made between the lawful owners and the bodies which in hierarchy rank above the SNK.<sup>6</sup>
2. The committee recommends that the notion of *new facts* be given a broader interpretation than has been the usual policy so far and that the notion be extended to include any differences compared to judgments pronounced by the Council for the Restoration of Property Rights as well as the results of changed (historic) views of justice and the consequences of the policy conducted at the time.
3. The committee recommends that sales of works of art by Jewish private persons in the Netherlands from 10 May 1940 onwards be treated as forced sales, unless there is express evidence to the contrary. The same principle should be applied in respect of sales by Jewish private persons in Germany and Austria from 1933 and 1938 onwards, respectively.
4. The committee recommends that the sales proceeds be brought into the discussion only if and to the extent that the then seller or his heirs actually obtained the free disposal of said proceeds.
5. The committee recommends that for the purposes of applying this rule the rightful claimants be given the benefit of the doubt whenever it is uncertain whether the seller actually enjoyed the proceeds.
6. The committee recommends that whenever it is necessary to couple a restitution to the partial or full repayment of the sales proceeds, the amount involved be indexed in accordance with the general price-index figure.
7. The committee recommends that the authorities, when restoring works of art, refrain from passing on the administration costs fixed by the SNK at the time.
8. The committee recommends that a work of art be restored if the title thereto has been proved with a high degree of probability and there are no indications of the contrary.
9. The committee recommends that owners who did not use an earlier opportunity of repurchasing works of art be reafforded such opportunity, at any rate insofar as the works of art do not qualify for restitution without any financial compensation according to other applicable criteria.

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<sup>6</sup> On 29 June 2001, the government refined this as follows: ‘The government is consequently willing to follow the Committee in its recommendation but feels that the concept of a “formal settlement” can lead to uncertainty. In the government’s opinion, a case will be considered settled if the claim for restitution has intentionally and deliberately resulted in a settlement or the claimant has explicitly waived its right to the claim for restitution.’

Policy with regard to the restitution of private art property is explained in detail in the 2002 annual report, while policy concerning art dealers is outlined in the 2005 annual report. The 2005 report also contains the text of the Final Recommendations (appendix 1c). Both annual reports can be found on the Committee's website.

### 2.3. Term of Office of the Restitutions Committee

As stated in the introduction, the government, at the recommendation of the Ekkart Committee, decided in 2005 to impose a time limit on claiming works of art from the Dutch National Art Collection. Technically, the period within which an application for restitution could be submitted to the Minister for Culture, Education and Science under the extended restitution policy ended on 4 April 2007. However, at the time this report was going to press, it was announced that applications for restitution can still be filed after this date. Under which policy these applications are to be assessed is not yet known exactly. The Ministry has made it clear that the Restitutions Committee will retain its advisory role, meaning that for the time being, the Committee will continue to exist.



3. Soldiers carrying paintings downstairs in Neuschwanstein Castle near Füssen in Germany, where the American army had discovered an enormous cache of artworks.

### 3. The recommendations

#### 3.1. State of affairs

The Minister for OCW has requested the advice of the Restitutions Committee in 56 cases since it was established. In the period 2002 to 2006, the Restitutions Committee issued 33 recommendations, some of which involved more than one claim, for instance because various applications were made for the same work of art. The recommendations involved over 600 items of cultural value in the National Art Collection, varying from silver or porcelain objects to paintings by 17th-century Dutch masters. The scope varies from claims to a single work of art to claims for the return of several hundreds of works.

Of the total of 33 recommendations issued, the advice in 23 cases was to fully grant the claims in the applicants' favour. In three instances, it was recommended that the claim be rejected in full.<sup>7</sup> In five recommendations, the claim was allowed in part and rejected in part<sup>8</sup> and in two instances, the Committee considered itself unauthorised to prepare a substantial recommendation.<sup>9</sup>

To date, the Committee has recommended the restitution of approximately 400 items of cultural value.

No. of cases put before the RC each year		No. of recommendations issued by the RC each year	
2002	12	2002	5
2003	4	2003	7
2004	7	2004	2
2005	16	2005	7
to 31 December 2006	17	to 31 December 2006	12
<b>Total</b>	<b>56</b>	<b>Total</b>	<b>33</b>

The Restitutions Committee had 35 cases under review in 2006, 17 of which were filed in 2006 and 18 dated from previous years. The Restitutions Committee issued 12 recommendations in the year under review. This means that at the end of 2006, 23 applications were still pending that will be settled in 2007 or later.

<sup>7</sup> RC 1.6 (Koenigs collection), RC 1.9 and RC 1.11.

<sup>8</sup> RC 1.10, RC 1.15 (Goudstikker), RC 1.18, RC 1.19 and RC 1.26.

<sup>9</sup> RC 1.13 and RC 1.38 (estate of Anne Frank).

### 3.2. Discussion of recommendations made in 2006

#### 1. *A family portrait* by J.M. Quinkhard (RC 1.22)

In a letter dated 20 December 2004, the State Secretary for Culture, Education and Science asked the Restitutions Committee to issue a recommendation regarding the application for the restitution of the painting *A family portrait* by J.M. Quinkhard (NK 2079). The painting was, at that point, on loan to the Arnhem Museum of Modern Art, where it was held in the museum's depot. The application for restitution came in response to a letter from the Origins Unknown Agency addressed to various members of Rosa Jacobson-Granaat's family, requesting information about the painting.



4. *A family portrait* by J.M. Quinkhard (NK 2079)



Prior to the war or in any event as from 1921, the Quinkhard painting was part of the Granaat family art collection. Rosa Jacobson-Granaat, born in Amsterdam on 19 May 1888, most likely inherited the painting in 1928. The most recent art historical source conclusively proving that Rosa Jacobson-Granaat owned the painting dates from 1932. Rosa Jacobson-Granaat was married to Abraham Simeon Jacobson and had one adopted daughter. During the first years of the war, the couple, who possessed several valuable works of art, resided on the Minervalaan in Amsterdam. After going into hiding on a farm, they were arrested and transported from Westerbork transit camp to Auschwitz in early September 1944, where they were killed a few days later.

During the war, the Jacobson-Granaat family possessions, including an unknown number of paintings, were acquired by the occupying forces in number of ways. For instance, the couple's household effects were removed after their arrest and several works of art that the couple had placed in storage during the war were confiscated and moved to Germany. Whether *A family portrait* by J.M. Quinkhard was among the works of art looted in the manner described above cannot be established with any certainty. It was demonstrated, however, that in 1944, the painting was acquired by a Dutch trader who sold it for NLG 25,000 to Ernst Göpel, a German, for the Führermuseum in Linz, in June of that year.

The Committee was therefore faced with the question of whether it was sufficiently plausible that Rosa Jacobson-Granaat had involuntarily lost possession of the claimed painting during the occupation and had not sold it before then. The Committee investigated whether there was any evidence indicating that the painting may have been sold before the start of war. This evidence was not found. The Committee further noted that the work of art was described in the art historical literature, thereby increasing the likelihood that written evidence of its sale during the 1932-1944 period would have been found. Moreover, the Committee attached importance to a statement made by a great-niece of Rosa Jacobson-Granaat:

*'This week, I saw the photocopy of the painting 'A family portrait'. As a young girl, I often visited my aunt and uncle, Rosa and Abraham Jacobson. I'm fairly certain that I saw this painting in their home. As a child, I admired the painting's beauty. Of course, this was a long time ago (circa 1938 to circa 1941), but I'm certain my memory is not playing tricks on me.'*

On 6 March 2006, the Restitutions Committee advised the State Secretary to return the painting *A family portrait* by J.M. Quinkhard to the heirs of Rosa Jacobson-Granaat. In a decision taken on 5 April 2006, the State Secretary adopted the recommendation.

## **2. Recommendation regarding the application for the restitution of a silver Kiddush cup (RC 1.30)**

In May 2005, an application for restitution was filed with the Restitutions Committee regarding a rather unique object, namely a silver Kiddush cup with Hebrew inscription that was part of the Netherlands Art Property Collection (NK 3519). The cup is shown on the cover. In the Jewish tradition, the word *Kiddush* – which literally means *consecration* –

refers to the blessing of a glass or goblet of wine at the beginning and end of the Sabbath and other holy days and ceremonies. According to the Origins Unknown Agency, the cup may have belonged to the applicant's great-grandfather. The Restitutions Committee gave priority to this application for restitution because of the applicant's advanced age. The applicant also acted on behalf of four other descendants of his great-grandfather.

The investigation showed that the cup had been part of a shipment of gold and silver jewellery and other objects that was returned to the Netherlands in 1946 and that were known to have been looted from Dutch prisoners, particularly Jews, during the war. The cup had been included in the Netherlands Art Property Collection though the meaning of the inscription had not been looked into before. At the end of December 2004, in response to a publication containing an illustration of the cup in a sub-report of the Origins Unknown Agency, Ms Kröger, an employee of the Jewish Historical Museum in Amsterdam, conducted a study of the Kiddush cup and the inscription. The inscription was translated as follows:

---- *The holy congregation of Oud-Beijerland*  
*To the beloved Mr Zwi, son of Mr Uri*  
*---on his eightieth birthday*  
----*Niesan [5]649 (=1889)*

In the light of this, Ms Kröger reached the following conclusion. In Jewish circles, the name Zwi is also rendered as Hartog, while the name Uri translates as Philip. Hartog Koopman Sr. was the son of Philip Koopman and celebrated his 80th birthday in April 1889. He was a prominent member of the Jewish Community of Oud-Beijerland and a well-known tradesman in the village. He had also presented the Jewish Community with several synagogal objects. In all probability, Hartog Koopman Sr. was the person known in the Jewish community of Oud-Beijerland as Zwi, son of Uri, and he had received the claimed object from the Jewish Community of Oud-Beijerland in April 1889 as a token of appreciation.

The Committee took up this conclusion and considered Hartog Koopman Sr. the first owner of the Kiddush cup. The investigation did not reveal with any certainty, however, which of his twelve children inherited the cup on Hartog Koopman Sr.'s death in 1892. As to who owned the cup in 1940, a matter of importance with regard to the possible restitution, the investigation found no unequivocal proof either. As the applicant suggested in his application, this might have been the grandson of Hartog Koopman Sr., known as Hartog Koopman Jr., who perished in Sobibor in 1943 together with his wife and three children. In any event, the Committee considered it plausible that because Kiddush cups are considered family heirlooms, this cup was passed on within the family. The Committee decided to leave the question which of the children owned the cup in 1942 unanswered and to allow the application for restitution on behalf of all Hartog Koopman Sr.'s heirs. Moreover, the Committee concluded that it was plausible that the family's loss of possession of the cup had been of an involuntary nature, being a result of persecution by the Nazi regime.

In its meeting of 3 April 2006, the Committee recommended that the Kiddush cup be returned to the applicant and the parties on whose behalf the claim had been submitted, for the benefit of the heirs of Hartog Koopman Sr. In a decision taken on 23 May 2006, and supplemented by a further decision on 13 November 2006, the State Secretary adopted the recommendation.

3. *Poultry* by M. d'Hondecoeter and *The Penitent Saint Peter* by G. Reni (RC 1.28)

In this case, an information request from the Origins Unknown Agency (BHG) about a single work of art eventually led to the restitution of two works to the daughter of the original owner.

During the investigation into *The Penitent Saint Peter* by G. Reni (NK 2863), which was in storage at the depot of the Netherlands Institute for Cultural Heritage at the time, the BHG discovered that during the war, the work had been in the possession of Erwin Samuel Simon. Simon had died in 2001, but the BHG managed to trace his daughter.



5. *Poultry* by M. d'Hondecoeter (NK 1985)

In October 2004, she was asked to provide additional information about the painting by G. Reni. When searching through the family archive, she discovered letters that referred to another painting, namely *Poultry* by M. d'Hondecoeter. It emerged that that painting was also part of the Netherlands Art Property Collection (NK 1985) and on long-term loan to the Centraal Museum in Utrecht. In February 2005, Simon's daughter applied for the restitution of both paintings.

It became clear that Simon, of Jewish extraction, had lived in Berlin until 1938 and had been in possession of a collection of art. As a consequence of anti-Jewish legislation, he and his wife left Berlin in 1938 and moved to the Netherlands, where they took an active part in the resistance movement during the occupation. From the end of 1943, they were forced to go into hiding, during which period their daughter was born. The family was arrested in 1944 but survived the war.

Sufficient material was available in the archive, allowing the Committee to conclude that the claimed paintings by Reni and d'Hondecoeter had been in Simon's possession at the beginning of the war. For example, the archive contained an invoice pertaining to the painting by G. Reni from the archive of 'Kunsthandel Voorheen J. Goudstikker N.V.' (Gallery formerly known as J. Goudstikker N.V.), established in Amsterdam and run by the German Alois Miedl, showing that Simon had sold them the work in February 1941. The applicant was able to prove that her father had sold the d'Hondecoeter painting to Amsterdam art dealers Paul Cassirer & Co in April 1942. The painting eventually ended up in Germany and was returned in 1947. After the war, Simon made several attempts at regaining the d'Hondecoeter painting from the Dutch authorities but they came to nothing. The condition made by the authorities, namely the repayment of the proceeds received at the time, was probably the reason for this.

In its recommendation of 24 April 2006, the Committee considered it plausible that Simon had sold the paintings involuntarily, and that as a stateless resident of Jewish origin, Simon was not in a position to practise his profession in the Netherlands and was therefore forced to sell the works of art to support his family. The Committee therefore recommended that both paintings be returned. In accordance with the fourth recommendation regarding private art property, the Committee did not attach the condition that the proceeds received at the time be repaid, considering it plausible that Simon had had to use these funds for his impending escape into hiding and hence was not free to use these proceeds at his own discretion. Of particular interest in this case was that the Committee also included in its considerations the fact that in 1951, the State of the Netherlands had auctioned a work by Jan Steen that had belonged to Simon and which the latter had sold under pressure of war. After it had been recovered, the painting was sold for the benefit of the national treasury, and Simon was neither informed about this nor did he receive any compensation.

In a decision taken on 17 May 2006, the State Secretary adopted the recommendation.

4. Two letters, three photographs, a French textbook and a necklace from the estate of Anne Frank (RC 1.38)

In the summer of 2005, the Restitutions Committee was asked to issue a recommendation regarding the application by Mr B.E. and the Anne Frank Fund, both of Basel (Switzerland), for the restitution of a number of items from the estate of Anne Frank. These items had been held by the Netherlands Institute for War Documentation (NIOD) in Amsterdam since 1981.

The application was for:

1. A necklace that had belonged to Anne Frank (Mazel Tow) with the engraving 12.6.1929 *Frankfurt am Main*.
2. A textbook entitled *Franse Spraakkunst* (French grammar) that had belonged to Anne Frank, with an adhesive paper.
3. A letter Anne Frank wrote her grandmother, dated 18 December 1936 and written in German.
4. A letter Anne Frank wrote her grandmother, dated 9 May 1937 and written in Dutch, with the salutation *Lieve Oma* (dear Grandma). The accompanying envelope is addressed to *Mevr. A. Frakstern*.
5. A photograph of Mrs Edith Frank-Holländer with Anne.  
A photograph of Anne and Margot Frank with a third person.
6. A photograph of the interior of the Achterhuis.

The Minister requested the Committee to first investigate whether the said objects could be considered ‘items of cultural value’ within the meaning of the Decree establishing the Restitutions Committee.

Having answered that question in the affirmative, the Committee subsequently instituted a fact-finding investigation from which it emerged that the items had been purchased by an editor of the German weekly *Stern* in April 1981 from an unknown Dutchman, who indicated that he had received the items as a gift from the personal secretary of Anne Frank’s father Otto Frank. As agreed, the editors of the weekly then handed the objects to the RIOD (State Institute for War Documentation, now known as the Netherlands Institute for War Documentation) in May 1981.

However, according to the applicant, a cousin of Anne Frank and director of the Anne Frank Fund, the objects were taken from Otto Frank’s home in Switzerland, shortly before or after his death in 1980. The applicant declared that:

*‘He would never in his life have given a ‘friend’ any personal mementos and family documents, especially not those his youngest daughter wrote to his dearest mother. [...] On his death, Otto Frank had bequeathed all documents in his house to the Anne Frank Fund. As the letters Anne Frank wrote to my family were illegally acquired by “Stern”, I claim ownership of them as rightful and last immediate heir of the E.-Frank family.’*

In 1981, it seemed that the NIOD also had its doubts regarding the lawfulness of the acquisition of these items by the anonymous Dutchman. However, the Committee did

not arrive at a substantive judgement. After paying attention to several matters of inheritance, the Committee considered as follows:

*'Before addressing the question of which person or organisation can be considered the party (originally) entitled to the seven items at issue, the Committee will first have to express an opinion whether it is competent to come to a substantive judgement in its recommendation. Pursuant to Article 2 of the Decree, the Committee's tasks are restricted to recommendations concerning items of cultural value the loss of which is due to circumstances directly related to the Nazi regime. [...]*

*In the light of the facts set out above, none of which indicate loss of possession during the Second World War, but rather a loss of possession that occurred during the 1980s, the answer to the question in 4 must be that the loss of possession is not in any way related to the Nazi regime. Despite evidence suggesting that this loss of possession was involuntary, the Committee is obliged to refrain from voicing an opinion about Mr B.E.'s ownership claims.'*

In a meeting of 24 April 2006, the Restitutions Committee deemed itself unauthorised to advise the Minister with regard to the application for restitution. On 13 July 2006, the Minister decided that the items were to be returned to the Anne Frank Foundation, explained as follows in a press report of the Ministry of Culture, Education and Science: *'Despite the fact that in its recommendation, the Committee declared itself unauthorised by reason of a lack of a relationship between the loss of possession in the 1980s and the Nazi regime, the results of the investigation served as recommendation for the Minister to return the Stern objects.'*

The items were subsequently loaned by the Anne Frank Fund in Basel to the Anne Frank Trust in Amsterdam.

##### 5. *Woman standing with veil* by Hendrick Goltzius (RC 1.32)

In a letter dated 5 May 2005, Arthur Feldmann's grandchildren requested the restitution of a sketch by Hendrick Goltzius entitled *Woman standing with veil*. The sketch was executed with brush and brown ink on the back of a playing card (seven of hearts). At the time the claim was submitted, the work was in the Rijksmuseum / National Print Collection. The sketch was not part of the Netherlands Art Property Collection of recovered works but was bought by the Rijksmuseum in 1949 and hence became part of the National Art Collection.

A special feature of this case was the discovery that the claimed sketch had been looted by the Nazis during the occupation of what is today the Czech Republic, after the invasion of German troops on 15 March 1939. Arthur Feldmann, of Jewish extraction, lived with his wife in Brno in Czechoslovakia, where he worked as a lawyer and businessman. He was a renowned art lover, specialising in building a collection of sketches by Old Masters, which he kept at his house. The collection comprised approximately 750 works. The Gestapo confiscated Feldmann's villa immediately after the invasion. Feldmann's license to practise law was revoked and his assets frozen. In 1941, he was arrested, tortured and

sentenced to death. After suffering a stroke, he was released but died a few days later. His wife died in Auschwitz in 1942. Both sons and their wives managed to escape to Palestine.

Although it was not possible to ascertain exactly what happened to the collection of sketches, including the claimed work, during the occupation, the Committee considered it sufficiently plausible that the collection had been confiscated by the Gestapo, thus also confirming the involuntary loss of possession, a condition for restitution. Archive material from the period after the war was still available and it was found that part of the Feldmann collection, including the sketch by Goltzius, had been put up for auction in London by an anonymous seller in February 1946, where it was purchased by a London art dealer who later sold it to the Rijksmuseum, thereby becoming part of the National Art Collection.

In a meeting held on 15 May 2006, the Committee recommended that the sketch be returned to Feldmann's heirs, now that all conditions for restitution had been met. On 3 November 2006, in accordance with the recommendation, the Minister decided to return the work, albeit on slightly differing grounds.



6. *Woman standing with veil* by Hendrick Goltzius

6. *Three men in a boat on turbulent water* by A.H. Lier and *Mountain landscape with castle* by T. le Feubure (RC 1.29)

The application for the restitution of *Three men in a boat on turbulent water* by A.H. Lier and *Mountain landscape with castle* by T. le Feubure was based on a letter to the applicants from the Origins Unknown Agency (BHG). Both works were part of the Netherlands Art Property Collection (NK 3228 and NK 3229) and were in storage at the Netherlands Institute for Cultural Heritage (ICN). An investigation had revealed that Mr Martin Israel Aufhäuser had sold the works to German art dealer Alois Miedl in 1941. Various members of Aufhäuser's family were traced in the United States, namely his son, grandson and daughter in law, and they filed an application for restitution in February 2005.

Together with their application for restitution, the applicants included a thorough description of the life of Aufhäuser. Aufhäuser was a banker of Jewish origin who lived in Munich. He had put together a substantial collection of paintings and prints in the years between 1920 and 1932. After the *Kristallnacht* ('Night of Broken Glass') on 8/9 November 1938 during which the Gestapo ransacked the couples' house, Aufhäuser was interned in the Dachau concentration camp. The H. Aufhäuser bank, of which Aufhäuser had been the director, was 'Aryanised'. Aufhäuser was released and given permission to move to the Netherlands with his wife Auguste in 1939. With regard to their financial situation at the time, his wife later stated that:

*'During the second year of our stay in the Netherlands, we once again supported ourselves mostly by selling off belongings we had taken with us.'*

In the meantime, the pair tried to leave the Netherlands. They were given an exit visa in May 1941, because in Auguste Aufhäuser's words, *'we owned a painting that Hermann Goering wanted to acquire at all cost.'* Aufhäuser died in the United States in 1944 and his wife in 1961.

The Committee found considerable evidence that the claimed paintings were originally the property of Aufhäuser. A purchase invoice found in the archives of art dealers Kunsthandel Voorheen J. Goudstikker N.V., under the management of Alois Miedl, showed that Aufhäuser had sold the paintings to the dealers in 1941. Moreover, a letter addressed to the family's authorised agent and dated 1952 was found in the Netherlands Art Property Foundation's archive. The letter referred to the recovered works by Lier and Le Feubure, discussing the conditions for a possible restitution:

*'If you are of the opinion that you are entitled to restoration of rights, as occurred with respect to the painting by Rembrandt van Rijn (copy) entitled "Liesbeth van Rijn", which was returned to you on 15 October 1949, you will first of all have to prove previous ownership of these paintings and return to my firm such amounts as the sum you may have received from Goudstikker/Miedl.'*

No response by the Aufhäuser family was found in the archives.

In the light of these events, the Committee considered the applicants' account convincing



that Aufhäuser did indeed own the claimed works before the war and that he was able to take them with him to the Netherlands. In respect of the loss of ownership of the works of art, the Committee considered that pursuant to current national policy, the sales must be regarded as having taken place involuntarily, referring furthermore to the applicants' statement that Aufhäuser was forced to sell *'in order to support his survival and the costs for his emigration to the United States'*.

On 12 June 2006, the Restitutions Committee therefore decided to recommend the restitution of both works of art and the Minister adopted this recommendation on 23 October 2006.

#### 7. *Charles, Prince de Rohan Soubise* by J.F. Voet and four 18th-century Louis XV armchairs (RC 1.26)

In a letter dated 17 February 2005, the State Secretary for Education, Culture and Science asked the Restitutions Committee to issue a recommendation regarding the application for the restitution of the painting *Charles, Prince de Rohan Soubise* by J.F. Voet (NK 1840) and four 18th-century Louis XV armchairs (NK 656 A-D) from the former property of Milly Antonie von Friedländer-Fuld.

The Committee's investigation revealed that the Jewish Milly Antoine Von Friedländer-Fuld had owned a valuable art and antiques collection. Up until 1939, the collection was located in her house in Berlin and moved to the Netherlands in 1939 where it was put in storage with a haulage company. To this end, the collection was inventoried whilst in storage, probably in connection with the various taxes imposed on Jewish assets in Nazi Germany at the time. It was assessed at RM 487,820. In 1939, Von Friedländer-Fuld left for France, where she died in 1943.

During the occupation of the Netherlands, her collection was considered enemy property by the Nazi regime and in 1941, it was confiscated by the *'Sammelverwaltung feindlicher Hausgeräte'*. Most items from the Friedländer-Fuld collection were auctioned off at the Hague auction house of Van Marle & Bignell, after which the individual works of art ended up with various Dutch and German buyers.

Consequently, the Committee considered the loss of possession of Von Friedländer-Fuld's art collection a result of circumstances directly associated with the Nazi regime. The next question was whether a solid case could indeed be made for ownership rights of the claimed objects, which is a condition for restitution. In that regard, the claim for 18th-century Louis XV armchairs could not qualify as admissible. Although it had been determined that *similar* armchairs belonged to the looted property of Von Friedländer-Fuld, and the Origins Unknown Agency used the name Von Friedländer-Fuld as 'possible provenance' in its published investigation results, further investigation by the Committee was unable to confirm this ownership. A comparison of Von Friedländer-Fuld's armchairs with the National Art collection armchairs based on photographic material and

descriptions found in the archives brought to light a clear difference in chair frame, type of wood and respective scenes on the gobelin upholstery.

In contrast, the application for the restitution of the claimed portrait by Voet was admissible. The investigation revealed that this work of art certainly did belong to the Friedländer-Fuld collection. The painting was auctioned by Van Marle & Bignell in 1942 and finally ended up in the art collection destined for Hitler's Führermuseum. After the war, the restoration of rights authorities returned the work of art to the Netherlands, but failed to establish a link between the painting and the Friedländer-Fuld collection.



7. *Charles, Prince de Rohan Soubise* by J.F. Voet (NK 1840)

In a meeting held on 3 July 2006, the Restitutions Committee recommended that application for the restitution of the four 18<sup>th</sup>-century Louis XV armchairs be rejected and that the application concerning the painting *Charles, Prince de Rohan Soubise* by J.F. Voet be admitted. The Minister adopted the recommendation in a decision taken on 5 October 2006.

8. *Wooded landscape with shepherd and cattle* by B.C. Koekkoek (RC 1.31)

In April 2005, two applications were filed with the State Secretary of OCW for restitution of the painting *Wooded landscape with shepherd and cattle* by B.C. Koekkoek (NK 2944), which was at the time on loan to a German museum. The applications were submitted in response to a letter from the Origins Unknown Agency to several relatives of Jonas Alexander van Bever, who, an investigation revealed, had put the painting up for auction in 1941. The Committee handled both applications contemporaneously.

A declaration form from the auction house of Frederik Muller & Co dating from 1946 was found in the archives of the Netherlands Art Property Foundation (SNK), in which the voluntary sale, on 11 July 1941, of a *'Wooded landscape'* by B.C. Koekkoek was reported. The painting was sold to a German firm. There was no mention of the consigner. In 1951, the SNK's successor, the Bureau for Restoration Payments and the Restoration of Property (Hergo), asked the auction house who had put the painting up for sale. The auction house stated that it had been sent in by *'J.A. van Bever, broker in Amsterdam at the time (since deceased)'* and that the painting had been sold for NLG 2,900. There was no evidence in the archive that Hergo later contacted Van Bever's heirs.



8. *Wooded landscape with shepherd and cattle* by B.C. Koekkoek (NK 2944)

Further investigation into J.A. van Bever revealed that he was a broker of Jewish extraction who lived in Amsterdam with his wife in the early years of the occupation. After the occupying forces had issued decree 48/1941 on 12 March 1941, also known as the '*Order for the Removal of Jews from the Business Sector*', Van Bever was no longer in a position to conduct his business. He was also forced to hand in his assets to looting organisation Lippmann, Rosenthal & Co, as evidenced by documents found in the archives of the Netherlands Property Administration Institute. The Van Bever couple, their daughter and their son-in-law perished in Auschwitz around 17 September 1943. Their house was cleared out by the *Einsatzstab Reichsleiter Rosenberg*.

Given these facts, the Restitutions Committee concluded in its recommendation of 3 July 2006 that Van Bever was the owner of the claimed work in 1941. Although no further details emerged as to the circumstances in which Van Bever had sold the painting, the Committee concluded that there was no evidence that he had sold the painting of his own free will. '*On the contrary,*' the Committee wrote, '*given the fact that he was no longer permitted to conduct his business in the course of 1941, it would seem obvious that Van Bever was forced to sell the painting in the summer of 1941 in order to support his family.*'

With reference to the third recommendation on private art property by the Ekkart Committee, by virtue of which it is assumed that the sale of a work of art by a Jewish private party in the Netherlands after 10 May 1940 is to be considered a forced sale, unless explicitly demonstrated otherwise, the Committee recommended that the claimed work be returned to the heirs of Van Bever.

The Minister adopted this recommendation on 29 September 2006.

#### 9. *Portrait of a man* by N. de Largillière (RC 1.36)

As in the case described above, the reason for the application for restitution was a letter from the Origins Unknown Agency (BHG) requesting information in this case. The painting concerned was *Portrait of a man* by Nicolas de Largillière (NK 1847), which was on loan to the Bonnefanten Museum in Maastricht at the time. The work had probably been sold by the applicant's grandfather, Philipp Brünell (1867-1942) to Alois Miedl at the beginning of the war. In July 2005, the State Secretary passed the application for restitution on to the Restitutions Committee.

It emerged that the claimed work was already in Philipp Brünell's possession in 1925. Brünell, a German merchant of Jewish origin, lived in Berlin until the outbreak of World War II. In the summer of 1925, the Akademie der Künste in Berlin organised an exhibition of works by Old Masters from '*Berliner Besitz*'. In the exhibition catalogue, which is still in existence, Brünell was listed as the owner of a '*Brustbild eines vornehmen Herrn. Lwd., 77x62*' by Nicolas de Largillière.

The investigation also revealed that Brünell had emigrated to the Netherlands in 1938, taking with him various works of art from his collection, which he had built up since 1914. Initially, he was provided for by his daughter and son-in-law, but during the

occupation, he had to rely on himself, so he was forced to sell part of his art collection and live on the proceeds. Various archive sources showed that Brünell sold the claimed work and a number of other objets d'art to the German Alois Miedl in July 1940, who then included it in his art dealership Kunsthandel Voorheen J. Goudstikker N.V. and then sold it on for the benefit of H. Göring's art collection. After the war, the painting was returned to the Netherlands.



9. *Portret of a man* by N. de Largillière (NK 1847)

Brünell died in the Valerius clinic in Amsterdam in 1942. His daughter and son-in-law survived the war. Evidence was found in the archives of the Netherlands Art Property Foundation (SNK) that his daughter had made several attempts at recovering the works sold during the war since then. In a letter to the SNK, Brünell's son-in-law said that he considered the sales to be forced and pointed out that his father-in-law, *'who had collected these paintings all his life, would never have sold them at the prices he received unless he was convinced that as a Jew during the occupation, he would be totally at the mercy of the Germans'*. He reported to his representative that *'an outrageously low price' had been paid, which was attributed to the fact that 'Miedel dominated the market.'*

The Committee was also of the opinion that the sale of the work should be regarded as involuntary. Accordingly, in a meeting held on 31 July 2006, it recommended that the painting be returned. The Minister adopted this recommendation in a decision taken on 29 September 2006.

10. *Wooded landscape with herd near a pond* by J.S. van Ruysdael (RC 1.41)

An employee of the Holocaust Claims Processing Office in New York found the 17th-century painting *Wooded landscape with herd near a pond* by Jacob Salomonsz. van Ruysdael (NK 2653) via the Origins Unknown Agency website. She informed the State Secretary that the painting had been part of the collection of Jewish banker and art collector Max Rothstein (1894-1950). In September 2005, Rothstein's son and daughter filed an application for restitution with the State Secretary, who sent it to the Committee in November 2005. At the time, the painting was on loan at the Dutch embassy in Washington DC.

The application for restitution contained a detailed account of Max Rothstein's life. Born in Austria-Hungary in 1894, Rothstein was of Jewish origin and lived with his wife and two children in Berlin in the early 1930s. As co-director of *Willy Rosenthal Jr. & Co* bank, he possessed considerable assets including numerous paintings, tapestries, pieces of antique furniture and works of art. After the Nazis assumed power, he and his family were forced to move and his income plummeted. As the applicants indicated: *'Over the course of the four years following this relocation, Max Rothstein suffered dramatic reductions in his annual earnings, culminating in December 1937 when he was forced to withdraw from his position as co-proprietor of Willy Rosenthal Jr. & Co.'*

The family escaped to Amsterdam in 1938, where part of the art collection was put into storage – and subsequently confiscated by the occupying forces – and various objects were sold in order to acquire money to live on. In August 1941, the Rothstein family managed to get to the United States. Max Rothstein died there in 1950, and his wife in 1990.



10. *Wooded landscape with herd near a pond* by J.S. van Ruysdael (NK 2653)

The provenance of the claimed work by Van Ruysdael was easy to trace. Documents at the Netherlands Institute for Art History (RKD) show that the painting was put up for auction at the Messrs. Christie, Manson & Woods auction house in 1939, although it was not known who the consigner was. In 2002, at the request of the Origins Unknown Agency, auction house Christie's said that the painting had remained unsold at the time but that Max Rothstein was the consigner/owner. Rothstein's name appeared in the auction catalogue, as did the name A. Heppner, a Jewish art dealer and friend, who had acted as representative at the auction. According to a surviving invoice of the transaction, the painting was sold to Alois Miedl for NLG 2,600 by the same Heppner in July 1940. A short while later, it was sold to the Reichskanzlei for the Führer Museum in Linz for NLG 4,800. After the war, it was returned to the Netherlands.

On the basis of these facts, the Committee was of the opinion that all conditions for restitution had been met. The Committee regarded the version of events as described by the applicants – that Rothstein had sold the painting to Miedl in 1940 and that Heppner had acted as representative – as convincing. In this context, the Committee noted that the Rothstein family was still in the Netherlands in July 1940 and had sold works of art with the assistance of Heppner before. With reference to the third recommendation on private art property by the Ekkart Committee, the Committee concluded that by today's standards, the sale should be regarded as involuntary.

In its recommendation of 27 November 2006, the Committee advised the Minister to return the Van Ruysdael painting to Max Rothstein's heirs. The Minister adopted this recommendation in a decision taken on 24 January 2007.

11. *The circumcision*, anonymous, previously attributed to the Master of Kappenburg (RC 1.44)

In a letter dated 2 May 2006, the State Secretary asked the Committee to issue a recommendation regarding a decision to be taken on the application filed on 9 April 2006 for the restitution of the painting *The circumcision* by an anonymous artist of Westphalia, dating from the last quarter of the 15th century (NK 1614). The painting was on loan to the Bonnefanten Museum in Maastricht. The work was previously attributed to the Master of Kappenburg, also known as the Master of Kappenberg or Cappenberg, or as Jan Baegert.

The painting appeared to have been the property of the applicants' grandmother, Johanna Margaretha Stern-Lippmann, of Jewish origin. She was born in Berlin in 1874, where she lived with her husband and four children until 1935. After the death of her husband, she fled to the Netherlands. She made several attempts at procuring an exit visa for herself and several members of her family during the first years of the occupation. To this end, she handed over a painting by the artist Fantin Latour to the Dienststelle Mühlmann. No exit visas were issued, however, and the painting was taken to Austria. The Latour was not returned to the family until 1949. After the war, an authorised agent wrote of the fate of Stern-Lippmann:

*'With no exit visa being issued, Mrs Stern was forced, at the age of 70, to go into hiding. She suffered considerably. Her household effects were confiscated and disappeared, and she lost most of her remaining belongings as well. In the end she was arrested and deported to Auschwitz, where she perished.'*

Her daughter Louise Henriette and son-in-law also died in Auschwitz in 1944; the remaining three Stern-Lippmann children survived the war.

The investigation confirmed that the Stern-Lippmann family had lost the greater part of their art collection. For instance, a letter from an authorised agent of the family dated 1955 was found in the archives asking the Dutch authorities if anything was known about 28 paintings and works of art, which had belonged to the family in 1940 and which had not been found in the estate after the war. In addition to works by well-known Impressionists such as Renoir, Pissarro and Degas, and other masters, the list also referred to a work as *'Tappenberg, Circumcision'*. The Committee found it plausible that this was the claimed work and that this must have been a writing error.

The Committee was therefore of the opinion that this painting could be assumed to have belonged to Stern-Lippmann in 1940. Further investigation of the claimed work confirmed that the painting had, in any case, been in Stern-Lippmann's possession before 1941. This could be concluded from various documents in the archives of Amsterdam art dealer P. de Boer, including an inventory card, a photograph and a reproduction of the claimed work. The words *coll. Stern* were noted both on the back of the card and on the photograph, although no date was given. As the said records showed, the work came into someone else's possession in 1941 and it was purchased by art dealer P. de Boer in January 1942. The painting was subsequently sold to a German museum.

In its meeting of 18 December 2006, the Committee recommended that the painting be returned to Stern-Lippmann's heirs. The Committee considered it sufficiently plausible that the claimed work was owned by Stern-Lippmann in 1940 and that she lost possession of it after 10 May 1940. The Committee considered that the loss of possession should be deemed as having been involuntary, a result of circumstances directly associated with the Nazi regime.

In a decision taken on 17 January 2007, the Minister decided to return the painting to the heirs.

12. *River landscape with windmills and ships* by Jan Breughel the Elder, *Saint Peter in the style of A. van Dyck* and *Still life with rummer, dish and rose* by S. Luttichuys (RC 1.46)

The last case dealt with by the Committee in 2006 was the application for the restitution of three works that had belonged to Hugo Felix Kaufmann (1883 - 1942). Given the advanced age of the applicant, the Committee handled the application, which had been



submitted for recommendation on 6 June 2006, with priority. The application involved a sixteenth-century panel *River landscape with windmills and ships* by Jan Breughel the Elder (NK 1415), a seventeenth-century panel *Saint Peter* in the style of A. van Dyck (NK 1675) and a seventeenth-century painting on canvas *Still life with rummer, dish and rose* by S. Luttichuys (NK 2296). Since their recovery by the Dutch authorities after World War II, these works had been part of the Netherlands Art Property Collection.

In a letter reminiscing about his uncle, the applicant, a nephew of Kaufmann, who also submitted his application on behalf of a niece of Kaufmann, wrote: *'Over the years, I had thought that these paintings and other family belongings were in the possession of Nazis. At the age of 90, I am happy to learn that these paintings have resurfaced.'*

The family history is as follows. Hugo Felix Kaufmann, of Jewish origin, was born in Frankfurt am Main in 1883 and took up permanent residence in Amsterdam in 1918. He married Yella Sara Ettlinger and the couple had three children. Kaufmann was awarded Dutch nationality in 1924. He was founder and director of Hugo Kaufmann & Co N.V. bank. The bank was placed under the administration of a Verwalter in November 1940 and Kaufmann's influence was increasingly curbed. As a result of decree 48/1941, the aim of which was to remove Jews from the business sector, the bank was partly taken over by another company and partly wound up in April 1941.

From April 1941 onwards, Kaufmann made several attempts to escape to the United States with the assistance of the Nazi regime. At first, it seemed he would be able to get hold of exit visas, provided he met certain financial demands. These requirements became more and more demanding as the negotiations proceeded. The Nazi authorities were afraid that Kaufmann would manage to move his assets and those of his bank, the greater part of which was in England and America, out of the German sphere of influence. Despite the fact that during the negotiations, Kaufmann demonstrated his willingness to renounce his entire property in the Netherlands and to hand over statements from the relevant foreign institutions with respect to his capital abroad, permission was not given. Correspondence between German officials from July 1941 showed that Kaufmann's emigration was no longer considered in the interests of the German Reich. In August 1941, it was decided that Kaufmann would have to surrender half of his accrued assets in America to the Nazi authorities. Kaufmann's attempts to get the required foreign currency together were to no avail. Eventually, his attempts to leave the country with his family failed. On 28 July 1942, he was arrested and transported to Auschwitz, where he died at the end of September 1942. His wife and three children were arrested on 24 September 1942, perishing some days later in Auschwitz, as did several other members of the family.

It was not possible to establish with certainty when the paintings came into Kaufmann's possession. There was evidence that he bought them at the same time as purchasing his house on Oranje Nassaulaan in Amsterdam in the early 1920s. It was established for certain that he sold the paintings in the course of 1941 in preparation for his departure from the Netherlands. The painting *Still life with rummer, dish and rose* by S. Luttichuys was sold to art dealers D.A. Hoogendijk in May 1941; Kaufmann sold the other two works through an art dealer to Dr. Hans Posse, Adolf Hitler's chief art buyer.

After the war, the applicant's brother made several attempts to recover the works of art that had belonged to Kaufmann. In 1947, this resulted in contact with the Netherlands Art Property Foundation (SNK) and the application for the restitution of the Breughel painting (NK1415). However, SNK director Dr A.B. de Vries dismissed this claim, partly because he was of the opinion that Jews were not yet forced to sell their property at the time the painting was sold in 1941.

The Committee gave consideration to this in its recommendation in connection with the admissibility of the application for restitution. Although claims that have been settled in the past are, in principle, not reassessed, the Committee noted that, with reference to the first recommendation of the Ekkart Committee regarding private art property, decisions taken by the SNK do not preclude the admissibility of claims filed under current policy.

On the basis of the investigation, the Committee considered it plausible that the paintings belonged to Kaufmann in 1941 and that he was forced to sell them in order to meet the payment requirements imposed upon him by the Nazis in connection with the exit visas. In its meeting of 18 December 2006, the Committee therefore recommended that the three paintings be returned. In a decision taken on 1 February 2007, the Minister decided to adopt the recommendation.



11. *River landscape with windmills and ships* by Jan Breughel the Elder (NK 1415)

## 4. Other matters

### 4.1. Working method

To shed light on the Restitutions Committee's procedure and the amount of time allowed for it, the working method used by the Committee in its handling of applications for restitution is discussed below.

Broadly speaking, the procedure is made up of an investigation and a recommendation stage. The average length of time the Committee needed for dealing with the cases was 40 weeks. This covers the period from the moment the application is received up until the recommendation is signed.

#### Investigation stage

After receiving the application, supplemented in some cases with information from the Ministry of OCW, the applicant is informed in writing of the procedure to be followed. This letter includes a questionnaire, as it is not always clear on whose behalf the applicant is acting, what the applicant's relationship is to the original owner and what documentary material the applicant himself may have that could substantiate the application. Given the fact that the Committee is often dealing with foreign applicants, and applicants of advanced age, a response period of several weeks has to be taken into account in most cases.

At the investigation stage, the Committee looks for answers to questions concerning the original ownership, the nature and the circumstances of the loss of property and the settlement of any applications for restitution made after the war.

Also included in the investigation are the legal and factual status of the work of art at the time of application. In its investigation, the Restitutions Committee uses information provided by the Ministry of OCW, research information from the Origins Unknown Agency and any information the applicants themselves may provide. Practice has shown that in all cases, archive and art historical research are necessary to answer the relevant questions. For this purpose, the Committee uses its secretarial staff and an investigation team. In addition, it frequently calls on archives in the Netherlands and abroad or external specialists. Calling in external institutions especially can delay the procedure at the investigation stage. At this stage, a draft investigation report is prepared.

The applicant is given a four-week period in which to respond to this draft report. In consultation with the Ministry, it was decided in 2006 that the Ministry would also have the opportunity to respond to the draft report, but that its response should be limited to providing facts.

With reference to this response, the Committee may identify questions that require further investigation. In some cases, it will consider it necessary to invite the applicant, or third parties, to attend a hearing. Once any amendments have been made to the draft report, the investigation stage is concluded with the adoption of the final investigation report.

### **Recommendation stage**

A recommendation by the Restitutions Committee comes about after internal consultations based on the facts as presented in the investigation report. A case has been placed on the Committee meeting agenda on at least two occasions, namely before adopting the draft report to be sent to the applicant and before the recommendation is adopted and signed.

After the recommendation and the investigation report have been signed, they are sent to the Minister for OCW. The Committee informs the applicant that a recommendation has been made to the Minister and that the Minister will inform the applicant of the content of the recommendation and the investigation report. It is the Minister's intention to inform the applicant of the decision and the content of the recommendation within six weeks of receiving the recommendation. If this term is not met, the Restitutions Committee considers itself at liberty to publicise the recommendation and the investigation report, which is also the case in exceptional circumstances.

### **Terms**

How long it takes to handle a request for a recommendation concerning restitution depends on what information is available, as well as the number and the kind of requests the Restitutions Committee is considering at any given time. In consultation with the Ministry, the period for handling an application for restitution has, in principle, been set at 32 weeks. The investigation of the facts is conducted under the responsibility of the Restitutions Committee. There is considerable variation in the duration of the factual investigation, because the Committee depends in part on third parties such as archives in and outside the Netherlands for the collection of facts and information.

The term of 32 weeks can be extended should the handling of the application require so. The applicant and the Minister are then informed of the extension. If the applicant indicates that the age of the person in question is a reason for prioritising the application, the Committee will take this into consideration and where possible meet this request.

## **4.2. Conclusion**

The Committee looks back on a year in which it has issued a large number of recommendations, which in most cases resulted in restitution of the claimed work of art. Dutch restitution policy enjoyed considerable home-grown and foreign publicity, due in particular to the decision taken in the Goudstikker case in 2006. This led to a greater awareness among the general public of the history of looted art at the time of the Nazi occupation.

It goes without saying that in 2007, too, the Committee intends to give its full attention to the many claims still pending.



## Appendices

1. Decree establishing the Advisory Committee on the Assessment of Restitution Applications of Items of Cultural Value and the Second World War of (Decree establishing the Restitutions Committee) of 16 November 2001 with explanatory note. 39
2. Decision concerning the (re)appointment of the members of the Advisory Committee on the Assessment of Restitution Applications of Items of Cultural Value and the Second World War of 9 December 2004, Government Gazette 2005, no. 11. 46



**Decree issued by the State Secretary for Education, Culture and Science, F. van der Ploeg, establishing a committee to advise the government on the restitution of items of cultural value of which the original owners involuntarily lost possession due to circumstances directly related to the Nazi regime and which are currently in the possession of the State of the Netherlands (Decree establishing the Advisory Committee on the Assessment of Restitution Applications)**

Reference  
**WJZ/2001/45374(8123)**

Zoetermeer  
16 November 2001

The State Secretary for Education, Culture and Science, F. van der Ploeg,

Acting in accordance with the views of the Council of Ministers;

Having regard to Article 15, third paragraph, of the 1995 Public Records Act;

Herewith decrees as follows:

#### **Article 1**

For the purposes of this Decree, the terms below shall be defined as follows:

- a. the Minister: the Minister for Education, Culture and Science;
- b. the Ministry: the Ministry for Education, Culture and Science;
- c. the Committee: the Committee as referred to in Article 2 of this Decree.

#### **Article 2**

1. There shall be a Committee whose task is to advise the Minister, at his request, on decisions to be taken concerning applications for the restitution of items of cultural value of which the original owners involuntarily lost possession due to circumstances directly related to the Nazi regime and which are currently in the possession of the State of the Netherlands.
2. A further task of the Committee shall be to issue an opinion, on the Minister's request, on disputes concerning the restitution of items of cultural value between the original owner who, due to circumstances directly related to the Nazi regime, involuntarily lost possession of such an item, or the owner's heirs, and the current possessor which is not the State of the Netherlands.
3. The Minister shall only submit a request for an opinion as referred to in the second paragraph to the Committee if and when the original owner or his heirs and the current possessor of the item in question have jointly asked the Minister to do so.
4. The Committee shall carry out its advisory role as referred to in the first paragraph in accordance with the relevant government policy.
5. The Committee shall carry out its advisory role as referred to in the second paragraph in accordance with the requirements of reasonableness and fairness.

#### **Article 3**

1. The Committee shall comprise no more than 7 members, including the chairman and the deputy chairman.



2. Both the chairman and the deputy chairman shall be qualified lawyers (*meester in de rechten*).
3. The Committee shall include at least one member whose expertise on matters concerning World War II constitutes a substantial contribution to the work of the Committee.
4. The Committee shall include at least one member whose expertise on matters concerning art history and museology constitutes a substantial contribution to the work of the Committee.
5. The Minister shall appoint the chairman, the deputy chairman and the other members for a period not exceeding three years. They shall not form part of the Ministry or work in any other capacity under the responsibility of the Minister.
6. The chairman, the deputy chairman and the other members may be reappointed once at most.

#### **Article 4**

1. Each request for advice shall be considered by a group of at least three Committee members, to be selected by the chairman, with the proviso that at least the chairman or the deputy chairman shall be involved in the consideration of the request.
2. The Committee may issue further regulations pertaining to the method to be adopted.

#### **Article 5**

1. The Minister shall provide the Committee with a Committee Secretariat.
2. The Secretariat shall be headed by the Committee Secretary, who shall be a qualified lawyer (*meester in de rechten*).
3. The Secretary shall be accountable only to the Committee for the work performed for the Committee.

#### **Article 6**

1. If required for the execution of its task, the Committee may, at a meeting, hear the person that has submitted a restitution application as referred to in Article 2, first paragraph and a Ministry representative or, as the case may be, the parties whose dispute, as referred to in Article 2, second paragraph, has been submitted to the Committee for advice.
2. If required for the execution of its task, the Committee may directly approach any third parties in order to obtain information, and may invite such third parties to a meeting so as to learn their views.
3. The Minister shall ensure that all documents that the Committee needs in order to execute its task and that are in the Ministry's files are made available to the Committee in time and in full.
4. Each and every officer of the Ministry shall comply with a summons or a request issued by the Committee.
5. The restrictions relevant to the public accessibility of records as referred to in Section 1, subsection c, under 1 and 2 of the 1995 Public Records Act that the Committee needs for the execution of its task and are filed in State Archives shall not be applicable to the Committee.

#### **Article 7**

1. Every year the Committee shall report to the Ministry of Education, Culture and Science on the current situation regarding the tasks referred to in Article 2.
2. The first report shall be submitted in January 2003.

**Article 8**

The members of the Committee shall receive a fee plus reimbursement for travel and subsistence expenses in accordance with the relevant government schemes.

**Article 9**

The Committee's records shall be transferred to the archives of the Ministry's Cultural Heritage Department after dissolution of the Committee or at such earlier time as may be dictated by circumstances.

**Article 10**

From the date that this Decree takes effect, the following persons shall be appointed for a period of three years:

- a. J.M. Polak of Ede, chairman
- b. B.J Asscher of Baarn, deputy chairman
- c. Prof. J. Leyten of Nijmegen
- d. E. van Straaten of Beekbergen
- e. Prof. J.Th.M. Bank of Amsterdam
- f. H.M. Verrijn-Stuart of Amsterdam

**Article 11**

This Decree shall come into effect on the second day after the date of the Government Gazette in which it is published.

**Article 12**

This Decree shall be cited as the Decree establishing the Advisory Committee on the Assessment of Restitution Applications.

This Decree and the associated explanatory notes will be published in the Government Gazette.

The State Secretary for Education, Culture and Science

[signed]

F. van der Ploeg

## General

The Ekkart Committee is one of the committees established in the Netherlands since 1997 to carry out research in the extensive field of post-World War II restitutions. The Committee supervises research into the origins of the 'NK collection', i.e. the collection of art objects that were recovered from Germany after World War II and have been held by the State of the Netherlands since then. Given the size of the NK collection, which comprises some 4000 objects, and the nature of the research, which involves tracing transactions that took place more than fifty years ago and of which, in many cases, very few documents have survived, the Ekkart Committee will not be able to finalise its research until the end of 2002.

In addition to supervising the research into the origins of collection items, the Committee is charged with issuing recommendations to the Minister of Education, Culture and Science on the government's restitution policy. The Committee submitted its interim recommendations to me on 26 April 2001. As stated in the accompanying letter, the Committee decided to draw up interim recommendations because in its view the urgency of policy adaptations is such, considering, among other things, the advanced age of some of the interested parties, that they should be implemented before the overall research project has been completed. In formulating its recommendations, the Committee aims to create scope for a more generous restitution policy. In its view, the strictly legal approach as laid down in the government's policy paper of 14 July 2000 is no longer acceptable.

I sent the Cabinet's response to these recommendations to the Speaker of the Lower House of Parliament on 29 June 2001, and a supplementary reaction of the government by letter of 16 November 2001. In its reaction to the Ekkart Committee recommendations, the government has not opted for a purely legal approach to the restitution issue, but rather for a more policy-oriented approach, also in the light of international developments in these matters, in which priority is given to moral rather than strictly legal arguments. This view was expressed, for example, in the outcome of the conference held in Washington in 1998 for a global discussion of World War II assets (known as the 'Washington Principles'). One of these principles is the establishment of "alternative dispute resolution mechanisms for resolving ownership issues." Countries like France and the United Kingdom have implemented this principle and have established committees charged with judging individual applications for restitution.

The establishment of an Advisory Committee in the Netherlands to consider individual applications for restitution is consistent both with the Ekkart Committee recommendations and with the international developments outlined above. The main reason for setting up an Advisory Committee was the need for the Ministry of Education, Culture and Science to decide on applications for restitution in as objective a manner as possible. Since the Minister of Education, Culture and Science, being the possessor/administrator of the NK collection, is directly concerned in the matter, the existence of an advisory committee will enhance the independence of the decision process. By letter of 7 June 2001 the parliamentary Education, Culture and Science Committee expressed its preference for an independent committee.

Based on its own experience, the Ekkart Committee currently expects that the Advisory Committee will be asked to consider 30 to 50 cases relating to objects currently held by the State. There are no indications as yet about the number of applications that might be submitted to the

Advisory Committee by private individuals, nor is it clear how many years the Committee is going to need to fulfil its tasks. The figures mentioned seem to point to a term of 3 to 5 years.

## **Explanatory notes on each article**

### **Article 2**

The main task of the Committee is to advise the Minister of Education, Culture and Science, at his request, on individual applications for restitution of items that form part of the NK collection. In addition, the Minister may also ask for advice on restitution applications that relate to items in the state collection that do not form part of the NK collection but nevertheless came into the possession of the State due to circumstances directly related to the Nazi regime.

Following the example of similar committees abroad and at the express request of the Lower House of Parliament, the Minister may also refer to the Committee disputes between private individuals, provided that the parties involved have made a request to that effect and provided that the dispute concerns an object of which the original owner lost possession involuntarily due to circumstances directly related to the Nazi regime.

The Minister will ask the Committee to give an opinion if and when he receives an application for restitution that complies with the relevant framework conditions. The Minister himself will only directly deal with applications that evidently fall outside the Committee's remit, for example because they do not relate to the restitution of items of cultural value that were transferred within the context of World War II. It has been decided to present the applications to the Committee via the Minister so as to avoid overburdening the Committee with requests that fall outside its mandate.

The Committee's advisory framework corresponds with the relevant outlines of government policy; first and foremost, the general government policy on World War II assets as laid down in the letter issued by the government on 21 March 2000. In addition, the government has issued rules that more specifically concern the restitution of items of cultural value. These rules form part of the policy the government announced to the Lower House of Parliament in its policy paper of 14 July 2000. However, the Ekkart Committee recommendations and the government's response to them have led to major amendments to that policy. The government's letters continue to be effective and, together with the Ekkart Committee recommendations and the government's response to these recommendations, constitute the policy framework within which the Advisory Committee is to operate. It goes without saying that any further recommendations from the Ekkart Committee in the future may cause the government to make adaptations to this policy framework.

The Advisory Committee will judge any application for restitution in the light of this policy framework. It may then conclude that:

- the application, while being covered by the regular legal rules, falls beyond the Advisory Committee's mandate. If so, the Advisory Committee will incorporate this in its opinion to the Minister.
- the application falls within the Advisory Committee's mandate and therefore qualifies for an opinion.

The government also wishes to make available a facility for the settlement of disputes *between* private individuals concerning an object of which the original owner lost possession involuntarily

due to circumstances directly related to the Nazi regime. In its assessment of such applications from private individuals the Advisory Committee will be guided by the principles of reasonableness and fairness.

The intervention by the Minister – since it is the Minister who refers disputes between private individuals to the Advisory Committee – is the result of pragmatic considerations. As it is the Minister who is responsible for ensuring that the Advisory Committee receives the support it needs, the Minister must be aware of the number of opinions the Advisory Committee is expected to issue.

#### **Articles 3 and 4**

The decisions about the Advisory Committee's size, composition and working method were taken with due regard to the need to balance the requirement of expertise against the requirement of efficiency in the formulation of Committee opinions.

The Advisory Committee is composed in such a way that at least the legal, historical and art history expertise required for the assessment of a restitution application is represented. The requirement that the chairman and deputy chairman be legal experts stems from the fact that in spite of the choice for a moral policy-oriented approach, legal expertise obviously remains indispensable in the assessment of the laws and regulations involved in applications for restitution. The availability of legal expertise is ensured in all cases, given that no opinion is formulated without the involvement of either the chairman or the deputy chairman.

The intention is for the Advisory Committee to comprise seven members from the time of its inception. It is up to the chairman to decide which particular members, in a specific case, should contribute to the formulation of an opinion. The involvement of a member in a particular application for restitution may influence this decision. The number of members to be involved in the opinion on a particular application will depend on the complexity of the case. As a minimum requirement, each application must be considered by the chairman or the deputy chairman and at least two other committee members.

#### **Article 5**

The Minister will provide a Committee Secretariat that is able to give the advisory committee the required level of support. The Committee Secretary must be a qualified lawyer (*meester in de rechten*). In addition, the Secretariat should be able to offer research capacity as well as the required level of administrative and organisational support. The size of the Secretariat will be variable and geared to the Advisory Committee's workload.

#### **Article 6**

It is of the utmost importance that the Advisory Committee has access to all the relevant information in drawing up its recommendations: both information from claimants and information provided by the Ministry or third parties.

I have lifted the restrictions on the public accessibility of records filed in State Archives by virtue of Article 15, fifth paragraph of the 1995 Public Archives Act so as to enable the Advisory Committee to gather all the information it needs in the shortest possible time. This obviously only concerns those records that are relevant to the execution of the Advisory Committee's task. The fact that the Committee is allowed to inspect restricted documents does not automatically open up

those documents to others as well, given that the members of the Advisory Committee themselves are bound to observe secrecy under Article 2:5 of the General Administrative Law Act regarding information that comes to their knowledge and the confidential nature of which is evident.

**Article 10**

By the time this Decree establishing the Advisory Committee was signed, the six persons referred to in this Article had already expressed their willingness to become members of the committee. This is why I have provided for their appointment in this Decree. One more member will be appointed (separately) as soon as possible.

The State Secretary for Education, Culture and Science,

[signed]

(F. van der Ploeg)

Under Article 3 paragraphs five and six of the Decree establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War;

Having regard to the list of candidates of the aforementioned Advisory Committee of 13 September 2004;

In view of the notice given by Dr J.M. Polak of his intention to step down as Chairman of the aforementioned Advisory Committee with effect from 23 December 2004;

It is herewith decreed as follows:

Article 1

With effect from 23 December 2004 and for a period of three years, the following persons shall be appointed as members of the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War:

Mr B.J. Asscher, mr., Chairman;  
Mr P.J.N. van Os, mr.;  
Prof. I.C. van der Vlies.

Article 2

With effect from 23 December 2004 and for a period of three years, the following persons shall be reappointed as members of the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War:

Prof. J.Th.M. Bank;  
Prof. J. Leijten, mr.;  
Dr. E.J. van Straaten;  
Mrs H.M. Verrijn Stuart, mr.

This Decree shall come into effect on the second day after the date when it is published in the Government Gazette.

The aforementioned State Secretary,

(Medy C. van der Laan, mr.)

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