



RETURN TO AN ADDRESS OF THE HONOURABLE THE HOUSE OF COMMONS
DATED 10 FEBRUARY 2016 FOR THE

**REPORT OF THE SPOILIATION ADVISORY PANEL IN
RESPECT OF A GOTHIC RELIEF IN IVORY, NOW IN
THE POSSESSION OF THE ASHMOLEAN MUSEUM,
OXFORD**

The Honourable Sir Donnell Deeny

*Ordered by the House of Commons
to be printed 10 February 2016*



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REPORT OF THE SPOILIATION ADVISORY PANEL IN RESPECT OF A GOTHIC RELIEF IN IVORY IN THE POSSESSION OF THE ASHMOLEAN MUSEUM, OXFORD

INTRODUCTION

1. This report deals with a claim brought by von Trott zu Solz Lammek, Rechtsanwälte Notare, of Kurfürstendamm 29 Berlin on behalf of the Estate of the late Gerta Silberberg (the Estate). The claim relates to a rare secular Gothic ivory relief panel showing a man and woman playing chess with three figures looking over their shoulders (the Work). It is 9cms in height by 5cms in width (3.54 by 2 inches). It is believed to be of French origin and from the fourteenth century. The Ashmolean Museum of Art and Archaeology, University of Oxford (the Museum) is in possession of the Work.

THE PANEL'S TASK

2. The task of the Spoliation Advisory Panel (the Panel) is to consider claims from anyone, or their heirs, who lost possession of a cultural object during the Nazi era (1933–1945) where such an object is now in the possession of a United Kingdom national collection or other museum or gallery established for the public benefit and to advise the claimant, the institution and, where it considers it appropriate, the Secretary of State for Culture, Media and Sport on what action should be taken in relation to the claim (see Panel's Constitution and Terms of Reference, Appendix 1). This claim was initially referred to the Panel by letter from the Estate's lawyers of 19 November 2014. The Panel's paramount purpose is to achieve a solution which is fair and just to both parties.
3. In making this Report the Panel has considered the submissions and the evidence submitted on behalf of the Estate and the responses of the Museum in order to establish whether the father-in-law of Mrs Gerta Silberberg, Max Silberberg, was deprived of the Work as a result of spoliation and if so, and assuming that the Estate no longer has legal title to the same, to assess the moral strength of its case and whether any moral obligation rests on the institution. In reaching any conclusion of fact the Panel will do so on the balance of probability, recognising the difficulties of proof in all the circumstances including the lapse of time since the owner lost possession of the object.

HISTORY OF THE WORK

4. The Work is recorded as item 1196 in "Les Ivoires Gothiques Français" by Raymond Koechlin, Paris, 1924. The description accords with the Work in the Museum save for a discrepancy in measurement – the height is recorded as 72 mm then rather than 92 mm in the 1928 catalogue and 9 cm in the sale catalogue of 1935. We conclude that this discrepancy of measurement may be merely a typographical error and, in any event, is not material. Koechlin records the piece as being in the Paris collection of Emile Lévy.

5. It was sold as part of the collection of Emile Lévy at the Hotel Drouot, Paris on 14 December 1928 as Lot 16. The record of sale of the collection records it as being sold for 12,000 francs to “M. Matthiesen”. The Estate suggests that he was a German dealer who was either acting for Max Silberberg or subsequently sold the Work to him.
6. In the circumstances described hereafter much of the art collection of Max Silberberg and his wife, Johanna, was sold in a number of auctions conducted by the auction house of Paul Graupe of Berlin. Item number 228 in the catalogue for the sale of 12 October 1935 describes the same piece with the reference to its cataloguing at 1196 of Koechlin. The lot was illustrated in the catalogue. The sale price was 1300 Reichsmarks, equivalent to about £100 at the time. There is no evidence before the Panel of the identity of the purchaser.
7. In 2012 the Museum received a number of works of art, including the Work, as part of a bequest of Mr Michael Wellby. The Museum has no information on when or how the Work was acquired by Mr Wellby, save that anecdotal evidence from Mr Wellby’s family is that the Ivory came to him from the “Valentine collection”. It accepts that the Work in its possession is the one appearing in the Koechlin catalogue, the Levy catalogue and the Graupe catalogue as the property, at that time, of Max Silberberg, and we so find.
8. On identifying the Work the Museum made that information public, informing the Commission for Looted Art in Europe in the first instance. The Ashmolean did not dispute any of the history concerned but in a letter of 6 March 2015 its Director requested the Committee (i.e. the Panel) to satisfy itself on a number of points which will be dealt with below at paragraphs 15, 16 and 21. There is, therefore, no Claimants case and Respondents case to set out below. The burden of research has fallen largely on the Panel itself.

MAX SILBERBERG (1878-1945)

9. Max Silberberg, a German Jewish businessman, is the subject of a chapter in the book: “Lost Lives, Lost Art: Jewish Collectors, Nazi Art Theft, and the Quest for Justice” by Melissa Müller and Dr Monika Tatzkow, 2010. The author of that chapter, Dr Tatzkow, was retained by the Estate’s lawyers to provide her own observations, which she did in a letter of 14 November 2014 which we have had translated. We have also taken into account the other submissions on behalf of the Estate.
10. Max Silberberg’s father was a tailor who, although in modest circumstances, managed to secure for his son a good education. Max served in the German army but subsequently went into business becoming a general manager of the important industrial firm of M. Weissenberg at the age of 24. His wife Johanna was the daughter of the company’s founder. Their only child, a son named Alfred, was born on 8 November 1906.
11. The family came to live in what was then the German city of Breslau, now Wrocław in Poland.
12. Max Silberberg developed a love of art. With the assistance of the substantial income he enjoyed from his business, of which in time he became the co-owner, he assembled a substantial collection of art, particularly French. He welcomed people to his own home to visit his treasures and lent works to exhibitions in Germany and abroad. The coming to power of the Nazis in early 1933 completely altered his

situation. Breslau was home to the third largest Jewish community in Germany. That community was an early target for brutality and oppression. In 1935 he was forced to sell his substantial villa to the Security Service of the SS at well below market price, according to "Lost Lives". The Silberbergs were forced to move to a small rented apartment and subsequently sold the majority of their artworks at several auctions in the Paul Graupe auction house in 1935 and 1936. This included the Work. The Museum acknowledges that "prima facie the sale appears to have constituted a duress sale" (Panel's underlining throughout).

13. According to Dr Tatzkow, one aspect of the forced nature of the sale is the fact that the business was put under pressure through the termination of bank credit and restrictions on currency dealings.
14. Later, in 1939, the whole business was taken over by compulsory purchase. In 1941 Max and Johanna Silberberg were forced to leave Breslau and removed to an internment camp in Silesia where conditions were harsh. On 29 April 1942 Max Silberberg applied to "emigrate", "submitting his so-called 'declaration of personal assets' which showed him to be destitute" in the submission of the Estate. Shortly afterwards the couple were removed to Theresienstadt. They were subsequently murdered in Auschwitz.

THE ESTATE AS CLAIMANT

15. The Silberbergs' only child, Alfred Silberberg, managed to flee to Britain with his wife, Gerta. The Panel has seen a copy of a declaration relating to the death of Max and Johanna Silberberg on behalf of their son who was then living in Leicester in England. Following his death an inheritance certificate (Erbschein) of the German court (Amtsgericht Tiergarten, Berlin) was issued in favour of his widow, Gerta Silberberg, born Bartnitzki, at the same address in Leicester; this has also been provided to the Panel. There were no children of this marriage. The Panel has seen a copy of the Grant of Probate to the two executors of the Estate of Gerta Silberberg, who died on 17 May 2013. Each of them has in turn signed a power of attorney in favour of their present lawyers, as Mrs Gerta Silberberg had done in 2002. We are satisfied that the executors are entitled to claim on behalf of the Estate as the legal heirs of Max Silberberg. This deals with the first query raised by the Museum.
16. The executors initially asked that their identities not be disclosed. The Museum queried whether this "degree of secrecy" was reasonable. Paragraphs 12 and 13 of the Panel's current Constitution and Terms of Reference deal with confidentiality. In the event the executors of the Estate, under the last will of Gerta Silberberg dated January 10 2007, John Nicholas Simon and Stephen Howard Woolfe, agreed to be identified if we so required. As they are professional men who have engaged already with the media about the Estate the Panel concludes that that is the preferable course.
17. The Estate points out that the Will of Gerta Silberberg makes a number of specific bequests, one of which is the bequest of a bronze of an athlete and of a mirror to Leicestershire Museum and Art Gallery "as a gesture of thanks for everything the city of Leicester has done for me and my late husband". The other beneficiaries are not descendants of Max Silberberg. The residual legatee is a trust whose beneficiaries the executors elect not to identify.

THE MUSEUM

18. The Museum promptly reported their identification of the Work. There is no criticism of the Museum in the circumstances. Although Mr Wellby was a knowledgeable collector it appears that, unfortunately, he himself kept little or no record of his purchases. There is no evidence that he did carry out the sort of provenance research that would be considered appropriate good practice by museums in recent times.

LEGAL TITLE

19. The Panel's Terms of Reference require it to consider both the original title of the object claimed and the current title of the Respondent institution but not to determine legal rights; see paragraphs 8 and 15(a), (d) and (f).
20. The Panel has not had detailed argument on the point of enduring title. The Panel concludes that Max Silberberg had legal ownership of the object before its consignment to the Graupe sales. The Panel concludes that, on the balance of probabilities, the 1935 sale by Graupe did confer on the purchaser, who may have paid fair value, good title which would have passed through the Wellby Estate to the Museum. In the alternative even if the Graupe sale did not pass good title then any claim for unlawful conversion of the object would appear to be well after the six year limitation period in force in this country, formerly under Section 2 of the Limitation Act 1939. The Panel considers the Museum now has legal title.

POST WAR COMPENSATION

21. The Museum did not know if compensation was paid since 1945 to the heirs of Max Silberberg but, correctly, supposed the Panel would wish to satisfy itself on this point. The Panel has indeed made enquiries on this topic. It is grateful to Frau Ursula Kube of the German Federal Office for Central Services and Unresolved Property Issues (BADV) for helpfully providing it with a number of files which that office retained relating to the claims of Alfred Silberberg in the 1960s and 1970s. The files confirm the contention of the Claimant that the West German Government did not pay compensation to Alfred for the loss of the artworks of his father, Max. He received compensation only for the incarceration of his parents and for his own loss of economic prospects. The files included the information that he was also to receive at least 25,000 DM as part of a settlement in respect of a painting by Gustave Courbet owned by his father. This is briefly referred to at p.129 of "Lost Lives". The Panel is grateful to Panel Member, Mr Peter Oppenheimer, for his analysis of these documents which identified other material of importance in our determination of this claim.

ISSUES AND FINDINGS

22. The following four issues fall to be decided by the Panel in arriving at a conclusion.
 - (i) Is there any particular moral obligation on the Museum in this case?
 - (ii) Was the sale of the Work at an undervalue?
 - (iii) Did Max Silberberg receive the proceeds of the sale of the Work?
 - (iv) Was this a forced sale?

23. **(i) Is there any particular moral obligation on the Museum in this case?**
The Museum reported the provenance of the Work when it identified it and we conclude that there is no criticism to be made of the Museum and no particular moral obligation upon it.
24. **(ii) Was the sale at an undervalue?**
The historical view of the Paul Graupe sales of this period is still evolving. The Panel is aware of continuing research in Germany with regard to these sales. The price fetched of 1,300 RM, about £100 at the exchange rate at the time, was not insubstantial. Given the rarity of the piece it is difficult to establish comparables but we have not seen evidence that it was undervalued. The Estate does not claim that it was sold at an undervalue. We conclude, on the balance of probabilities, that it was not a sale at an undervalue.
25. **(iii) Did Max Silberberg receive the proceeds of the sale of the Work?**
The Panel notes, with the assistance of our Panel Member, Mr Martin Levy, that the Silberberg Collection was in fact sold in four sales in 1935 with a final sale on 7 January 1936. The Work was sold at the second of these auctions, 12 October 1935. The fact that Max Silberberg sent items to three further auctions implies that he was receiving the proceeds of the sale, including that of this Work. Furthermore the documents received from BADV make references to the auctions being used to pay off his debts. The Claimant does not make a case for saying that the then owner did not receive the proceeds of sale and we conclude, on the balance of probabilities, that the sale price was received by him.
26. **(iv) Was this a forced sale?**
The lawyers for the Estate deploy a number of arguments which the Panel has taken into account, in favour of the view that this was a forced sale. Firstly, they point out that the coming to power of the Nazis in 1933 led to persecution of Jewish people in Germany. They suggest this would have been inevitably damaging to the prosperity and way of life of Max Silberberg by interfering with credit to his business. However the only evidence in support of that seems to be the following passage at p.124 of "Lost Lives":
- "The Breslau chronicler Dr. Willy Cohn attested to this in a diary entry on May 11, 1935, noting that Silberberg had 'collapsed financially because he was no longer able to obtain money, as the banks had canceled (sic) his credit'."
- These words are ambiguous. They may well refer to the state of Silberberg's personal finances as opposed to the firm which was still trading in 1939 when taken over.
27. Secondly, the Estate relies on the compulsory purchase, at an apparent undervalue, of his "stately villa" (Tatzkow) by the Security Service of the SS. This forced him to sell his artworks, library and antiques in the Paul Graupe Auctions as he was forced to move to a small apartment in a building, later used as a so called "Judenhaus". While this is a strong argument with regard to the forced sale of the collection as a whole or the larger items within it, it is rather less compelling when dealing, as here, with a tiny object, no longer than the index finger of a man's hand. It might be thought that if one was forced to move from a large house to a small apartment that it is just the sort of item from one's collection that one would have kept.
28. Thirdly, the Estate relies on a letter dated 9 June 1936 from the President of the Regional Tax Office in Berlin and sent to the local Tax Office in Breslau. However, from the Estate's point of view the letter is something of a two-edged sword. It

merely asked the local authorities to what results their investigations into the tax affairs of Max Silberberg had led. The Panel notes the date i.e. after the sales. The Estate's lawyers point out that it refers to an earlier letter of the President of the Regional Tax Office in Berlin of 10 December 1935. That too is after the sale of the Work. In any event, it indicates that a tax investigation was being undertaken but it does not amount to evidence of any tax being actually levied on Max Silberberg of any discriminatory or expropriatory nature in 1935 or at all.

29. Evidence has now emerged against a conclusion that the sale of the Work was forced on the owner by Nazi oppression. As mentioned in paragraph 21 above, the BADV files have disclosed a dispute involving the City of Hamburg about the ownership of three paintings which the British authorities had placed in trust with the City, including the painting by Gustave Courbet, "Le Grand Pont". The Estate's lawyers acknowledge that:

"The research by the City of Hamburg had come to a preliminary conclusion that the Courbet had once belonged to a private collection in Breslau, most probably the collection of Max Silberberg and that Silberberg had to file bankruptcy in 1934 and that it had to be sold in an auction sale in 1935/1936; ..."

The business was not made bankrupt because it was still operating in a way to allow it to be sold, however unwillingly, in January 1939. This, obviously, is an indication that the personal financial difficulties of Max Silberberg may have caused the sale of many of the items in the collection. There is no actual order of bankruptcy disclosed to the Panel.

30. In the BADV files at Annex 26 there is a letter of 22 September 1968 in which Alfred Silberberg says that his father was forced to sell the paintings following persecution by the National Socialists in order to get capital from his private assets to support his business. This is in favour of the Estate but is of its nature a self-serving statement by the then claimant 30 years after the events. It is to be contrasted with correspondence to be found between Alfred Silberberg's lawyers in London and the authorities in Cologne in the period 1962 to 1965. That led the Cologne authorities to consult the files of the Bavarian Compensation Authorities including a claim by Georg Weissenberg through his successor, Erika Perl. There it is stated that Georg Weissenberg's share of the business had not remained at 30% but had risen to 50% because, as was apparent from the firm's accounts and associated specifications, the firm had had to take on the personal debts of its co-owner, Max Silberberg, whose net capital in the firm had fallen to a negative figure. This was disputed by Alfred Silberberg who called in aid a former employee of the firm, Walter Wendriner, who stated that Max's 40% share of the enterprise "embraced, besides the firm's cash resources, chiefly such objects as the factory in Schwednitz and houses in Landsbergstrasse and Derfflingerstrasse, Breslau".
31. The Cologne authorities at that time placed greater reliance, in preference to Alfred Silberberg and Walter Wendriner, on the testimony of another former director of the firm, Otto Lischka, who was responsible for the accounts and who reiterated that Max Silberberg's capital in the firm had at one time fallen to between minus 50,000 to minus 150,000 RM. The Panel's researches do not locate any assertion at that time by Alfred Silberberg that the occupation of the house by the SS precipitated the sale of the art collection.

32. A letter of 2 February 1965 from Alfred Silberberg's London lawyers, Messrs A. Bobasch & G. Kush, expressly acknowledged that there had been a previous sale of art, in Paris, in late 1932 i.e. before Hitler came to power. In "Lost Lives", p.121, this sale of "nineteen paintings, drawings and watercolours" is attributed to the "world financial crisis of the 1930s". It is evidence of financial pressure on Max before Hitler came to power. There is also a further reference in the BADV files to a sale in 1934 but that may be a confusion of dates with the undoubted Paul Graupe sales of 1935 and 1936. This letter, from the heir's lawyers, goes on to acknowledge that the proceeds of both these sales were used for paying down Max Silberberg's debts. In that letter, reliance is placed on the same Walter Wendriner who testifies to Max's share of the company.
33. There is a further clash of evidence relating to a period after the sale but casting light on the reasons for the sale of 12 October 1935 and also relevant to the overall strength of the Estate's moral claim. Both the authors of "Lost Lives" and the Estate's lawyers assert that Max Silberberg was also subject to the Reichsfluchtsteuer or Reich Flight Tax at a later date although he did not succeed in leaving the country. The latter are unable to adduce written evidence to that effect as, they say, records which may have existed relating to such matters were "destroyed in Wroclaw when parts of the city were heavily flooded by the side arms of the Oder River some years ago" (von Trott zu Solz Lammek's letter to the Panel of 25 September 2015). However, the BADV files disclose that the German authorities in their decision of 31 August 1967 rejected a claim by Alfred Silberberg for compensation for the payment of another discriminatory tax, the Sühneleistung enacted on 12 November 1938 following the notorious Kristallnacht pogrom. They rejected it on the basis that there was no documentary evidence to show that Max Silberberg had paid that tax, probably, they concluded, because in fact he had no valuable assets left by then on which the tax could be calculated. It is note-worthy that there was no claim at that time that Max had paid the Reich Flight Tax.
34. It can be seen therefore that the reasons for the sale of the Work have required careful consideration by the Panel. It cannot be doubted that the coming to power of the Nazis must have been adverse for a Jewish businessman like Max Silberberg. Nevertheless, the onus of proof is on the Claimant. The claim is not in respect of the collection as a whole or of large paintings. The claim is for this tiny medieval ivory so the move to the apartment is of limited importance. There is no evidence of any discriminatory or expropriatory taxes or charges being levied on Max Silberberg in 1935. There is considerable evidence that he was in personal financial difficulties necessitating the sale of his art collection. Although Nazi oppression may have contributed to the difficulties of Max Silberberg we are not satisfied, on the balance of probabilities, in the light of the evidence outlined above that the sale of this Work could be said to be a forced sale i.e. forced upon the owner by the Nazi regime.

THE PANEL'S RECOMMENDATION

35. The fate of Max Silberberg and his wife, Johanna, must attract the sympathy and respect of any decent human being but in the light of our findings above, on the balance of probability, that it was neither a forced sale nor a sale at an under-value and that Max received the proceeds of sale, we have reached the conclusion that the moral claim for the restitution of this small medieval ivory to the Estate of the daughter-in-law of Max is insufficiently strong to warrant a recommendation of restitution or the making of an ex-gratia payment. However, we do recommend the display alongside the Work, wherever it is, and in whatever medium, of an account of the history of the Work in the collection of its former owner during the Nazi era, and his tragic fate and that of his wife.

10 February 2016

The Hon Sir Donnell Deeny – Chairman
Professor Sir Richard J Evans – Deputy Chairman
Tony Baumgartner
Sir Terry Heiser
Professor Peter Jones
Martin Levy
Peter Oppenheimer
Anna Southall
Professor Liba Taub

Appendix 1: Constitution and Terms of Reference

APPENDIX 1

SPOLIATION ADVISORY PANEL CONSTITUTION AND TERMS OF REFERENCE¹

Designation of the Panel

1. The Secretary of State has established a group of expert advisers, to be convened as a Panel from time to time, to consider claims from anyone (or from any one or more of their heirs), who lost possession of a cultural object ("the object") during the Nazi era (1933-1945), where such an object is now in the possession of a UK national collection or in the possession of another UK museum or gallery established for the public benefit ("the institution").
2. The Secretary of State has designated the expert advisers referred to above, to be known as the Spoliation Advisory Panel ("the Panel"), to consider the claim received from on for in the collection of ("the claim").
3. The Secretary of State has designated as Chairman of the Panel.
4. The Secretary of State has designated the Panel as the Advisory Panel for the purposes of the Holocaust (Return of Cultural Objects) Act 2009.

Resources for the Panel

5. The Secretary of State will make available such resources as he considers necessary to enable the Panel to carry out its functions, including administrative support provided by a Secretariat ("the Secretariat").

Functions of the Panel

6. The Panel shall advise the claimant and the institution on what would be appropriate action to take in response to the claim. The Panel shall also be available to advise about any claim for an item in a private collection at the joint request of the claimant and the owner.
7. In any case where the Panel considers it appropriate, it may also advise the Secretary of State:
 - (a) on what action should be taken in relation to general issues raised by the claim; and/or
 - (b) where it considers that the circumstances of the particular claim warrant it, on what action should be taken in relation to that claim.
8. In exercising its functions, while the Panel will consider legal issues relating to title to the object (see paragraph 15(d) and (f)), it will not be the function of the Panel to determine legal rights, for example as to title.

¹ Revised following enactment of the Holocaust (Return of Cultural Objects) Act 2009.

9. The Panel's proceedings are an alternative to litigation, not a process of litigation. The Panel will therefore take into account non-legal obligations, such as the moral strength of the claimant's case (paragraph 15(e)) and whether any moral obligation rests on the institution (paragraph 15(g)).
10. Any recommendation made by the Panel is not intended to be legally binding on the claimant, the institution or the Secretary of State.
11. If the claimant accepts the recommendation of the Panel and that recommendation is implemented, the claimant is expected to accept the implementation in full and final settlement of his claim.

Performance of the Panel's functions

12. The Panel will perform its functions and conduct its proceedings in strictest confidence. The Panel's "proceedings" include all its dealings in respect of a claim, whether written, such as in correspondence, or oral, such as at meetings and/or hearings.
13. Subject to the leave of the Chairman, the Panel shall treat all information relating to the claim as strictly confidential and safeguard it accordingly save that (a) such information which is submitted to the Panel by a party/parties to the proceedings shall normally be provided to the other party/parties to the proceedings in question; and (b) such information may, in appropriate circumstances, including having obtained a confidentiality undertaking if necessary, be communicated to third parties. "Information relating to the claim" includes, but is not limited to: the existence of the claim; all oral and written submissions; oral evidence and transcriptions of hearings relating to the claim.
14. In performing the functions set out in paragraphs 1, 6 and 7, the Panel's paramount purpose shall be to achieve a solution which is fair and just both to the claimant and to the institution.
15. For this purpose the Panel shall:
 - (a) make such factual and legal inquiries, (including the seeking of advice about legal matters, about cultural objects and about valuation of such objects) as the Panel consider appropriate to assess the claim as comprehensively as possible;
 - (b) assess all information and material submitted by or on behalf of the claimant and the institution or any other person, or otherwise provided or known to the Panel;
 - (c) examine and determine the circumstances in which the claimant was deprived of the object, whether by theft, forced sale, sale at an undervalue, or otherwise;
 - (d) evaluate, on the balance of probability, the validity of the claimant's original title to the object, recognising the difficulties of proving such title after the destruction of the Second World War and the Holocaust and the duration of the period which has elapsed since the claimant lost possession of the object;
 - (e) give due weight to the moral strength of the claimant's case;

- (f) evaluate, on the balance of probability, the validity of the institution's title to the object;
- (g) consider whether any moral obligation rests on the institution taking into account in particular the circumstances of its acquisition of the object, and its knowledge at that juncture of the object's provenance;
- (h) take account of any relevant statutory provisions, including stipulations as to the institution's objectives, and any restrictions on its power of disposal;
- (i) take account of the terms of any trust instrument regulating the powers and duties of the trustees of the institution, and give appropriate weight to their fiduciary duties;
- (j) where appropriate assess the current market value of the object, or its value at any other appropriate time, and shall also take into account any other relevant circumstance affecting compensation, including the value of any potential claim by the institution against a third party;
- (k) formulate and submit to the claimant and to the institution its advice in a written report, giving reasons, and supply a copy of the report to the Secretary of State; and
- (l) formulate and submit to the Secretary of State any advice pursuant to paragraph 7 in a written report, giving reasons, and supply a copy of the report to the claimant and the institution.

Scope of Advice

16. If the Panel upholds the claim in principle, it may recommend either:
- (a) the return of the object to the claimant; or
 - (b) the payment of compensation to the claimant, the amount being in the discretion of the Panel having regard to all relevant circumstances including the current market value, but not tied to that current market value; or
 - (c) an ex gratia payment to the claimant; or
 - (d) the display alongside the object of an account of its history and provenance during and since the Nazi era, with special reference to the claimant's interest therein; and
 - (e) that negotiations should be conducted with the successful claimant in order to implement such a recommendation as expeditiously as possible.
17. When advising the Secretary of State under paragraph 7(a) and/or (b), the Panel shall be free to recommend any action which they consider appropriate, and in particular may under paragraph 7(b), recommend to the Secretary of State the transfer of the object from one of the bodies named in the Holocaust (Return of Cultural Objects) Act 2009.

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