

Plundered, But By Whom?

Protectorate
of Bohemia
and Moravia
and
Occupied
Europe in
the Light of
the Nazi-Art
Looting

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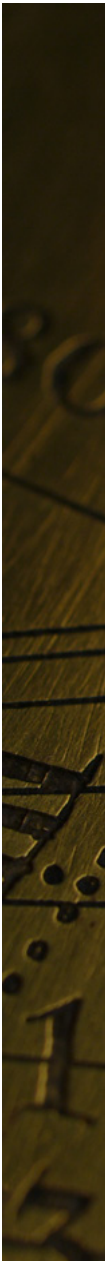
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(I.)

Protectorate of Bohemia and Moravia and the post-war development of the State – historical overview

Chair:

Helena Krejčová, Czech Republic

MEČISLAV BORÁK (Czech Republic)

The main features of occupation policy in the Protectorate of Bohemia and Moravia and the rest of the Czech Lands

When Nazi German troops occupied the interior of the Czech Lands in March 1939, the invasion marked the beginning of over six years of occupation which would last until the final days of the Second World War in Europe. On the basis of a decree issued by Hitler, the occupying authorities established an entity named the Protectorate of Bohemia and Moravia; however, despite its proclaimed autonomy, the Protectorate was in fact entirely controlled by the German Reich, and the Reich's actions proved decisive for the fate of the Czech nation. When researching this period, however, we should not neglect the fact that there were other parts of the Czech Lands which lay outside the Protectorate throughout the war, as the Nazis had seized them from Czechoslovakia in the autumn of 1938, before the invasion of what remained of the country. This seizure was a consequence of the Munich Agreement, which enabled Nazi Germany to annex the border areas in the historical provinces of Bohemia, Moravia and Silesia; the Agreement was forced upon the Czechoslovak Republic, and ultimately led to the state's disintegration and demise. In September 1939 the Polish-occupied part of Těšín (Teschen/Cieszyn) Silesia were taken by Germany; from this point on, the entire territory of the Czech Lands (both the border regions and the interior) came under the direct control of the Third Reich. My paper will briefly outline these historic events, as they had an influence on the specific manifestations of the policies implemented by the occupying authorities – policies whose consequences are the subject of this conference.

The border regions of the Czech Lands were split into five administrative units which were incorporated into the neighbouring regions of the German Reich. The sixth administrative unit was established as an independent subdivision of the Reich, the Reichsgau Sudetenland. The situation "on the ground" differed somewhat among the various annexed regions – not only in terms of the national/ethnic composition and status of the local population, but also in terms of the methods of Germanization applied, the overall policies

implemented by the occupying authorities, the forms of resistance against the occupiers, and the number of victims of the occupation and the wartime events as a whole. The annexed border regions were incorporated into the Reich's administrative systems as follows.

The South Moravian border region (a broad strip of land from Břeclav/Lundenburg to Slavonice/Zlabings) and the south-eastern part of Bohemia (around Nová Bystřice/Neubistritz) were incorporated into what had formerly been Austria; after the Anschluss it had become the Gau Niederdonau (Lower Danube Gau). Local authorities known as Landräte were established in the towns of Znojmo (Znaim), Mikulov (Nikolsburg) and Nová Bystřice (Neubistritz), but several dozen communities were incorporated into the Reich Landräte of Waidhofen an der Thaya and Horn. Znojmo had a Gestapo office and a Regional Court subordinated to the Supreme Provincial Court in Vienna. The capital of the Gau (which also incorporated small areas of Slovak territory – Devín/Theben and Petržalka/Engerau) was originally intended to be Krems; however, the Gau authorities were located in Vienna, and remained there throughout the war.

The Gau Oberdonau (Upper Danube Gau) gained some territory from South Bohemia: the mountainous border area from the Šumava (Böhmerwald) mountains in the west to the Nové Hradky mountains (Gratzener Bergland) in the east (i.e. the entire Czechoslovak judicial districts of Vyšší Brod, Nové Hradky and Horní Planá), plus parts of seven other judicial districts. The town of České Velenice and the Vitoraz (Weitra) area (which had been given to the Czechoslovak Republic under the Treaty of Saint-Germain in 1919) came under the control of the Austrian town of Gmünd. Landräte were established in the towns of Český Krumlov (Krumau) and Kaplice (Kaplitz). The former District Courts were subordinated to the Regional Court and Supreme Provincial Court in Linz, which was the capital of the Gau Oberdonau.

The border areas of south-west Bohemia (the central part of the Šumava mountains and the piedmont region known as Pošumaví) were incorporated into the Gau Bayerische Ostmark, which in 1942 was renamed the Gau Bayreuth. Landräte were established in Kašperské Hory (Bergreichenstein), Prachatice (Prachatitz) and Železná Ruda (Markt Eisenstein). Several communities in the Chodsko (Chodenland) region (including seven villages with mainly Czech populations), which were annexed in November 1938

(shortly after the main annexation of the border regions), were incorporated into the German Landrat of Waldmünchen. The capital city of the Gau was Bayreuth; the District Courts were subordinated to the Regional Court in Deggendorf and the Supreme Provincial Court in Munich.

In the north-east of the Czech Lands, the area around Hlučín (Hultschin), between Ostrava (Ostrau) and Opava (Troppau), was incorporated directly into the German Reich. After the Habsburgs' defeat in the Prussian-Austrian war (1742), this territory had come under the control of Prussian Silesia; it remained part of Prussia for almost two centuries, until 1920, when the Treaty of Versailles allocated it to Czechoslovakia. In 1938 it was "returned" to Prussian Silesia, being incorporated the District of Ratibor (now Racibórz, Poland), in the Government District (Regierungsbezirk) of Oppeln (now Opole), part of the Provinz Schlesien, whose capital was Breslau (now Wrocław); in 1941 the province was split into two parts, and the Hlučín area became part of Upper Silesia (Provinz Oberschlesien, with its capital in Kattowitz/Katowice).

The last part of the Czech Lands to be incorporated into the German Reich was the territory in Těšín (Cieszyn/Teschen) Silesia that had formerly been part of Czechoslovakia before its seizure by Poland. This was a broad swathe of territory running along what is now the Czech-Polish border, from Bohumín through Karviná, Český Těšín and Třinec to Jablunkov. Under pressure following the Munich Agreement, the Czechoslovak government caved into Polish demands for this territory, and ceded it to Poland in October 1938. A year later, when Poland had been conquered by Nazi Germany, the Těšín (Cieszyn/Teschen) region formed part of the "Eastern territories" that were incorporated into the German Reich (October 1939). The Polish districts of Frysztat and Cieszyn were merged to form the Kreis Teschen, which ranked among the largest districts in the Reich in terms of both area and population. Like the Hlučín (Hultschin) area, the Kreis Teschen became part of the Reich province of Silesia (Provinz Schlesien), though it was controlled from the Regierungsbezirk of Kattowitz; from 1941 it was part of the province of Upper Silesia (Provinz Oberschlesien). The Regional Court in Teschen was subordinated to the Supreme Provincial Court in Breslau, and later in Kattowitz; the city of Kattowitz, as well as Bielitz (now Bielsko), also had Nazi "special courts" (Sondergerichte) and Gestapo field courts (the Gestapo also had an office in Teschen).

The largest administrative unit in the occupied border regions was the Reichsgau Sudetenland; it accounted for the majority of the territory seized from Czechoslovakia (78%) and also the majority of the population (82%). Unlike the other areas seized by the Nazis, this territory was not incorporated into neighbouring German Gaue or provinces; instead an entirely new Gau was created, which from the very outset was conceived as a “model” Reichsgau. This decision had no historical precedent, as the borders of the Bohemian Crown Lands had remained unchanged for a thousand years prior to the annexation. The new Gau was an artificial construct; it was too long and narrow, and its western and eastern parts were actually separated by a salient of Bohemian territory. The new Gau covered mainly mountainous and upland areas of the border regions, including an area stretching from south-western Bohemia (the Chodsko region) to the vicinity of Pilsen (Plzeň), the entire north-western part of Bohemia and the Erzgebirge (Krušné hory) mountains, the Riesengebirge (Krkonosé) mountains in the north, as well as other North Bohemian upland areas reaching into the interior of Bohemia as far as the towns Leitmeritz (Litoměřice) and Saaz (Žatec). The eastern part of the Gau incorporated the areas around Zwittau (Svitavy) and Mährisch Trübau (Moravská Třebová), the Altvatergebirge (Jeseníky Mountains), and other upland areas of North Moravia and Silesia, reaching along the broad Oder (Odra) River valley (known as the “Moravian Gate”) as far as the city of Ostrava (Ostrau).

The Gau’s administrative structure was on three levels. The highest level was represented by the Reich Governor (Reichsstatthalter), whose office was in Reichenberg (Liberec). Below this level were three Government Districts (Regierungsbezirke), each headed by its own Government President (Regierungspräsident): the Regierungsbezirk Eger (Cheb), whose offices were in Karlsbad (Karlovy Vary); the Regierungsbezirk Aussig (Ústí nad Labem), and the Regierungsbezirk Troppau (Opava). The lowest level of the structure consisted of units called Kreise, each with its own local authority (Landrat), which appointed the local mayor. This administrative system was based on the model used in the Reich, including the close integration of state structures with the Nazi Party and the Führer-principle replacing the idea of devolved local government. The police and judicial authorities were not subordinated to the Reichsstatthalter, but were instead controlled directly by the Reich. The court of the highest instance in the Gau was the Supreme Provincial Court in Leitmeritz (Litoměřice), which was controlled by the Reich Ministry of Justice.

There was also a “special court” (Sondergericht) in Leitmeritz, with two more Sondergerichte operating at the Regional Courts in Eger (Cheb) and Troppau (Opava). For the purposes of our research into looted property, it is important to bear in mind that the tax and customs authorities were also controlled directly from the Reich; the office of the Oberfinanzpräsident in Troppau, which was subordinated to the Reich Finance Ministry, was responsible for all tax and customs authorities in the Regierungsbezirk Troppau, as well as in part of the Prussian province of Upper Silesia. Up to 1942 there was a similar office in Karlsbad, which was responsible for the tax and customs authorities in the Regierungsbezirke Eger and Aussig; however, these were then brought under the control of the Oberfinanzpräsidenten in Dresden, Nuremberg and Munich.

This was the (considerably varied) situation in those parts of the Czech Lands which fell outside the control of the Protectorate of Bohemia and Moravia. From a legal and administrative perspective, the establishment of the Protectorate itself was an act of unprecedented aggression. The introduction of a dual administrative system – with on the one hand the Protectorate as an autonomous entity, including its own government and president, but on the other hand the presence of the Nazi occupying authorities, headed by the Reich Protector and the Secretary of State, whose role was to ensure that German interests were prioritized – was motivated by a desire to conceal from the international community the Nazis’ real goal: the complete incorporation of the Czech Lands into the German Reich. The first successful step towards achieving this goal was the seizure of the border regions (Sudetenland), which made up 38% of the total area of the Czech Lands (almost 30,000 km²) and 36% of their population (over 3.5 million people). Many industries were thus annexed by the Reich, including strategically important coalfields, metallurgical and mechanical engineering works, chemical plants and power plants, as well as glassworks, textile mills and paper factories. All of Czechoslovakia’s major banks and financial institutions lost control of their branches in the seized territories, which were either liquidated or incorporated into the Reich banking system. The new borders also caused difficulties for the transport network – railways, roads and river transport.

This situation made it all the easier for the occupying authorities to ensure that the Protectorate developed a strong dependency on the Reich, as German monopolies gradually gained control over the entire Czech economy.

An important contributing factor to this dependency was the customs union between the Protectorate and the Reich, as well as the incorporation of the Protectorate into the Reich's war economy. The ultimate goal was the complete dissolution of the Protectorate and the incorporation of its territory into the neighbouring German Gaue; this aim was already foreshadowed within the Protectorate by the incorporation of the Nazi Party's internal organizational structures into those of the Reichsgaue Sudetenland, Bayerische Ostmark, Oberdonau and Unterdonau. Moreover, from the very outset, those Czechs in the Protectorate who were deemed a threat to the security of the Reich were not tried in the Protectorate itself, but instead at the Reich Court in Leipzig and the People's Courts (Volksgerichtshöfe) in Berlin, Dresden, Leitmeritz, Breslau and Vienna.

The laws and regulations applied by the Nazi authorities and the German administration in the seized border areas (which became part of the Reich) differed considerably from the laws and regulations of the Protectorate of Bohemia and Moravia. Nevertheless, despite these differences, the Nazi authorities in all parts of the Czech Lands (whether the Protectorate or the Reich itself) were all pursuing the same goal: the elimination of the Jewish population, the complete Germanization of part of the local Czech population (or the Polish population, in the Teschen region) and the expulsion or elimination of the remaining part of the local population, all while maintaining uninterrupted production in order to feed the Reich's war economy. These goals could not be achieved rapidly – especially due to the lack of a suitable labour force to support the Reich's programme of "total war". Ultimately, the course of the war would make it impossible for the Nazis to achieve their goals.

Knowledge of the specific features of the Nazis' policies and actions in of what is now the Czech Republic – which I have outlined in this paper – is an essential basis for research into how the Nazi authorities proceeded in various parts of the occupied Czech Lands when confiscating and stealing works of art.



Protectorate of Bohemia and Moravia and Czech Border regions affiliated to the German Reich (as of 21. 9. 1939)

JAN GEBHART (Czech Republic)

The role of the occupying and Protectorate authorities in relation to artworks

The issue addressed by this paper should first be viewed in its broader context. It is unnecessary to recapitulate the events that occurred in Germany from the Nazis' seizure of power in January 1933 onwards, which had a decisive effect on the later situation in the Protectorate of Bohemia and Moravia. In the Protectorate, as in the Reich itself, the authorities began to address the "Jewish question". The Nazis' anti-Jewish policy essentially took two forms: on the one hand, the authorities set out to pauperize the Jewish population, and on the other hand they attempted to force the Jews into emigration.

Anti-Semitic attitudes began to surface even in the Second Czechoslovak Republic (the "rump" Czechoslovakia which remained after the Nazis' annexation of the border areas in the autumn of 1938), as the official organizations of doctors, lawyers and various other professions and trades demanded the imposition of radical restrictions on their Jewish competitors. However, under the Second Republic it was not possible to implement such policies fully. One reason was the possible economic consequences of such steps; the United States government threatened to boycott Czechoslovakia (and to make Czech and Slovak workers in the USA redundant) if such measures were introduced, while the British government made its loan of 10 million pounds conditional upon the state providing protection for its Jewish population.¹

Shortly after the establishment of the Protectorate, however, the issue took on a new dimension. On 29 March 1939 there was a meeting of representatives from the major German banks, the Reich Economic Ministry, the Gestapo and the SD, convened in response to the growing calls for "Aryanization" among the Czech population. The aim of the meeting was to determine the official conditions under which the Jewish population would be expelled from the Protectorate. The granting of emigration permits was to be

1 RATAJ, Jan: *Český antisemitismus v proměnách let 1918-1945*. In: *Židé v české a polské společnosti*. Praha 1999, p. 60.

conditional upon applicants transferring their entire assets to banks that were under German control.²

The Protectorate government attempted to gain control over this process. In early April 1939 an interdepartmental working group drew up guidelines for a planned government regulation, calling on local government authorities to compile lists of businesses that were to be taken over by trustees or come under forced administration. The seizure of businesses was to be in line with the goals of the Protectorate government, and was to reflect the "Czech national interest". At the end of April 1939 the Eliáš government began drawing up a regulation on the exclusion of Jews from public life. However, the government's plans came to nothing, as the Protectorate authorities were legally obliged to submit all draft legislation to the Reich Protector.³

Protectorate policy on the "Jewish question" was definitively enshrined in a regulation on Jewish property issued by the Reich Protector on 21 June 1939, which effectively abolished the system introduced via orders issued by the civilian authorities and the Protectorate government. The regulation gave a clear definition of "Jewish businesses" and forbade any transfers of Jewish-owned real estate (or rights associated with it, including tenancy agreements) and the purchase and sale of Jewish-owned financial securities without the written approval of the Reich Protector. Some types of property (both movable and immovable) had to be declared to the authorities by their owners. The regulation entitled the Reich Protector to appoint trustees to run Jewish companies; these trustees were under the control of the Reich Protector's Office.⁴ The Protectorate government and its authorities were essentially sidelined from all decision-making processes.

If we compare the legislation applied by the Protectorate government and the occupying authorities, clear differences can be seen. A government regulation of 23 June 1939, containing provisions on foreign currency, stipulated that various types of "valuables" were deemed to be equivalent to foreign currency: gold, silver, platinum, alloys containing these metals, precious stones, pearls, jewellery, collections, individual work of value to

2 KÁRNÝ, Miroslav: *„Konečné řešení“. Genocida českých židů v německé protektorátní politice*. Praha 1991, p. 27.

3 Ibid., p. 30.

4 Ibid., p. 31-32.

collectors, paintings, antiques, or items of considerable value. This definition was based on the wording of an order issued by a Permanent Committee of the Second Republic in late October 1939 on “the protection of items of special artistic or historical value”. However, the occupying authorities took a different approach, as can be seen from a decree issued by the Reich Protector on 1 October 1940 on “the protection of items of artistic value in the Protectorate of Bohemia and Moravia”; the decree defined “items of artistic value” as all items with artistic, local-historical or scholarly value.⁵ This definition was further specified in an implementing regulation issued on 2 November 1942, which listed various types of items deemed to fall within the category: archives, libraries, paintings, wooden and stone sculptures, copper plate engravings, interior fixtures and furnishings, and decorative art works of historical value – porcelain, pottery, gold and silver utensils, rugs and carpets, tapestries, and light fittings.

The occupying authorities began to issue their own regulations which determined the “fate” of movable artworks, antiques and other valuables owned by the Jewish population. Precious metals and valuables were covered by a second implementing regulation (8 December 1939) for the Protector’s decree. Another implementing regulation (issued in late January 1940) stipulated that such items could only be sold with the approval of the Reich Protector to a specific legal entity – the company “Hadega”. In February 1940 a decree was issued instructing the Jewish population to declare to the authorities all their property, including land, shares and other financial stakes, whether in the Protectorate or abroad. An implementing regulation issued on 2 March 1940 required Jews to deposit their gold, silver, platinum, precious stones and pearls with a foreign currency bank. The original deadline for this deposit (two weeks) was extended to the end of April 1940. On the last day of April the Protectorate government issued an implementing regulation excluding small-scale valuables from the Protector’s decree. An order issued on 20 March 1940 required Jewish individuals and legal entities to deposit all items of gold, silver and platinum, plus precious stones and pearls, at a foreign currency bank by 15 April.

5 *Židovské zlato, ostatní drahé kovy, drahé kameny a předměty z nich v českých zemích 1939-1945. Protiprávní zásahy do majetkových práv, jejich rozsah a následné osudy tohoto majetku.* Report by a team of experts constituted by a mixed working commission based on decision no. 773 of the Czech Republic government, 25 November 1998. p. 16-19.

On 15 July 1939, in an attempt to “regulate Jewish emigration from the Protectorate” in order to meet the needs of the Reich, the Reich Protector Konstantin von Neurath established the Central Office for Jewish Emigration (Zentralstelle für jüdische Auswanderung), which became active as of 21 July. The Central Office was headed by Hans Günther, and it was subordinate to the Gestapo head office in Berlin, specifically the head of its Jewish Division Adolf Eichmann. In August 1942 it was renamed the Central Office for the Solution of the Jewish Question in Bohemia and Moravia (Zentralamt für die Regelung der Judenfrage in Böhmen und Mähren). One of its tasks was to take complete control of all property and assets belonging to Jews who had left the Protectorate. In March 1943 it was also entrusted with administering the assets of Jewish associations, funds, foundations and other institutions. The practical implementation of these measures, and the utilization of the assets, were entrusted to the Expulsion Fund for Bohemia and Moravia (Auswanderungsfond für Böhmen und Mähren).

The outbreak of war changed the situation, and it became clear that entirely different methods were required. The Jews were increasingly concentrated in ghettos, and in the second half of 1941 deportations to concentration and extermination camps began. Each adult individual allocated to a transport, while waiting for deportation at the transit camp, had to surrender all outstanding items of precious metal and issue a power of attorney authorizing the authorities to take possession of all their remaining property, including deposits in bank accounts.⁶

In mid-October 1941 an organization called the Treuhandstelle was established at the Jewish Religious Community in Prague. The Treuhandstelle was responsible for taking possession of and utilizing the apartments and movable property of deportees. It was under the control of the Central Office for Jewish Emigration, and its record-keeping department represented an important communication channel and link with the Central Office. The central records office held the Treuhandstelle’s complete documentation, sorted according to individual transports and apartments. After assessing and sorting the contents of the apartments, groups of employees (usually consisting of three people) recorded the individual items in lists. Each item was given an identifying tag showing the transport number of its original owner, plus its

6 KÁRNÝ, Miroslav: op. cit., p. 36-37.

card index number and location mark. The original of the receipt document for the items was sent to the central records office. Artworks, valuables, precious stones and jewellery were identified by valuers appointed by the Central Office for Jewish Emigration. Items were packed by specially trained staff who checked each item once more and corrected any errors found.⁷

Now let us return to the beginning of the Nazi occupation. One of the Nazis' main tools for consolidating their power in the Protectorate was the Gestapo, which was entrusted not only with crushing opposition to the regime, but also with monitoring the confiscation of "Aryanized" property. The Central Office for Jewish Emigration (later renamed the Central Office for the Solution of the Jewish Question in Bohemia and Moravia) was responsible for registering all the property of those Jews who had been deported from the Protectorate or sent to ghettos. The Gestapo only became directly involved in the confiscation of Jewish property if its owners were arrested or if its involvement was expressly requested by the Central Office.⁸

From the end of March 1939 the Gestapo monitored the transfer of deportees' property to banks and carried out confiscations of their property. In view of the shortage of staff with the necessary expertise, Gestapo officers initially worked alongside investigators from the German customs authorities and units responsible for monitoring compliance with foreign currency regulations. This provisional arrangement came to an end when the Reich Protector issued regulations enabling Jewish-owned property to be confiscated by means of criminal proceedings. The main Gestapo offices in the Protectorate – in Prague and Brno – were authorized to seize and confiscate "enemy" property and to instruct the relevant Protectorate authorities to record the resulting change in ownership.

Confiscations of artworks were initially entrusted to the economic departments of individual Gestapo offices. In 1941, however, the task was taken over by a newly established confiscations division at the Prague Gestapo headquarters. Confiscations of artworks and valuables were coordinated by Department I H/ 4, headed by Jindřich Baudisch – a graduate of the Prague

Academy of Fine Arts who later became a professor at the State College of Arts, Architecture and Design in Jablonec nad Nisou (Gablonz).⁹

At the beginning of December 1941 the Property Authority (Vermögensamt) was established at the Office of the Reich Protector. When coordinating the administration of artworks, this new authority worked closely alongside two other subdivisions of the Office of the Reich Protector: Group I/10 (Teaching and Culture) and Group I/II (Higher Education).

Initially, the occupying authorities did not have a clear idea of where the confiscated items should be stored, so a safe and suitable location had to be found. The first step towards achieving this goal was taken by the Brno Gestapo, which instructed the Moravian Provincial Museum to take possession of two Jewish collections. In Bohemia the mechanism had a somewhat more complex gestation. Karl Maria Swoboda,¹⁰ a professor of art history at Prague's German University and the head of the recently formed German Graphic Art Collection, first turned his attention to the depots of the Expulsion Fund. In the second half of January 1942 the above-mentioned Group I/10 at the Office of the Reich Protector wrote to the Central Office for Jewish Emigration requesting that the Group's employees be permitted to inspect the items held in the Expulsion Fund's depots and discuss their possible future use. The Central Office's head Hans Günther rejected the request, instead issuing the instruction that all artworks, musical instruments, books, refrigerators, clocks, prescription spectacles and furs should be carefully stored.¹¹

The Prague Gestapo headquarters took a different approach. It ordered all the Gestapo offices in the Protectorate to transport the seized artworks and valuables to a central collection point in Prague. Works dating from the 19th and 20th centuries were to be transferred to the German section of the Modern Gallery, while older items were to be taken to the Bohemian and Moravian Gallery or other Prague museums controlled by the Germans; for example, in June 1942 the Gestapo headquarters issued its approval for

7 For more detailed information on the Treuhandstelle see KREJČOVÁ, Helena - VLČEK, Mario: *Návraty paměti. Deponáty židovského majetku v Uměleckoprůmyslovém museu v Praze*.

8 VLK, Ondřej: *Konfiskace uměleckých předmětů na území Protektorátu Čechy a Morava 1939-1945*. Doctoral dissertation. FFUK Praha 2008, p. 87.

9 See the biography in KREJČOVÁ, Helena- KREJČA, Otomar, L.: *Jindřich Baudisch a konfiskace uměleckých děl v protektorátu*. Šenov u Ostravy 2007.

10 JANATKOVÁ, Alena - VLNAS, Vít: *Pražská Národní galerie v Protektorátu Čechy a Morava*. Praha 2013, p. 88.

11 POTTHAST, Björn Jan: *Das jüdische Zentralmuseum der SS in Prag*. Frankfurt am Main. 2002. p. 204.

three large Jewish-owned collections to be transferred to the Bohemian and Moravian Gallery. In November 1942, Dr. von Both of Group I/10 at the Office of the Reich Protector appointed Karl Maria Swoboda as the Trustee for Reich-owned Artistic Property in the Protectorate. Shortly after Kurt Daluege took power as the Deputy Protector (after the assassination of Reinhard Heydrich in June 1942), von Both established a system of institutional control over the utilization of confiscated artworks. Acting in conjunction with the Heritage Authority (led by Professor Karl Kühn) and Professor Karl Maria Swoboda as the Trustee for Reich-owned Artistic Property, von Both resolved to proceed in accordance with the policies of the Secretary of State Karl Hermann Frank.¹²

The rule of the new Deputy Protector Kurt Daluege ushered in a new era after the formation of two taskforces – the Einsatzstäbe Rinnebach and Jurk.

¹² VLK, Ondřej: op. cit., p. 104-105.

MONIKA SEDLÁKOVÁ (Czech Republic)

Establishment and Activities of the Einsatzstabs in the Protectorate of Bohemia and Moravia

Two new institutions of the German occupation administration were established within the Protectorate of Bohemia and Moravia in October 1942 by the Reich's Protector Kurt Daluege. They were called Einsatzstab I and Einsatzstab II.

The main task of the first one was to obtain the works of art especially from the Czech and Moravian castles, the second one was focused on finding alternative accommodation for German families from the Reich afflicted with bombardment. Apart from making inventories of objects from Czech castles the employees of Einsatzstab I, called according to the head of this organization – Einsatzstab Rinnebach were also focused on evaluating paintings and furniture being part of the confiscated Jewish property, which was in charge of the Zentralstelle für die Regelung der Juden Frage (later the Zentralamt), resp. the Auswanderung Fund for Bohemia and Moravia and also the Reich's Protector Vermögensamt. In this area their interests collided with the activities of the Einsatzstab II, whose employees headed by W. Jurke were in charge of Jewish flats for those Germans who were interested in them and they also participated in building new flats.

JAN MACHALA (Czech Republic)

The confiscation of Jewish-owned musical instruments: the example of the Jews of Prostějov (1942)

While searching for source materials to use in a project exploring the application of anti-Jewish laws and regulations in everyday life during the Protectorate era, I found a document in the Brno Gestapo files at the Moravian Provincial Archives describing a tragic case involving Jewish¹ musicians from Prostějov (Proßnitz) who attempted to circumvent the regulations forbidding them to own musical instruments. This ban was one of the countless measures through which the occupying authorities (and Czech collaborators) attempted to reduce Jews' quality of life, or – which was often the main aim – to deprive them of their property. There exists a relatively large quantity of literature on the persecution of Jews in the Protectorate prior to their mass deportation to ghettos and concentration camps, as well as literature on the legislation targeting Jews. Literature from the Protectorate era includes work by the financial lawyer Stanislav Jurášek,² while more recent works include studies by Miroslav Kárný and Helena Petrův,³ as well as the edited documents *Židé v protektorátu [Jews in the Protectorate]*.⁴ However, the confiscation of musical instruments is not described in detail in these publications – undoubtedly because the relevant regulation (issued in 1941) was not publicly announced, and was to a considerable degree duplicated by other regulations on confiscation that were introduced in connection with the planned deportations.

Before presenting a case study of how the Jewish-owned musical

- 1 For the purposes of this article, the terms “Jew” or “Jewish” refer to a person defined by the occupying authorities as a Jew in accordance with the Nazis' 1935 “Nuremberg Laws”; the term is used regardless of the individual's nationality and religious faith.
- 2 JURÁŠEK, Stanislav: *Předpisy o židovském majetku a další předpisy židů se týkající*. Praha 1940; see also the same author's articles in the journal *Právník*.
- 3 KÁRNÝ, Miroslav: „Konečné řešení“. *Genocida českých židů v německé protektorátní politice*. Academia, Praha 1991; PETRŮV, Helena: *Zákonné bezpráví*. Auditorium, Praha 2011.
- 4 KREJČOVÁ, Helena – SVOBODOVÁ, Jana – HYNDRÁKOVÁ, Anna: *Židé v protektorátu. Hlášení židovské náboženské obce v roce 1942*. Dokumenty. ÚSD AV ČR – Maxdorf, Praha 1997.

instruments were confiscated under the Protectorate, I will first briefly outline the history of the Jewish community in Prostějov and characterize its situation in the first years of the occupation.

“The Jerusalem of Central Moravia”

Unlike Bohemia, where Jewish life was traditionally focused on Prague (whose Jewish community was by far the largest in the province), in Moravia the Jewish population was scattered among numerous communities, many of them quite sizeable. The Jewish community of Prostějov ranked among the largest and most important such communities in Moravia.

The first documented mention of Jews in Prostějov dates from the mid-15th century. The town's Jewish community reached its zenith in the second half of the 19th century, when there were 1825 inhabitants of the Jewish faith, making up around a quarter of the town's total population. Prostějov was dubbed “the Jerusalem of Central Moravia”. After reaching that peak, the Jewish community went into a permanent decline, as Jews moved to large industrial centres such as Vienna, Brno or Ostrava; however, thanks to Prostějov's development as a centre of industry in its own right (a development to which Jews made a significant contribution), the decline of the town's Jewish community was not as dramatic as in most of Moravia's other traditional Jewish centres of population. The early years of Prostějov's burgeoning textile industry (from the beginning of the 19th century) are associated almost exclusively with Jewish businessmen. They contributed greatly to the town's industrial boom during the 19th century, when it grew from Moravia's fifth largest town to become the third largest. Prostějov's Jews were not only known for their business acumen; they also played an active role in the cultural life of the town and the wider region. Among the major Jewish cultural figures with origins in Prostějov were the architect Max Fleischer, the philosopher Edmund Husserl, the composer Ignaz Brüll, and the dramatist Max Zweig.⁵

- 5 For more on the history of the Prostějov Jewish community see GOLD, Hugo (ed.): *Die Juden und Judengemeinden Mährens in Vergangenheit und Gegenwart*. Brünn 1929, p. 491-504; GOLD, Hugo: *Gedenkbuch der Untergegangenen Judengemeinden Mährens*. Tel Aviv 1974, p. 103-105; GRULICH, Rudolf: Proßnitz, das „Hannakische Jerusalem“ als Geburtsstadt deutscher Literaten und Gelehrter. In: *Sudetenland – Europäische Kulturzeitschrift*. 44/2002, p. 338-346; HAAS, Theodor: *Juden in Mähren – Darstellung der Rechtsgeschichte und Statistik unter besonderer Berücksichtigung des 19. Jahrhunderts*. Brünn 1908, p. 62.

In the last pre-WW2 census (conducted in 1930), a total of 1442 inhabitants of Prostějov declared themselves to be adherents of the Jewish faith. Hundreds of them emigrated after the Munich Agreement and the occupation of the Czech Lands; however, this exodus was balanced out by an influx of Jewish refugees from the border areas annexed by Nazi Germany, as well as by the fact that almost a hundred individuals who had not previously declared themselves as Jews were now classified as such according to the Nazis' racial legislation, known as the "Nuremberg Laws". The Nazis' Central Office for Jewish Emigration (Zentralstelle für jüdische Auswanderung) registered a total of 1448 Jews in Prostějov (a slightly higher number than in nearby Olomouc).⁶ The vast majority of them were taken to Olomouc in June and July 1942, from where they were deported to Terezín (Theresienstadt), and then onwards to the extermination camps in the east.

The Jews under the occupation

Immediately after the occupation, almost 1500 Jewish inhabitants of Prostějov were thus subjected numerous forms of discrimination, and subsequently became the victims of a concerted campaign of persecution. Their situation was exacerbated primarily by two factors: 1) the activities of the (mainly German) officials in charge of the town, and 2) the presence of the Gestapo in Prostějov.

1) As in other large population centres of the Protectorate, in Prostějov the democratically elected Czech local government representatives were replaced by Nazi party officials of German nationality. In Prostějov this did not occur immediately after the occupation (as was the case in Brno or Olomouc), but after a certain delay, in February 1940, when the Czech mayor Prof. Jan Sedláček was arrested by the Gestapo.⁷ He was replaced for a brief interval by the German Government Commissioner Hermann Böss, a lawyer who was apparently a moderate German from the Sudetenland. However, he was soon (on 21 May) replaced by a new Government Commissioner, the arrogant and vehemently anti-Semitic Maxmilián Girth (also a lawyer). Girth remained

in charge of the town until September 1944, when he was called up to the front and replaced by the District Governor Hans Grabinger (another lawyer); Grabinger ran the town (and the entire Prostějov district) until its liberation in May 1945.⁸

Even while Sedláček was still mayor, Prostějov sometimes ranked among the Protectorate's pioneering towns in its introduction of anti-Jewish measures. This is documented in a report from the official daily newspaper of the occupying authorities *Der Neue Tag* dated 11 July 1939, whose author boasted that Prostějov was the first district in the Protectorate where ritual kosher slaughter practices were forbidden; penalties for violating the ban included fines or imprisonment.⁹ This may have reflected the fact that Prostějov was supervised by a German Oberlandrat named Josef Bayerl, who called upon the authorities under his control to "solve the Jewish question".¹⁰ However, a far more brutal period of repression followed when the town came under the control of the above-mentioned Government Commissioner Maxmilián Girth and his secretary Ernest Brichta, who was entrusted with matters related to the town's German minority and housing-related issues; he often solved housing problems at the expense of the town's Jewish community. One typical example of the type of anti-Jewish policy applied in Prostějov can be given: in the autumn of 1941 Government Commissioner Girth decided to forbid Jews from entering the town centre: "*In order to prevent Jews loitering in all streets and squares, which creates the impression among visitors that only Jews live in Prostějov...*".¹¹ The proposal for the ban listed 23 streets and squares; if it had been approved, it would have effectively divided the town into several parts between which Jews would not have been permitted to move, creating a number of enclosed areas near the town centre which Jews would not have been able to leave. The proposal was so radical that the Gestapo suggested it be somewhat modified for practical reasons (among which was the planned concentration of Jews in designated ghettos), and when the ban eventually came into force it applied only to three squares

6 KLENOVSKÝ, Jaroslav: *Židovské město v Prostějově. Muzeum Prostějovska*, Brno-Prostějov 1997. See also: Archiv Památníku Terezín (Terezín Memorial Archives), A7141 Namenliste Olomouc, p. 123-194.

7 Jan Sedláček (1888-1960) was arrested for his resistance activities, but in October 1940 he was released on grounds of serious illness.

8 Famous people associated with the town of Prostějov and the region (online) <http://www.prostejov.eu/cs/volny-cas/o-meste/osobnosti-mesta/> (accessed 1. 10. 2015)

9 *Schächtverbot im Bezirk Proßnitz*. Der Neue Tag, no. 93, 11. 7. 1939, p. 7.

10 Cf.: State District Archives Kroměříž, fonds (f.) B-a-2, inv. no. 66, Records of the Holešov town council. Minutes of a meeting held on 12.11.1941.

11 State District Archives Prostějov (SOKA Prostějov), f. Archiv města Prostějova (Prostějov Town Archives, AMP), box 576, inv. no. 2334, sig. 103, Jews – ban on entering the town centre. fol. 17.

and Prostějov's parks – though it still meant that over 70 Jewish families were forced to leave their homes.¹²

2) From 1939 to 1942 Prostějov had its own Gestapo office, first in a school building and then in the town's tax office. The Gestapo station was headed by a number of commanders; the longest in office was Leopold Kadletz, originally from Vienna, who was in charge of the town's Gestapo during the period under investigation here.¹³ The presence of the Gestapo in the town had a significant impact on the implementation and enforcement of anti-Jewish regulations. There were frequent arrests for offences such as the purchase of banned food products or failure to wear the compulsory Jewish yellow star. Penalties were also harsher, and offenders were not infrequently sent to concentration camps. In Moravia, this most commonly meant the "Pod kaštany" concentration camp in Brno; however, in cases deemed by the Gestapo to be particularly serious (or in all cases during the period of martial law), detainees were frequently transported out of the Protectorate.

However, Prostějov's Jews were not only watched over by Gestapo officers and the town's municipal police; they were also closely monitored by local Nazis and Czech fascists, as can be seen from a page full of denunciations in the Czech fascist magazine *Arijský boj* ("Aryan Struggle") from mid-October 1941. Many local anti-Semites informed on the town's Jews for failing to wear the compulsory yellow star (a requirement introduced on 19 September), as well as providing information on where and what they were buying, what they were talking about, and which of the town's non-Jewish population were still maintaining contact with them.¹⁴

Seizures of Jewish property

In late 1941 and early 1942 the Prostějov Gestapo dealt with a somewhat unusual case in which several of the town's Jews had failed to declare their musical instruments. It appears that the records in the Brno Gestapo files

contain no other cases of a similar nature.¹⁵ The "offence" committed by a group of Prostějov Jews was connected with restrictions on the property ownership rights of Jewish inhabitants of the Protectorate. The process of restricting property rights began immediately after the occupation and continued with a regulation issued by the Reich Protector on 21 June 1939 which defined Jewish property and Jews themselves (in accordance with the Nazis' "Nuremberg Laws").¹⁶ In addition to numerous implementing regulations for the Protector's regulation on Jewish property, other important legislation included a regulation issued by the Finance Ministry on 16 September 1940 instructing Jews to declare all their jewellery, artworks and collections of all types to the authorities. The official registration of these items was a clear first step towards their eventual confiscation; for example, another regulation issued on 5 February 1941 confiscated stamp collections and all other postage stamps owned by Jews.

The instruction to surrender musical instruments was not issued by the Ministry, but by the Central Office for Jewish Emigration (Zentralstelle für jüdische Auswanderung) in the form of an internal order of the Jewish Religious Community in Prague dated 19 December 1941¹⁷ (according to other sources the confiscation of musical instruments dated from an order of 26 December 1941).¹⁸ According to the order, all Jews had to surrender their cameras, measurement apparatus and portable musical instruments to their local Jewish community office. Non-portable musical instruments were to be declared. It is evident that the confiscation of musical instruments was viewed as a matter of marginal importance from a legal analysis written by Franz Friedmann for the Jewish Religious Community in Prague and entitled "The legal status of the Jews in the Protectorate of Bohemia and Moravia. The situation as of 31 July 1942"; the chapter on the seizure of Jewish property makes no mention whatsoever of musical instruments.¹⁹ Moreover, the list of orders and regulations known as "Documents of persecution", which probably served as the basis of Friedmann's analysis, does not contain the December

12 Ibid., fol. 66-67 and 71-73.

13 Security Services Archiv (Archiv bezpečnostních složek), f. 52, Statements of Gestapo and SD officers, sign. 52-84-5, Gestapo: Organizational summary, Olomouc region. fol. 31-34.

14 *Arijský boj*, 18. 10. 1941, clippings held at SOKA Prostějov, f. AMP, box 576, inv. no. 2334, Prostějov Jews.

15 See Moravian Provincial Archives, Brno (MZA), f. B-340, Gestapo Brno – fonds catalogue, available online: <http://www.mza.cz/gestapo-brno> (accessed 1. 10. 2015).

16 PETRŮV: op. cit., p. 59-69; KREJČOVÁ – SVOBODOVÁ – HYNDRÁKOVÁ: op. cit., p. 269-273.

17 MZA, f. B-340, sign. 100-243-19, fol. 1.

18 KREJČOVÁ – SVOBODOVÁ – HYNDRÁKOVÁ: op. cit., p. 231.

19 KREJČOVÁ – SVOBODOVÁ – HYNDRÁKOVÁ: op. cit., p. 269-273.

order mentioned above.²⁰

From January 1941 Jews were obliged to sell their valuables at highly disadvantageous prices to the company Hadega (Handelsgesellschaft G.m.b.H.), which was controlled by the Reich Protector's Office. When the deportations began, forced sales soon developed into the open confiscation of property; Jewish institutions played an increased role in the implementation of this policy. On 20 October 1941 a regulation was issued forbidding Jews from exercising free disposal of their own property. The head of each Jewish family had to sign a form confirming their acquaintance with the regulation.²¹

The Jewish Religious Community in Prague had two departments that were responsible for dealing with musical instruments. The largest department – with 1058 employees – was known as the Treuhandstelle; it was established on 13 October 1941 by order of the Central Office for Jewish Emigration in order to administer the apartments left behind by Jewish deportees, including the fixtures, furniture and valuables in the apartments. The Treuhandstelle kept records of these items, as well as valuing them and carrying out necessary repairs, and then transporting them to its own depots.²² The smallest department of the Jewish Religious Community (with just four employees), was designated as the department for "Special occurrences, administration of property declarations, sewing machines and non-portable musical instruments. Regulations." As the name suggests, this department was entrusted with registering non-portable musical instruments.²³

Initially, musical instruments surrendered by their Jewish owners were collected by local Jewish religious communities. According to a list reporting the situation as of 31 December 1941, the Jewish community in Prostějov had received 111 musical instruments. Most were violins (71), followed by accordions (8), guitars (4), saxophones (4), cellos (4), violas (4), mandolins (3), trumpets (3), zithers (2), flutes (2), a piccolo, a clarinet, a trombone, a

lute, a banjo and a mouth organ. According to these figures, every 13th Jew in Prostějov owned on average one musical instrument.²⁴

Undeclared violins

In mid-January 1942 the Gestapo station in Prostějov received confidential information to the effect that a large number of the town's Jews had acquired old, worthless instruments which they had surrendered, but they had in fact retained their high-quality, valuable instruments.

The denunciation stated specifically that Rudolf Weissbarth (age 45), a former shop-owner and the alleged owner of a *Testore* violin, had rented a cheap violin from the musical instrument dealer Josef Sýkora, which he had surrendered to the Jewish community. On 19 January Weissbarth was summoned to an interrogation at the town hall's municipal police station, where – in the words of the Gestapo report – "*he confessed after much lying*" that, with the intention of surrendering a violin that was not his own, he had rented a cheap violin for 20 K per month from Josef Sýkora, a local musical instrument dealer. He had entrusted his own violin to the safekeeping of one Artur Auerbach.²⁵

Auerbach and Weissbarth were both members of Prostějov's "Türkel Quartet" (which also included Richard Türkel, Kurt Neumann and Otto Pollak). They gave concerts at Türkel's house, performing for Jewish audiences who were forbidden from attending public concerts.²⁶

Weissbarth was due to be moved to the police cells in Olomouc, but shortly (around an hour) after the interrogation he committed suicide, hanging himself in his cell.²⁷ This fact alone is an eloquent demonstration of what interrogation methods were probably used by the Gestapo and what kind of threats must have been made to ensure a confession. His farewell letter to his family (who naturally never saw the document) is also revealing: "*Geige – Auschwitz, Schluss Rudolf*" (violin = Auschwitz, the end, Rudolf).²⁸

20 See Prague Jewish Museum, Shoah Department, Documents of persecution, box 1, inv. no. 1.

21 KREJČOVÁ – SVOBODOVÁ – HYNDRÁKOVÁ: op. cit., p. 230.

22 KREJČOVÁ – SVOBODOVÁ – HYNDRÁKOVÁ: op. cit., p. 17.

23 KREJČOVÁ – SVOBODOVÁ – HYNDRÁKOVÁ: op. cit., p. 15.

24 MZA, f. B-340, sign. 100-243-19, fol. 3-8.

25 MZA, f. B-340, sign. 100-243-19, fol. 1-2.

26 MZA, f. B-340, sign. 100-243-19, fol. 26.

27 MZA, f. B-340, sign. 100-243-19, fol. 13.

28 MZA, f. B-340, sign. 100-243-19, fol. 15.

The following day Artur Auerbach (age 43) was also arrested, and likewise “after much lying” he confessed that he had given Weissbarth’s *Testore* violin to an Aryan relative for safekeeping. The violin was found at the relative’s house, and it was seized. It was also discovered that Auerbach himself had failed to surrender a valuable old Viennese violin, which he had substituted with a worthless instrument. The valuable instrument was found at his home and seized. During the interrogation Auerbach stated that he could not bear to be parted from his violin. He also stated that another member of the quartet, Kurt Neumann, had done the same, as had four other individuals – Sigmund Bill, Otto Stöckelmacher, Otto Sinaiberger and Alfred Freiburger.²⁹ On the basis of the statements obtained by interrogation, the Gestapo drew up a short list of the valuable instruments that the named individuals had allegedly kept for themselves.

The Gestapo did not arrest these individuals; instead it instructed the Prostějov Jewish community to question them and warn them that if they failed to surrender the instruments by Sunday 25 January, they would face severe consequences.

The first to be summoned was the manual worker Kurt Neumann (age 35), on 21 January. He stated that he owned a viola by an unknown maker and that he had owned one *Leeb Pressburg* violin, which he had sold in 1939 in order to raise money to emigrate. He wanted to take the second violin with him when he emigrated, but he had already surrendered it to the Jewish community.³⁰ He never managed to emigrate; he was deported with the rest of Prostějov’s Jews to Terezín (Theresienstadt), and he eventually died at the Maly Trostenets extermination camp.

Otto Steckelmacher (age 51), a former clerk and now a manual worker, stated that he owned a *Bergmann* violin with a value of approximately 1500 K (i.e. hardly a high-value instrument made by a master craftsman). He claimed that had not intended to conceal the instrument; instead he merely wanted to play it for a short while before being transported, as he had played the violin for 30 years.³¹ He was later deported to Terezín, and died at Auschwitz.

29 MZA, f. B-340, sign. 100-243-19, fol. 25-27.

30 MZA, f. B-340, sign. 100-243-19, fol. 34.

31 MZA, f. B-340, sign. 100-243-19, fol. 31.

Otto Sinaiberger (age 60) stated that he had sold his original violin to an emigrant in order to obtain funds for him and his family to travel abroad (he said that he had already paid a deposit of 60,000 K to a travel agency). He had then purchased a violin from the Miserowsky company in Olomouc for a mere 800 K, which he wanted to take with him when he emigrated. However, he had already surrendered this violin to the Jewish community, and he had no more violins in his possession.³² He did not manage to emigrate; he was deported with his family to Terezín, and died at the camp in Baranovichi.

Bedřich Polák (age 48) stated for the record that he could not play any musical instruments, and so he had no instruments to surrender.³³ He later died at Auschwitz.

On the following day, 22 January 1942, Sigmund Bill (age 81) was summoned to be interrogated. He admitted that he had two instruments which he played and had concealed: a Klotze violin and a gypsy viola (he stated that he had never owned the Amati violin that the Gestapo were seeking). He asked the German authorities to take account of his advanced age and forgive him for the error that he had committed.³⁴ He was not arrested, but he was deported with the other Jews to Terezín and died at Treblinka.

Alfred Freiburger (age 75), brought his Mezadri violoncello to the Jewish community, and likewise asked to be forgiven for his mistake. He stated that he had owned his cello for over 50 years and could not bear to be parted from it. Freiburger died in Prostějov of natural causes before he could be transported.³⁵

The only person arrested in the case of the undeclared musical instruments was Artur Auerbach, who decided to follow in the footsteps of his friend Weissbarth. On the night of 28 January 1942 he hanged himself in a Gestapo cell in Olomouc.³⁶

The families of the musicians named above were all transported to

32 MZA, f. B-340, sign. 100-243-19, fol. 32.

33 MZA, f. B-340, sign. 100-243-19, fol. 33.

34 MZA, f. B-340, sign. 100-243-19, fol. 29.

35 MZA, f. B-340, sign. 100-243-19, fol. 30.

36 MZA, f. B-340, sign. 100-243-19, fol. 48.

Terezín, and subsequently died in the extermination camps. It is therefore unsurprising that nobody claimed for the restitution of the seized instruments (or any other property) after the war.

(II.)

Protectorate of Bohemia and Moravia and the post-war development of the State – the legal overview

Chair:

Tomáš Kraus, Czech Republic

The refugee problem in 1938 and its solution²

Assessing the refugee problem³

Assessing the legal status of refugees in Czechoslovakia during the crisis years of 1938–9 requires a degree of empathy with the intentions of legislators and the impacts on the lives of individuals affected. The ethos of the democratic First Republic, representing a stark contrast with totalitarian Germany, was replaced under the Second Republic by a desire for self-preservation. As an international problem became a domestic issue, legislation regarding refugees changed to reflect the developing situation.⁴

Although the term “refugee” (“uprchlík” in Czech) was not used in Czechoslovak law, it was nevertheless a well-known concept, as the country had sheltered numerous refugees throughout its history.

The First Republic was characterized by its openness towards refugees. The situation could hardly have been otherwise, as Czechoslovakia was a stable democratic state which was founded on a strong ideology of democracy and

human rights. However, this stance did not find support across all sections of society.

The Second Republic – the “rump” Czechoslovakia that was left after the Nazis’ annexation of the border regions in 1938 – proved unprepared for a wave of refugees that was unprecedented in the country’s history (both qualitatively and quantitatively). In view of its limited resources, the state dealt with the situation remarkably well and conducted itself honourably – both in political and pragmatic terms. The subsequent establishment of the Protectorate alleviated the refugee problem, though the new situation in fact merely reflected the sad reality that there was no longer any way of escaping from the Reich.

The complexity of the refugee problem is reflected in the fact that although before the events 1938 refugees were an international issue, after the annexation of the border regions the refugee crisis became a key domestic issue, escalating in its intensity. The changing nature of the refugee crisis brought new problems and new solutions, which were naturally reflected in the legislative environment of the time.

Czechoslovakia’s handling of the crisis was essentially in line with international legislative approaches to the problem of refugees during the Nazis’ consolidation of power in Germany. The specific approach to the crisis after the Munich Agreement reflected the collapse of Masaryk’s First Republic.

Refugees after 16 March 1939

On 16 March 1939 the Führer and the Reich Chancellor issued a short decree (no. 75/1939) establishing the Protectorate of Bohemia and Moravia. The decree consisted of 13 articles. Article 3 stated that the Protectorate was an autonomous entity, but the text gave no specific details of this autonomy. Nor did it contain any provisions pertaining to the organization of autonomous government in the Protectorate. For the population of the Protectorate it was Article 2 that had the biggest impact; it established Protectorate citizenship and stipulated that all members of the German nation living in the Protectorate became citizens of Germany. Article 12 of the decree stipulated that all legislation that conflicted with the German Reich’s assumption of control over the Protectorate was deemed invalid.

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2 This paper draws on the findings of the University of West Bohemia research project ZČU SGS-2012-054 “The legal facts of the Nazi occupation and their consequences” and was produced as part of the project ZČU SGS-2014-060 “Law through the ages” at the Department of Legal History, Faculty of Law, University of West Bohemia, Plzeň. It is part of wider-ranging research into the issue, drawing partly on the successfully defended Master’s thesis: HABLOVIČ, Jakub. *Právní úprava uprchlictví v ČSR do roku 1939*. Plzeň, 2014. Master’s thesis. Department of Legal History, Faculty of Law, University of West Bohemia, Plzeň.

3 For more on this issue see e.g. HABLOVIČ, Jakub. *Uprchlíctví mezi Mnichovem a březnem 1939*. In: TAUCHEN, Jaromír - SCHELLE, Karel (eds.). *Odras německého národního socialismu ve třicátých letech v Československu a ve státech střední Evropy*. Sborník z kolokvia pořádaného katedrou dějin státu a práva Právnické fakulty MU. 1st ed. Brno: The European Society for History of Law – Ostrava: Key Publishing, 2013. p. 60-66.

4 For a summary of legislative changes at the time see e.g. HABLOVIČ, Jakub. *Legislativa na téma uprchlictví ve Druhé republice*. In: TAUCHEN, Jaromír; SCHELLE, Karel (eds.). *Češi a Němci v meziválečném Československu*. 1st ed. Ostrava: Key Publishing, 2013. p. 84-91.

The refugee problem again took on a new dimension; it was no longer comparable with the situation in November 1938, or indeed with the preceding situation. People who fled to the Protectorate from the annexed border regions (ceded to Germany as a result of the Munich Agreement) formally crossed a border, but in reality the entire territory was under the control of Germany. One could say that they had nowhere to run. Czechs living in the annexed border regions continued to face a difficult situation, though the problems were somewhat less intense than before the establishment of the Protectorate. This led to a decrease in the number of refugees, and during 1939 the migration ceased entirely.⁵ Refugee numbers did increase somewhat between April and June 1939, swelled by the migration of people from Slovakia and Subcarpathian Ruthenia who left their homes due to the ongoing political situation there. Nevertheless, though this wave of refugees was significant, the numbers were several times smaller than in the preceding wave. Moreover, organizations such as the Institute for the Care of Refugees (Ústav péče o uprchlíky) were already established, so the situation was much less critical than it had previously been.⁶

Damage, costs and compensation

At the end of 1938, when the wave of refugees reached its peak, officials began to discuss how to deal with the costs incurred by the refugees as a result of the Munich Agreement and the subsequent annexation of territory. The National Bank and the Provincial Authority drew up a list of costs as a basis for further discussions. Records from this period are incomplete, and they merely indicate that the costs were considerable.

It was not until 1940 that a full list was compiled of all claims pertaining to the costs incurred; the list was drawn up in accordance with valid legislation,⁷

on the basis of government regulation no. 93/1940. Section 1 of this regulation stipulated that the costs incurred as a consequence of the political events that occurred the autumn of 1938 (including the preparations for the establishment of the new state) should be determined and investigated.⁸

Although the regulation stipulated a form of inventory which could potentially be used as a basis for compensation payments, it contained no details of the process for the compensation or the form that it should take. The implementation of the costing was entrusted to district authorities, depending on the aggrieved party's place of residence or their first place of residence after their arrival from the annexed territories. The aggrieved party had to declare the losses and costs using standardized forms that had been produced for the purpose. Costs incurred on territory that had been annexed by Germany were recorded in a white form; for Hungary the form was yellow, for Poland blue, and for Slovakia green. The district authorities then carried out their own investigation of each claim, examining relevant evidence. The deadline for the submission of claims was set as 9 May 1940; any costs not reported by that date were deemed non-existent. However, this deadline soon proved unrealistic; in fact it conflicted with the spirit of the regulation, because many costs related to the annexation had not yet been fully manifested, or were as yet unknown. Aware of these problems, the Institute for the Care of Refugees drafted a proposed government regulation enabling aggrieved parties to submit claims at a later date and the authorities to investigate and process those claims. Nevertheless, despite the justification for such a regulation, it was not approved.⁹

The precise costs were determined by official bodies established expressly for this purpose – the “mixed commissions” at the Provincial Authorities in

5 ŠÍMA, Jaroslav. *Českoslovenští přestěhovalci v letech 1938-1945: Příspěvek k sociologii migrace a teorii sociální péče*. Praha: Societas, 1945. p. 18; for more details see BENDA, Jan. *Útěk a vyhánění z pohraničí českých zemí 1938-1939*. 1st ed. Praha: Karolinum, 2013. p. 141-279, ČAPKOVÁ, Kateřina; FRANKL Michal. *Nejisté útočiště*. 1st ed. Praha and Litomyšl: Paseka, 2008. 424 p.

6 ŠÍMA, Jaroslav. *Českoslovenští přestěhovalci v letech 1938-1945: Příspěvek k sociologii migrace a teorii sociální péče*. Praha: Societas, 1945. p. 105.

7 Complete and specific figures can be found in a report on compensation proceedings in Bohemia up to 31 December 1943 and in Moravia up to 1943; the report contains an overview of all costs incurred as well as other data including the number of applications

for compensation, the amount of compensation claimed, and valuations by official “mixed” commissions. The data is ordered according to the state which had acquired the territory on which the cost was incurred; see the summary in ŠÍMA, Jaroslav. *Českoslovenští přestěhovalci v letech 1938-1945: Příspěvek k sociologii migrace a teorii sociální péče*. Praha: Societas, 1945, p. 178-181; see also BENDA, Jan. *Útěk a vyhánění z pohraničí českých zemí 1938-1939*. 1st ed. Praha: Karolinum, 2013. 511 p.

8 See Section 1 of government regulation no. 93/1940 issued 26 October 1939 on the reporting and determination of costs incurred in 1938 and 1939 in connection with certain political events.

9 ŠÍMA, Jaroslav. *Českoslovenští přestěhovalci v letech 1938-1945: Příspěvek k sociologii migrace a teorii sociální péče*. Praha: Societas, 1945, p. 184

Prague and Brno (Section 5). Each commission consisted of three members; the chairman was a representative of the Provincial Authority, one of the remaining two members was from the Provincial Tax Authority, and the other was an expert on the particular type of cost for which the claim was submitted. Membership in the commissions was honorary. The commissions adjudicated on a total of 23,795 cases.¹⁰

The rules for the valuation of damages to movable and immovable items that had been destroyed, damaged, stolen or seized were set according to the principles of the usual value of a particular item at the time when the cost was incurred. In the case of real estate, the assessment was primarily based on the market value or yield of the property in question; other criteria were also used, but the aim was always to determine the cost as precisely as possible. The assessors were also able to base their valuation on government regulation no. 100/1933, which stipulated regulations for the valuation of property and items.

However, property-related costs were not the only subject of the compensation claims. Compensation was also demanded for injury and negative effects on health; these claims were assessed in accordance with Section 1325 et seq. of the General Civil Code.¹¹ Other costs – such as the cost of relocation, premature termination of employment contracts, or impaired personal freedom,¹² were valued in a similar manner.

10 See the official report compiled by Chief Commissioner Zdeněk Burian in March 1944, in ŠÍMA, Jaroslav. *Českoslovenští přestěhovalci v letech 1938-1945: Příspěvek k sociologii migrace a teorii sociální péče*. Praha: Societas, 1945, p. 182-183

11 Section 1325, Act no. 946/1811, the General Civil Code: "Whoever causes physical injury to a person, shall bear the costs of treatment to the aggrieved party, and shall reimburse the aggrieved party for loss of earnings, both past and (if applicable) future, and shall, if so requested, pay compensation as a sum appropriate to the circumstances in question." For more details see ROUČEK, František; SEDLÁČEK, Jaromír. *Komentář k Československému obecnému zákoníku občanskému a občanské právo platné na Slovensku a v Podkarpatské Rusi. Díl. 5. §§ 1090-1341*. Praha: ASPI Publishing, 2002, p. 909-921.

12 Section 1329, Act no. 946/1811, the General Civil Code: "Whoever impairs a person's personal freedom by violent abduction, private captivity or unlawful imprisonment, is obliged to reinstate the aggrieved party's former personal freedom and make full recompense. If the reinstatement of personal freedom is not possible, the aggressor must pay compensation to the bereaved as in the case of unlawful killing." For more details see ROUČEK, František; SEDLÁČEK, Jaromír. *Komentář k Československému obecnému zákoníku občanskému a občanské právo platné na Slovensku a v Podkarpatské Rusi. Díl. 5. §§ 1090-1341*. Praha: ASPI Publishing, 2002, p. 938-940.

The details of the actual compensation were not finalized until 30 April 1941, when the Protectorate government approved guidelines for the initial instalments of compensation payments as specified in regulation no. 93/1941. The maximum sum payable as an initial instalment was stipulated as 20,000 K; in 1944 this limit was raised to 60,000 K. The payment process was coordinated by the audit division of the Institute for the Care of Refugees. For the purposes of the payment, claimants were divided into two categories: public employees, and other claimants. The initial payments for public employees were decided by a four-member commission consisting of representatives from the Ministry of the Interior, the Ministry of Finance, the Ministry of Justice, and the Institute for the Care of Refugees. The payments for the other claimants were likewise set by a four-member commission with the same structure. By 31 December 1943 the commissions had dealt with 22,096 cases and made initial payments totalling 91,103,738.50 K.

In addition to the process described above, state employees were also able to benefit from various other forms of reimbursement and compensation, which will not be discussed here. However, there were some individuals who attempted to gain restitution or recompense for their loss in a less conventional way. For example, the state police officer and border guard Ludvík Tržil, when released from an internment camp in Germany in 1939, returned to his home town of Aš (Asch), which had been annexed by Germany, and demanded that police officers return his property that had been removed from his apartment after his arrest. Tržil later recalled that the officer in question had rejected his request, expressing surprise ... *that I, as a policeman, didn't know that things get stolen in revolutions!*¹³

Financial costs of the refugee crisis

The total financial costs of the refugee crisis were enormous. Data collected by the Institute for the Care of Refugees from its establishment until 1943 indicate that the Institute had a total budget of 441,541,225.40 K. It must, however, be pointed out that this sum was in no way sufficient to cover all the needs of the refugees or the costs of compensation.

13 Státní oblastní archiv v Plzni (Plzeň State Regional Archives), Collection of documentation, uncategorized material, TRŽIL, Ludvík. Zářijové události r. 1938 v Aši a okrese. Aš: manuscript, 1977. p. 8.

The Institute received 159,542,956.55 K from a loan provided by the United Kingdom to the Czechoslovak Republic. Of this sum, a total 19,829,526.50 K was spent to support emigration. The state also released 35,143,870.70 K from its own budget to repay loans taken out by large-scale farmers, and it paid 37,218,253.70 K as initial compensation payments. A further 5,227,492.70 K was spent on the rehousing commissions in Budapest and Bratislava. Thanks to the solidarity of private individuals, 29,038,662.35 K was collected in domestic donations, and 20,037,994 K from donors living abroad. A further 43,546,442.95 K was received from various fees and deductions paid by emigrants.

Totalling up the value of abandoned property, costs incurred by aggrieved parties, costs of providing care and assistance to refugees, and social care payments, the final figure comes to approximately 3,140,000,000 K.¹⁴

In conclusion we can state that it is remarkable that even in the Protectorate of Bohemia and Moravia – under circumstances of harsh political and cultural repression – it was possible to implement a process of compensation at all, despite the Reich's vehement propaganda and its attempts to crush all opposition to Nazi rule.

14 ŠÍMA, Jaroslav. *Českoslovenští přestěhovalci v letech 1938-1945: Příspěvek k sociologii migrace a teorii sociální péče*. Praha: Societas, 1945. p. 78-79.

JAROMÍR TAUCHEN¹ (Czech Republic)

Law in the Protectorate of Bohemia and Moravia²

The purpose of this paper is to provide a brief characterization of the legal system during the Nazi occupation of the Czech Lands. The Protectorate of Bohemia and Moravia was established on 15 March 1939; its legal basis was a decree issued by the Führer and Reich Chancellor on 16 March 1939. The decree was announced on the radio, printed in newspapers, and published in several collections of laws.³

The author of the decree was the Secretary of State at the Reich Ministry of the Interior Dr. Wilhelm Stuckart, and it was probably drafted before Hácha and Hitler met to discuss the occupation of Bohemia and Moravia. Although Czech historiographers claimed for many years that the decree was based on the 1881 agreement between France and the Tunisian Bey setting up a protectorate, this is inaccurate, as Pavel Maršálek (PHS no. 36, 2004) has demonstrated. The decree was most probably inspired by the plans drawn up by the Sudeten Germans in late September and early October 1938 for an agreement between the Reich and the “rump” Czech state.

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- 2 This paper is based on the article TAUCHEN, J., *Právní řád a publikace právních předpisů v Protektorátu Čechy a Morava*. In: *Dny práva 2012 – Days of Law 2012*. Brno: Masarykova univerzita, 2013. p. 701-716, which has been modified and simplified for publication in these conference proceedings in order to provide readers with a basic overview of the functioning of the legal system under the Protectorate of Bohemia and Moravia.
- 3 It was published in German in vol. 47 of the Reichsgesetzblatt I., p. 485 on 16 March 1939, in German and Czech in vol. 2 of the Collection of Regulations for Bohemia and Moravia (*Sbírka nařízení pro Čechy a Moravu / Verordnungsblatt für Böhmen und Mähren*, p. 7) on 21 March 1939, and in part 28 of the Collection of Laws and Regulations (*Sbírka zákonů a nařízení*) as no. 75 on 17 March 1939; a Czech translation can be found in vol. 65 of the gazette *Úřední list*, p. 775, dated 17 March 1939. For information on printing errors and differences between the Czech translation and the original text of Hitler's decree see HOFFMANN, J. et al., *Nové zákony a nařízení Protektorátu Čechy a Morava (a býv. Česko-Slovenské republiky)*, vol. 1/1939, Praha: Právnícké knihkupectví a nakladatelství V. Linhart, 1939, p. 403-404.

Hitler's decree was not a long text; it consisted of a preamble and 13 articles. It was also formulated very vaguely and without specific details, so its provisions were open to two different interpretations – a fact that was exploited to a considerable extent by the occupying powers. During 1939 three additional constitutional-legal documents were appended to the decree. These were a regulation pertaining to the decree of the Führer and Reich Chancellor (22 March 1939, RGBL. I., p. 549), a regulation on the establishment of an administration and a German security police force in the Protectorate of Bohemia and Moravia (RGBL. I., p. 1681), and a speech on the organization of the Protectorate given by the Secretary of State at the Reich Ministry of the Interior Dr. Wilhelm Stuckart at a meeting of Secretaries of State, in which Stuckart informed those present about Hitler's key guidelines concerning policy in occupied territories. The 1920 Czechoslovak constitution was not directly annulled; however, its provisions which conflicted with the transfer of power to the German Reich were deemed invalid.⁴

On the basis of Hitler's decree, the territory of the former Czecho-Slovak Republic became part of the territory of the German Reich. The newly established entity, entitled the Protectorate of Bohemia and Moravia, was under the protection of the Reich, and Hitler's decree suggested that the newly created entity was to function autonomously. The Protectorate of Bohemia and Moravia was thus declared to be an autonomous entity, and according to the wording of the decree it was entitled to run its own affairs, though it was obliged to exercise its sovereign rights in accordance with the political,

military and economic needs of the Reich. However, although this autonomy was frequently invoked by German representatives, the Protectorate was in fact only autonomous on paper; the Nazis could overrule, restrict or entirely revoke this autonomy at any time.⁵ As time went on, the Nazis increasingly intervened in the Protectorate's declared autonomy, and in some areas of its functioning they removed any autonomy that the Protectorate may once have had.

Article 12 of the decree of the Führer and Reich Chancellor stipulated that "*Law that is currently valid in Bohemia and Moravia remains in force, provided that it does not conflict with the German Reich's assumption of control over the Protectorate*".

This represented a reception of the vast majority of legal norms from the legal order that had been valid under the First and Second Czechoslovak Republics – most of which included previous Austrian legislation that had likewise been received. This maintained continuity between the new legal order and that of the now-defunct Czecho-Slovak Republic.

Considering the legal order that was valid in the Protectorate as a whole, it is necessary to distinguish between the legislation of the Reich and autonomous legislation; autonomous law (i.e. law received from the Czecho-Slovak Republic, plus the new legislation issued by the autonomous authorities) was not the only law valid on the territory of the Protectorate, as several Reich legal instruments were also introduced.

The application of either autonomous law or Reich law usually depended on the citizenship of the parties in legal relations. For citizens of the Protectorate, the decisive legal order was the received law of the Czechoslovak Republic, in combination with the new Protectorate regulations introduced after 15 March 1939. However, under the new legal situation, the legislation which remained valid after 15 March 1939 had to be interpreted in accordance with the ideology of the National Socialist German Reich.⁶ German citizens resident in the Protectorate were subject to the jurisdiction of German courts, and

4 For details on legal developments under the Protectorate of Bohemia and Moravia in contemporary secondary literature, see especially Pavel Maršálek's study *Opatření vojenské správy v prvním měsíci nacistické okupace českých zemí (15.3.-15.4.1939)*. In: *Právněhistorické studie no. 37*, Praha: Karolinum, 2005, p. 110; ---, *Protektorát Čechy a Morava a nacistická okupační politika*. In: *Vysídlení Němců a proměny českého pohraničí 1945-1951.1. díl. Češi a Němci do roku 1945*. Středokluky: Zdeněk Susa, 2010, p. 171; ---, *Pod ochranou hákového kříže: nacistický okupační režim v českých zemích 1939-1945*. Praha: Auditorium, 2012; ---, *Protektorát Čechy a Morava: státoprávní a politické aspekty nacistického okupačního režimu v českých zemích 1939-1945*. Praha: Karolinum, 2002. Other key works on the Protectorate of Bohemia and Moravia include: SOBOTA, E., *Co to byl protektorát*. Praha: Kvasnička a Hampl, 1946; PASÁK, T., *Pod ochranou říše*. Praha: Práh, 1998; ---, *Český fašismus 1922-1945 a kolaborace 1939-1945*. Praha: Práh, 1999; BRANDES, D., *Češi pod německým protektorátem: okupační politika, kolaborace a odboj 1939-1945*. 2nd ed. Praha: Prostor, 2000; GEBHART, J., KUKLÍK, J. st., *Dramatické i všední dny protektorátu*. Praha: Themis, 1996; GEBHART, J., KUKLÍK, J. st., *Velké dějiny země Koruny české. Svazek XVa. a XVb*. Praha: Paseka, 2006-2007.

5 See e.g. Various authors, *Dějiny státu a práva na území Československa v období kapitalismu (1918 – 1945)*. Bratislava: Vydavateľstvo Slovenskej akadémie vied, 1973, p. 450-451.

6 KRIESER, H., *Die deutsche Gerichtsbarkeit im Protektorat Böhmen und Mähren*. Ausübung und Umfang. In: *Deutsches Recht, Ausgabe A*, vol. 10, Heft 42, 1940, p. 1745-1754; an

they also enjoyed the rights of Protectorate citizens.⁷ However, Reich law⁸ in the Protectorate did not apply *in toto* either to Protectorate citizens or to German citizens,⁹ as no single unified Reich law existed even within the territory of the Reich; this situation was a consequence of the annexation of several territories by the Reich – Austria in March 1938 and the Sudetenland in October of the same year.

One of the Nazis' main legal tasks after the Anschluss of Austria and the annexation of other eastern territories was to introduce a unified legal order not only throughout the entire Reich, but also in the occupied territories. Because this could not be done immediately, the changes were introduced on a gradual basis. This occurred in two main ways: either the legislation of the occupied territories directly incorporated legal norms that were valid in the Reich (typically the Nuremberg racial laws), or "autonomous" legislation was heavily influenced by Nazi ideology or the Nazis' concept of law.¹⁰ The Protectorate of Bohemia and Moravia was no exception.¹¹ According to statistical data, the *Sbírka zákonů a nařízení* (Collection of Laws

and Regulations) contained 366 items of legislation with explicit derogatory clauses affecting 380 previous regulations – revoking 129 and altering 251 in various ways.¹² In comparison with other periods of history, the Protectorate was not in existence for long; however, during the six years of its existence both private and public law were significantly influenced by Nazi ideology.

Reich German legislation with validity in the Protectorate

As has been mentioned above, Reich law did not apply *in toto* within the territory of the Protectorate of Bohemia and Moravia; it only applied if the content of a particular legal instrument so required or if a Reich legal instrument specifically stipulated its validity within the Protectorate. In the case of some legislation, its validity within the Protectorate was evident from the title of the legislation,¹³ or the text included a section specifically devoted to the validity of the legislation in the Protectorate; however, there were also cases in which the validity of an item of legislation in the Protectorate had to be deduced from the stipulation that the legislation was "issued for the territory of the German Reich".¹⁴ However, it was frequently not immediately clear whether – or to what extent – a Reich German legal instrument was applicable to the Protectorate. Contemporary legal literature and commentaries often followed their description of the content of Reich legislation with the statement that "*it is not clear whether these legal norms are also valid within the territory of the Protectorate*".¹⁵ In many cases it was also not entirely clear whether Reich German legislation was applicable only to German citizens resident in the Protectorate or also to people with Protectorate citizenship. In order for the Czech legal community to remain aware of the Reich laws that were

example of different interpretations in the First Czechoslovak Republic and in the Protectorate is Act no. 50/1923 Sb. on the protection of the republic.

- 7 Regulation of the Reich Interior Minister on the acquisition of German citizenship by former Czecho-Slovak citizens of German nationality, 20 April 1939 (RGBl. I., p. 815).
- 8 For a characterization of Reich law see e.g. MANDL, V., *Právní soustava Německé říše*. Praha: V. Linhart, 1939; NYDL, B., *Základy nacionálně-socialistické nauky právní*. In: *Právník*, vol. 78, part 1, 1939, p. 18-19; KNAPP, V., *Problém nacistické právní filosofie* (reprint). Dobrá Voda: Aleš Čeněk, 2002; more recent works include TAUCHEN, J., *Prameny práva v nacistickém Německu*. In: *Dny práva - 2009 - Days of Law*. Brno: Masarykova univerzita, 2009, p. 2757-2773; MERTENS, B., *Rechtsetzung im Nationalsozialismus*. Tübingen: Mohr Siebeck, 2009.
- 9 For more details see the Regulation on the use of German law for German citizens in the Protectorate of Bohemia and Moravia, 20 July 1939 (RGBl. I., p. 1309); the Regulation on the German judicial system in the Protectorate of Bohemia and Moravia, 14 April 1939 (RGBl. I., p. 752); the Regulation on the functioning of the judicial system in civil-legal matters within the Protectorate of Bohemia and Moravia, 14 April 1939 (RGBl. I., p. 759); from the literature see e.g. ŠTAJGR, F., *Druhé nařízení o výkonu občanského soudnictví v Protektorátu*. In: *Všehrd*, vol. 21, no. 6, 1940, p. 177-181.
- 10 Among Czech studies of Nazi ideology and its reflection in the legal order of the Protectorate see TAUCHEN, J., *Základní ideologická východiska nacistického „soukromého“ práva jako vzoru pro právo protektorátní*. In: *Dny práva - 2010 - Days of Law*. Brno: Masarykova univerzita, 2011, p. 1720-1742; TAUCHEN, J., *Nacistické „soukromé“ právo jako vzor pro právo protektorátní (analýza jednotlivých právních odvětví)*. In: KNOLL, V. – BERÁNEK, P., *Acta historico-iuridica Pilsnensia 2011*. Plzeň: Aleš Čeněk, 2011, p. 262-274.
- 11 KRIESER, H., *Die Rechtsangleichung im Protektorat*. In: *Böhmen und Mähren*, 1942, p. 150.

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- 12 This statistic is given in SCHELLE, K., *K charakteru práva v tzv. Protektorátu Čechy a Morava*. In: *15. březen 1939. Sborník z vědeckého kolokvia*. Brno: Dům techniky ČSVTS Brno, 1989, p. 90.
 - 13 E.g. the Regulation on legislative power in the Protectorate of Bohemia and Moravia, 7 June 1939 (RGBl. I., p. 1039).
 - 14 E.g. the Act on occasional special public holidays, 17 April 1939 (RGBl. I., p. 763).
 - 15 Statements such as these can be found mainly in the most important (private) compendium of Protectorate legislation (Reich and autonomous) accompanied by commentaries, which was issued throughout the duration of the Protectorate under the supervision of a leading official at the Ministry of Justice, Josef Hoffmann, entitled *Nové zákony a nařízení Protektorátu Čechy a Morava (a býv. Česko-Slovenské republiky)*. Praha: V. Linhart, 1939 – 1945.

valid within the Protectorate, legal journals¹⁶ regularly contained lists of Reich German regulations, and abridged compendia of these legal norms were also published.¹⁷ However, this practice applied only to Reich German legislation issued after 15 March 1939, though Reich German legislation issued prior to this date was also introduced in the Protectorate.¹⁸

The official collections of laws containing Reich legislation were also valid in the Protectorate. Reich legislation valid in the Protectorate and published in the Reich collections came into effect on the day following its publication in the Reich collections (unless specified otherwise).¹⁹

Among the Reich collections of laws with validity in the Protectorate was the *Reichsgesetzblatt*, which consisted of two volumes – the *Deutscher Rechtsanzeiger* and the *Preußischer Staatsanzeiger* – and the gazettes of the Reich ministries, of which the most important was that of the Interior Ministry (*Ministerialblatt des Reichs- und Preußischen Ministeriums des Innern*). The fact that these collections and gazettes were published only in German presented a considerable obstacle to legal practice, as not all legal professionals in the Protectorate were conversant with legal German to an adequate standard enabling them to understand the texts of the Reich German legislation. The Reich collections and gazettes (especially the older volumes) were moreover not easily accessible to most members of the

Czech legal community, so they had only limited opportunities to become acquainted with applicable legal norms. For this reason the Collection of Regulations for Bohemia and Moravia and the Gazette of Regulations of the Reich Protector also included selected Reich legislation with validity in the Protectorate, including official Czech translations – though there was often a considerable delay between the original publication in a Reich collection or gazette and the publication in the above-mentioned Protectorate organs. Official Czech translations were published up to the end of 1941, but from 1942 onwards legislation was published solely in German. If no official Czech translation existed, private translations were often produced and published in legal journals or other publications.

Agazette intended specifically for the purpose of publishing Reich legislation in the Protectorate was established by a regulation of the Commander-in-Chief of the German Army on 15 March.²⁰ A proclamation was also printed on the first page of the newly established Collection of Regulations for Bohemia and Moravia (*Verordnungsblatt für Böhmen und Mähren*),²¹ which contained legislation that was introduced in the territory placed under the protection of the German armed forces (i.e. Bohemia and Moravia).²² The *Verordnungsblatt* was also classified as a Reich collection.²³ From the sixth volume, in connection with the termination of military rule in Bohemia and Moravia and the commencement of the office of the first Reich Protector Konstantin von Neurath, the collection was renamed *Verordnungsblatt des Reichsprotektors in Böhmen und Mähren*, accompanied by the official Czech subtitle *Věstník nařízení Reichsprotektora in Böhmen und Mähren*.²⁴ From vol. 12 of 1941 (22 March) the subtitle was reworded to *Věstník nařízení říšského protektora v Čechách a na Moravě* (replacing the German geographical designation with

16 E.g. *Obzor národohospodářský: časopis věnovaný otázkám národohospodářským a sociálněpolitickým*. Praha: J. Otta.

17 E.g. PUMPR, T., *Rejstřík německých právních norem vydaných v době od 15. března 1939 do 30. dubna 1940 s platností pro Čechy a Moravu a norem recipovaných*. 2nd ed. Praha: Nákladem Právnického knihkupectví a nakladatelství V. Linhart, 1939; VESELÝ, V., *Říšské právo v Čechách a na Moravě: soubor říšských právních norem platných v Protektorátu Čechy a Morava a souvisejících a příbuzných předpisů protektorátních*. Praha: Nákladem Právnického knihkupectví a nakladatelství V. Linhart, 1940 – 1943; KRIESER, H., *Das neue Recht in Böhmen und Mähren (1. – 3. Teil)*. Prag: Volk und Reich Verlag, 1943.

18 An example is Article 2 of Hitler's above-cited decree establishing the Protectorate of Bohemia and Moravia, which states that “residents of the Protectorate who are members of the German nation and become ... German citizens ... are also covered by the provisions on the protection of German blood and German honour”; this is a reception of one of the Nuremberg racial laws. Another “textbook” example is the Regulation on the functioning of the criminal justice system in the Protectorate of Bohemia and Moravia, 14 April 1939 (RGBl. I., p. 754), which contained a taxative list of Reich material and procedural criminal legislative norms applicable to German citizens in the Protectorate of Bohemia and Moravia.

19 Regulation of the Reich Interior Minister, 3 April 1939, on Reich legislation for the territory of the Protectorate of Bohemia and Moravia (RGBl. I., p. 704).

20 SVATUŠKA, L., *Říšskoněmecký právní řád v Protektorátu Čechy a Morava*. In: *Moderní stát. Revue pro vědy státní*, vol. XII/1939, no. 10-11, p. 230.

21 Proclamation of the Commander-in-Chief of the German Army to the population of Bohemia and Moravia, 15 March 1939 (VBl., p. 1).

22 Order on the Gazette for Bohemia and Moravia, 15 March 1939 (VBl., p. 3); the official translation of the German *Verordnungsblatt* on the title page of Pt. 1–5 was “Sbírka nařízení” (i.e. Collection of Regulations), however the above-mentioned order uses the term “Věstník” (i.e. Gazette).

23 Regulation of the Reich Interior Minister, 3 April 1939, on Reich legislation for the territory of the Protectorate of Bohemia and Moravia (RGBl. I., p. 704).

24 This new name was subsequently incorporated into a regulation permitting the publication of legislation in the Protectorate of Bohemia and Moravia, 7 June 1939 (RGBl. I., p. 1039).

its Czech equivalent), but from 1942 the Czech subtitle was dropped entirely. In 1939–1941 the *Verordnungsblatt* was issued in both German and Czech; the left-hand column contained the official German text, and the right-hand column the Czech translation. From 1942 it was published only in German.

The *Verordnungsblatt des Reichsprotektors in Böhmen und Mähren* contained personal reports, regulations, decrees and orders issued by the Reich Protector, as well as Reich legislation that was valid within the Protectorate.²⁵

When a decree of the Führer issued on 20 August 1943 established the position of the Reich Minister for Bohemia and Moravia, the protection of German interests in the Protectorate was entrusted primarily to the Minister rather than the Protector.²⁶ Karl Hermann Frank was appointed as the Minister, and legislation was now published in the *Verordnungsblatt des Deutschen Staatsministers für Böhmen und Mähren*. The *Verordnungsblatt des Reichsprotektors in Böhmen und Mähren* was only published up to August 1943.

Reich German legal norms were also published in newspapers,²⁷ posted as public notices,²⁸ and announced on the radio²⁹ if they were considered urgent. Some legal norms were thus published in the newspapers *Der Neue Tag* or *Prager Abend*. Reich legal norms can also be encountered in several cases in which the principle of non-retroactivity was violated and legislation was introduced with retroactive effect. One example is the regulation on Jewish

property issued by the Reich Protector on 21 June 1939 (VBIRProt., p. 45); some provisions of the regulation were deemed to be retroactive as of 17 March 1939; later the date was moved back further still, to 15 March 1939.³⁰

Autonomous law in the Protectorate

The other type of legislation that was valid on the territory of the Protectorate of Bohemia and Moravia was autonomous (Czech) legislation. As has been mentioned above, this consisted both of received legislation from the First and Second Republics, and also of newly issued legislation. According to the Constitutional Act enabling amendments to the Constitution and constitutional acts of the Czecho-Slovak Republic and on exceptional regulatory powers no. 330/1938 of 15 December 1938 (the Enabling Act), the President of the Republic was empowered, on the basis of a unanimous proposal by the government, to issue decrees with the force of constitutional acts in order to deal with issues which would otherwise have required the use of a constitutional act. This empowerment of the President to issue normative constitutional acts was limited to a period of two years from the establishment of the Parliament of the Slovak Parliament – i.e. it ceased to be valid as of 17 January 1941. For a period of two years from the date on which the Enabling Act took effect, the government was empowered to take, by means of government regulations, all necessary measures which would otherwise have required a statutory law. This transfer of legislative power to the government was limited to two years from the date on which the Enabling Act took effect – i.e. it ceased to be valid as of 16 December 1940.

Under the Protectorate, legislative power also rested with the President and the government. The National Assembly was dissolved by President Hácha on 21 March 1939. However, the President only used his powers to issue decrees with the force of constitutional acts on one occasion, in March 1940.³¹ This meant that the sole autonomous legislative body was the Protectorate government, which issued government regulations. However, from the very

25 SVATUŠKA, L., Říšskoněmecký právní řád v Protektorátu Čechy a Morava. In: *Moderní stát. Revue pro vědy státní*, vol. XII/1939, no. 10–11, p. 230.

26 Decree of the Führer on the “German Minister of State for Bohemia and Moravia”, 20 August 1943 (RGBl. I., p. 527).

27 One example is the Regulation of the Reich Protector on Jewish property issued on 21 June 1939, which came into effect on the day of its publication in the Prague newspaper *Der Neue Tag*, i.e. on the day after its issue. The regulation was not published in the *Verordnungsblatt des Reichsprotektors in Böhmen und Mähren* until 7 July 1939.

28 Public notices were posted to announce the effect of the Reich Protector’s Regulation against acts of sabotage, 26 August 1939 (VBIRProt., p. 83).

29 E.g. the Regulation of the Minister of Aviation forbidding all air transport over German sovereign territory was announced on the radio via *Deutschlandsender* on 1 September 1939 at 4:45, and it took effect immediately after being read out on air. The moment at which the regulation took effect was then published in the *Verordnungsblatt des Reichsprotektors in Böhmen und Mähren* (VBIRProt., p. 104).

30 An amendment (correction) to the Reich Protector’s Regulation on Jewish property was announced on 1 July 1939 in the newspaper *Der Neue Tag*; its period of effect was set retroactively to a date prior to the date on which the Führer’s decree establishing the Protectorate of Bohemia and Moravia took effect.

31 This was the Decree of the State President no. 83/1940 Sb., issued on 8 March 1940, on the oath taken by the members of the government, public employees and other public authorities.

outset the German authorities interfered with this “autonomous” legislative process to a considerable degree. During the period of military occupation, law-making involved a system in which all draft legislation was subjected to a preliminary review by the occupying authorities. Before promulgating legislation, the Protectorate government and the provincial authorities were obligated to submit their decrees and regulations to the head of the civilian administration for approval. Likewise, regulations and orders issued by district authorities were subject to review by the Oberlandräte, who in urgent cases could substitute their own orders instead.³²

The Reich Protector could also intervene in autonomous legislation; his legal status was derived from the Führer’s (above-cited) decree establishing the Protectorate of Bohemia and Moravia, as well as from a regulation on legislative power in the Protectorate of Bohemia and Moravia (issued on 7 June 1939)³³ and a regulation on the establishment of an administration in the Protectorate of Bohemia and Moravia (issued 1 September 1939).³⁴ The Reich Protector was empowered to issue legislation by Article 5, Paragraph 4 of Hitler’s decree, which entitled him to receive information on all actions undertaken by the Protectorate government and to offer advice. He could also object to any actions of the government which he judged to be potentially detrimental to the Reich. In cases of periculum in mora, the Reich Protector could issue his own regulations in the common interest, thus interfering in autonomous law-making. If he submitted an objection, the autonomous authorities were obliged to refrain from promulgating laws, regulations and other legal norms, as well as from executing administrative orders and court judgements. The Reich Protector’s legislative powers were further strengthened in June 1939. The regulation on legislative power in Bohemia and Moravia explicitly conferred on the Protector the right – if so required by the common interest – to amend autonomous legislation. In cases of cases of periculum in mora, he was entitled to issue all forms of legislation, including police regulations.³⁵ According to Article 12 of Hitler’s decree, laws currently

valid in Bohemia and Moravia remained in force provided that they did not conflict with the German Reich’s assumption of control over the Protectorate. It was the Reich Protector who determined which laws were affected by this provision. The autonomous courts and administrative authorities were not entitled to review legal norms or orders issued by the Reich Protector. The subordinate status of the autonomous administration with regard to the Reich Protector was also enshrined in the regulation on the establishment of an administration in the Protectorate of Bohemia and Moravia, under which the Reich Protector was responsible for supervising the entire autonomous administrative system in the Protectorate. The Reich Protector could order the Protectorate authorities to submit reports on certain matters without prior notice. If laws and other legislation applied to territory under the control of more than one Oberlandrat,³⁶ the Protectorate authorities were obliged to submit it to the Reich Protector for approval. The Reich Protector – as well as the Reich SS Commander and the head of the German Police – were entitled to issue administrative orders where necessary in order to maintain security and public order. In August 1943 a new Reich Protector was appointed, and his status, tasks and powers were re-defined. The task of protecting German interests within the Protectorate was entrusted to the newly established German Ministry of State for Bohemia and Moravia.³⁷

It is evident from the above that the declared autonomy of the Protectorate government was in fact merely an empty phrase, as from the very outset the legislative activity of the Protectorate government and its ministries was subject to review by the Office of the Reich Protector. Ministerial officials thus frequently operated under the supervision of officials delegated by the Reich Protector, whose instructions they had to obey. The occupying powers also

32 MARŠÁLEK, P., *Protektorát Čechy a Morava*. Praha: Karolinum, 2002, p. 91-92.

33 Regulation on legislative power in the Protectorate of Bohemia and Moravia, 7 June 1939 (RGBl. I., p. 1039).

34 Regulation on the establishment of an administration and a German security police force in the Protectorate of Bohemia and Moravia, 1 September 1939 (RGBl. I., p. 1681).

35 The Regulation on legislative power in the Protectorate of Bohemia and Moravia received Sections 1, 7 and 8 of the Regulation on police regulations of Reich Ministers, 14 November

Nařízení o policejních nařízeních říšských ministrů ze 14. listopadu 1938 (RGBl. I., p. 1582). According to this regulation, the relevant Reich ministers, subject to agreement with the Interior Minister, were entitled to issue police regulations in areas within their purview; the regulations were applicable either to the entire Reich or a part of it. The Reich Protector in Bohemia and Moravia was one of these Reich ministers.

36 For details on the activities of the Oberlandräte in the Protectorate see e.g. SCHELLE, K. et al., *Dějiny české veřejné správy*. Plzeň: Vydavatelství a nakladatelství Aleš Čeněk, 2009, p. 156-162; MATES, P., *Soustava státních orgánů tzv. Protektorátu Čechy a Morava*. In: 15. březen 1939. *Sborník z vědeckého kolokvia*. Brno: Dům techniky ČSVTS Brno, 1989, p. 5-6.

37 Circular of the Interior Ministry dated 4 September 1943, no. B-1800-1/9-43-I/1, on the new status of the Reich Protector in Bohemia and Moravia and on the establishment of a German Ministry of State for Bohemia and Moravia, published in the Interior Ministry gazette no. 9/1943, 15 September 1943, p. 144.

took control of legislation on lower levels. In the first years of the Protectorate such legislation was merely reviewed, but after Heydrich's introduction of administrative reforms key official positions in the Protectorate authorities were staffed by Germans, who thus exercised a direct influence over the autonomous legislation "from within".

As has been mentioned above, the empowerment of the government and the President to create legislation was limited to a defined period of time by the Enabling Act. This period was ultimately extended indefinitely – not as a result of autonomous legislation, but instead on the basis of a regulation issued by the Reich Protector on 12 December.³⁸ This regulation stipulated that the issue of a government regulation required the signature of the President, as well as enabling secondary legal norms (typically ministerial orders) to amend or revoke primary legal norms (laws).³⁹

In the spring of 1942 there was a major change in legislative practice within the Protectorate, as the government was dissolved as a single collective entity and its powers transferred to the individual ministries. This introduced the "Führer principle", as in the Reich itself; one of the key attributes of this principle was the prioritization of individual responsibility over collective responsibility, as well as the preference for individual rather than collective decision-making.⁴⁰ The legal basis for this step was a regulation issued by the Reich Protector⁴¹ and a regulation of the Protectorate government.⁴² Government regulations were now issued and signed by the President and

38 Regulation of the Reich Protector extending and amending certain provisions of the Constitutional Act enabling amendments to the Constitution and constitutional acts of the Czecho-Slovak Republic and on exceptional regulatory powers no. 330/1938 of 15 December 1938 (the Enabling Act), issued 12 December 1940 (VBIRProt., p. 604).

39 For details see the contemporary commentary in HOFFMANN, J. et al., *Nové zákony a nařízení Protektorátu Čechy a Morava*, vol. 2/1940, Praha: Právnické knihkupectví a nakladatelství V. Linhart, 1940, p. 1862 – 1865.

40 For details of the principles and operation of the Führer principle in the Czech literature, see TAUCHEN, J., *Prosazení vůdcovského principu ve státním aparátu Třetí říše*. In: *Časopis pro právní vědu a praxi*, vol. 15/2007, no. 2, p. 159-164.

41 Regulation of the Reich Protector, 27 February 1942 (VBIRProt., p. 42), on the amendment of certain provisions of the Constitutional Act of 15 December 1938, no. 330, (the Enabling Act).

42 Government regulation no. 80/1942, issued 4 March 1942, on the administrative purview of the government of the Protectorate of Bohemia and Moravia and deputization for members of the government.

the ministers responsible for their implementation; this meant that the issue of a government regulation (a primary norm) required the consent of the Prime Minister, the minister(s) responsible for the implementation, and the President; a government regulation no longer required the consent of the entire government. Individual ministers were also empowered to issue their own regulations. The administrative powers and purview of the Protectorate government were transferred to the ministers, who exercised these powers with the consent of the Prime Minister.

The final intervention in the autonomous legislative process came in connection with the declaration of "total war" in 1944; the relevant ministers were empowered "to issue regulations enabling them to take all steps necessary within their purview to achieve a total war footing and which would otherwise require a law or a government regulation".⁴³

The main organ publishing the autonomous legislation was the Collection of Laws and Regulations that had been received from the Second Republic.⁴⁴ From Pt. 75 of the 1939 Collection (i.e. from 20 September 1939) the name of the collection was changed, becoming the Collection of Laws and Regulations of the Protectorate of Bohemia and Moravia (*Sbírka zákonů a nařízení Protektorátu Čechy a Morava*). It contained primarily government regulations, presidential decrees, orders issued by the Prime Minister, ministerial orders, and general regulations issued by central administrative bodies and authorities operating on the provincial level (for Bohemia or Moravia-Silesia); often the Collection contained regulations issued by the head of the Supreme Pricing Authority. Up to 6 August 1940 the Collection was published only in Czech; from Pt. 76 of 1940 the Czech text was accompanied by a German equivalent (the German text was in the left-hand column, the Czech text at the right). Because no official German translation of autonomous legislation from the Collection was published up to August 1940, the German texts of the most important legislation were published (up to the end of 1942) in the

43 Government regulation no. 177/1944, issued 22 August 1944, on the authorization of ministers and the Head of the Land Authority for Bohemia and Moravia to take exceptional measures to ensure a total war footing.

44 It was established by government regulation no. 392/1938 Sb., issued 30 December 1938, on the Collection of Laws and Regulations of the Czecho-Slovak Republic.

journal *Prager Archiv für Gesetzgebung und Rechtsprechung*.⁴⁵ Autonomous legislation was also published in a number of other organs: the gazette Úřední list Protektorátu Čechy a Morava (Gazette of the Protectorate of Bohemia and Moravia), the gazettes of ministries, the Bohemian Provincial Gazette and the Moravian and Silesian Provincial Gazette. Some of these were published in both Czech and German.

Under the Protectorate, some areas of law remained largely unchanged (e.g. civil law), while others (such as employment law) were transformed, based on entirely new principles. Throughout the Nazi occupation of the Czech Lands the codes pertaining to the individual branches of law remained valid.⁴⁶ These codes originally dated back to Austrian law in the 19th century; in 1918 they were received into the law of the independent Czechoslovakia, and they remained valid until their eventual revocation in the early years of the communist regime, in the late 1940s and early 1950s. These codes were: the General Civil Code (1811), the General Commercial Code (1863), the Criminal Code (1852), the Civilian Code of Judicial Procedure (1895), and the Code of Criminal Procedure (1873). These codes were only lightly amended, and where major changes were required in a certain branch of law, these were implemented by means of government regulations.

45 HUSTY, F., (ed.) *Prager Archiv für Gesetzgebung und Rechtsprechung*. Prag: Böhmischo-Mährische Verlags- und Druckerei-Ges.m.b.H, 1939-1942.

46 Czech secondary literature on legal history has so far covered legal developments in the Protectorate in detail only in the field of private law – see the monograph VOJÁČEK, L., SCHELLE, K., TAUCHEN, J. et al., *Vývoj soukromého práva na území českých zemí*. Brno: Masarykova univerzita, 2012; criminal law under the Protectorate is covered in SCHELLE, K., TAUCHEN, J. et al., *Protektorát Čechy a Morava - jedna z nejtragičtějších kapitol českých novodobých dějin (vybrané problémy)*. Brno: The European Society for History of Law, 2010. The remaining branches of law still await detailed scholarly treatment.

PAVEL MARŠÁLEK (Czech Republic)

The Nazi occupation of the Czech Lands, the Nuremberg Trials and the international law of war

I. A plurality of views on the Nazi occupation of the Czech Lands

There is no universally accepted view of the Nazis' occupation of the Czech Lands. Several fault lines can be discerned among authors: their nationality, their political beliefs, and the generation to which they belong. It is not possible to achieve absolute historical objectivity, insulated from all external influences; this would require the omission of all value judgements, and an interpretation would be reduced to a mere listing of dry historical facts.

If we examine the first fault line – nationality – the Nazi occupation of the Czech Lands often forms part of an entirely different historical story on different sides of the line. On the Czech side it is viewed as part of the era of Nazi (or German) oppression, characterized by a criminal regime, when the nation faced a struggle for its very existence, culminating in the justified expulsion of the German population from Czechoslovakia. Germans, on the other hand, are rarely willing to acknowledge the guilt of the entire nation (not only the Nazis). They emphasize the post-war expulsions of Germans without sufficiently acknowledging what preceded and predetermined these events. Today, one may occasionally hear voices defending the right of the Sudeten Germans to self-determination, or seeking to downplay the impact of the occupation.¹ It is difficult to free oneself from such a schematic approach to history. Some historians have nevertheless managed to do so – Czech historians include e.g. J. Gebhart, J. Kuklík² and J. B. Uhlíř,³ while German

1 Cf. Krulis-Randa, J. S.: *Podstatou evropského soužití je hledání pravdy. Odsun Němců z Československa jako poučení?* In: Jirásková, V. – Suchánek, R. (eds.): *Pocta Prof. JUDr. Václavu Pavlíčkovi*, CSc. Praha 2004, p. 115 ff.

2 Gebhart, J. – Kuklík, J.: *Velké dějiny země Koruny české. Vol. XV a, b*. Praha – Litomyšl 2006 – 2007.

3 See e.g. Uhlíř, J. B.: *Protektorát Čechy a Morava v obrazech*. Praha 2008.

writers include D. Brandes.⁴ This also applies to numerous joint Czech-German research projects.⁵

The influence of nationality on perceptions of the Nazi occupation may sometimes result in a complete lack of understanding of the fundamental features and tragic nature of the conflict between the Czech and German nations. This is the case of the American historian C. Bryant, who rejects the concept of homogeneous nations and the European experience of how minorities can be used as a means of destroying nation states. For this reason he prefers to write of history created by individuals rather than nations (or the tragic clash of two nationalisms within a territory that was home to both nations).⁶

Until relatively recently, interpretations and evaluations of the Nazi occupation were also strongly influenced by political bias. This was the case during the era of the communist regime, when history was manipulated for purposes of power and ideology. The history of the Nazi occupation was presented on the basis of Marxist-Leninist ideology, with its simplistic class-based view of the world, vulgar economism and linear determinism. The Nazi aggression and occupation were presented as a product of the most reactionary and chauvinistic parts of the German bourgeoisie. Historians depicted the most progressive class – the proletariat, led by the communist party, as the sole participants in resistance against the occupation, while collaboration was painted as a vice of the exploiting classes. The Nazi regime was viewed merely in terms of the terror it unleashed, rather than as a political entity; it was viewed as being predestined to fail, and its defeat was seen as a precursor to the revolutionary destruction of the capitalist order. This schematic view remained entirely dominant under communism, with the exception of the brief periods of political thaw and the accompanying de-ideologization of scholarship in the second half of the 1960s and at the end of the 1980s. A symbol of this rigidly Marxist approach to the history of the Nazi occupation was V. Král,⁷ while at the opposite end of the scale we could mention T. Pasák⁸ and J. Tesař.⁹

4 For a comprehensive treatment see Brandes, D.: *Češi pod německým protektorátem*. Praha 1999.

5 For an overview see Part I of the series Arburg, A. von – Staněk, T. (eds.): *Vysídlení Němců a proměny českého pohraničí 1945 – 1951*. Středokluky 2010.

6 Bryant, C.: *Praha v černém*. Praha 2012, p. 12 – 16.

7 Král, V.: *Pravda o okupaci*. Praha 1962.

8 See e.g. Pasák, T.: *Pod ochranou říše*. Praha 1998.

9 For a summer see Tesař, J.: *Mnichovský komplex*. Praha 2000.

Intergenerational differences in the perception of the Nazi occupation have always been significant, and continue to be so. Those who lived through the occupation view it differently than those who lack such first-hand experience. Shortly after the end of the war there was a boom in the publication of literature on the occupation, often in the form of memoirs; these texts frequently expressed hostility against everything German, and failed to distinguish between Germans and Nazis: all Germans were tarred with the same brush.¹⁰ However, as time passed, other problems surfaced and historical memory receded; this vehemently anti-German bias likewise faded. This process was assisted by the promotion of Marxist-Leninist dogma, which judged Germans on the basis of their class, not their nationality. Today, when most historians researching the Nazi occupation have never experienced it at first hand, a different problem has emerged; historians are often rather too distanced from the events, sometimes revealing a lack of empathy or a tendency to downplay the events of the occupation.¹¹ Contemporary historiographical studies increasingly lack the strong conviction (evident in previous generations' work) that the struggle against Nazism was a battle between good and evil.

In this paper I would like to transcend this plurality of views on the Nazi occupation. I will show what the Nazi occupation meant in legal terms, and what consequences ensued at the Nuremberg Trials. I will also attempt to address certain difficult issues which still face lawyers and legal theory today when dealing with the events of that historical era.

II. From the annexation of the Sudetenland to the Protectorate which was no such thing

Numerous factors complicate any attempts to describe the real nature of the Nazi occupation of the Czech Lands and its regime. One has already been mentioned: the plurality of views on the subject, which somewhat blurs the overall picture. However, other obstacles also exist – primarily the Nazis' concerted efforts to conceal their true intentions. It was often not clear

10 One example out of many is Fink, P.: *Hnědá bestie*. Brno 1945.

11 The "downplaying" of the occupation has been encouraged by several unfortunate statements by politicians regarding the Nazi repression as well as the publication of memoirs by leading Nazis and their family members, in which the events are described in overly positive terms. See e.g. Heydrich, L.: *Můj život s Reinhardem*. Praha 2012.

(especially at the beginning of the occupation) what their intentions actually were. Nor can we judge with any certainty from the public pronouncements and declarations of Nazi officials, or from the legislation they introduced. Most of what they said was intended to deceive, to conceal their true intentions, or to pacify those who felt threatened by the Nazi expansion.

The Nazis managed to deceive almost the entire world regarding their plans for Czechoslovakia, presenting their real intention – to break up the state using its Sudeten German minority – as a struggle for self-determination. They took advantage of the appeasement they encountered from the Western powers, culminating in the Munich Agreement which forced Czechoslovakia to cede its border regions to the Reich. This represented a significant success without the need for any military confrontation.¹²

After Munich, the Nazis paused to consider their next steps. One option open to them was to turn the Second Republic (“rump” Czechoslovakia) into a vassal state. However, a more radical alternative eventually prevailed: the use of military force against this resented neighbour state, culminating in the complete liquidation of what remained of Czechoslovakia. The ground for this step was prepared by means of coercion and threats, fanning the flames of Slovak separatism, and harnessing the potential of the remaining German minority in Czechoslovakia. A suitable moment for action presented itself in mid-March 1939, when Slovakia (under German pressure) declared its independence, and the representatives of the Czechoslovak Republic President Hácha and the foreign minister Chvalkovský had no choice but to surrender their country to Hitler, signing a document to that effect in Berlin. The ultimate conclusion of this process came when the Wehrmacht occupied what remained of Czecho-Slovakia.¹³

Choosing among various possible options for their next steps, the Nazi leaders decided to incorporate the Czech Lands into the German Reich indirectly, in the form of a Protectorate. The Nazis considered this preferable to the more radical option of radical direct incorporation (in which the Czech Lands would have been divided up and allocated to different Gaue) or the milder option of a vassal state. The advantages of a “Protectorate” were clear:

12 For more see Kural, V.: *Češi, Němci a mnichovská křižovatka*. Praha 2002.

13 For details see Tvarůžek, B.: *Okupace Čech a Moravy a vojenská správa (15. březen až 15. duben 1939)*. Historie a vojenství no. 3/1992, p. 30 ff.

it would enable the conquered country to be exploited at relatively low cost, and it would not require Czechs to be granted full political rights as citizens of the Reich. Moreover, the Nazis expected that this option would calm the situation in the Czech Lands and among the international community.¹⁴

However, the Nazis’ real intentions were entirely at odds with their proclaimed intentions, which were never meant seriously. This can be seen from even a cursory examination of Hitler’s decree issued on 16 March 1939 which established the Protectorate of Bohemia and Moravia,¹⁵ as well as from the practices introduced by the occupying powers. The decree reveals the atypical nature of the Protectorate. In fact it was not a protectorate at all in the sense of international public law. Protectorates were formed on the basis of an agreement under which the weaker state accepted protection from the stronger state, and in return transferred to the stronger state part of its sovereignty; this particularly involved representation in international affairs, and the protector sometimes interfered in the internal affairs of the protectee. However, a protectorate was never merely a part of the protector state (as in the case of a vassal state); it never ceased to be a state in its own right, and it never entirely lost its international legal subjectivity.¹⁶

However, the Nazis’ Protectorate was not established on the basis of a contractual agreement. The result of the Berlin “negotiations” was not a genuine agreement, and nor was Hitler’s decree; it was an internal legislative act through which Hitler exercised his powers as the head of state. The Nazis themselves emphasized that the Protectorate had been formed as a result of the sovereignty of the Reich – in other words, that it had been forced upon the Czechs.

With regard to the second typical feature of a protectorate – that it was never merely part of the stronger state – this likewise did not apply in the case of the Nazis’ Protectorate of Bohemia and Moravia, which was in fact an integral part of the German Reich. Any notions of the Protectorate as a bearer of its own international legal subjectivity (suggested by Article 6 of the decree) were quickly rejected by the Nazis (by the summer of 1939). They also rejected the notion that the Protectorate was a state, and insisted on the

14 Frank, K. H.: *Čechy a Morava v Říši*. Praha 1941, p. 27.

15 Hitler’s decree was issued as no. 75/1939 Sb.

16 For a detailed treatment see Tomsa, B.: *Právo mezinárodní I*. Bratislava 1930, p. 112 ff.

systematic use of the term “Protectorate” rather than “state” in the names and discourse of its institutions. The only exception was the official title of the “State President”.¹⁷

In order to prevent the Czechs from seeking any parallels or precedents which may have served their aims, the Germans emphasized that the Protectorate of Bohemia and Moravia was a product of National Socialist thought and had no historical precedents or contemporary parallels. Comparisons with existing protectorates in Europe and beyond (particularly the French protectorate of Tunisia, which is often cited as a precedent) confirm this. On the other hand, however, astute observers could not fail to notice the distinct parallels between the Protectorate and Germany’s African colonies in the period before the First World War.¹⁸

The atypical nature of the Protectorate of Bohemia and Moravia was a consequence of its combination of different features – some characteristic of protectorates, others of autonomous entities, and others of annexed territories. Formally the Protectorate was an autonomous, self-governing entity. In reality, however, Hitler’s founding decree ensured that it was entirely subordinated to German interests and strictly controlled by the Reich. The Protectorate lost its presence in international affairs (with the exception of its ambassador in Berlin, who was in fact not an ambassador in the true sense of the word), instead gaining German military bases (described in the decree as a form of “protection”).

The Reich had direct control over the Protectorate’s transport, postal and telecommunication systems. The Protectorate was also part of the Reich customs area, and was subject to its customs authorities. The financial autonomy of the Protectorate was severely restricted by the introduction of the mark as the official currency (alongside the crown). Another restriction stemmed from the declaration that the German population of the Protectorate were German citizens (Reich citizens), who were subject to the German judicial system.¹⁹

17 For more details see Maršálek, P.: *Pod ochranou hákového kříže*. Praha 2012, p. 18 ff., 39, 79 ff.

18 See Kojecký, J.: *Protektorát Čechy a Morava. Úvaha ze srovnávací pravovědy*. Všehrd no. 4/1939, p. 116 ff.

19 See Janečková, E.: *Státoprávní uspořádání Protektorátu Čechy a Morava (1939 – 1945)*. Plzeň 2013, p. 22 ff.

The Germans were able to promote their own interests thanks to the strong position of the Reich Protector – a form of resident governor who was Hitler’s direct representative in the Protectorate and took his powers directly from the Reich government. The Protector approved the appointment of the Protectorate government, as well as exercising other rights; the right to be informed, to advise and to intervene, both by vetoing proposed actions which may have been detrimental to the Reich, and also by issuing his own regulations in cases of *periculum in mora*.²⁰

Everything outlined above leads us to just one possible conclusion. The Protectorate of Bohemia and Moravia was in fact no such thing. Formally it was most similar to a vassal state, or (perhaps even more similar) an autonomous entity existing within the Reich. This conclusion is supported by the basic structural elements of the Protectorate, the marginalization of its rights and powers, and the option (already present in the founding decree) to subsume it completely within the Reich itself. Article 11 of the decree stipulates that the Reich could issue its own legislation which would be valid in the Protectorate, if so required by “the common interest”; in cases of “common need” the Reich could take over entire areas of the administrative system and set up its own Reich authorities. Moreover, the Reich government was entitled to legislate in the Protectorate in order to maintain security and public order.

III. Occupation or unsuccessful annexation?

Viewing the Nazi occupation regime purely from the legal perspective brings with it the risk of reductionism and formalism. This is confirmed by the preceding analysis of the Protectorate, which was not able to reveal and explain the Nazis’ true intentions. In order to gain a fuller picture, we must go to the foundations of the Nazis’ policy as the occupying power.

From their initial occupation of Bohemia and Moravia, the Nazis’ behaviour revealed that they were interested primarily in achieving complete control over the newly acquired territory and exploiting its resources to the full. The border areas and the Protectorate were to become integral parts of the Reich; they were to be Germanized, and they were to function as a source

20 Art. 5 of Hitler’s decree. The Protector’s powers were strengthened further in the following years. For more details see Maršálek, *Pod ochranou hákového kříže*, p. 66 ff.

of raw materials, labour and products. This was in line with Hitler's long-term vision for German expansion, gaining "Lebensraum" for the German people and achieving the liquidation of the Slavs – who were viewed as a hostile, foreign element in the very heart of Europe. These goals remained constant features in the Nazis' policies within the occupied Czech Lands, although the emphasis placed on one or another goal changed depending on the current situation and although the Nazis used different methods of achieving their aims. Besides terror, they also applied more political methods – ideological indoctrination, propaganda and social demagoguery.²¹

The Nazis' policy in the Protectorate developed in four separate phases. Initially there was a period of military rule, as the executive power over the newly occupied territories was wielded by the German army commanders (this lasted one month). Working alongside civilian officials, the commanders' main aim was to pacify and stabilize the conquered country. This was also accompanied by the appropriation of assets and resources, as well as the first steps towards unification, which were designed to model the structures of the Protectorate on those existing in the Reich itself. The population were most seriously affected by Operation Gitter, which involved the seizure of property and a number of steps towards Germanization. Apart from this, military rule was relatively tolerable for the general population, even compared with the previous peace.²²

The second phase can be described as the "Neurath phase" after the name of the first Reich Protector. Initially the policies of the occupying powers largely continued where the military administration had left off. An occupying administration was set up (a two-level public administration system, a network of police stations, courts and a number of special authorities), and the seizure of assets continued, as did the programmes of Germanization. Under Protector Neurath the occupation remained relatively moderate; however, his deputy K. H. Frank increasingly gained a foothold on power, and repression became correspondingly harsher. This development occurred as

a consequence of Germany's preparations for war as well as representing a response to the growing strength of Czech resistance in the autumn of 1939. The Czech resistance was broken in the subsequent months, and Germany's initial military success led to the introduction of a radical and merciless policy: the Czech Lands were to be entirely subsumed into the Reich, and completely Germanized. This solution was preferred by both Neurath and Frank, demonstrating that they essentially shared the same views where major issues were concerned. They also joined forces to resist the attempts of Nazi party officials to simply divide the Protectorate up and allocate its individual parts to the various Gaue in the Reich. Berlin approved of their policy. In its everyday manifestation, the main priority of their policies was to ensure a peaceful and stable situation on the ground and efficient industrial production for the war effort.²³

The third phase in Protectorate policy began when Reinhard Heydrich was appointed as the Deputy Reich Protector in the autumn of 1941. This step was a consequence of Berlin's efforts to crush the burgeoning Czech resistance movement. Heydrich also focused his attention on implementing administrative reforms, which were intended to strip away the remnants of the Protectorate's autonomy and impose rule from the Reich, as well as boosting industrial production and continuing to implement Germanization programmes and anti-Jewish measures. However, Heydrich did not complete his tasks, as he was assassinated in early June 1942. This triggered a period of reprisals and terror, similar to the practices that Heydrich had introduced on his appointment.²⁴

During the last phase of the Protectorate the power resided primarily with Karl Hermann Frank, who in the summer of 1943 was promoted to the position of a Reich minister. Under Frank almost nothing remained of the Protectorate's former autonomy; legislation was imposed from the Reich, while the key positions in the economy and public administration were placed

21 Key documents are published in *Chtěli nás vyhubit*. Praha 1961. Other studies on the Protectorate have either been mentioned already or will be mentioned below. For a study of the situation in the Sudetenland border areas see Kural, V. – Radvanovský, Z. et al.: „*Sudety pod hákovým křížem*“. Ústí nad Labem 2002.

22 For a detailed treatment see Maršálek, P.: *Opatření vojenské správy v prvním měsíci nacistické okupace českých zemí (15. 3. – 15. 4. 1939)*. Právněhistorické studie 37, 2005, p. 119 ff.

23 See Kárný, M. – Milotová, J. – Moravcová, D. (eds.): *Anatomie okupační politiky hitlerovského Německa v „Protektorátu Čechy a Morava“*. Sborník k problematice dějin imperialismu 21, 1987. Kárný, M. – Milotová, J. (eds.): *Od Neuratha k Heydrichovi. Na rozhraní okupační politiky hitlerovského Německa v „Protektorátu Čechy a Morava“*. Sborník archivních prací 39, 1989, p. 281–394.

24 For details see Linhartová, L. – Měšťánková, V. – Milotová, J. (eds.): *Heydrichova okupační politika v dokumentech*. Praha 1987. Kárný, M. – Milotová, J. – Kárná, M. (eds.): *Protektorátní politika Reinharda Heydricha*. Praha 1991.

entirely in German hands. The inhabitants of the Protectorate were subjected to systematic yet carefully targeted campaign of terror, and the authorities strove to de-politicize the population in order to achieve complete economic mobilization to support the war effort. The Germanization of the population was postponed until after the final victory – which, of course, never happened. In the final part of Frank's rule his position became weakened as the NSDAP and the Wehrmacht gained increased control; however, the regime remained vehemently repressive until the very end.²⁵

If we are to assess and characterize the Nazis' six-year rule over the Czech Lands, the conclusion is immediately apparent: in fact it was an unsuccessful annexation, as the Nazis' rule was only temporary and the Czech Lands never formally became part of the Reich; in legal terms, it was an occupation. However, this does not mark an end to the problem – indeed, it is just the beginning.

The problem is whether the German occupation of the Czech Lands can be treated as an occupation under international law as set out in Articles 42–56 of the Regulations concerning the Laws and Customs of War on Land (1907).²⁶ This document defined occupation as a provisional and de facto situation, and set out a number of requirements for the protection of the civilian population (including the rights of the family, individuals, and private ownership). However, the Regulations did grant the occupying powers certain rights – the right to intervene (to some extent) in the legal order of the occupied territory, to set the exchange rate between its own currency and the currency of the occupied territory, to transfer legal powers to its own courts, and to prosecute individuals who resist the occupying powers or disobey its orders; the occupying power was permitted to apply repressive measures against the civilian population, to force officials to cooperate with the occupying power (in certain situations), to levy money contributions, and to benefit from the spoils of war.

Whether the German occupation is deemed to have been legal under the Regulations, or whether the resistance against the occupation is legal, depends on the answer to the question posed above – i.e., was the German

occupation indeed an occupation in the sense of the Regulations? This question was of great concern to legal experts at the time; they agreed that the definition given in the Regulations did not apply to the Protectorate, but they offered differing arguments for their position.

Among the main arguments were the following: 1) The Regulations do not apply to Czechoslovakia because Czechoslovakia was not a signatory of the 4th Hague Convention (of which the Regulations are an annex).²⁷ 2) The Nazis' activities were not an occupation, but an illegal annexation, so the Regulations cannot be applied.²⁸ 3) Germany could not have acquired the rights of an occupying power due to the illegal actions committed by it and the criminal war waged by it (as legal rights may only be acquired through lawful conduct).²⁹ 4) The international Regulations on occupation have become obsolete as a consequence of German practice and the prohibition of offensive war, as well as other changes in international law.³⁰

We can accept all these arguments except the first, because general international conventions of this type are binding even upon states which are not signatories. It is not possible to apply this argument to our case, as it would mean pardoning an aggressor who has acted in a criminal manner on our territory, and in a manner that was conceived as a definitive solution. This would also prevent us from taking into account progress in international law, and it would result in the absurd and unjust situation in which a criminal would be considered to be in the right, while the victim would suffer penalties.

IV. The Nazi occupation of the Czech Lands and the Nuremberg Trials

The Nazis' aggressive expansion – and their justification of it – led to the formation of an international coalition against Germany during the war. Within this coalition, the idea gradually emerged that it would be essential, once the war was over, to deal firmly with the Nazis' crimes. For a long time there was

25 Most recently see Küpper, R.: *Karl Hermann Frank (1898 – 1946)*. Praha 2012, p. 157 ff.

26 Dokumenty ke studiu mezinárodního práva. Praha 1931, p. 393 ff. For details see Hobza, A.: *Přehled mezinárodního práva válečného*. Praha 1946, p. 73 ff.

27 Vošta, L.: *O německé okupaci českých zemí za druhé světové války*. Právník 1947, p. 65–73.

28 Tábořský, E.: *Okupace Československa a mezinárodní právo*. Dnešek no. 5/1947, p. 77.

29 Drábek, J.: *Okupace Československa a mezinárodní právo*. Dnešek no. 4/1947, p. 54–57. Morávek, J.: *Okupace Československa a mezinárodní právo*. Dnešek no. 9/1947, p. 134–135. Hobza, Přehled..., p. 161 ff.

30 Beckmann, R.: *Hitlerova válka proti Československu ve světle mezinárodního práva*. Praha 1948.

no consensus as to how this should be implemented in practice. Eventually it was a legal solution that prevailed – the establishment of an international tribunal which would prosecute the leading Nazi war criminals at Nuremberg and condemn them for their crimes against peace, war crimes, and crimes against humanity. Taking into account the other alternatives available, this was undoubtedly the correct solution. A failure to punish leading Nazis would have meant abandoning the principle of retributive justice and pardoning those who had caused untold suffering. Executing Nazi criminals without due legal process would have dragged the victors down to their enemies' level.³¹

The Nuremberg Trials were not intended only to bring the leading Nazis and their organizations to justice, and thus to restore public faith in the law. Another important purpose was to uncover and thoroughly map the Nazis' deeds – to establish the historical truth, and to incorporate this truth into the sentence itself, thus acting as a warning to future generations. No legal sophistry, no abuse of principles such as *nullum crimen sine lege* or non-retroactivity, could be allowed to prevent justice being done. We can hardly doubt the fairness and factual basis for the trials, even though some people do so today. It was genuinely a fair trial, not merely the justice imposed by victors.³²

The Nuremberg Trials brought to light key facts about the Nazis' occupation of the Czech Lands, which enabled the tribunal to determine the culpability of its leading representatives, as well as those who directed the entire process from Berlin. Czechoslovakia was represented by a Soviet prosecuting team which based its case primarily on an official Czechoslovak report compiled for the purposes of prosecuting the main German war criminals.³³ The Soviet prosecutors also had at their disposal extensive additional evidence.

The first part of the official report described the Nazis' preparations for their attack on Czechoslovakia. It detailed the Nazi leaders' plan to destroy Czechoslovakia and its systematic implementation in conjunction with Henlein's Sudeten German movement. The report emphasized that Nazi

Germany intended to destroy first the Czechoslovak state, and then the nation itself. It pointed out that the Nazis had waged a hostile campaign against Czechoslovakia for several years before the Munich Agreement dealt the decisive blow. Detailed attention was devoted to the destructive tactics applied by the Sudeten German Party and the methods used by the Nazis to undermine the pre-war Czechoslovak Republic.

The second part of the report showed how the Germans used deception as a standard method of diplomacy, alongside coercive practices and direct aggression. The report states that this behaviour represented a violation of Germany's legal obligations to Czechoslovakia (e.g. the Czechoslovak-German arbitration agreement concluded in December 1925), paving the way to the acceptance of the Munich Agreement.

The third part of the report traced the gradual liquidation of Czechoslovakia – from the annexation of the border regions as a result of the Munich Agreement to the occupation of the remaining parts of the Czech Lands and the establishment of the Protectorate of Bohemia and Moravia. The report emphasized that the Munich Agreement was invalid from the very outset, and that the Germans' evident attempts to avoid implementing the agreement (as well as circumventing it and violating it) were due to their intention of "readying Czechoslovakia for complete occupation". The report also analyzed the Berlin negotiations between the Czechoslovak delegation and Hitler, which preceded the occupation of "rump" Czechoslovakia in March 1939, emphasizing that the "agreement" concluded in Berlin was null and void. In conclusion, the report briefly presented the Nazis' plans to enslave the Czech nation and to completely Germanize the Czech Lands.

The fourth part of the report concerned the practices used by the occupying powers in the Czech Lands. It showed the Nazi occupying regime to have been a totalitarian, genocidal and colonial system in which the Germans did not consider themselves to be bound by their own legislation. German rule stripped away human rights, democracy and self-government. Besides political oppression, the occupiers also systematically destroyed Czech cultural life and introduced a programme of Germanization. They exterminated the Czech intelligentsia, massacred students, and closed Czech educational institutions in an attempt to crush Czech national awareness, as well as appropriating items of cultural value. The churches were persecuted. The Nazis' approach to the economy was motivated by a desire to exploit and control the occupied

31 Extensive literature on the Nuremberg Trials exists. See e.g. Heydecker, J. – Leeb, J. *Norimberský proces*. Praha 2007. Delpla, F.: *Norimberský proces*. Praha 2009.

32 This is the claim made in e.g. Irving, D.: *Norimberk: Poslední bitva*. Praha 2009. Irving is not alone. However, the self-serving arguments of such revisionists do not stand up to scrutiny.

33 This report was printed in the collection *Československo a Norimberský proces*. Praha 1946, p. 69 ff.

territory to the fullest possible extent. This included looting, economic Germanization (the seizure of property and the appointment of Germans to key positions), restructuring, asset-stripping and the enslavement of the population by means of forced labour. A separate chapter involved the Nazis' persecution of the Jews and the omnipresent terror. This was anchored in an extensive and omnipotent police and judicial apparatus, which had at its disposal exceptional powers and means (including the power of "protective" internment, torture, and executions), including states of emergency.

This official report – which contained extensive supporting documentation – was presented to the court by the Soviet prosecuting team under the title "German crimes against Czechoslovakia". It became one of the key pieces of evidence taken into account by the court when determining the defendants' culpability. On the basis of the report (and other evidence presented at the trials) the court was able to condemn high-ranking representatives of the Nazi occupying regime in the Czech Lands, their superiors in Berlin, and those who planned the aggression against Czechoslovakia.³⁴

The most important trial in terms of understanding the reality of the occupation in the Czech Lands was that of the former Reich Protector Konstantin von Neurath, so I will briefly comment on it here. Neurath was accused of having participated in the Nazis' plans for aggression (a crime against peace), as well as having allegedly directed and participated in war crimes and crimes against humanity while holding the office of Protector. He was accused of having waged a campaign of Germanization driven by a desire to destroy the Czech nation, as well as having participated in looting, terror, and the persecution of Jews.

In his defence, Neurath claimed that the acts described by the prosecution had been carried out by the security apparatus run by Karl Hermann Frank, or by Berlin itself; he depicted himself as a generous, moderate politician motivated by Christian morality and a desire to ensure the prosperity of all nations. Fortunately the court gave no credence to his claims, instead ruling that the accusations made by the prosecution were clearly proven facts. A mitigating circumstance was Neurath's intervention on behalf of several detainees. The court also took into account that from the autumn of 1941 to the summer of 1943 he was not *de facto* active as the Protector. Neurath

³⁴ For more details see *Československo a Norimberský proces*, p. 353 ff.

was found guilty of the charges brought, and sentenced to fifteen years' imprisonment. However, he did not serve his full sentence. In 1954 he was released after suffering a heart attack, and he died two years later.³⁵

Another Reich Protector was also tried at Nuremberg – the former Reich Interior Minister W. Frick. However, most of his crimes were not connected with the Protectorate. As regards his activities in the Protectorate, he was found to have been the highest Reich authority and thus responsible for the repression imposed on its population after August 1943, including terror, slave labour and the deportation of Jews to be exterminated – even though his position was essentially ceremonial, and the real power rested in the hands of Frank. Frick was sentenced to death by hanging.³⁶

The court's condemnation of both these leading representatives of the Nazi occupying regime in the Czech Lands represented a clear confirmation of the way in which this system worked. Nobody could then be in any doubt as to its true nature.

³⁵ Ibid., p. 52, 375, 384 ff., 401 ff. In the above-cited work, Heydecker and Leeb (p. 593) state that the relatively mild sentence received by Neurath was due to the fact that the judges disagreed on the extent of his culpability. The leniency of the sentence caused widespread consternation.

³⁶ *Československo a Norimberský proces*, p. 49 ff., 398 ff. Cf. Český národ soudí K. H. Franka. Praha 1947.

JAN KUKLÍK (Czech Republic)

The Relation between the Restitution of Jewish Property and the Presidential Decrees

Presidential decrees adopted in London and then in the liberated territory in the years 1944 – 1945 brought a combination of both the confiscation of enemy property and the possibility of the restitution of the property of people persecuted nationally, racially and politically. The lecture will discuss theoretical and practical difficulties of restitution, especially with regard to Jewish property. It is based on the latest monograph by Kuklík J. et al. *Jak odškodnit holocaust? (How to Compensate for the Holocaust?)*, issued by Karolinum Publishing House.

(III.)

**Occupied Europe –
historical and legal
overview**

Chair:

Jiří Šitler, Czech Republic

KAMIL ZEIDLER (Poland)

Art Looted during World War II in Occupied Poland – Legal Perspective

There are no less than three modes of description that are being used by legal scholars in their academic endeavors. There is the empirical approach which is, obviously, a presentation and analysis of a number of facts. Then there is normative approach, which is an explanation of the mechanisms of the law itself. And finally there is evaluation - a narrative that aims at formulating assessment and postulating change. The purpose of this lecture is not so much to present instances of art looting as facts, however interesting that might seem. The true purpose of the lecture is to put these in context of their legal justification; all authority, irrespective of its actual legitimacy, tends to place its actions within framework provided by law. Finally, in order to achieve some balance, the lecture aims to outline the law on removal of consequences of war-time art looting.

FRANCESCA CAVAROCCHI (Italy)

Restitution in Italy: Between diplomacy and political expediency

Italy represents a minor case in the art looting carried out by the Nazi forces in Europe. The late date of occupation (8 September 1943), and the twofold status of Mussolini's Social Republic as an ally of Germany and an occupied country, saved Italy from the systematic plundering planned by the Nazis. There were nevertheless many "wild" and uncoordinated acts of looting, especially during the retreat from the South of Italy and in the final phase of occupation.¹

After the Italian-German alliance in 1936, some artworks were donated by Mussolini to the Nazi authorities (in spite of the rules concerning the protection of the national heritage), while other works were legally or illegally exported by Goering's emissaries after transactions with Italian collectors and art dealers.²

A systematic despoliation was, however, planned for Jewish property. In 1944/45 the Repubblica di Salò issued around 8000 confiscation decrees concerning Jewish property: among the items confiscated were artworks and objects of historical and cultural value. Most of these items were recovered after the war, as they had been stored in Italian repositories, but the confiscation practices were combined with widespread theft by Italian forces.³

1 L. Klinkammer, *Die Abteilung "Kunstschutz" der deutschen Militärverwaltung in Italien 1943-1945*, "Quellen und Forschungen aus italienischen Bibliotheken und Archiven", 72 (1992), p. 483-549. See also C. Fuhrmeister, J. Griebel, S. Klingen, R. Peters (eds.), *Kunsthistoriker im Krieg - Deutscher Militärischer Kunstschutz in Italien 1943-1945*, Wien - Köln - Weimar, Böhlau, 2012.

2 See the detailed report by Norman Newton, in NARA M1944, Records of the Roberts Commission, MFA&A Field Reports, 1943-1946, folder AMG-351, Headquarters Allied Commission, Subcommission for MFA&A, "Works of art exported to Germany by fascists", 5 January 1946. The only analytical reconstruction of the restitution process, mainly focused on legal questions, is E. C. Hofacker, *Rückführung illegal verbrachter italienischer Kulturgüter nach dem Ende des 2. Weltkriegs*, Berlin, De Gruyter, 2004.

3 A case study on the restitution of Jewish property confiscated by the Italian authorities, concerning the city of Turin, in F. Levi (ed.), *Le case e le cose. La persecuzione degli ebrei torinesi nelle carte dell'EGELI. 1938-1945*, Torino, Quaderni dell'archivio storico, 1998. For details of thefts and plunder carried out by Italian forces see e.g. the report by Cesare Fasola, an official of the Superintendence of the Florentine galleries, in Archivio Istituto

In the territories directly ruled by German commissioners – the *Alpenvorland* and the *Adriatisches Küstenland* – the looting of Jewish property was planned and implemented under the control of the Nazi authorities. In the current state of research it is very difficult to estimate the extent of the Jewish losses, because all the matter was entirely neglected until the launch of an investigation by a commission established by the Italian government in 1998, and the first historical inquiries during recent years.⁴

The first and most important wave of restitutions began in May 1945 when the Allied forces found German repositories at St. Leonhard in Passeier and Neumelans castle in the South Tyrol. In July 1945 a public ceremony in Florence welcomed the return of some hundreds of artworks, thanks to the Allied MFA&A. This result was achieved quite easily, for various reasons: the US government was in favour of allowing Italy to restitute artistic property looted during the German occupation, the artworks were recovered within Italian territory, and their provenance was considered beyond doubt by the MFA&A officials.⁵

During the following months, the Italian government began to claim not only cultural property plundered by the Nazi forces, but also artworks illegally exported in the 1930s or transferred to German collections with the consent of the Fascist authorities.⁶ With regard to this matter, but also with regard to financial compensation, the status of Italy was predictably ambivalent, and it would be defined for the first time during the Paris Peace Conference. The

storico della Resistenza in Toscana, Fondo Fasola, box 1, folder “Carte varie”, “Promemoria”, 7 July 1944.

- 4 Commissione per la ricostruzione delle vicende che hanno caratterizzato in Italia le attività di acquisizione dei beni dei cittadini ebrei da parte di organismi pubblici e privati, *Rapporto generale (aprile 2001)*, Roma, Presidenza del Consiglio dei Ministri, Dipartimento per l’informazione e l’editoria, 2001. The final report is available online in Italian and in English at http://www.governo.it/Presidenza/DICA/beni_ebraici/ (accessed November 2015). Cf. also M. Sarfatti, *Contro i libri e i documenti delle Comunità israelitiche italiane, 1938–1945*, “La Rassegna Mensile di Israel”, LXIX, 2 (2003), p. 369–85; I. Pavan, *The Italian Experience*, proceedings of the Holocaust Art Looting & Restitution Symposium, organized by Christie’s and the International Association of Lawyers, Milan, 23 June 2011 (<http://www.christies.com/pdf/services/2011/ilaria-pavan.pdf>).
- 5 See F. Hartt, *Florentine Art under Fire*, Princeton (N.J.), Princeton University Press, 1949, p. 96–110.
- 6 See e.g. the official statement by the Italian government dated 15 November 1945, in A.G. Ricci (ed.), *Verbalì del Consiglio dei ministri. Luglio 1943–maggio 1948*, vol. 5/2, Roma, Presidenza del Consiglio dei ministri, Dipartimento per l’informazione e l’editoria, 1995, p. 1085.

Allied forces considered Italy a victim, but also an aggressor, a state entitled to restitution but also obliged to pay compensation to other occupied countries. During the negotiations the Italian representatives tried to obtain victim status instead of accepting the status of a defeated power; they sought to emphasize the discontinuity between the new democratic state and the previous, unlawful, Fascist government. However, these efforts were not acknowledged by the Allies: according to Article 77 of the Paris Peace Treaty (1947), only “identifiable property of Italy and of Italian nationals removed by force or duress from Italian territory to Germany by German forces or authorities after 3 September 1943” could be “eligible for restitution”.⁷

Meanwhile, an Italian delegation was invited to the Munich Central Collecting Point in order to identify and recover artworks looted after the Nazi occupation. The Italian mission arrived in Munich in September 1946; its work was primarily focused on the group of artworks removed from the Montecassino abbey in 1944 and for the most part belonging to the museums of Naples. It also visited the Hoffenbach and Wiesbaden repositories, identifying (with the help of the local officials) many other items, such as 57 cases of books looted from the Rabbinical College in Rome.⁸

The artworks identified during the mission were displayed during the “First National Exhibition of Recovered Artworks”, opened in Rome in November 1947 with the patronage of the Ministry of Education. The opening – attended by Lucius Clay and leading members of the Italian government – became a public celebration of the effective partnership between the United States and the new democratic republic. The exhibition, widely reported by the press, reinforced a public narrative which tended to depict Italy as having been a victim rather than acknowledging Italian responsibilities.⁹ The image of Italy

- 7 S. Lorenzini, *L’Italia e il trattato di pace del 1947*, Bologna, Il Mulino, 2007, p. 192 and *passim*; see also I. Poggiolini, *Diplomazia della transizione. Gli Alleati e il problema del trattato di pace italiano (1945–1947)*, Firenze, Ponte alle Grazie, 1990; A. Varsori, *Il trattato di pace italiano. Le iniziative politiche e diplomatiche dell’Italia*, “Italia contemporanea”, 182 (1991), p. 27–50.
- 8 State Central Archives, Rome (ACS), MEN, III Division, “Musei, gallerie etc.”, box 257, US Embassy in Rome, “Note-verbale”, 19 July 1946. Cf. F. Cavarocchi, *Giorgio Castelfranco e la missione italiana al Central Collecting Point di Monaco (1946–1947)*, in A. Castellani, A. Cecconi (eds.), *Giorgio Castelfranco. Un monument man poco conosciuto*, Firenze, Giunta Regione Toscana, 2015, p. 15–21.
- 9 Ministero della pubblica istruzione, *Mostra delle opere d’arte recuperate in Germania*, Roma, Istituto poligrafico dello Stato, 1947. In March 1947 Clay succeeded Eisenhower as

as cradle of beauty and civilization, raped and pillaged by the barbarians, was shared across the entire political spectrum, including the Italian communist party, which at the time was engaged in a fierce struggle for power in the crucial election of 1948.

After repeated Italian requests, in November 1948 the US administration issued an “Exceptional Return Order”, which allowed the return to Rome of 18 artworks selected from a list of around 100 items that had been exported to Germany with the consent of members of the former Fascist regime. The decree had more of a political basis than a legal one: it was one of the many measures adopted in order to support the new Christian Democratic government. It sparked vigorous protests among the German and Allied officials at the Munich Central Collecting Point and the resignation of its director, Herbert Leonard. These reactions triggered a press campaign in Italy and an official statement by the Accademia nazionale dei Lincei “against the absurd claims of a number of German scholars”.¹⁰

The 18 artworks became the central core of the “Second National Exhibition of Italian Recovered Artworks”, opened in Rome in 1950 and in Florence in 1952. This initiative was sharply criticized by the director of the Fine Arts Administration, Guglielmo De Angelis D’Ossat, who considered it a pointless waste of money; he stressed, moreover, that the project did not comply with basic scholarly requirements, since many items were of unknown or dubious provenance.¹¹

Despite this advice, and despite the frosty reception from the US administration, the exhibition was strongly supported by the Minister of Education, Guido Gonella, who was keen to celebrate the efforts of the Italian government in the field of restitution. Among the recovered artworks,

military governor of the US zone in Germany.

10 *Protesta dell’Accademia nazionale dei Lincei per le assurde rivendicazioni di alcuni studiosi tedeschi. L’Accademia nazionale dei Lincei per la restituzione delle opere d’arte asportate durante la guerra*, Roma, Accademia nazionale dei Lincei, 1950. Cf. e.g. *Le opere d’arte rubate dai nazisti. Protesta della cultura italiana contro le rivendicazioni tedesche*, “La Nuova Stampa”, 13 November 1949, p. 3.

11 R. Siviero (ed.), *Seconda Mostra Nazionale delle opere d’arte recuperate in Germania. Sotto l’alto patronato dell’Accademia Nazionale dei Lincei*, Firenze, Sansoni, 1950; Firenze, Sansoni, 1952.
ACS, MEN, III Division, “Musei, gallerie etc.”, box 257, Guido De Angelis D’Ossat to Minister Gonella, 15 February 1950.

particular prominence was given to the *Vipiteno altarpiece*: for the Reich, these 8 panels – donated by Mussolini to Goering in 1941 – were a powerful symbol of the German roots of the South Tyrol. After 1945 they acquired a similar and opposite value for Italy, symbolizing the complete re-appropriation of this disputed territory.¹²

The third phase of negotiations started in the early 1950s, when Italy dealt directly with the new German Federal Republic. Adenauer’s favourable disposition towards the issue of restitution was linked to his keenness to establish a new economic and political partnership with Italy; it was also influenced by his closeness to and common interests with the Prime Minister De Gasperi.¹³ After the De Gasperi-Adenauer agreement (signed in 1953), the German delegates generally agreed to the restitution of objects that had been illegally acquired by Goering’s emissaries; political reasons motivated the decision to return – without compensation – several artworks that had been formally exported to satisfy the requests of the Nazi authorities. Though German lawyers and art historians delivered expert opinions attesting that the Italian claims had no support in domestic or international law, the need to improve political relations and to avoid protest campaigns in Italy prevailed. In exchange, Italy agreed to close another controversy opened in 1945 and to return to Germany the *Kunstistorisches Institut* in Florence, the *Bibliotheca Hertziana* in Rome and other German cultural assets that had been placed under Allied control after the end of the war. After 1954 the restitution process slowed considerably.¹⁴

To conclude, during the first decade after 1945 the attention of the Italian government was mainly focused on political and symbolic goals. Public debate and claim practices paid less attention to the losses suffered by private collections – in particular Jewish property belonging either to communities and synagogues or to individuals. In the period 1945-1948 recoveries of “minor” pieces belonging to private collections were mostly the result of

12 On the attitude of US officials toward Italian claims and activities in this phase cf. NARA M1946, Ardella Hall Collection: Munich Administrative Records, folder “Correspondence, General: September 1950 - May 1951, index”, Samson Lane Faison to Rodolfo Siviero, 21 March 1951.

13 T. Di Maio, *Alcide De Gasperi e Konrad Adenauer. Tra superamento del passato e processo di integrazione europea, 1945-1954*, Torino, Giappichelli, 2004.

14 Hofacker, *Rückführung*, cit., p. 127-178. Cf. *Tra Germania e Italia due biblioteche contese*, “La Nuova Stampa”, 22 June 1951, p. 3.

inventories conducted by the MFA&A officials; at that stage, their Italian counterparts had only partial information on many aspects of the looting and displacement of cultural property.

One of the reasons for this carelessness was the progressive exclusion of the Fine Arts Administration from activities connected with the recovery, which eventually came under the control of the Ministry of Foreign Affairs. Since the local superintendences were the only institutions which had an in-depth knowledge of the artistic and cultural heritage scattered throughout Italian territory, only their active involvement would have made it possible to conduct an extensive and reliable survey on the losses and looting that occurred during the war. In 1946 the Recovery Office, chaired by Rodolfo Siviero, sent a letter to the Italian Jewish communities inviting them to provide complete lists of the artistic property plundered by German or Italian units. At this stage, such institutions were clearly unable to attend to this question, since their scant resources were focused on the difficult work of reconstruction. Though Siviero showed himself to be sensitive to the issue of Jewish property, a comprehensive inventory would have required the closer involvement of various authorities. It was only in 1976 that the art historian Luisella Mortara Ottolenghi sent to the Recovery Office a general report and a series of files concerning many individual cases; unfortunately, however, all the files were lost, and they never reappeared.¹⁵ This involuntary lapse, like many others, is very revealing of the lack of attention paid to this matter by the Italian authorities. The first inquiries on single cases (e.g. the looting of the Jewish library in Rome), and the first historical surveys during recent years, have finally opened up a new field of research, and have shown that there is still much work to be done.

15 Sarfatti, *Contro i libri e i documenti*, cit., p. 369.

ANTONIJA MLIKOTA (Croatia)

Post-war restitution and the case of the Museum of St. Donatus in Zadar

Introduction

Operation Zara was just one of a series of operations carried out during the Second World War in Europe and the Far East by the so-called *Monuments Men*, i.e. members of the MFAA (*Monuments, Fine Arts, and Archives Program*) who were active from December 1943 as an integral unit of the regular U.S. Army. Members of the MFAA were appointed by the so-called *Roberts Commission*,¹ which is a colloquial name for *the American Commission for the Protection and Salvage of Artistic and Historic Monuments in Europe* (the words *in War Areas* were subsequently added to the title); in the Second World War the Commission was also active in the Far East. The Robert Commission documentation is held at the *National Archives and Records Administration* in Washington.²

At the beginning of their work they had a mainly advisory role, but later they began to carry out field work, and they were deployed in a range of war-affected areas. As the end of the war became increasingly likely, their role became more important, as many works of art were dislocated, confiscated or stolen – taken from their pre-war locations usually without the consent or knowledge of their pre-war legal owners. The primary role of the MFAA

1 The first meeting of the *Commission for the Protection and Salvage of Artistic and Historic Monuments in Europe* was chaired by Supreme Court Justice Owen J. Roberts, after whom it was known as the *Roberts Commission*.

2 United States National Archives and Records Administration, *Records of the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas* (the Roberts Commission), 1943–1946 — Washington, D.C. (hereinafter NARA, RC). The archives consist of written materials, cartographic materials and photos. The material can be viewed on-line at the sub-site of NARA <http://www.fold3.com/>. I first learnt about the existence of this valuable material from my colleague Carlotta Coccoli, who spoke on that topic at the international conference “*Danni bellici e ricostruzione dei monumenti e dei centri storici nel caso italiano e tedesco (1940-1955)*” / “*Kriegszerstörungen und Wiederaufbau von Bauwerken und historischen Stadtzentren in Italien und Deutschland (1940-1955)*”, held from 23 – 25 November 2011 in Brescia.

officers was the protection of works of art, archives and monuments in war-affected areas, and in the later phase of their activities it was of extreme importance to develop a system for finding, recording and returning the stolen and dislocated works of art and cultural heritage during and after the war. One of the cases of stolen works of art dealt with by the MFAA officers was the movable collection of the pre-war Museum of St. Donatus in Zadar.³

The Zadar case

The MFAA officers dealt with works of art from Zadar continuously over a period of several years. Already during the war, based on available information, they started collecting data on the location of the works of art and the identity of the persons who had taken them from Zadar. The only information the MFAA officers had about the works of art from the Zadar Museum at the beginning of their search came from Dr. Mercurelli, a former assistant to Professor Luigi Crema, the pre-war Italian *Commissary for Antiquities, Monuments and Galleries in Dalmatia*.⁴ Dr. Mercurelli, who had resided in Zadar during the war, promised to write a detailed report for the MFAA officers on the works of art taken from Zadar, but unfortunately he died suddenly. After Mercurelli's death, Professor E. Galli from the *Office for Antiquities* in Ancona sent a report on six crates taken from Zadar, about which he stated that they were buried in the crypt of St. Cyriacus in Ancona. According to written information sent to the MFAA officers in December 1944 by Professor Galli, the works of art from Zadar remained buried (together with valuable sculptures from St. Cyriacus) underneath the ruins of the southern transept, which had been damaged by bombing. In his report, Prof. Galli stated that those six crates, according to the information he had at the time, were in fact only one part of a bigger shipment of eleven crates which had been prepared to be sent from Zadar; he also stated that he believed the rest of the crates had been sent to Venice. The MFAA officers were keen for the works of art to be excavated from the ruins and stored at a safe location as soon as possible. A new report compiled one year later introduces new information on the works of art taken from Zadar. In this report, the MFAA officers asserted that they had found

the crates containing the works of art from the Zadar Museum in Venice.⁵ *Operation Zara* began at 9 a.m. on 28 August 1945, in the rooms on the first floor of the Palazzo Ducale (Doge's Palace) in Venice. The entire operation was organized and managed by the MFAA officers who were in charge of the Venice region in cooperation with the *Office for Galleries of Venice*. Although this was an official military document, one can almost feel the drama and the atmosphere in that room while the crates with the treasure from Zadar were being opened. The MFAA officer for the Venice region, the English architect Basil Marriott, wrote a report entitled *Zara: Report on War Damage to Monuments and Movable Works of Art Known to be Stored in Italy*. Because of the political circumstances related to Zadar (it had been a part of Italy before the war), and also due to a lack of reliable information on the condition of the works of art in Zadar, Marriott thought that it was of exceptional importance to compile a detailed record containing all the known facts. This thirty-page document consists of an explanation of the circumstances in which the report was written, known facts about the movable works of art and war damage to monuments in Zadar, a report on the review of 14 crates located in Venice, and a relevant bibliography.⁶ Six appendices were added to the report explaining in detail the destiny and conditions of the monuments and movable works of art in Zadar and the measures taken to protect them against war damage.⁷ The

3 The museum was founded during the Austro-Hungarian Monarchy in 1832; when the Italians took over Zadar after the Treaty of Rapallo in 1920, the museum had already existed for 88 years.

4 NARA, RC, Geographical working files-yu-zd, pp. 123-124.

5 The documentation of the MFAA officers on the reconstruction of the crypt and the destroyed transept of the Church of St. Cyriacus does not mention the works of art from Zadar. It only mentions the excavation of valuable sculptures and stone fragments which were buried there. An oral confirmation by Dr. Mercurelli (and later a confirmation by Professor Galli) that certain items from Zadar had been taken to Ancona are sufficient grounds for further and more detailed research in order to determine if part of the material from Zadar was taken to Ancona after all and where that material is located today, as well as the mentioned lists.

6 NARA, RC, MFAA Field Reports, MTO Interim Reports On ZARA, Missing Paintings From Vipiteno (Sterzing), And MTO 21st Monthly Report [AMG-171], 1-31.

7 APPENDIX A: Report by Luigi Crema, *Commissary for Antiquities, Monuments and Galleries in Dalmatia*

APPENDIX B: Report by Fausto Franco, *Office for Monuments and Galleries in Trieste*

APPENDIX C: Report by Captain B. Marriott, MFAA officer for the Venice region, on the review of 14 crates containing the material from Zadar deposited at the Palazzo Ducale in Venice

APPENDIX D: Summary of the original inventory list drawn up in 1940 for six crates deposited in the cathedral crypt in Zadar, delivered by Professor Galli from the Office for Antiquities in Ancona

APPENDIX E: List of the contents of 14 boxes deposited in the Palazzo Ducale in Venice drawn up by Dr. Forlati in cooperation with Captain B. Marriott, MFAA officer for the Venice region

APPENDIX F: List of assumed damage to the monuments in Zadar drawn up on the basis of aerial photographs of Zadar

appendices consist of the following: a report by Luigi Crema, Commissary for Antiquities, Monuments and Galleries in Dalmatia; reports by Fausto Franco from the Office for Monuments and Galleries in Trieste; reports by Captain Basil Marriott, the MFAA officer for the Venice region on the examination of 14 crates containing the material from Zadar deposited in the Palazzo Ducale in Venice (Marriott was in charge of the entire operation); summaries of the original inventory lists made in 1940 for six crates deposited in the cathedral crypt in Zadar, delivered by Professor Galli from the Office for Antiquities in Ancona; a list of the contents of 14 crates deposited at the Palazzo Ducale in Venice drawn up by Dr. Forlati in cooperation with Captain Marriott; and a list of assumed damage to the monuments in Zadar drawn up on the basis of aerial photographs of Zadar. Since neither this list nor the documentation which explains the circumstances in which the works of art were taken from Zadar were known before, this discovery is of exceptional importance for all researchers dealing with this topic and with post-WWII art restitution in general.

From Zadar to Venice

The “*Report on the transfer of crates with works of art from Zadar to Venice*” prepared by an employee of the *Institute of Monument Protection in Trieste*, Fausto Franco, states that in March 1944 his assistant Stefano Salvagno was sent from Trieste to Zadar. His main task was the restoration and protection of local ecclesiastical works of art which belonged to the churches of St. Francis and St. Chrysogonus and the transport of fourteen crates containing objects from the Museum of St. Donatus to Trieste.⁸ Stefano Salvagno was in Zadar from 7 March until 25 April 1944. In April the crates were shipped to Trieste, from where they were transported to the Archaeological Museum in Aquileia. Due to frequent bombings, the crates were moved to the Palazzo Ducale in Venice on 10 July 1944. The works of art were taken by a representative of the *Institute of Protection of the Venetian Monuments*, the engineer Ferdinand Forlati. According to the words of Fausto Franco, all these actions were performed on the basis of an order from Prof. Luigi Crema at the *National Ministry of Education and Commissary for Antiquities, Monuments and Galleries of Dalmatia*. The treasure from Zadar (which includes almost

the complete movable collections of the Museum of St. Donatus in Zadar and other artefacts collected from the city) was not removed from Zadar in 1943 (as was claimed by the Italian side and has been repeated by the Croatian side for the past 70 years), but in the spring of 1944, during the German occupation and after the capitulation of Italy. The commission set up for the examination of the material from Zadar consisted of Basil Marriott, local experts Ferdinand Forlati and Dr. Moschini, and two workers. They had only two days to perform the task, so they worked constantly with only short breaks for meals. Moschini had to leave soon after the beginning, so he was replaced by Dr. Bruna Forlati. A certain procedure was followed during the opening of the crates. The two workers would lift the lid and unwrap each object, showing it to the members of the commission who recorded and catalogued the entire inventory.⁹ After the examination, they would rewrap the object and put it back in the crate before opening a new one. Small glass bottles represented a great problem because labels with numbers were inserted into them, so their opening required surgical precision. The commission noticed that the packing method was inadequate; for instance, some objects were wrapped unnecessarily in thick cardboard, but glass objects were not. Large urns were wrapped only in newspapers and a few pieces of cardboard, so a large number of them were damaged or broken. Gold jewellery was taken together with the four-sided display unit from the display case in Zadar and placed in a crate without any additional protection. While they were being taken out of the crates, small objects would fall from the display unit, and the commission lost valuable time finding and cleaning them. At the end of the report, Captain Basil Marriott emphasized that objects should be adequately packed before being sent to Zadar. The crates were closed after the examination, and they were sealed in the presence of Basil Marriott. They were prepared to be sent to Zadar; Marriott was keen for this to happen as soon as possible. However, these crates were never sent from Venice to Zadar. Their destiny remained a mystery until the discovery of this documentation at NARA and other research I conducted at archives in Croatia and Serbia.

⁸ NARA, RC, MFAA Field Reports, MTO Interim Reports On ZARA, Missing Paintings From Vipiteno (Sterzing), And MTO 21st Monthly Report [AMG-171], p. 8-10, Appendix B, *Reports of Fausto Franco, Office for Monuments and Galleries in Trieste*.

⁹ There was no complete list for all the crates, but only for six crates containing the material deposited in the cathedral crypt (boxes 1A – 2A – 3A – 4A – 5A – 6A). After comparing the list from 1940 and the actual items in the crates, it was noticed that there were only six objects in crate 3A instead of 75 items. The whereabouts of the rest of the material remained a mystery. Objects from the crates (crates designated with numbers 1, 2, 3, 4, 5, 6, 21/24, 26) which did not have a list were described, and the members of the commission catalogued and identified them on the basis of information from available literature if possible. Where they did not succeed in identifying the object, they would just describe it. Each damaged object was marked with the words “earlier damage” to refer to damage done before packing. The list was later improved by Dr. Bruna Forlati.

The aftermath of the war

Yugoslavia did not establish diplomatic relations with Italy immediately after the war, so it tried to realize its claims via the American and French commission, in accordance with the truce signed between Italy and the Allies. In numerous documents that have been preserved, Yugoslavia complains about the Americans not exerting pressure on the Italians in order to force them to accept the claims put forward by Yugoslavia.¹⁰ This situation lasted until the signing of the Paris Peace Treaty in 1947, which Yugoslavia initially refused to sign, precisely because of the issue of restitution and reparation. After signing the Treaty (which was very clear on the matter of property from the annexed area, also including Zadar), matters began to improve; however, Italy's positive attitude to the restitution did not last long.¹¹ The problem was that the Yugoslav side, or in this case the Croatian side, was obliged to state exactly who and when had taken the works of art and where exactly in Italy they were located in order to claim the works of art taken from the territory which was allocated to Yugoslavia by the Peace Treaty. For example, none of the pre-war employees of the Museum of St. Donatus were present in Zadar any longer, and nor were the archives or the Communal Library Paravia, which contained witness statements (from pre-war employees of those institutions) on who took the material and in what manner. During the post-war negotiations, the Italian side never mentioned the existence of this documentation, the MFAA mission in Venice or Operation Zara. The strange thing is that almost all the people from the Italian side involved in this operation were later also involved in the negotiations on the Croatian art in Italy as well as on the Zadar collections, and they played a crucial role in ensuring that these works remained in Italy. In the documentation that has been researched so far, the Americans were mentioned only once during the negotiations, when the Croatian art expert Grgo Gamulin came to Venice to examine the crates from the Zadar Museum before their shipment. On that occasion, Bruna Forlati (the same person who had examined, catalogued and stored the works of art from Zadar two years before in Venice together with the MFAA officer B. Marriott, and had acknowledged and accepted the obligation to send them to Zadar as soon as possible) told Gamulin that

10 Ministry of Foreign Affairs of the Republic of Serbia, Diplomatic archive (hereinafter: MFARS, DA), 1946 file 43, folder 8, signature No. 4783, 4987, 5289, 8045.

11 Ministry of Foreign Affairs of the Republic of Serbia, Collection of international contracts (hereinafter MFARS, CIC), 1946 volume 4, Peace Treaty with Italy.

she had no information on the whereabouts of the works of art from Zadar; she also stated that they were not in Venice, and that they might be in the possession of Superintendent Fausto Franco from Trieste, as he had apparently shown them to the Allies in 1945.¹² The Croatian side, not being aware of the existence of the MFAA documentation, could only file their claims on the basis of the existing museum catalogues, listing everything that was missing by elimination.¹³ The list also included works of art claimed by the Church, such as paintings from Lastovo and the triptych from the church of St. John in Zadar.¹⁴ The items from private collections which might also have been among the works of art could not be claimed by anyone in Zadar since the population had been displaced (most of the pre-war population had moved permanently to Italy), and numerous family archives had been destroyed in devastating bombing and during the clearance of the ruins after the war. Since the Italian side stated that they had no knowledge on the whereabouts of the claimed works of art and they refused to look for the stolen works of art themselves, Croatia was forced to send its own experts, Grgo Gamulin and Grga Novak, to find and return the works of art and archive materials taken to Italy.¹⁵ The Italian side postponed the surrender of the works of art in every possible manner. The Zadar case remains especially interesting regarding this issue. This was a case of state property, and according to the Peace Treaty all state property in the annexed areas, including that taken after the capitulation of

12 The Archives of Yugoslavia (hereinafter AY),, fond 54, folder No. 156, opus unit No. 263 Report of Grgo Gamulin dated 19 July 1948.

13 Ministry of Culture of the Republic of Croatia, The State Commission for the Assessment of War Damage to Cultural and Historical Objects in Croatia – Zagreb (hereinafter MCRC, COMWAR), 1-100, file 58/1945. List of items taken to Italy from the Archaeological Museum in Zadar, of 22 August 1945 (compiled by Stjepan Gunjača).

14 AY, fond 54, folder No. 156, opus unit No. 263. Report of the Restitution Commission of the Federal People's Republic of Yugoslavia Government of 15 May 1949 (signed by the Head of the Restitution Delegation Rafo Ivančević). The report mentions the triptych from Zadar located in the Gallery of Fine Arts (Galleria Delle Belle Arti) in Venice; the triptych is not mentioned in later documents or in negotiations (it was not part of the museum inventory), and every trace of it is lost.

15 AY, fond 54, folder No. 64, opus unit No. 137, The main problems regarding the restitution dated 29 September 1948. *The Italians cause us particular problems regarding the restitution of assets which were taken after 3 September 1943 to Italy from the territories which have been annexed to our country by the Peace Treaty. Namely, in accordance with Appendix XXV to the Peace Treaty with Italy, we hold the right for restitution of all Italian state and semi-state assets taken by the Italians to Italy from the above-mentioned territories after 3 September 1943.*

Italy in 1943, went to the successor country, in this case Yugoslavia. According to these provisions, the restitution of the museum, archive and library material taken from Zadar was unquestionable. Already at the first meetings between the Yugoslav expert Grgo Gamulin and Rodolfo Siviera, the director of the Italian Office for Restitution of Works of Art, it became evident that the return of the works of art had been delayed and that the Yugoslav claims had been sent to authorities which were not responsible for restitution, which then forwarded them to various ministries, and months would elapse before those claims would even be located.¹⁶ After that meeting, Siviera went with Gamulin to Venice, and he invited Dr. Forlatti, Dr. Moschini, Dr. Crema and Mario Mirabella, the former director of the Archaeological Museum in Pula who was also involved in the restitution procedures, to a meeting in the Palazzo Reale (Royal Palace). In principle, the issues of the Zadar Museum, the restitution of the archives and the Communal Library Paravia were resolved in a positive manner.¹⁷ After numerous delays, with completely illogical explanations mentioned in the report by Grgo Gamulin, in mid-September 1948 he was finally allowed to examine, repack and seal the crates containing the material from the Zadar Museum. During the examination, Gamulin established that a part of the archaeological material was missing, as well as the collection of medals and seals and objects dating from the 19th century, of importance for the history of Dalmatia, which were in his opinion of a distinctly local character.¹⁸ According to the Peace Treaty, the Italians were

16 AY, fond 54, folder No. 156, opus unit No. 263 Report of Grgo Gamulin of 8 July 1948, *After establishing that Prof. Ferretti, who I was in contact with, is not authorized to issue any decision, I appealed once again to the head of the Cabinet of the Ministry of Education Prof. Fraiesa. Fortunately, in his hallway I ran into Prof. Siviera, who I had a previous private contact with, and during our conversation I found out that the whole procedure within the Ministry was not addressed properly: instead of them being submitted to Prof. Siviera (the Director of the Office for Recuperation and Restitution of Works of Art in Italy "Ufficio recuperi"), they have been addressed to Prof. Ferretti, that is to the "Office for Cultural Relations", which forwarded them bureaucratically to other institutions and various Ministries.*

Prof. Siviera, who recently returned from Germany, treated our claims with much understanding. We went to see the head of the Cabinet together and arranged all details on further activities, so I hope the work will proceed faster now.

17 AY, fond 54, folder No. 156, opus unit No. 263 Report by Grgo Gamulin dated 14 July 1948.

18 AY, fond 54, folder No. 156, opus unit No. 263 Report by Grgo Gamulin dated 18 October 1948. *I was able to identify most of the archaeological items stated in our claim, except for the collection of medals and seals. Moreover, most of the cultural-industrial items related to Dalmatian history of the 19th century are missing, and those items are exclusively of local importance. Counting based on the number and volume, those items should have*

obliged to pay the costs of transportation of the works of art to the border, and they refused to do so for months, making excuses based on the slow pace of the administrative apparatus and claiming that they had not received the necessary funds from the Ministry of Transport. The Ministry of Transport in turn claimed that the funds had been paid to the Ministry of Education, so the crates remained in Venice, waiting to be transported. Meanwhile, the Italian side began to link other unresolved issues with Yugoslavia to the restitution, which was not in accordance with the provisions of the Peace Treaty. Thus, they stopped the shipment of the material from the Museum of St. Donatus in September, asking for four imperial sculptures in return, which according to them were deposited in Zadar.¹⁹ To support that claim, Luigi Crema presented a document dated to 1938 as proof, but the Yugoslav side did not accept the proposal because restitution from the annexed areas could not be conditional upon some other claim; in addition, the Yugoslav side had a counterargument stating that the sculptures were registered in the museum catalogue as part of the inventory under numbers 1 to 4, and as such could not be claimed, since, based on that information, they were also part of the museum inventory.

In lieu of a conclusion

Since the Italians had a large number of people dealing with the issue of restitution as well as the political support of the Allies, the negotiators from Yugoslavia, especially due to the fact that they did not have legal experts at their disposal at all times, and many issues were being negotiated at the same time, put the issue of the Zadar Museum aside for a while, expecting that the Italian side would respect the Peace Treaty and that possible claims regarding the sculptures would be resolved as a separate issue which could not be linked to the restitution established by the Peace Treaty. Another problem was that Grgo Gamulin had to return to Yugoslavia due to his university obligations, so he was replaced in the negotiations by Stjepan Gunjača. In December, Rodolfo Siviera started avoiding the Yugoslav negotiator, and the negotiations were taken over by Luigi Crema, who did not explain his role or say who

been placed in at least 2-5 crates which I could not locate in Venice. I have left it to Italy, to the "Ufficio recuperi" and to our delegation to search for those Crates. / The transfer was performed by the Superintendent (Soprintendenza) in Trieste! / It should be checked with Zadar as soon as possible whether those crates might have remained there and might have been destroyed in bombing. Rome should be informed about the result immediately.

19 AY, fond 54, folder No. 156, opus unit No. 263, Report of Grgo Gamulin of 8 September 1948.

had authorized him to conduct the negotiations.²⁰ The Yugoslav negotiators found the involvement of Luigi Crema strange, and they considered it yet another Italian ploy to delay the restitution.²¹ During the next meeting one week later, when the Yugoslav side referred to the Peace Treaty regarding the indisputability of the restitution of the Zadar Museum material, Siviera and Crema stated that they did not have the text of the Peace Treaty and that they would obtain it and analyze it. During the following meeting, they claimed that it was an issue for the lawyers and arranged a new meeting in Venice in mid-January 1949, and then the Italian side changed their tactics and transferred the negotiations regarding the annexed territories to ministry-level meetings and inter-state negotiations, requesting that the direct negotiations of the Yugoslav experts with the representatives of their subject ministries be avoided without the approval of the Italian Ministry of Foreign Affairs.²²

20 AY, fond 54, folder No. 156, opus unit No. 263. Report of Stjepan Gunjača and F. Stela of 7 December 1948. *A meeting with Mr. Siviera was arranged by a phone call, after asking for it twice previously and him not even showing up. At the appointed hour, in the hallway we "accidentally" ran into Mr. Prof. Luigi Crema, who approached us first and took us to the library to wait for Dr. Siviera there. When we saw Mr. Siviera was not coming, he sent a janitor for a chair for Mr. Siviera to convince us he was coming. We were of the opinion that it was all staged by them. It was also evident from the fact that Mr. Crema, apologizing for the absence of Mr. Siviera, started talking about the restitution on his own, but in a very independent and informed way, not stating who had given him the authorization to do so. He was impatient and wanted to start right away, but Prof. Stela refused to talk about the restitution before the arrival of Mr. Siviera. But since he knew he was not coming, a bit later he suggested we started taking about the issues, before Mr. Siviera arrived. Finally, when Prof. Stela took out a piece of paper to make a note, Mr. Crema spontaneously took out his own, with already prepared notes. It was thus evident it was all staged by them. The conversation was started by Mr. Crema.*

21 AY, fond 54, folder no. 156, opus unit No. 263. Report of Stjepan Gunjača and F. Stela of 7 December 1948. *Both of the undersigned are under the impression that this change of personnel on their side is a trick, certainly in an attempt to generally delay the restitution. It is also very suspicious that Mr. Crema himself appeared, a close associate of Bastianini, the head officer for monuments and museums in Dalmatia during the Fascist annexation. Bringing up the new details, especially those of legal character, gave us a reason for expressing our opinion to Minister Ivančević, which is that cooperation with our well-versed lawyer (Dr. Flere) is needed and that he should be sent over as soon as possible.*

22 AY, fond 54, folder No. 156, opus unit No. 263, Report of the Restitution Commission of the Federal People's Republic of Yugoslavia Government for April 1949 (signed by the Head of the Restitution Delegation Rafo Ivančević), *the Italian tendency is to resolve all restitution issues between the head of our Restitution Delegation and Minister Caruso at the Ministry of Foreign Affairs, and to exclude any contact between our experts and the representatives of their subject ministries if such contact is not approved by the Italian Ministry of Foreign Affairs. After every important meeting, we have regularly submitted our detailed reports*

Even though the holdings of the Zadar Museum had been examined, formally received, verified and packed for shipping, the items remained in Venice, and the negotiations over their destiny were transferred to the inter-state level and were left up to politicians. Fourteen years after signing the Peace Treaty of 1947, a new contract between the Italian Republic and the Federal People's Republic of Yugoslavia was signed on 15 September 1961, which in its first Article regulated the exchange of four sculptures from Nin located in Zadar for the archaeological material of the Zadar Museum located in Venice.²³

which make it clear that their position on the issue of our restitution demands has remained more or less the same as before, that is, the interpretation of certain provisions of the Peace Treaty in their own manner or increasingly connecting various justified or unjustified claims towards our government with our restitution claims (which, as they are well aware, is not related in any way); they strive, in their own way, to avoid the obligations imposed on them by the Peace Treaty, or at least to delay the enforcement of our restitutions.

23 MFARS, CIC, International bilateral contracts, *Treaty on Regulating the restitution of Yugoslavian cultural Assets*, Signed in Rome on 15 September 1961.

INÊS FIALHO BRANDÃO (Portugal)

A Neutral Unknown. Portugal and the International Trade in Looted Art during the Second World War

This paper examines transit of cultural goods through Portugal during the Second World War. A neutral country, Portugal's role in this trade has been overlooked by academia, with neutrals such as Switzerland and Spain garnering most attention.

Throughout the war, Portuguese harbors remained open, and Portugal was an exit door from Europe, both for refugees and merchandise. The examination of the import and export records of the *Direcção Geral do Ensino Superior e Belas-Artes* – the General Directorate for Higher Education and Fine Art – provides the data for an initial narrative regarding the circulation of artworks through the country. The gathered data illustrates the actions of Red Flag Name listed art dealers identified by the ALIU/OSS as involved in the trade of looted art, and brings forward another group of non-Portuguese art dealers who were active in Portugal during the period.

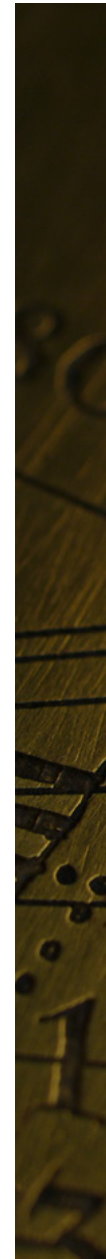
This information, results in the first account of the quantities and typologies of artworks that entered, and exited, the country during the conflict. However, when cross-referenced with other primary sources, the elicited narrative calls into question the accuracy of the information circulated by the OSS/ALIU. On the other hand, the limitations of Portuguese primary sources become evident once the issue of non-declared merchandise is approached, with the research relying on foreign sources to complete the narrative of the circulation of cultural assets in Portugal during the Second World War.

(IV.)

Government offices and their role in tracing looted art

Chair:

Anne Webber, Great Britain



UWE M. SCHNEEDE (Germany)

German Lost Art Foundation Deutsches Zentrum Kulturgutverluste

The GERMAN LOST ART FOUNDATION is the new central point of contact for anyone searching for Nazi-looted art in Germany. At the beginning of 2015 it was established by the federal government together with the 16 German states and the cities. It was an initiative of the Minister of State for Culture Monika Grütters. Two preexisting institutions were integrated: the Lost Art Database in Magdeburg, that had existed since 1994, and the Office for Provenance Research in Berlin, founded in 2008.

An important impetus for the establishment of the GERMAN LOST ART FOUNDATION was the public debate about the Gurlitt case since 2013; this sharpened politicians' awareness of the necessity of provenance research in Germany.

The GERMAN LOST ART FOUNDATION is a foundation, which means that it acts on behalf of the government and receives its funding from the government, but is in fact independent of the government. There is a *Supervisory Board* chaired by the Minister of Culture, and in addition there is an international *Advisory Board* with members from the Jewish Claims Conference as well as from the Netherlands, the USA, France, Poland, and of course Germany.

The *Executive Board* consists of two people, one for administration, plus myself – I am responsible for the Foundation's research and scholarship. In our office in Magdeburg, in the state of Sachsen-Anhalt, there is a staff of 20 people.

Last year the annual budget for the support of provenance research in museums, libraries and archives was EUR 2 million, and it is now EUR 4 million. Museums, libraries and archives may apply for grants to support their research projects. A special *Advisory Board* of independent experts decides whether projects receive financial support or not. Mostly they do, because the board helps them to complete their applications. An institution that is willing to

undertake provenance research should be granted the opportunity to do so. In any case, the museum itself (or its constituting body) has to participate in the costs. The percentage for the museum or the constituting body ranges from 15% for small institutions to 50% for large museums. Financial support may be provided for a maximum of three years – after this period, the institution itself has to bear the costs. So we are essentially a motor, helping to launch research.

The goal of the new GERMAN LOST ART FOUNDATION is to coordinate, strengthen and expand the countless activities and facilities of provenance research in Germany. In particular it advises and funds public museums, libraries and archives in their search for Nazi-looted art.

For those who like numbers and facts: Since the start of these support activities, more than EUR 13 million has been distributed to 193 research projects in 89 museums, 27 public libraries, 5 scientific institutes and 5 archives.

What is new about the GERMAN LOST ART FOUNDATION?

1. The first new aspect is the state's recognition of provenance research as a state obligation, and not only a task for museums and other institutions.

2. The second new aspect is the recognition of provenance research as a permanent task and duty (up to now, this task was always time-limited, and the government had to decide whether to continue or not). The Foundation now represents a clear guarantee of the permanence of this task.

3. The third new aspect is that provenance research in Germany is now supported by an independent institution.

So provenance research in Germany entered a new era in 2015.

There are several reasons for this assertion, as the GERMAN LOST ART FOUNDATION now faces a number of tasks:

It is necessary to strengthen and expand provenance research particularly

- in museums for applied arts,

- in collections of natural science, technical history and ethnological items,
- and in university collections.

In addition, it is also necessary to launch and support provenance research in small museums. In these institutions we are helping by providing advice, and we have launched a programme (in conjunction with regional museum associations) geared towards helping small museums in both word and deed.

The same type of activity is necessary in public libraries.

Up to now, only public-sector museums can receive support for their provenance research. However, we are currently developing new funding programmes for private museums, as long as they comply with the Washington Principles and provided that the research is in the public interest. There are some important private museums in Germany, which are open to the public and which may have some problems within their collections.

Moreover, there are also some private collections on long-term loan to public museums – and they also need our attention.

A further task for the GERMAN LOST ART FOUNDATION is to contribute to research via scholarly publications. Our plan is to publish important results of provenance research particularly in the form of monographs devoted to key figures in the realm of private collecting, art dealing, museum policy and bureaucracy in the era of National Socialism. To this aim we have set up a small editorial board of experts.

Additionally, the GERMAN LOST ART FOUNDATION will in the future need to cooperate with universities to develop education and research in the field of provenance research. This means that we shall help to create special professorships at (I hope) three different universities which offer the best conditions for two main areas of activity:

Firstly, the *systematic academic education* of provenance researchers. There exists a sort of pilot project in Berlin, in which Meike Hoffmann is involved. Systematic education is necessary, because in the future we will need many more researchers for all the coming tasks in various museums, libraries and archives.

And secondly, we need more *systematic basic research* concerning the wider context of individual cases. Museum research deals mainly with single objects or groups of objects in the museum's own collection. However, it is essential to know more about the fate of the victims, about the political, economic and legal circumstances in which the events occurred, about the history of private collecting, about domestic and international art dealers during the Nazi period, about the role of the museum directors who were involved, and about the important figures in the Nazis' art policy.

This is the reason why provenance research in Germany must become an integral part of art-historical education in universities.

Provenance researchers often complain that art dealers and auction houses do not allow access to their archives. However, to fill crucial gaps in the history of a work of art it is necessary to know from whom the dealer acquired the work, and under what conditions, who bought it, and whether the work was actually paid for. So researchers need the access to the annotated records in the archives of art dealers and auction houses. Art dealers and auction houses have their own reasons for refusing access: confidentiality agreements with private customers, and personal rights. We, in the role of a mediator, attempt to find a solution that will be satisfactory for both sides.

One of our future tasks will also be international cooperation in the field of research into looted cultural property in countries formerly occupied by the Nazis, such as Poland or the Czech Republic.

What I have talked about up to now concerns our central task – provenance research concerning property looted by the Nazis. But there is another problem that we have to deal with, related to our history. The German government puts it as follows: "The restitution of cultural property that was expropriated from its legal owners by authorities in the former Soviet Occupation Zone and in the German Democratic Republic; this task of restitution still remains unfinished. In order to clarify the claims of former owners also in these cases, provenance research must be strengthened."

This is a new task for the GERMAN LOST ART FOUNDATION. It concerns very different actions – the practices of the authorities during the period from 1946 until 1989 in East Germany. There were four main types of practice:

1. the so-called “Schloßbergung”, which means the confiscation of private treasures in castles and palaces by Soviet authorities up to 1949,
2. the so-called “Aktion Licht” (“Operation Light”) in 1962, when the Stasi secretly opened private safes and the government expropriated the contents,
3. the many cases in which private collectors received an enormous tax demand that they were unable to pay, allowing the authorities to take over their collections – this was essentially a form of confiscation,
4. cases in which the government expropriated the property left behind by so-called “refugees from the republic”, i.e. people who illegally fled to the West.

All these items became the property of the state. A special office for export – named the “Kommerzielle Koordinierung” – was responsible for selling the items in the West in order to obtain foreign currency. The methods used were partly legal, partly illegal.

When East and West Germany were united, those who were afflicted could apply for reparations. However, the time limit for applications expired in 1993, so today the claims fall under the statute of limitations. The GERMAN LOST ART FOUNDATION now has the task of finding just and equitable solutions. Next week, at a meeting of people from the cultural authorities, lawyers, archive specialists, scholars and museum directors, we will attempt to develop joint methods for solving these problems and discuss the next specific steps to be taken.

Provenance research regarding Nazi-looted property will always be at the centre of our activities. However, we are also involved in additional tasks. This means what we call “Beutekunst” (spoliated art): cultural property that was captured by the Soviet trophy brigades in Germany and taken to the Soviet Union. Many very important works of art were returned to Germany, especially to the Museum in Dresden, in the 1950s. However, thousands of items are still in Russia. Because of the political situation at the present time, there is currently a deadlock instead of negotiations – negotiations which must also include those items which the Germans captured in the Soviet Union and which are now in German collections.

It seems that some trophy brigades from the Ukraine also spoliated works of art in Germany. We do not yet know much about these operations, and therefore it is also one of our duties to support research into this matter.

I hope that this brief overview has given you a feeling for the special character of the GERMAN LOST ART FOUNDATION. We are at the start of a long-term process and we do not yet know what additional tasks will face us in the future. Some months ago, when the German Association of Museums held its annual conference on provenance research, it became very clear that in the future we in Germany will have to deal with the issue of plundered archeological cultural property, as well as researching the cultural property in our museums that came from the German colonies in Africa before the First World War.

These are not tasks for our new FOUNDATION, but they do demonstrate that the increased interest in provenance research opens up various new perspectives in different directions. And nobody knows where our questions will lead us.

The GERMAN LOST ART FOUNDATION has no political role. In supporting provenance research, we attempt as far as possible to maintain a scholarly perspective and to act according to our special moral responsibility in view of our history and for the sake of the victims.

THIERRY BAJOU (France)

MNRs and the collection of Josef Wiener from Prague

First of all, I would like to thank for organizers both for the invitation and for the quality of the organization.

All of you probably already know about what we call in France MNRs (Musées Nationaux Récupération), a collection of approximately 2 000 works of art that came back from Germany after the war and, because they still haven't been returned to their rightful owners, are still deposited in French museums.

Within the context of a claim, or due to research we conduct on the MNRs, we are able to make restitutions every year.

Among the MNRs returned in 2013 was a picture from the Czech collection of the banker Josef Wiener from Prague, which was sent to France after the war by mistake because it was confused with another canvas attributed to the same artist, on the same subject and of the same size.

Van Asch Horseman in front of a tavern (formerly attributed to Barent Gael)

The claim was submitted to the French Ministry of Culture by the von Trott zu Solz und Lammek law firm in Berlin, whose historical research was conducted by the historian Marina Blumberg. The sale of the collection has also been described by Meike Hopp in his remarkable study about Adolf Weinmüller, published in 2012.

Josef Wiener was born on 8 March, 1878 in Mladá Boleslav (50 km north-east of Prague; the city was also formerly known by its German name Jungbunzlau).

He married Hedwig Eibuschitz, a pianist and music teacher born in Vienna in October 1891. Once I have told you that from 1909 he owned a bank founded by his father, and that he lived in an opulent apartment in Prague on

the embankment in front of the small island where the Žofín Palace is located, you will know as much as I do about this victim of Nazism.

Photograph of the building

Though Mrs Wiener was able to reach London, Mr Wiener failed to obtain a passport. Like all Jews in Bohemia and Moravia, he was forced to wear the yellow star from 15 September 1941 onwards, and after being denounced by one of his clients, he was deported on 30 July 1942 to Terezín (Theresienstadt) and then transferred to Minsk on 4 August 1942. He died there on an unknown date, but he was officially declared dead on 31 December 1945.

Let me remind you that in Minsk, in the ghetto or the "Sonderghetto" adjacent to it, Jews were subjected to forced labour, but it was primarily an extermination camp where the Nazis experimented with numerous methods to exterminate the Jewish prisoners. So, between the beginning of the German occupation of Minsk in June 1941 and the liberation of the city by the Red Army, at least 100 000 Jews were exterminated there; many of them (perhaps 35 000) came, like Josef Wiener, from the Protectorate of Bohemia and Moravia.

The bank belonging to Josef Wiener was "Aryanized", and the personal property of the couple – including real estate located in Vršovice, the couple's Prague apartment and its furnishings, and of course the collection of paintings – were seized in March 1939, which, as you know, was immediately after the proclamation of the Protectorate of Bohemia and Moravia, initially led by Konstantin von Neurath and then by Reinhard Heydrich from September 1941. The paintings were to be sold by Weinmüller in Munich at the end of 1941.

We know about this collection of around thirty works thanks to lists drawn up by Mrs Wiener when she initiated compensation proceedings in the early 1960s.

Affidavit

These lists are quite imprecise, and give only brief titles (such as *Genre scene* by Spitzweg, *Lions fighting* by Huchtenburg, or *Still life* by van Huysum).

If we are to believe this affidavit, when purchasing the collection Josef Wiener asked for the opinions of Wilhelm von Bode (who died in 1929) and Gustav Glück (an art historian from the Kunsthistorisches Museum in Vienna who emigrated in 1938). However, only a few paintings seem to be correctly attributed, even taking into account the knowledge available at the time. So the information provided by Mrs Wiener raises the problem of the misattributions of many works.

List according to the rooms of the apartment (page 1) with the Barent Gael

Another list gives a short description of the paintings without any dimensions.

In fact, the document which provides the most helpful information to historians (and nowadays to the claimant) is the auction catalogue for the sale organized by Weinmüller in Munich on 13 and 14 November 1941.

Catalogue cover

Of course, there is no explicit reference to Josef Wiener in the catalogue, but in it we find the works listed by Mrs Wiener, with the same attributions, and some of them are reproduced.

Catalogue page with the mention of the Barent Gael and a photo

However, the link with the true owner is established by documents produced by the Gestapo in Prague soon after the plundering; some of them include estimates for the forthcoming sale in Munich.

List of code letters

According to the practice of the time, the German auction catalogues give a code letter for each of the collectors whose works were being sold. Meike Hopp was able to identify the letter allocated to the Wiener collection in the archives of the Munich Tax and Finance Authority; it is the letter B. Yet, quite unusually, some items known to be from the Wiener collection are also allocated several other letters (H, I, N and P), presumably due to confusion over the real provenance of the paintings being sold. It is therefore unrealistic

to assume that all the paintings listed under the letter B actually belonged to Josef Wiener.

The numbers given here correspond to the paintings mentioned in Mrs Wiener's lists.

Nevertheless, at least one painting should probably be added to these lists; it is a canvas by Tobias Verhaecht whose counterpart appears also in the lists and was sold at the same auction.

Works by Tobias Verhaecht

The sale no. 561 corresponds to no. 19 on the list, but the other painting also probably once belonged to the Wiener collection.

I will show you some paintings from the Wiener collection:

- **Pieter Cornelisz. Van Slingelandt, *Mother with her two children***
- **Judith Leyster, *Young boy with a glass in his hand***
- **Jacob Backer, *Double portrait of an old man and his wife***

As far as I am aware, the present whereabouts of these canvases is unknown.

I now come to the painting returned in 2013. The transfer to France after the war was due, as I have already said, to a confusion between two works by the same artist, of the same size and on the same subject, and therefore with the same title.

Van Asch Horseman in front of a tavern (formerly Barent Gael)

I am showing you the painting again.

We can now reconstruct the approximate provenance of the painting belonging to Josef Wiener.

The canvas first appeared at an auction held in London in 1925 after its

owner's death, already with an attribution to Van Asch.

Then the painting became part the Wiener collection, with a different attribution (to Barent Gael), at an unknown date, and it was sold by Weinmüller in November 1941 with the same attribution.

It was acquired at this 1941 sale by the Verwaltung Obersalzberg Bormann; that means the purchase was made for Martin Bormann, the head of the Nazi Party Chancellery and Hitler's Private Secretary, but it was the property of the Nazi Party.

It was then sent to the Altaussee salt mines at the end of the war, where it was discovered by the Allied armies.

The painting was registered at the Central Collecting Point (CCP) in Munich on 29 October 1945 as no. 12834, and it was then sent to France on 3 June 1949; it was thus registered among the MNR in 1951 and assigned to the Louvre.

The work was then reattributed to its real author, Pieter Jansz van Asch, due to the discovery of the artist's monogram "IVA" (as shown on the photograph).

CCP card of the MNR (front and reverse with the incorrect provenance)

As you can see, this card mixes various items of information which in fact refer to two different pictures. It correctly connects the painting with Bormann, but it also gives false information on ownership by Hitler and the Linz Museum and on the work's French provenance – and also, on the reverse, the reference to ownership by Gurlitt.

This card is that of the former MNR restituted to the family, but with mixed provenance information, a result of being confused with another painting by Barent Gael, or attributed to him, which never entered the CCP.

Screenshot of the Linz museum website for the Gael Painting

This second painting was sold in Paris by Theodor Hermsen to Hildebrandt Gurlitt on 10 July, 1944 (not 4 August as written, if we believe Gurlitt's

accounting books which were recently discovered in Munich). That painting was sold a month later, on 14 August, with four other paintings for 110,000 Reichsmarks to the Reich Chancellery for the Museum at Linz; we do not even have a picture of this second painting.

This canvas is reputed to have been destroyed in Dresden, when the Zwinger was bombed on 13 February 1945, the day before the paintings were to be evacuated to the salt mines at Altaussee.

It is not clear why the painting remained in Dresden, where Gurlitt had his house, instead of being collected in Munich with the other paintings from the Linz collection.

Note from the MNR catalogue published in 2004

This mistake involving the incorrect provenance has long been known by the curators of the Louvre, and it is mentioned in a note in the MNR catalogue published in 2004; however, due to the large number of paintings by this artist on the same subject and of comparable size, it was not possible to discover the real owner.

The claim submitted by the Berlin legal firm von Trott zu Solz und Lammek, drafted by Dr. Imke Gielen, mentions the link between the Wiener painting and the MNR thanks to the reproduction in the Weinmüller auction catalogue.

The claim was drafted relatively quickly, because the case was so clear and evident; it was received by the Ministry of Culture in July 2011. The decision to return the painting to the claimant was likewise taken quickly, and in February 2012 it was agreed with the Louvre that the painting was to be returned.

The restitution took place in March 2013. In such an obvious case, this delay of a year and a half may seem long enough, but this is mostly due to the fact that other MNRs were also to be returned at the same time personally by the Minister of Culture Mrs Aurelie Filipetti, and it took some time to set a date that suited everyone.

Let me conclude by emphasizing what this example illustrates – that is, the difficulties encountered by France in the restitution of the MNRs.

Indeed, the MNRs come from 3 major sources:

Photograph

- spoliation in the Möbel-Aktion, for which there are no records linking works with their owners;
- sales on the art market, whose archives are difficult to access if indeed they still exist at all;
- in some cases the origin of the works before their arrival in France after the war remains unknown.

So naturally it is difficult to find further evidence to identify the victims, let alone heirs who may be alive today.

The 25 MNRs or so that have been returned since 2008, with the exception of one painting, were returned to the heirs of non-French victims.

One reason for this is that the works were sent to France after the war by mistake (as was shown with the example of the Wiener canvas). They may also have been the property of foreign victims who fled to France after the Nazis came to power in Germany, or after the annexation of their own country by the Reich; in this case, the victims were deprived of their property twice – once in their own country, and a second time in France, where the works could have been looted again or the owners may have had to sell off their assets in a hurry in order to flee abroad. It is therefore a very complicated task to find a link between an MNR and a collector.

I conclude with this message: France is nevertheless striving to cope with the situation, and regularly makes several restitutions every year (7 in 2013, 3 in 2014, 1 in 2015, and at least 4 others will follow in the coming months).

Thank you for attention.

NAVOJKA CIEŚLIŃSKA-LOBKOWITZ (Poland)

Who owns Bruno Schulz?

The changing postwar fortunes of works of art by Jewish artists murdered in Nazi-occupied Poland

The documentation of works of art and culture destroyed and looted in German-occupied Poland (1939-1945), the active search for these works abroad and the restitution of recovered objects have ranked among the key priorities of the Polish Ministry of Culture and National Heritage since the early 1990s. In questions of restitution the Ministry of Culture even competes with the Ministry of Foreign Affairs. Every recovered item is widely presented as a great victory for justice and, at the same time, a victory for the ministry involved.

However, what is never mentioned is the fact that often after the war, in varying circumstances, national institutions and private individuals became the new owners of objects that had once belonged to private people or organizations persecuted by the Nazis. In the majority of cases, this affected Jewish individuals, Jewish communities and Jewish institutions. This attitude of silence is against the Principles of the Washington Conference of 1998, confirmed by the Terezín Declaration of 2009. It prevails despite the fact that Poland has signed both those documents and benefits from them in cases of foreign restitutions.¹

Those double standards were blatantly evident during the international conference organized in November 2014 in Kraków entitled “Looted/Recovered. Cultural Goods - the case of Poland”.² The conference took place under the patronage and in the presence of the then Minister of Culture. The necessity for provenance research, supervision of the art market, and the implementation of restitution procedures were underlined within the context of the Polish authorities’ efforts to recover looted art taken out of the occupied

1 The most recent case is the Plocker Pontificale, restituted from the State Bavarian Library to the Plock diocese in April 2015.

2 International Cultural Centre in Kraków, 12-14 November 2014.

country. However, in the case of the collections in Polish institutions, the organizers attempted to avoid the same questions.³

The Ministry of Culture even indulged in self-censorship by keeping silent about the official foundation in 2009 of a special Group of Experts at its Department of Cultural Heritage (after the Prague Holocaust Era Conference).⁴ Its task was to prepare “the study of museum exhibits from the viewpoint of their possible origin as part of Jewish property”.⁵ The Group was secretly dissolved by the Ministry in 2011. The organizers of the Kraków conference also failed to mention information concerning the exceptional restitution of Gustave Courbet’s painting from the Warsaw National Museum to the heirs of Hungarian Jewish collector Baron Lipot Herzog (this was in 2011, after twelve years of efforts and negotiations).⁶ Therefore it is not surprising that the Polish public was never informed about it.

The works of art in Polish public collections that were confiscated from the Jews by the Nazis in 1933-1945 in the German Reich – for example two collectors from Wrocław (Breslau), Max Silberberg (1878-1942) and Carl Sachs (1868-194?) – and in the occupied countries – the Netherlands (the Goudstikker case), Hungary (three more paintings from the Herzog collection) and Greece (Judaica from Thessaloniki) – are only sporadic cases. There is a quite different situation concerning the artefacts which were, or with great probability could have been, the property of Polish Jews, and which after the war found their way into Polish museums, libraries, and private homes.

I have written elsewhere about the various fates of prewar Jewish art and

3 In the last session of the conference Agnes Peresztegi of the Commission for Art Recovery, Wesley A. Fisher, Director of Research for the Conference on Jewish Material Claims Against Germany, and the author of this paper confronted the organizers and conference audience with this topic.

4 Z. Bandurska, D. Kacprzak, P. Kosiewski, M. Romanowska-Zadrozna, B. Steinborn, M. Tarnowska, *Badania proveniencyjne muzealiów pod kątem ich ewentualnego pochodzenia z własności żydowskiej*, “Muzealnictwo” Nr 53 2002, p. 14-26 online: http://muzealnictworocznik.com/abstracted.php?level=4&id_issue=871162

5 Ibidem, p. 26.

6 K. Akinsha, *Reclaiming Lost Treasures. The vast Herzog art collection, seized in Budapest in 1944, has been dispersed from North Carolina to Warsaw. The family is trying to recover its heritage*, “Art News” June 2012, p. 84.

cultural property in Poland.⁷ However, it is important to remember that more than three million Polish Jews were murdered in the Shoah (90% of Polish Jews). Among these victims were a large number of well-known, as well as anonymous, collectors of art and Judaica, owners of valuable private libraries, and nearly all Jewish antique dealers, booksellers and editors. The same tragic fate befell Jewish writers and artists, many of whom lived before the war in Warsaw, Kraków, Lwów (Lviv), Vilnius, Łódź, Białystok and other towns in Poland.

The list of several hundred names of Jewish artists (or students completing their art studies) in Poland before the outbreak of the war in 1939 reads like a roll of honour.

This artistic heritage became seriously damaged or dispersed, and in some cases it was totally lost. This was particularly the case because the artists’ families or their Jewish friends, who could have safeguarded and preserved their oeuvre, often also became victims of the Holocaust. The works of those murdered artists – paintings, drawings, etchings, and manuscripts (literary, musical or scholarly) – had a better chance of survival if they were given, for safekeeping, to Polish friends (which, in Nazi terminology meant Aryan, albeit of inferior status).

These works of art were also found in recently liquidated ghettos, during searches carried out by SS units and special Jewish Räumungskommandos. They were later often sold off by the Germans to the local population, having been deemed worthless. And last but not least, they were collected – usually somewhat later – by the people who entered the empty ghettos and then settled in the abandoned Jewish flats and houses.

Polish Jews returning to the liberated Poland from the Soviet Union, and those who had survived the war in Poland, immediately attempted to find works of art and crafts hidden in the ghettos or held in safekeeping by Poles. Such searches were sometimes conducted individually and sometimes in an organized manner, under the auspices of the Central Committee of Jews in

7 See e.g. my article: *The History of Judaica and Judaica Collections in Poland Before, During and After the Second World War: An Overview*, [in:] Julie-Marthe Cohen, Felicitas Heimann-Jelinek [ed] *Neglected Witnesses. The Fate of Jewish Ceremonial Objects during the Second World War and After*, Institute of Art and Law, Crickadarn, Jewish Historical Museum Amsterdam, 2011, p. 129-182.

Poland (Centralny Komitet Żydów Polskich, CKŻP), established in July 1944 in Lublin.⁸ This organization immediately formed the Central Jewish Historical Commission (Centralna Żydowska Komisja Historyczna, CŻKH) with branches in many cities, including all the cities with relatively large ghettos during the occupation.⁹

In late 1946, surviving Jewish artists revived the prewar Jewish Society for the Promotion of the Fine Arts (Żydowskie Towarzystwo Krzewienia Sztuk Pięknych, ŻTKSP). They firmly believed that it was “necessary to mobilize all those with knowledge of the rich heritage of the Polish Jews’ creativity, in order to gather and preserve whatever has been salvaged, and that the recovery of Jewish cultural treasures that remain hidden in the ruins must be stubbornly fought for”.¹⁰

In the spring of 1948, in the restored building of the Warsaw community on Tłomackie Street, the first exhibition was held of “the work of Jewish visual artists, victims of the German occupation”.¹¹ This exhibition was jointly organized by the ŻTKSP and the Jewish Historical Institute (Żydowski Instytut Historyczny; ŻIH), which had been established in 1947, developing out of the aforementioned CŻKH. The exhibition presented 105 paintings, by 58 artists, that had been “accidentally saved” (as Josef Sandel put it in the catalogue).¹² The catalogue identified the owners of the paintings in the exhibition as follows: the ŻTKP (16); the ŻIH (16+5); the CKŻP (14); the Joint Distribution Committee (9); the National Museum in Warsaw (10); private persons (33); others (2).

8 The CKŻP was founded on 12 November 1944, as the successor to the Committee of Polish Jews (Komitet Żydów Polskich), and existed until 1950. It was a secular organization built on the basis of local committees created earlier, and it represented several Jewish political parties (i.e. the prewar non-confessional parties), but it was dominated by the Polish Communist Party (PPR). The CKŻP was responsible for practically all Jewish matters. From 1946 onwards it was financed mainly by the American Jewish Joint Distribution Committee and, to a lesser degree, by other Jewish organizations.

9 The Commission had the dual task of collecting Holocaust survivors’ testimonies and salvaging Jewish cultural heritage. The CŻKH was headquartered in Łódź. From its inception it planned to create a Jewish museum; see N. Grüss, *Rok pracy Centralnej Komisji Historycznej* (Łódź 1946), p. 49.

10 R. Piątkowska, *Żydowskie Towarzystwo Krzewienia Sztuk Pięknych (Jidisze Gezelschaft u Farszprojt Kunst). Próba kontynuowania żydowskiego życia artystycznego w latach 1946-49*, in M. Ruta (ed.), *Nusech Pojln Studia z dziejów kultury jidysz w Polsce* (Kraków 2008), p. 67.

11 *Wystawa dzieł żydowskich artystów plastyków, męczenników niemieckiej okupacji 1939-1945. Kwiecień-maj 1948, ŻIH, Warszawa 1948* [Exhibition Catalogue].

12 J. Sandel, *In Memoriam* [in:], op. cit. p. 3.

In the next few decades the ŻIH increased its collection of rescued works of art by buying them, in some cases through donations. The works were sometimes sold or donated (not always voluntarily) by the family members of the murdered artists, who left Poland in the late 1940s and in the next waves of Jewish emigration. Sometimes Poles who had kept their Jewish acquaintances’ artworks on the “Aryan side” handed them over: they considered the ŻIH to be the best refuge for “orphaned” artworks. Most often however, and with the passing of time nearly exclusively, these objects were bought in antique shops as well as from private people who became their owners in circumstances which were not entirely clear.

Together with the steadily growing interest in certain Jewish artists, and more broadly in the history of Jews in Poland, a number of museums began to acquire examples of Jewish art that turned up on the domestic market (between 1950 and 1989 existed only the state one and museums were guaranteed priority).¹³ In the late 1970s and 1980s a new breed of private collectors appeared. They were also active on the international art market, searching especially for the Polish-Jewish artists of the Ecole de Paris, the Young Yiddish group, the avant-garde and the new realism of the 1930s. Since the 1990s there has been a continuously increasing interest in such works. The list of previously known Jewish painters has been expanded to include those that until recently remained unknown.

The overwhelming majority of works by Jewish artists acquired in these ways by postwar Polish museums and other institutions, as well as works still available on the Polish art market, are characterized by one common denominator: their unknown or highly dubious provenance from the period before 1945.¹⁴

This, however, has not stopped museums in any way from considering themselves the rightful owners of those objects.¹⁵

They perceive themselves – no doubt correctly – as the proper place where the decimated (and indeed almost annihilated) Jewish material cultural

13 See Footnote No 7.

14 Sellers to the museums usually made declarations such as “This is my property acquired in 1943 as a remnant from the ghetto”; “This is my property bought on the street or at a flea market”; “This is a gift to my mother, given by a Jewish acquaintance”, etc.

15 According to Polish law, if there are no heirs, the property belongs legally to the state of which the owner was the citizen.

heritage could be safely preserved. However, they also consider that the collected artworks were acquired in good faith. An excellent example of such thinking sets a recent exhibition in Warsaw ŻIH titled “Ocalałe / Salvaged” (October 2014 – October 2015).¹⁶

This exhibition was organized nearly half a century after the aforementioned first exhibition in 1948. This time, the collected works of nearly 500 Jewish artists were taken into account, including several who died before 1939 and some who survived the Shoah; that is almost nine times more than in 1948. The works gathered in the ŻIH are – as we can read on its website – “frequently the only trace of the artists themselves, the only thing by which they can be remembered”.¹⁷ Items reproduced in the exhibition catalogue are described without the slightest comment on their provenance.¹⁸ This shows that a serious investigation, an attempt to discover surviving members of an artist’s family, an effort to find their heirs, was never of interest to the ŻIH, let alone to other Polish museums – and it still, unfortunately, remains of no importance to these institutions.

It seems as if the respective museums have assumed that no one survived the Shoah, that all close relatives of the artists were without exception murdered, leaving no heirs. And that for the last twenty years, on the international scene, the spectacular wave of restitutions of art works that belonged to Jewish owners persecuted and exterminated by Nazi Germany had no connection with Polish public collections.

The real situation is different, and that Polish museums and other public institutions have historical and moral obligation to undertake a provenance research and according to the Washington Principles looking for honorable and fair procedures. It is proven by the cases of three artists who perished in Shoah: Ralf Immergluck (1892-1939/1944), Mosze Rynecki (1881-1943), and Bruno Schulz (1892-1942).

Ralf Immergluck lived in Kraków. He painted mainly landscapes and

16 *Ocalałe/Salvaged. A collection of paintings, drawings and sculpture from the holdings of the Jewish Historical Institute*, Żydowski Instytut Historyczny, Warszawa 2014 [Exhibition Catalogue].

17 <http://www.jhi.pl/en/exhibitions/7> [accessed 30.08.2015].

18 This lack of coverage of the provenance question is also common for the great majority of newly published books on Polish Jewish art and artists.

portraits of local Jews. His son Richard came to Poland from Australia in 1992, hoping to find any surviving works by his father. He discovered a few works in Kraków museums and in the ŻIH. He believed, at the very least, that the ŻIH would understand his humble request to give him back at least one of his father’s paintings. The painting in question was the only surviving image of Richard’s younger brother, who (with his father and other family members) was murdered either in the Kraków ghetto or in the extermination camp at Bełżec. In 2007 the ŻIH categorically rejected Richard’s restitution claim for the painting. It argued that Ralf Immergluck had made a living from selling his paintings before the war, and that the portrait of Richard’s brother titled “Portrait of a young Jew” was given to the CŻKH (formerly ŻIH) as early as 1946 by a Polish woman from Kraków.¹⁹

It is worth mentioning that the ŻIH (as well as the Historical Museum in Kraków and the National Museum there) possess other works by Immergluck - all of them portraying Jewish life, which basically meant that there were very few (in fact almost no) buyers amongst non-Jewish Poles before 1939. All those paintings were acquired without any note on their provenance before 1945.

Unlike Immergluck, the Warsaw artist Mosze Rynecki managed to hide nearly 800 of his works (mainly on paper) at a few locations in the city. One package of 120 watercolours and drawings was found after the war by his widow. The family, which had later emigrated to the USA, was for many years convinced that nothing else from the oeuvre of their husband, father or grandfather had survived. That remained the case until the great-granddaughter of Mosze, Elisabeth Rynecki, began stubbornly hunting for the missing oeuvre of her great-grandfather. Elisabeth documents all her current activities online, on a special website devoted to Moshe Rynecki.²⁰ For quite a few years, and to no avail, she tried to contact the ŻIH and the National Museum in Warsaw merely to obtain some information concerning Rynecki’s works in their collections. It was not until 2014, when she decided to make a film on this subject, that she received the first positive feedback from Warsaw.²¹ When she arrived there with a film crew in October 2014, both institutions allowed

19 Letter by Eleonora Bergman, Director of the ŻIH to the granddaughter of Ralf and daughter of Richard Immergluck dated 20.07.2007.

20 *Moshe Rynecki - Portrait of a Life in Art*: www.rynecki.org

21 Title of the film project: *Chasing Portraits*. See www.rynecki.org

her to view the works of her great-grandfather and film them. There was, however, no mention of any potential restitution of Rynecki's works to the family.

The third case concerns Bruno Schulz and his artistic heritage, mainly as a draughtsman.

Bruno Schulz is well known in Poland and internationally mainly as a writer, the author of the "Street of Crocodiles" and the "Sanatorium under the Hourglass".

Schulz spent all his life in Drohobych (today in Ukraine), where he worked as a teacher of drawing and handcraft in local schools. He never managed to give up teaching, as neither his writing nor his graphic art and paintings provided him with sufficient income. Especially his drawings with erotic, masochistic themes found few buyers; in general Schulz did not create them with the intention of selling them. Sometimes he gave them to friends and acquaintances, usually with a personal dedication and always signed with his name.

In the summer of 1941 when the Germans took over Drohobych, Bruno Schulz was forced to move to the ghetto. Because of his artistic talent he was placed under the "protection" of the SS man Felix Landau, the head of the local SS Jewish Department, who commissioned him to paint frescoes in his villa.²² On 19 November 1942, shortly before his planned escape from the ghetto, Schulz was shot dead in a Drohobych street during a so-called "wild action" of the local Gestapo.

Bruno Schulz had no wife or children. Only two grown-up children of his elder brother Izidor (1881-1935) – his nephew Jakub Schulz (1915-1997) and his niece Ella Schulz-Podstolski (1914-1996) – survived the war and the German occupation.

22 In 2001 the German film producer Benjamin Geissler discovered the wall paintings in a former children's bedroom at the Landau villa in Drohobych. Soon afterwards these "frescoes" were removed from the walls and illegally transported to Yad Vashem in Jerusalem, which provoked an international outcry. A few years ago their legal status was settled and they are now classed as a temporary deposit from Ukraine at the Yad Vashem exhibition.

The outbreak of World War II in 1939 found Jakub in the south of France; from there, via Portugal, he managed to reach Britain, where he joined the Polish Army. After the war he settled in London.

Ella lived with her husband Jozef in Lwów (today Lviv, Ukraine). When the Germans took over Lwów in 1941 she could no longer visit her uncle in Drohobych. She was ill with tuberculosis and was looked after by her mother-in-law. She, as well as her husband, never put on the armbands with the Star of David. But in January 1942, when the Jews were forced to move to the Lwów ghetto, the Podstolskis left the town illegally and (with false documents) survived till the end of the war, hiding mainly in the mountain region of Zakopane.²³

After the war, they lived with their son Marek in Zakopane. In 1963 they decided to emigrate. First, Ella went with her son to London, and then they moved to Düsseldorf. After a certain time the communist authorities permitted her husband Jozef to leave Poland. However, they had forced him to sell to the National Museum in Kraków several works by Bruno Schulz, especially the graphic series "Book of Idolatry" ("Xięga Bałwochwalcza").

It was Jerzy Ficowski (1924-2006) who, undoubtedly more than anyone else, promoted awareness and recognition of all Bruno Schulz's work in Poland and abroad. Already in 1942 as a teenager, this future poet and translator, fascinated by Schulz's literary and artistic output, wrote a letter to the author of "The Street of Crocodiles". This fascination has never left him.

From the early postwar years Ficowski searched tirelessly and by all possible means for any material evidence and all information about Schulz and his work. He managed to make contact with Schulz's Drohobych students, colleagues, friends, acquaintances, and former correspondents. He maintained long-lasting correspondence with Schulz's niece (from 1948) and nephew. Ficowski's efforts culminated in the first full edition of Schulz's prose; he also discovered and published the artist's extensive correspondence. Ficowski became the leading author and authority on Bruno Schulz's life and artistic output.

From the late 1980s Ficowski co-organized numerous exhibitions of Schulz's graphic art and drawings in and outside Poland, and he was also

23 Ella Schulz-Podstolski left personal memoirs. I would like to thank Mr Marek Podstolski for giving me access to them.

the co-author of the exhibition catalogues. The main organizer of these exhibitions was usually the Museum of Literature in Warsaw, which – thanks to Ficowski’s mediation – became the possessor of the world’s largest collection of Schulziana, including nearly two hundred drawings and sketches.

Ficowski managed to establish and confirm from various sources that in 1942 Bruno Schulz “decided to protect his manuscripts and drawings by giving them in safekeeping to some trustworthy acquaintances from outside the ghetto. For this purpose he acquired some cardboard boxes and placed in them his literary manuscripts, drawings, graphics as well as his enormous correspondence which he had been collecting for years”.²⁴ In 1992 Ficowski added to this information a commentary that: “The names of those depositaries are not known.”²⁵

He repeated this statement in a publication printed six years after his death – “Bruno Schulz. Księga Obrazów” [Bruno Schulz. A Book of Images] – which contained almost a hundred reproductions of drawings that came from private anonymous collections, of which only a small number had previously been known.²⁶

Nevertheless, a long time before publishing those words, Ficowski already knew and was in contact with at least two depositaries of Schulz’s artworks. In the American edition of Schulz’s drawings (1990) he confessed: “My search of more than four decades was able to locate, apart from individual drawings, two such deposits – one of them as early as 1948, the other in 1988. They were both still in the hands of the people to whom Schulz had delivered them, and they included over a hundred works. I managed to persuade both depositaries to sell them to the Museum of Literature”.²⁷

One of them was Schulz’s former high school student in Drohobych, a young musician named Emil Górski, to whom Schulz presented more than a hundred

drawings. “The circumstances in which Górski came into the possession of these drawings have been described in a beautiful *Wspomnienie* (Reminiscence) devoted to his teacher and friend, published in 1982. Górski received the drawings directly from Schulz in 1942, just a few months before the artist died, with the following words: *I am giving you those drawings. Perhaps you will be able to save them... if you survive the war you may sell them (and here Schulz added with a smile) – and please buy yourself a decent violin with the money.*”²⁸ In 1965, thanks to the mediation of Jerzy Ficowski, the Museum of Literature in Warsaw bought from Emil Górski (resident in Wrocław, where he was a violin teacher at the conservatory) those 117 drawings together with a few photographs and other documentary materials – “all at a relatively low price”.²⁹

Twenty years later, this same museum – again thanks to the mediation of Jerzy Ficowski – bought 70 drawings and an early sketchbook by the artist. The witness to this transaction was Wojciech Chmurzyński, the long-time curator at the Museum of Literature and an authority on the subject, who wrote the following words:

“Then [in 1986] the heirs of late Zbigniew Moroń, a teacher of mathematics at the Drohobych high school, and after the war a professor at the Gdańsk Polytechnic, made an unusual discovery when they found among their inherited papers a portfolio of Bruno Schulz. For many years it had been known that Zbigniew Moroń was, along with Emil Górski, a second recipient [depozytariusz] of Schulz’s drawings (sic!). The peculiarity of this lay in the fact that Moroń himself, a long time before his death, insisted that the drawings entrusted [powierzone] to him by the artist had been lost. They had supposedly disappeared in 1945 when the Nazi troops plundered his house in Maków Podhalański, where he lived temporarily after leaving Drohobych. The question whether the drawings recovered in 1986 are a part of this deposit or the entire deposit will always remain a mystery.”³⁰

24 Bruno Schulz, *Die Wirklichkeit ist Schatten des Wortes. Aufsätze und Briefe*. Herausgegeben von J. Ficowski, Carl Hanser Verlag, Wien & München 1992 [Bd 2. Der Gesamten Werken] in Lebens- und Werkchronik: 1942 p. 368.

25 Ibidem.

26 Bruno Schulz, *Księga Obrazów*. Zebrał, opracował i komentarzami opatrzył J. Ficowski [Collected, elaborated and commented by J. Ficowski], Slowo, obraz, terytoria, Gdańsk, 2012, p. 554.

27 J. Ficowski (ed. and with an Introduction by), *The Drawings of Bruno Schulz*, Northwestern University Press, Evanston, Illinois, 1990, p. 4.

28 W. Chmurzyński, *Schulziana in the Collection of the Muzeum Literatury in Warsaw. Shaping the collection: an attempt to describe Schulz’s visual work* [In:] Idem (Concept and text by), *Bruno Schulz 1892-1942. Drawings and Documents from the Collection of the Muzeum Literatury im. Adama Mickiewicza in Warsaw*, Warszawa 1992, p. 13.

29 Ibidem. According to Chmurzyński, this set of drawings is characterized by an especially high level of workmanship which indicates that the items were carefully selected by the artist himself.

30 Ibidem, p. 8.

Today it is known that not all the works entrusted to Moroń were disclosed. Quite a significant part of this collection had been kept by Moroń's heirs for themselves, and another part of it was acquired from them by Jerzy Ficowski.³¹

It is this undisclosed part of Moroń's Schulz collection that makes up a large proportion of the drawings catalogued in Ficowski's aforementioned posthumous publication "Bruno Schulz. Księga Obrazów" (2012) as belonging to anonymous private collections.³²

Some of those drawings have surfaced recently on the art market – for example in 2014 at Sotheby's in New York (with provenance that makes one wonder),³³ and then in June 2015 at an auction in Warsaw – for the first time specified as coming from the collection of Jerzy Ficowski.³⁴

Returning to that part of Schulz deposit acquired from Moroń's heirs by the Warsaw Museum of Literature in 1986, it is not known if Zbigniew Moroń was really being honest when he claimed that he had lost Schulz's drawings or preferred not to admit that they were still in his possession (which would mean possession in bad faith, i.e. without legal grounds). However, his heirs, as well as the Museum, must have known – owing to Jerzy Ficowski, acting as the intermediary in this transaction – the provenance of those items.³⁵ They also must have known about both surviving heirs of the artist, with whom

Ficowski was in close contact. It will suffice to quote a personal dedication by Ficowski in his book *Bruno Schulz. Letters, fragments. Reminiscences about the author*, sent to Schulz's niece in Düsseldorf: "For Ella Podstolska, Co-author of this book. With greetings, Jerzy Ficowski, Warszawa 15 XII 1984".³⁶

Despite these circumstances, the transaction was concluded. Ella and Jakub Schulz – the lawful heirs of Bruno Schulz – were not only completely passed over; they were never even informed what had happened. Similarly, until the end of their lives they never knew about the existence of the undisclosed part of the collection entrusted to Moroń. These works included a sketch for an ex libris by their uncle: "Exlibris, Ella i Kubuś Schulz".³⁷ It was sold 2015 at the aforementioned auction in Warsaw as an object owned by the widow of Jerzy Ficowski.

The son of Ella Schulz-Podstolska, Marek Podstolski (now aged 70), is the last living heir of Bruno Schulz. For over ten years he has been trying to solve the case of the drawings entrusted by the artist to Zbigniew Moroń which now make up a part of the collection in the Museum of Literature.³⁸ Similarly to Maria Altmann at the beginning of the famous case of the Bloch Bauer's Klimt paintings in Vienna, he would prefer that they remain in Polish public collections.³⁹ But he expects fair treatment, an acknowledgement of his claim, and the lawful conclusion of this case by the Museum of Literature and the appropriate Polish authorities. Up to now, the museum continues to ignore his claim.

In 2012, Podstolski officially approached the Ministry of Culture and National Heritage with a request for help in clearing up the matter. In the official answer he received it is stated that: "...on the grounds of the Polish legal system the Adam Mickiewicz Museum of Literature in Warsaw effectively

31 Ficowski mentioned only once that some original works by Bruno Schulz remained in his private collection, as well as in the collections of other people in Poland and abroad; see Footnote 26.

32 Some of them were already reproduced in Ficowski's book published in the USA in 1990, see Footnote 26.

33 "Acquired by the original owner in Poland before 1939. Thence by descent to the present owner": Sotheby's Israeli & International Art. 4 December 2014, New York, Lot No. 68.

34 No 12: Bruno Schulz: Ex Libris Ella i Kubuś, cca 1926. Drawing on paper, 13 x 8 cm. On the reverse another drawing. On the binding a sketch for the Exlibris sticker with a handwritten description of the drawing and Ficowski's signature [In:] Maria i Andrzej Ochalscy. Dom Aukcyjne OKNA SZTUKI, Aukcja 40 (190). Malarstwo, grafika, rysunek 16. Czerwiec 2015, p. 14-15. Several months earlier, in February 2015, the National Library in Warsaw acquired from the Jerzy Ficowski archive a manuscript of Schulz's short story "Druga Jesień" and 25 letters written by him; see information from 2.02.2015 "Rękopisy Brunona Schulza w Bibliotece Narodowej" <http://www.bn.org.pl/index.php/aktualnosci/840-rekopisy-brunona-schulza-w-bibliotece-narodowej.html> [accessed 11.09.2015].

35 The heirs of Zbigniew Moroń, encouraged by the lawyer Andrzej Kretowicz, made contact with Jerzy Ficowski, who again indicated the Museum of Literature as the most appropriate place to deposit the drawings; see W. Chmurzyński, op. cit., p. 8. For details

on this transaction see also: Włodzimierz Bolecki, Jerzy Jarzębski, Stanisław Rosiek, *Słownik Schulzowski*, Gdańsk 2004, p. 224.

36 Pani Elli Podstolskiej, Współautorce tej książeczki – z pozdrowieniem Jerzy Ficowski, Warszawa 15.XII. 1984. This dedication is written in a copy of the book: Jerzy Ficowski : *Bruno Schulz. Listy, fragmenty. Wspomnienia o pisarzu*, Wydawnictwo Literackie, Kraków 1984 (copy in the author's archive).

37 See Footnote No 34.

38 Podstolski, who lives in Cologne, decided to claim after discovering the circumstances of the transaction between Moroń's heirs and the Muzeum Literatury in *Słownik Schulzowski* published 2004; see Footnote No 35.

39 It was only the arrogance of the Austrian government that made Altmann change her position and decide to sell the paintings in the USA.

acquired the aforementioned collection of drawings by Bruno Schulz acting in good faith.

There is an equally important fact, that for the time being, one cannot explicitly confirm the identity of drawings deposited by Bruno Schulz with Moroń (...) and those that are part of the collection bought by the Museum.”⁴⁰

As one can clearly see, it is not only the Museum of Literature but also the Ministry of Culture and National Heritage that refuses to acknowledge the legal contradictions of the transaction in 1986 (*mala fide*). Moreover, this attitude ignores a fact already established by various authors including Ficowski himself, but not only by him: that Moroń was merely a repository for art works entrusted to him by Bruno Schulz. Never, in any publications on Schulz, has there been the slightest hint that Moroń either bought or was offered some drawings as a gift by Schulz – let alone such a large number of items, including many done in a preparatory manner (studio sketches, unfinished works, drawn on both sides of paper, without signature or dedications).

In view of this situation, the conclusion of the ministerial letter, and the assurance of “... the unchanging wish of the Ministry of Culture to solve the above-mentioned case in an amicable [polubowny] manner. Especially in the case of an eventual discovery of new documents, circumstances or related information”, sounds rather cynical.⁴¹

It is astonishing that this letter, signed by the then Minister of Culture and National Heritage Prof. Małgorzata Omilanowska, remains totally silent on the subject of the Washington Conference Principles, the very principles that have helped Poland in different claims regarding the restitution of national treasures looted during the German occupation and taken out of the country.

Let me conclude with a question, hopefully not a rhetorical one: How much time will it take for Polish authorities and Polish museums to stop perceiving themselves solely as the greatest victims of Nazi cultural destruction and plunder? And how much time will it take for them to act in accordance with

the obligations agreed in Washington in 1998 and Prague 2009? The works of Polish Jewish artists in national collections and emerging on the art market demand it. Their provenance and fate belong to the history of Shoah and its living memory.

My paper was written and given during the former liberal- conservative government of the Platforma Obywatelska (Civic Platform) and Polskie Stronnictwo Ludowe (Polish People’s Party). Under the present national-conservative government of the Prawo i Sprawiedliwość (Party Law and Justice) since November 2015 one cannot expect the slightest progress of the matters discussed above.

40 Letter of the Undersecretary of State Małgorzata Omilanowska DDK/561/2013/M to Marek W. Podstolski, dated March 8th 2013 (copy in the author’s archive).

41 Ibidem.

**ULRIKE SCHMIEGELT-RIETIG - MIRIAM OLIVIA MERZ
(Germany)**

The Central Office for Provenance Research in Hesse: Workshop Report

1. Who we are

The Central Office for Provenance Research in Hesse is an independent research institution based on the premises of Museum Wiesbaden. Two researchers, both in permanent full-time positions, are in charge of the office's tasks. The following article gives a survey of the main factors which led to the creation of the Central Office for Provenance Research by the State of Hesse in January 2015; it describes the office's tasks, activities and objectives, and it outlines its future projects.

2. Impetus

The massive media attention caused by the discovery of well over a thousand paintings in the Munich district of Schwabing in 2012, which soon came to be known as the "Schwabing art trove", was a key motivator for the foundation of the Central Office for Provenance Research in Hesse at the start of this year. The discovery reawakened broad segments of the public to the issues of art confiscated under National Socialism and to the German state's commitment to implementing the Washington Conference Principles on Nazi-Confiscated Art established in 1998 and upholding the "Common Declaration" agreed to as a consequence of the Washington Principles in Berlin in 1999 by federal and state governments and central cultural associations ("Statement of the German Federal Government, the Länder and the National Associations of Local Authorities regarding on the tracing and return of Nazi-Confiscated Art, especially with regard to Jewish property").¹

Another important impetus for the Office's foundation was the restitution of the painting "Refreshment" by Hans von Marées to the heirs of its rightful owner, the art collector and industrialist Max Silberberg of Breslau, in 2014.

The painting made its way into the collections of Museum Wiesbaden as a donation in 1980. Subsequent provenance research revealed that until 1935 the painting had belonged to Max Silberberg, a victim of the systematic discrimination and disenfranchisement of Jews by the National Socialist regime. In 1935, Silberberg was forced to sell his villa in Breslau and surrender the greater part of his extensive art collection. As a result, "Refreshment" and numerous other paintings from Silberberg's collection were auctioned off by the art dealer Paul Graupe in March 1935.

Once its provenance was established and the painting restored to its rightful heirs, Museum Wiesbaden was able to repurchase the painting for its collection. The repurchase was funded with the support of the Cultural Foundation of the German Federal States, the Society of Friends of Museum Wiesbaden, the Cultural Foundation of Hesse, and the citizens of Wiesbaden through their generous donations to a fundraising campaign.

But this impulse might not have come in quite this form, or it may perhaps have come at a much later date, without the systematic provenance research already underway at Museum Wiesbaden since 2009 for works in its collection acquired in the period between 1935 and 1945, while under the directorship of Hermann Voss (1884-1969).

In the period between July 2009 and December 2014, Museum Wiesbaden conducted systematic research on the provenance of 140 paintings acquired during Voss's time as director. This work was supported by the Post for Provenance Research (Arbeitsstelle für Provenienzforschung, AfP), with funding from the Federal Government Commissioner for Culture and Media (Beauftragte der Bundesregierung für Kultur und Medien, BKM), focusing on three related projects. The results of the research showed that 20 of the paintings were not confiscations resulting from National Socialist persecution, while 4 others clearly were. The heirs of the original owners of these 4 paintings have since been identified and reparations made. The provenance of the majority of the 140 paintings acquired between 1935 and 1945 remains unclear due to gaps in the historical record. In these cases, National Socialist confiscation cannot be ruled out.

¹ http://www.kulturgutverluste.de/images/gemeinsame_erklaerung.pdf

1 Activities and Objectives

1.1 1. Research

The Central Office for Provenance Research in Hesse was established to enable the three state museums to fulfill their responsibilities as parties to the “Common Declaration” made by the government of the Federal Republic of Germany, the states and central communal associations in December 1999. Our – the researchers’ – primary task is to systematically research the origins of the works in the Hesse State Museums’ collections. These collections consist of three state institutions – specifically, the state museums in Darmstadt and Wiesbaden and the Museumslandschaft Hessen Kassel.

First and foremost, our work is concerned with the identification of art in these collections that was confiscated under National Socialism. That means the origins of every work of art with a date of acquisition after 1933 and a date of production before 1945 will be critically examined. Our work is supported by colleagues at the institutions listed above through their Provenance Representatives. They are: in Kassel, the head of the Old Masters gallery, Justus Lange; in Darmstadt, the head curator for painting and sculpture of the 19th - 20th centuries, Klaus-Dieter Pohl; and in Wiesbaden, the curator for the 14th - 19th century collection, Peter Forster.

All pieces with incomplete, suspicious or tainted provenance records have been and will continue to be registered in the “Lost Art” internet database administered by the “German Lost Art Foundation” in Magdeburg. It is the responsibility of the Provenance Representatives at the respective institutions to register any such works.

If we identify a work as confiscated art, we make a recommendation for restitution and begin the search for the rightful heirs of the last owners. The legal examination of the recommendation through to actual restitution is carried out by the Hesse State Ministry of Arts and Sciences (Hessisches Ministerium für Wissenschaft und Kunst, HMWK).

To avoid acquiring works with a tainted origin, we are involved early on in the acquisitions process for new pieces. The careful analysis of a work’s origins before it is purchased should already be mandatory practice in museums.

The research, review and documentation carried out in preparation for new acquisitions by the state museums of Hesse also rank among the Office’s key tasks. The work’s ownership history must be as complete as possible and documented on record – this information should actually be provided by the seller or donor in any such transaction. If the ownership history cannot be fully verified, the work should not be purchased.

1.2 2. Documentation

Because it is essential to ensure careful documentation of our procedures, and above all the outcomes of our research, we maintain records of our results. These records include a variety of different forms of documentation, including overviews in table format and written summaries describing the steps in our work and the results. Provenance research also includes situating the work in its art-historical context to complete the piece’s “biography”. In addition, the results of our research are entered into the inventory databases of the respective museums.

1.3 3. Advising

Finally, we also play a role as advisors for non-governmental museums in Hesse on questions of provenance. Specifically, that means we support these institutions as needed upon request. The museums themselves are obligated to determine their need for support. Our advisory role, at the moment, primarily involves providing information for applications to the German Lost Art Foundation.

2 First Steps / Status Quo

Our first task has been to establish the status quo at the three respective museums. What kind of collections are we dealing with? What is the situation with archival documentation in the museums? Which documents are available to verify the acquisitions in the period between 1933 and 1945? What is the situation with bequests?

2.1 Collections

2.1.1 1. Hesse State Museum in Darmstadt

The Hesse State Museum Darmstadt unites a large number of various collections from the fields of natural history, art and cultural history under a single roof. The museum was founded by the Landgrave of Hessen-Darmstadt, Ludwig X, later the Grand Duke of Baden (1753-1830), in the 1770s. Its holdings include the Landgrave collections, the art chamber, the inventory of the royal palaces with furniture and paintings, porcelain and other decorative art, physics instruments and a cabinet of curiosities collected by Ludwig X personally. At the end of the 19th century, the museum's collections were focused on four areas: a collection of paintings including graphic pieces, an antique art collection, a zoological collection and a geological collection. In the Weimar period, the curator of the museum's painting gallery and graphic collection Karl Freund acquired contemporary works of art for the collection, which were later purged from the museum's holdings, as they were from all German museums, by the Nazis, who considered them "degenerate art". In the post-war era, director Erich Wiese began to rebuild the museum's Classical Modernist collection, and he also began to collect the then little appreciated art of the Jugendstil period.

The museum's entire archive was destroyed by fire as a result of the bombing of Darmstadt in September 1944, when the museum was badly damaged. Luckily, at least the inventory books were spared. Thus we will rely on findings in other archives – particularly, we hope, the Hesse state archive in Darmstadt. We now have a list of paintings acquired between 1933 and 1945 that will serve as the starting point of our work. The list includes 113 works, 46 of which are marked as missing, leaving some 67 awaiting examination. We will begin with works acquired from art dealers in Berlin, Frankfurt, Darmstadt and Mannheim. Missing documentation, naturally, raises the significance to our research of examining the reverse of these works.²

2 More information on the museum's and the collections' history has been published recently in: Hessisches Landesmuseum Darmstadt. Museumsführer, Regensburg 2015.

2.1.2 2. Museumslandschaft Hessen-Kassel

The principal holdings of the Museumslandschaft Hessen Kassel encompass collections of the Landgraves and later the Electoral Princes of Hesse-Kassel built up over centuries. Following the annexation of Hesse-Kassel by the Prussians in 1866, the royal collections were transferred to the State of Prussia and in 1924 administered for the first time as a unit under the name "State Art Collections Kassel". The Museumslandschaft Hessen Kassel as an administrative structure was established only in 2006, in the wake of a restructuring that merged the state art collections of Kassel with the Hesse state palaces and gardens in Kassel. It houses a number of different collections, from the antiquities collection to the military and hunting history collection through to the folklore and pre- and early history collections and, above all, the impressive art collections – the Old Masters painting gallery, the New Gallery, the Graphic Collection, and the Collection of Applied Art.

The archive of the Museumslandschaft Hessen Kassel contains a historical archive for the eighteenth and nineteenth centuries, inventory books, records of the trade and purchase of works for the state collections beginning in 1924 through the post-war period, and special records (in part, of restitutions).

For our initial review, the comprehensive catalogues of the Museumslandschaft Hessen Kassel are invaluable for their record of the research to date on the works' origins.³ This information serves as a basis for the prioritization of our own work by allowing us to more easily identify those works whose origins are "tainted" and give them due priority.

A first step has already been made: Since the beginning of this year, one colleague has been researching the origins of 113 paintings acquired for Kassel's Old Masters painting gallery between 1933 and 1945 within the scope of a project supported by the former Post for Provenance Research.

2.1.3 3. Museum Wiesbaden

Museum Wiesbaden is the youngest and smallest of the three state

3 <http://altmeister.museum-kassel.de/>; <http://malerei19jh.museum-kassel.de/>; <http://malerei18jh.museum-kassel.de/>

museums in Hesse. It unites the collections of what were originally three different museums whose administration and ownership were transferred to the city in 1900. From 1935 to 1945, Hermann Voss directed the museum's painting gallery.⁴ He was not only the director of the Wiesbaden's Picture Gallery in this period, but in March 1943 he was named Director of the State Art Gallery in Dresden and at the same time the "special envoy" for the planned "Führermuseum" in Linz; he therefore played a leading role within National Socialist cultural politics and had close connections to the party. At the same time he kept his post as a director at Wiesbaden. In light of its former director's intimate ties to the National Socialist regime, it is the moral responsibility of Museum Wiesbaden to research and lay bare its own history as an institution.

The above-mentioned long-term project on the systematic research of the provenance of the pieces in its collection allowed Museum Wiesbaden to understand in detail the methods used by Hermann Voss in his various roles as expert and appraiser, as well as the special envoy in Linz, to carry out his activities as the director of Museum Wiesbaden. Our research has enabled us to reconstruct a relatively good picture of Voss's network of contacts in the cultural and political spheres of the time. This network included art dealers, collectors, museum colleagues, art historians, city mayors, department heads of cultural institutions, and more. Yet, in addition to the identification and personal histories of former owners of confiscated art, the project also taught us a good deal about the history of the museum and its collection during the National Socialist era.

The Museum and its collections survived the war with comparatively little damage, except for Voss's acquisitions of 1943-44 which had been stored at Schloss Weesenstein near Dresden and did not make their way back into the collection until 1988.

An "Official Catalogue of the Painting Gallery in Wiesbaden" assembled by Voss and his curator Juliane Harms in 1937 and 1939 is contained among the art collections of Museum Wiesbaden.⁵ The catalogue records some information on the provenance of the works. The museum archive contains

4 About Hermann Voss: Kathrin Iselt, „Sonderbeauftragter des Führers“. Der Kunsthistoriker und Museumsmann Hermann Voss (1884 – 1969). Köln 2010, (Studien zur Kunst, 20).

5 Amtlicher Katalog der Gemäldegalerie Wiesbaden, Wiesbaden 1937; Nachtrag zum Amtlichen Katalog der Gemäldegalerie Wiesbaden, Wiesbaden 1939.

around a dozen files on acquisitions in the period between 1935 and 1945, which include some of the correspondence between the director Hermann Voss and members of the city administration (the head of the department of culture and the mayor) granting permission for the acquisitions, as well as letters to art dealers and collectors discussing requests and offers for works. The archive has not yet been systematized.

After the war, the American military government established a Central Collecting Point at the museum to gather works that had been stored by the Nazis at various different locations, which adds another nuance to the museum's history.

2.2 Procedure

The first point of departure for our research is the individual record of the painting. Ideally, this will contain all the information surrounding the painting's acquisition. In addition to our in-house sources, we also look for clues to the work's origins in external documents, such as the business records of galleries or art dealerships, bills of lading from auction houses, and the records of other museums that might have been offered the opportunity to purchase the painting.

We submit numerous requests to various archives: city archives, state archives, federal archives, business archives, the historical archive of the Germanic National Museum, the archive of the Ministry of Foreign Affairs, and others both within Germany and beyond its borders.

The multitude of possibilities for internet research in remote databases, online reference catalogues, historical auction catalogues, etc. facilitates our work in many respects; however, many records must be visited on-site and researched in person.

In addition, we try to locate entries about the artists and their works in encyclopedias of artists, lists of works, monographs/biographies, exhibition catalogues, auction catalogues, etc. in order to compile a "biography" of an item that is as complete as possible, which may lead to further indications of the work's provenance.

Another essential component of provenance research, in addition to references to the works in significant records, is the analysis of the painting's reverse; that is, determining and situating the indicators of a work's origins that are present on the work itself.

What may at first sound like a superfluous step in a routine process can often raise certain challenges to our research: In the museum itself, the records of acquisitions made between 1933 and 1945 can often be incomplete or even missing altogether, as a result of the war. In such cases, we attempt to locate records in cultural departments and ministries. Art dealers can also be a source of records. But the same problems arise everywhere: inconsistent documentation, damaged or missing records. What is more, some documents were also purposefully destroyed after the war, sometimes to conceal the activities of the NS regime, sometimes as a standard administrative practice not to keep invoices longer than ten years. However, records were also destroyed simply due to lack of interest or understanding about what they represented. As a result, art dealerships which continued to exist after the war and were later dissolved as businesses ended up destroying their files because there was no one interested in them or no one who could preserve them. At times, our information about the origins of a work is limited to the mere listing of its name in an inventory book of the museum.

Trying to trace the origins of lesser-known artists, whose oeuvres are not systematically described and critically discussed in the art historical record, poses a particular difficulty for provenance research. The works of these artists were seldom exhibited in museums, nor did the artists have solo exhibitions in galleries. As a rule, the better known and appreciated the artist was by his or her contemporaries, the better the chance of determining the origins of a work through the kinds of sources described above. Unfortunately, the opposite is also true. Research becomes more difficult the poorer the quality of documentation associated with the work, such as drawings, print graphic and decorative arts.

3 Prospective Projects

When our research on the provenance of the works acquired between 1933 and 1945 is complete, we will turn our efforts to those works acquired after the war through to the present day. At the moment, our focus lies

exclusively on the painting collections, but we will later extend our work to the collections of sculpture, graphic and decorative arts. Our work will also later extend to the collections in the Hesse State Palaces and Gardens.

In the medium to long term, we will conduct certain basic research. One important area of this research is biographies. Our knowledge of the personal histories of museum staff and other key figures, such as art dealers, can provide valuable clues for provenance research. The personal histories of key figures will provide (it is hoped) a trail that will supplement the "biographies" of the works. Specifically, that means we will try to learn as much as possible about the figures involved: Who were the museum directors? What was their relationship to the National Socialist regime? With whom were they networked? How did they act in their administration? Which collecting strategies can be traced?

A different set of questions in this regard must be asked about the art trade: Who were the art dealers that museum directors dealt with when acquiring works? Our goal is to gather as much information as possible about the art dealers with whom our museum did business. We strive to learn everything that is known about every art dealer who belonged to the network of contacts for our museum and its directors during the Nazi period and afterwards. For particularly significant cases, we will conduct our own research as well.

Another important subject is to examine more closely the Central Collecting Point (CCP) in Wiesbaden. Again and again, we receive requests about the Collecting Point from independent researchers. Generally, we refer these scholars to the federal archive in Koblenz, where the records of the CCP are housed. The CCP in Munich has already been well researched; a monograph of its history was published earlier this year and since 2008 all of the property cards have been input into a database on the website of the German Historical Museum and can be readily accessed for research. However, all this still remains to be done for the CCP Wiesbaden. In the medium term, we plan to take the first step toward this goal by creating an overview of available documents and materials on the CCP and its locations in order to enable us to better respond to future inquiries. A monograph of the history of the Wiesbaden CCP is also planned as a larger-scale project.

It is clear that given the wide range of tasks to be performed by the Central Office for Provenance Research, priorities must be set. The first priority will

always be the research of the individual artworks, the research of the objects' "biographies", so to speak. With possible restitution claims in mind, as well as losses that date back up to eighty years, this is absolutely a matter of urgency. All other tasks, objectives and in particular research projects are subordinate to researching the individual artworks in the sense that they promote and support this. This, however, is exactly why this research should not be underestimated. In many respects the work of the Central Office for Provenance Research is still at the beginning of its path, so this is primarily a preview. Results and achievements will be reported later, in this forum or elsewhere.

AGNES PERESZTEGI (Hungary)

Recent Developments on the Field of Professional Standards of Provenance Research – Towards a Unified Approach about the Identification of Looted Cultural Assets in European Museums

Many European countries and organizations of museums and museum professionals adopted at least some of the Washington Conference Principles in the past 17 years. While national implementations of the Washington Conference Principles vary greatly, provenance research emerged as a field where a unified approach may be justified. Several organizations are in the process of participating in some form in the development of professional standards in provenance research, including the Commission for Art Recovery, the Claims Conference, ICOM, the European Shoah Legacy Institute and the recently formed Internationaler Arbeitskreis Provenienzforschung (International Working Group on Provenance Research.) One lesson already learned is that provenance research is highly specific according to the research objectives and also by the subjects of the research. Nevertheless, can at least a unified due diligence guideline be developed? Should the guideline emerge from a European level political process or should the actual players develop a common approach? Should provenance research be tied to the issue of restitution, or should it be in our focus on its own? The presentation intends to describe the different possibilities to develop professional standards of provenance research on a European level that would better enable the identification of Nazi Era looted artworks currently located at European museums.



(V)

Identification of looted cultural assets in the Bohemian and Moravian museums and libraries

Chair:

Pavel Hlubuček, Czech Republic

VÁCLAV ERBEN (Czech Republic)

The fate of several major Jewish collections in the Protectorate and after the war, their deposition at the National Gallery and problems with restitution

During the preparation of this paper I decided to make some changes to its content, in order to focus on just three collections – those belonging to Josef Pollak, Richard Morawetz, and Selma Baštýřová. The complex fate of the largest and most important art collection in the First Republic, belonging to Jindřich Waldes, has been extensively described, and would require a separate lecture. Richard Popper's collection of paintings will be the subject of a separate publication which the Documentation Centre plans to publish next year, and which – besides outlining the story of Richard Popper's life and the fate of his collection – will also contain a catalogue of all the paintings in the collection, based on sources and National Gallery inventories.

The first two collections – Pollak's and Morawetz's – are both large, but they differ considerably in their content. The third – Selma Baštýřová's collection – is much smaller. However, all three collections have certain features in common – they were legally deposited with the National Gallery at the beginning of the Nazi occupation, and all three collections were affected by a Gestapo operation in June 1942, which I will talk about today in this paper.

The fate of Josef Pollak's collection is described extensively in the publication *Návraty paměti. Deponáty židovského majetku v Uměleckoprůmyslovém museu v Praze* [Memories Returned. Deposits of Jewish property at the Museum of Decorative Arts, Prague] by Helena Krejčová and Mario Vlček (2007). I will therefore focus here on several aspects of the turbulent (and still not entirely clear) movements of the works from Pollak's collection – primarily his paintings, drawings and graphic art – in connection with their deposition at the National Gallery and the unclear circumstances in which 20 paintings were “acquired” by the Gestapo in June 1942.

On 6 March 1939 Josef Pollak reached an oral agreement with Prof. Josef Cibulka, the Director of the State Old Art Collection (later renamed the National Gallery in Prague, then in 1941 the Bohemian and Moravian Gallery, then after the war the National Gallery – for the sake of simplicity I will use the term “National Gallery”, and for the sake of brevity also the initials “NG”), that he would deposit selected paintings, drawings and items of sculpture (a total of 39 items) at the Gallery. However, three days later he reached a similar agreement with the Director of the Museum of Decorative Arts (also designated in this paper by its Czech abbreviation UPM) Dr. Karl Herain, to the effect that Pollak would deposit 957 items at the Museum (mainly decorative art, but also paintings, drawings, and graphic art). These items were recorded by the Museum on 20 May 1939 under deposit no. 1164. The paintings, drawings, 2 sculptures and 1 graphic piece were recorded in the NG’s deposits ledger (under codes DO, DK, DP and DR) dated 3 May 1939, though the list of items received gives the date 12 May. It is evident that Pollak was engaged in discussions with both institutions simultaneously; he wanted to protect his collections from confiscation, and indeed he largely succeeded in achieving this goal. Judging from both lists which we have at our disposal, we can state that the collection of paintings is of mediocre quality; the better-quality pieces (of which there were only a relatively small number) were selected by the NG (28 paintings – DO 761 to DO 788, 2 sculptures, 8 drawings, and a reproduction print of Hollar’s View of Prague), while the remaining items were kept by the UPM.

On 15 June 1942 the National Gallery received a visit from Jindřich Baudisch, an art expert and valuer for the Gestapo, and Prof. Karl Maria Swoboda, the Trustee for Reich-owned Artistic Property in the Protectorate), who announced that they had an order to select several items from the Jewish collections deposited at the Gallery, which would then be sold at the André auction-house. This was the first time that the Gallery’s stocks had been subjected to outside interference, and there is no direct source or written order pertaining to the incident. The only available information is from several interviews held as part of a post-war investigation, in which those involved speak of the events in vague terms. When questioned on 15 October 1945, Josef Cibulka stated the following: *“Baudisch and Swoboda used a similar method to divide up the collections that the National Gallery had previously received on loan. They were primarily the collections of Richard Morawetz, Josef Polák [sic] of Karlín, and Selma Baštýřová...”*. He also noted that *“the items left in the gallery remained there on loan, while the remainder were taken over by Andree.”* In a report dated 14 May 1945, Cibulka stated: *“According to the selection by*

the Gestapo member Baudisch, André received (for purposes of sale) the less valuable paintings from the collections of Morawetz, Pollak and Baštýřová; Baudisch selected one item for himself, a rare Slovak Gothic statue of the Madonna owned by Mrs. Baštýřová.” When Baudisch and Swoboda were questioned about the incident, they stated that they had always attempted to ensure that the highest-quality pieces remained at the National Gallery. Baudisch said the following words in his defence: *“As a court-appointed expert, I constantly experienced various misunderstandings with the German authorities, because I always acted as an artist, in contravention of orders, and I always insisted that valuable cultural items protected by the heritage authority must not be removed. I thus placed not only my job, but also my very life in danger. ... Cibulka concealed many artworks owned by Jews. It is thanks to me that the National Gallery never fell into German hands.”* (For more details on these interrogations see the book *Jindřich Baudisch a konfiskace uměleckých děl v protektorátu* [Jindřich Baudisch and the confiscation of artworks in the Protectorate] by Helena Krejčová and Otomar L. Krejča, Prague 2007).

However, when we compare the lists of selected works from Pollak’s collection with those that remained in the National Gallery, it is clear that Baudisch’s claim is not justified. Out of 28 paintings, Baudisch and Swoboda selected 20; apart from a pair of small pieces by the Austrian genre painter Franz de Paula Ferg (from the first half of the 18th century) and one portrait by Friedrich von Amerling, the only items they left behind were works by 19th-century Czech painters – Antonín Mánes, Josef Navrátil, Václav Brožík and Antonín Chittussi. The items selected for auction consist (apart from one painting by Jaroslav Čermák and one by Václav Brožík) solely of foreign works, mainly Dutch 17th-century masters such as Adrien Brouwer, Paul Potter, Pieter van Laer, Richard Brakenburg or the Flemish painter Pieter van Avont.

These paintings were sold by André on 20 June 1942.

I would now like to mention another interesting fact concerning the complex post-war fate of Pollak’s collection. The National Administration of the Property of the Property Authority and the Expulsion Fund (Czech abbreviation NSMP) began to search for these stolen paintings. There was a list of who had bought which paintings at the auction, and in some cases the address of the buyer was also given. Some buyers were located and questioned. One, named Bucke and living in Berlin, who had purchased two paintings, stated that he had bought them before the outbreak of the war, and that they had

been destroyed by fire in an air raid at his mother-in-law's house. A Viennese actor named Gerasch, who had purchased three paintings at André (one of them from Pollak's collection) was demonstrably no longer in possession of the items; he stated that he had either sold them or given them away.

In a letter of January 1948 sent by the NSMP to the National Gallery (and including this list of items and buyers as an enclosure), the NSMP asked the Gallery for assistance in tracking down the items that had been sold. The buyers who had already been contacted (to no avail) were marked with asterisks. The list shows that in January 1948 the NSMP had not tracked down any buyers in Prague; this may well have been because they were in fact Germans who had lived in Prague during the occupation. However, it is hard to believe that the investigators did not question the widow of the renowned Prague antiquarian Otto Kretschmer, who had died in May 1945 and who purchased many Jewish-owned collections during the Protectorate years. At an auction held on 20 June 1942, Kretschmer had bought a painting of the Holy Family by Pieter van Avont. The list – which unfortunately concerns only the sale of works from Pollak's collection, not from the Morawetz and Baštýřová collections – was available to staff at the NG from January 1948 onwards. In December 1948 Otto Kretschmer's widow Marie came and offered the Gallery the van Avont painting (among other works). Jaroslav Pešina inspected the painting and found the inventory number DO 783 on the rear. He immediately realized that the painting had already been deposited at the Gallery during the war. In any case, as a member of the Gallery's staff, Pešina (along with his colleague Ellen Redlefsen) had selected high-quality works on the instructions of Karl Maria Swoboda from the Prague depots of the Treuhandstelle, and he was well aware of what had gone on. He instructed the NSMP to take the painting from Marie Kretschmer and to place it in the NSMP depot; this was done, and the painting later found its way back to the Gallery (O 10739). If Mrs. Kretschmer had erased the number from the rear of the painting and had not taken it to Pešina, she would have undoubtedly been able to retain the work for herself. However, it is surprising that nobody at the Gallery responded to the January 1948 list until December of the same year.

On the same day as they visited the National Gallery, 15 June 1942, Baudisch and Swoboda also "selected" works from Richard Morawetz's collection. Morawetz was a wealthy industrialist who had built up an extensive collection consisting not only of paintings, graphic works and drawings, but also of rare rugs and carpets, old prints and archivalia, plus 26 Japanese

woodcuts. On 14 March 1939 Morawetz met Cibulka and came to an oral agreement that he would deposit his collection in the National Gallery. Morawetz later emigrated; on 22 April 1939 the Gallery concluded a written agreement with him, via his authorized attorney-in-fact Jan Kábrt. Unlike Pollak, Morawetz deposited his entire collection with the National Gallery; it consisted primarily of 33 paintings marked DO (DO 248 – DO 280). Item DO 269 (A. Slavíček) was transferred to the Gallery's collection of drawings (DK 2229 - K 37521), four enamel paintings marked Limousin (Limoges) (DO 265 – DO 268) were transferred to the UPM, while DO 280 (Molenaer) was listed in error as part of his collection; we know from other sources that it in fact belonged to the Elbogen family (now O 8791). This means that in June 1942 the Gallery had 27 of Morawetz's paintings in its possession. If we compare the fates of Pollak's and Morawetz's collections, it is difficult to explain why Baudisch and Swoboda took such different approaches to the two collections. They selected the finest works from Pollak's collection (which was mainly of mediocre quality), while from Morawetz's collection of 27 paintings (most of exceptionally high quality) they only selected three – one by Pieter Bruegel the Younger, one by David Teniers II, and one by C. Hirschely, plus a wooden Madonna by an Austrian master working in the first half of the 18th century; they also selected four excellent enamel pieces from the UPM. Among the items they left at the National Gallery were two panels from the St. James altarpiece, a painting by a member of Rembrandt's circle depicting Judas returning the thirty pieces of silver, a fragment of the St. Vitus altarpiece with St. Christine by Lucas Cranach the Elder, a painting of the Holy Family by Leonardo's pupil Francesco Melzi, paintings by several 17th-century Dutch masters (Adriaen van Ostade, Ochterfelt, Jan van Goyen, Mierevelt and others), and works by the Bohemian Baroque masters Jan Kupecký and Norbert Grund. The auction was held on 20 June 1942, and unfortunately we have no information on who purchased the works belonging to Morawetz and Baštýřová. It is hard to understand how Baudisch and Swoboda managed to retain the most valuable items in the collection for the National Gallery; they evidently had a free hand when making their selection.

After the war, an application for the restitution of Morawetz's collection was ultimately rejected after a long and complex dispute. The generosity shown to the state by Morawetz's heirs after the successful restitution in 1998 is therefore remarkable; they donated 8 paintings (including two panels from the St. James altarpiece, 2 paintings by Grund and an excellent portrait by Jan Kupecký) to the Gallery. The Gallery was also able to re-purchase the Cranach,

Melzi and Mierevelt. All of the drawings from the Morawetz collection (almost 50 items) remained in the gallery, as did all the graphic pieces (almost 450), the 26 Japanese graphic works and both sculptures.

In connection with the receipt of some items from the Pollak and Morawetz collections, we should also mention the relatively small collection belonging to Selma Baštýřová, which centred around European sculpture of the 15th–17th centuries, as well as including a number of Czech paintings from the turn of the 20th century, mainly by Jan Preisler. After many difficulties in the discussions regarding the deposit of her collection at the National Gallery (with Baštýřová withdrawing from the negotiations on several occasions), and after she had applied for a permit to export the collection, the authorities decided to invoke an administrative procedure drawing on Section 3 of the Permanent Committee's order no. 255 (27 October 1938), which forbade the collection to be relocated. Soon afterwards, on 22 May 1939, Baštýřová signed a standard deposit agreement with the NG concerning 19 sculptures and 7 paintings. Baudisch and Swoboda selected most items from the collection – 14 wooden sculptural pieces and 4 paintings (2 by Preisler). According to the records made by Josef Cibulka, Baudisch kept for himself one of the most valuable items, a Madonna by a Slovak master dating from around 1430. The NG retained just 5 sculptures and 3 paintings.

On 16 June 1942 all three collections were confiscated, and all the works were subsequently (evidently in 1943) recorded in inventory Rm (Reichseigentum, i.e. Reich property). Item no. Rm 1 is Cornelis Massys's painting Journey to Calvary, from the collection belonging to Vlastislav Zátka; the painting was not entered into the DO inventory until 5 April 1943. The first item from the collections of interest to us here is a fragment of the right-hand panel of the St. Vitus altarpiece by Lucas Cranach the Elder, from Morawetz's collection, listed as Rm 4. Two days later, on 18 June 1942, K. M. Swoboda informed the relevant department of the Reich Protector's Office that after having conducted an expert survey of the remainder of the collections (mainly the paintings from Morawetz's collection), he recommended that the works be retained by the National Gallery on permanent loan. However, the incident of 15 June 1942 clearly had wide-ranging consequences: all the deposited collections (whether belonging to Jewish owners or other "enemies of the Reich") were confiscated (including retroactive confiscations) and were classified as Reich property; they were "merely" stored at the NG, and listed as part of inventory DO. This administrative procedure (when all items deposited at any time –

which the Germans already considered *de facto* their own property – became Reich property *de jure*) may in fact have helped prevent the disappearance of other paintings from the NG. An important role was also played by the Director of the Gallery Josef Cibulka, who – evidently with assistance from Swoboda – managed to remain on good terms with the Gestapo, who questioned him on several occasions regarding the deposits.

During the harsh reprisals and terror that occurred in the aftermath of the assassination of Reinhard Heydrich, the Prague Gestapo decided to flex its muscles at the National Gallery. It issued an order to its collaborator Baudisch instructing him to select several items from the Jewish collections deposited there and to have them transferred to the André auction-house. The Gestapo were evidently not interested in the number or quality of the items, nor were they concerned with who had previously owned the items. The NG thus "transferred" for sale 27 paintings and 15 sculptures, plus 4 enamel pieces from the UPM. It should also be noted that in the DO inventory, the column "means of acquisition" for these items gives the euphemistic comment "Returned 15.VI.1942".

The events of 15 June 1942 and the following days remain a somewhat taboo subject both for the former management of the National Gallery and for their successors. It is true that we have not found any new documents of relevance, either in the NG archives or in other archives. However, in the records made after the war, when all those involved must have still remembered very clearly what had happened and why, they nevertheless gave only very vague accounts of the events. Nobody stated specifically what their own role in the matter had been, or how the events had occurred. It is also strange that nobody asked them for such information when they were being questioned. Indeed, these questions have still not yet been asked explicitly.

Addendum for the proceedings:

Jindřich Waldes was a wealthy businessman, a collector and a patron of the arts, who established a company making patented buttons (of which the best-known was the Koh-i-noor snap fastener) and other haberdashery goods. His collection focused mainly on Czech art (particularly paintings) of the 19th and early 20th centuries: J. Čermák, V. Barvitius, K. Purkyně, V. Hynais, A. Slaviček, J. Preisler, M. Švabinský and many more. His sculptures were mainly by J. V. Myslbek and his pupils – J. Štursa, O. Španiel, and J. Mařatka. He also

owned several interesting Baroque paintings by P. Brandl, J. V. Angermeyer, C. Hirschely, and N. Grund. However, because František Kupka had been responsible for the graphic design of the Koh-i-noor brand logo, Waldes – though he personally had little interest in contemporary European painting – began to systematically collect the works of this noted avant-garde artist. He also owned an extensive collection of works by another Czech modern artist, Vojtěch Preissig. His collection of graphic art was also very large (around 5900 items), as was his collection of drawings (2800 items).

Between February and April 1939 Waldes was involved in discussions with Prof. Cibulka regarding the deposit of the entire collection at what was then the State Old Art Collection. The paintings were recorded in inventory DO (deposited paintings) with codes from DO 281 to DO 760 (480 items).

However, on 1 September 1939 Jindřich Waldes was arrested by the Gestapo (and subsequently sent to a number of concentration camps); the entire collection was seized the day after his arrest. The official reason given for the seizure was that it was necessary in order to pay off the factory's debts; the collection (which was still physically present at the NG) was to be sold at auction. On 2 November 1939 the property of Waldes and his wife came under the control of an "Aryanizer". During the winter of 1940 Cibulka was involved in numerous discussions with Protectorate officials; the collection was valued at 2 million crowns. Waldes was visited by a notary at Buchenwald on 24 January 1940, and apparently gave his consent to the sale. This evidently saved his life (at least for a while); in 1941 his wife purchased his freedom from Buchenwald for 8 million crowns, and he was able to emigrate to the USA. However, he died in Havana while still on the journey (in May; other sources state 2 July).

In March 1940 Waldes' entire collection was purchased for its estimated value and came under the administration of the NG; it was recorded in inventory O from 23 February onwards.

The fate of the collection in the post-war years is also interesting. In December 1946 discussions began on the possible return of the collection to Waldes' wife Hedvika. Her lawyer J. Klouda pointed out the legal irrelevancy of the transfer of the collection during the occupation, stating that the contract of purchase was evidently invalid under Section 1 of Act no. 5/1946. Mrs. Waldes requested that the collection be re-valued. However, this never happened, and Mrs. Waldes eventually agreed to receive financial

compensation, from which the sum of 2 million crowns would be deducted, and the NG would retain the collection. However, the state did not accept this proposal, and after the communists' seizure of power in February 1948 it was eventually decided, on the basis of a declaration of public interest (under Sections 1 and 3 of the Permanent Committee's order no. 255 of 27 October 1938) that the collection would not be returned to Mrs. Waldes, and that it would instead be deposited in the National Gallery (ref. no. MŠVU 175 451/50). Later the same year, the District Civil Court in Prague postponed the restitution proceedings indefinitely. The Director of the NG, Dr. Vladimír Novotný, made the following record: *Until any decision is reached, we will continue to regard the Waldes collection as the duly purchased property of the state.*

The collection was finally restituted in 1996 under Act no. 87/91, after lengthy negotiations between Jindřich Waldes' son, the NG and the UMP. The items were returned over a period of two years. The heir donated 78 paintings to the NG; 68 of them are a set of portraits by Antonín Machek depicting Bohemian monarchs, 4 are by F. Kupka, 2 by R. Bys, plus one each by P. Brandl, K. Škréta, V. Brožík and K. Purkyně. Using exceptional funding provided by the Ministry of Culture, the NG re-purchased 6 important paintings by F. Kupka, plus 10 works by other Czech artists – 2 panels by a Bohemian master from the early 16th century, 2 paintings by V. Barvitio, 2 by A. Slavíček, and 1 each by J. Čermák, V. Hynais, K. Purkyně and V. Preissig.

However, it must be acknowledged that the collection has lost its integrity, and its various items are now scattered in various locations.

Richard Popper's collection will be the subject of a separate publication, so here I will merely outline the basic facts of the case.

Popper's collection focused mainly on Dutch, Flemish and Italian paintings of the 17th and 18th century. The collection included several unique items such as a panel depicting the circumcision of Christ by an Austrian master dating from around 1460 (now O 10580) as well as paintings by Salomon Ruysdael and David Teniers II, which according to the eyewitness Walter Bernt were part of Popper's collection before the war, but no longer in 1940. The collection also included several interesting works by Dutch masters such as Droochsloot, Meulener, Huchtenburg, Swanevelt, Ocker, van Ravensteyn, Pieter Aertsen,

Toorenvliet, Pieter de Putter and Hondecoeter, Flemish masters such as Beschey, Abraham Brueghel, Boeckhorst, Joos de Momper II and David Teniers II, Italian painters such as Bonifacio Veronese, Giovanni Battista Piazzetta, Francesco Fontebasso and Pietro della Vecchia, as well as the German painter Johann Heinrich Roos. However, most of the items are of mediocre quality, and their attribution differs considerably between the lists; for example, a painting attributed to a 16th-century Italian master is recorded elsewhere as the work of a Flemish master, while in the NG inventory it is attributed to an Italian-French painter of the 17th century. According to modern experts, many of the paintings are copies or even fakes.

For reasons which still remain unclear, Popper deposited his collection of paintings with the antiquarian Václav Hořejš in Mikulanská St. It was here that the basic inventory of the collection was compiled – entitled “List of artworks seized by the Gestapo from Richard Popper, Prague XII., Lucemburská 1, estimate by V. Hořejš dated 14. X. 1940”, which contained 127 items. Soon after Popper and his wife Regina were deported to Łódź (31 October 1941), Hořejš was contacted by the Prague Jewish Religious Community (17 December 1941) with an order to take possession of the collection. Before this could happen, however, the paintings were removed by the Gestapo. Nevertheless, on 24 January 1942 the Gestapo had to issue the paintings to the Zentralstelle, which then transferred them to the André auction-house to be sold. After the war, the fate of the collection was described by Jindřich Baudisch: *“The antiquarian Hořejš had a very good collection of paintings belonging to the collector Popper. I located the collection, it was inspected by Swoboda, and many items were selected for the gallery. Then an order came from the Zentralstelle that the collection was to be removed, because ... it had not belonged to an emigrant. The paintings had to be returned. I informed Swoboda and Cibulka of this, but to no avail, as from then on the Zentralstelle decided what would happen to the paintings. The entire collection later went to Andree to be sold off.”* Such territorial disputes among the Protectorate authorities were quite common; however, it was unfortunate for the integrity of the collection that the paintings ended up at the auction-house and not at the NG. The list drawn up by Dr. Bernt of Munich (comparing his valuations with those of Prof. Benz, an antiquarian from Celetná St.), contains just 33 items. It is certain that Bernt only listed those items for which there was a striking difference between the two valuations. We know from other sources that in April 1945 high-ranking officials at André named Gottwald and Heiss took

50 paintings to Germany, and that shortly after the end of the war the NG received over 40 paintings from the collection. It is almost impossible to determine where the remaining approx. 50 paintings disappeared to, and we know no details about them. They may have been sold by André, though it is more likely that high-ranking employees stole them from André between 1942 and 1945. It is also possible that the collection was subject to a special regime, and was not offered for public sale. Only a few records of sales at André have survived. After the war the NSMP began searching for the paintings on the basis of a witness statement given by a former André employee, Ilse Martinová; in February 1946 she stated that Heiss was living at Trauenstein in Bavaria, and the head of the Czechoslovak mission in Höchst Dr. Winkler was dispatched to investigate. He found 25 paintings in the home of Mrs. Heiss, and in August 1946 he had them sent back to Prague.

In the same year the Popper family (a total of 7 people, all living abroad) submitted a restitution claim via their legal representative Mr. Klepetář; they requested the restitution of 41 paintings from André which were held by the NG. The restitution never happened – not even after 1989. In 1950 the NG received a further 9 paintings from the NSMP, which we are convinced were part of Popper’s collection. The catalogue of the collection that we have compiled for the planned publication lists 73 paintings currently held by the NG. Two paintings were sold by the Antikva auction-house in 1950.

JOHANA PROUZOVÁ (Czech Republic)

On research into wartime deposits at the Museum of Decorative Arts, Prague

The staff of the Documentation Centre would like to thank the management of the Museum of Decorative Arts for their cooperation, without which this research would not have been possible.

This paper sets out to present the most recent results of long-term provenance research at the Museum of Decorative Arts in Prague coordinated by the Documentation Centre's Dr. Helena Krejčová. In 2007 the first book on this topic was published: *Návraty paměti. Deponáty židovského majetku v Uměleckoprůmyslovém muzeu v Praze*¹ [*Memories Returned. Deposits of Jewish property at the Museum of Decorative Arts, Prague*]. Seven years later, a new series of publications entitled *Osudy válečných deponátů / The Fate of Wartime Deposits*² is now revisiting and updating the results of the initial research; this series (issued from 2014) includes not only the Museum of Decorative Arts, but also the National Gallery in Prague.

In order to clarify why items originally owned by the victims of Nazi persecution under the Protectorate are held by the Museum of Decorative Arts, it is first necessary to give a brief outline of the Nazi institutions which were responsible for administering these items.

The Property Authority of the German Minister of State (Vermögensamt beim deutschen Staatsminister) was responsible for property confiscated

by the Gestapo from political prisoners and emigrants – including Jewish emigrants. It was part of the Office of the Reich Protector, and – like the Office – it occupied premises at the Czernin Palace (Černínský palác) in Prague. Examples of the items deposited at the Museum of Decorative Arts via the Property Authority include a fragment of a collection of Höroldt-era Meissen porcelain belonging to the emigrant Viktor Kahler. These items were transferred to the Museum as deposit no. 1231 by the Property Authority, actively assisted by the Museum's Deputy Director (who later became the Director) Emanuel Poche – who, however, failed to list this valuable porcelain collection among the items stolen by the Nazis when post-war lists of such items were being compiled. It is clear that the items represent only a fragment of Mr. Kahler's collection because he himself made efforts to locate the collection after the war, and described some of the more valuable pieces – which have still not been found. We do not know precisely which of these items were physically located at the Museum, because the receipt documents issued at the time have been lost, and the oldest still-existing list dates only from 1962. However, it is likely that some items mentioned by Mr. Kahler, such as a rare jug with a solid gold handle, were stolen even before the consignment reached the Museum's premises. The fragment of Mr. Kahler's collection has been described and depicted by the Documentation Centre in its publication *Návraty paměti* [*Memories Returned*], and also (more recently) in the first volume of the series *The Fate of Wartime Deposits*. The porcelain items are still held by the Museum, because Mr. Kahler's daughter has not expressed an interest in restitution.

All matters connected with the Protectorate's Jewish population – including decrees, orders, regulations, deportations and so on – were entrusted to the Zentralstelle für jüdische Auswanderung (Central Office for Jewish Emigration), which in 1942 was renamed the Zentralamt für die Regelung der Judenfrage (Central Office for the Solution of the Jewish Question). The Central Office was established by Adolf Eichmann in 1939, based on a similar institution in Vienna. Officially it was subordinated to his Office IVB4 at the RSHA in Berlin, but on the local level it also came under the control of the Deputy Reich Protector Reinhard Heydrich. The Treuhandstelle was established (as part of the Prague Jewish Religious Community) to administer all the property of the Jews deported from the Protectorate which was deemed the property of the Reich and which thus fell within the purview of Eichmann's office. The Treuhandstelle was responsible

1 Krejčová, Helena – Vlček, Mario: *Návraty paměti. Deponáty židovského majetku v Uměleckoprůmyslovém muzeu v Praze*. Centrum pro dokumentaci majetkových převodů kulturních statků obětí II. světové války v Nakladatelství Tilia v Šenově u Ostravy, 2007. p.359.

2 Drbohlav, Vladimír – Drbohlavová, Vanda – Krejčová, Helena – Prouzová, Johana – Vlček, Mario: *Osudy válečných deponátů. Uměleckoprůmyslové museum v Praze, svazek 1. / The Fate of Wartime Deposits. Museum of Decorative Arts, Prague, Volume 1*. Praha / Prague, Centrum pro dokumentaci majetkových převodů kulturních statků obětí II. světové války, o.p.s. / Documentation Centre for Property Transfers of the Cultural Assets of WWII Victims, p.b.o., 2014. p.266.

for carrying out the instructions of the Central Office. It administered real estate, and it also sorted and stored movable property. As more Jews were deported, the number of Treuhandstelle depots grew: by January 1944 the Treuhandstelle had 62 depots and employed over a thousand people.³

The last Nazi institution responsible for the property of persecuted individuals which should be mentioned in connection with the Museum of Decorative Arts was the Verwalter des reichseigenen Kunstgutes bei der Böhm.-Mähr. Landesgalerie (Trustee for Reich-owned Artistic Property at the Bohemian and Moravian Gallery). In 1944 Professor Karl Maria Swoboda from Prague's German University was appointed to this post; he had been the Reich German Trustee for museum-related matters in the Protectorate since 1941. He worked in close conjunction with the Property Authority, and his employees had access to the Treuhandstelle depots, where they selected artworks for the gallery and other institutions – including the most important wartime deposits to be located at the Museum of Decorative Arts (listed under deposit nos. 1239, 1245, 1248 and 1252).

Now I should briefly outline how these artworks were actually deposited at the Museum during the occupation: either they were delivered to the Museum by their owners, or they were transferred there by the Property Authority. There was also a third route taken by the items: from the Treuhandstelle depots via the Trustee for Reich-owned Artistic Property. The second volume in the series *The Fate of Wartime Deposits* focuses particularly on this deposit; it is essentially a catalogue of deposit no. 1239, gathering together all available written sources on each of the items. Unlike the first publication *Návraty paměti* [Memories Returned], this new series is not structured according to the original owners of the items; instead the authors have decided to leave the deposits in the same order in which they were transferred to the Museum during the occupation. The chronological list of sources is left largely without any commentary, as it enables us to clearly discern the movements of the items from one institution to another. It also enables us to trace the way in which the artefacts were gradually incorporated into the Museum's collections: from the first receipt documents to the most recent records in the form of accessions catalogues and description cards. Moreover, this form of presentation also reveals how the identities of the original owners became

obscured; this occurred mainly due to the way in which the Nazi authorities recorded the items, using the owners' transport numbers instead of their names. The task of provenance research is to re-establish the owners' identities.

Deposit 1239 consists of 298 items – glassware, porcelain, Oriental items and furniture. As I have mentioned, Karl Maria Swoboda and his colleague Dr. Ellen Redlefsen personally selected these items at the Treuhandstelle depots specifically for the Museum of Decorative Arts. Because the volumes in the series *The Fate of Wartime Deposits* are arranged as lists of written documents, some of these documents should be mentioned here.

Researchers from the Documentation Centre, working in the Museum's archives, managed to locate the oldest existing written document pertaining to deposit no. 1239.⁴ In March 1943 the Museum's Directorate wrote to Karl Maria Swoboda requesting the loan of items on an enclosed list, in order to add to the Museum's collections. It is surprising that the Museum had at its disposal such detailed and precise information on the items stored in the Treuhandstelle depots (which were heavily guarded). In addition to brief descriptions, the list also gave the depot numbers of the individual items. However, this list represents only a small fragment of the entire deposit which came into the Museum's possession more than one year later.

Other surviving sources include several transfer and receipt documents, one of which includes not only depot numbers but also the transport numbers allocated to the owners – making it of vital importance for the Documentation Centre's research. This document is an internal communication dating from 1944,⁵ in which the Treuhandstelle informed the Central Office for the Solution of the Jewish Question that it was transferring selected items to the Museum. Thanks to the inclusion of transport numbers it was possible to trace the original owners (31 individuals). The authors give these owners' names in square brackets as part of the list of sources, and biographical information on them is provided in the second part of the book.

After the war, the Museum of Decorative Arts compiled lists of the large wartime deposits in its possession that had originally been stolen by the Nazi authorities. However, these items were usually omitted from the restitution

3 For more details on the Treuhandstelle cf. Krejčová, Helena – Vlček, Mario: *Návraty paměti...*

4 UPM (Museum of Decorative Arts) – archives, fonds "Directorate", 1943, A1/101.

5 NA (National Archives), fonds "NSMP", movable property, unnumbered box.

proceedings that took place in the immediate post-war years, so they either remained in the Museum or were transferred to other institutions. In 1950 the National Cultural Commission (Národní kulturní komise) received a request from the Museum asking for the wartime deposits to be declared state cultural property and officially transferred to the Museum's control.⁶ This request was granted. However, it did not mark an end to the matter, and in some cases the trail of sources leads to restitution cases which are currently still underway. It is likely that the number of such cases will increase in the future.

⁶ UPM (Museum of Decorative Arts), 20. 7. 1950.

MICHAEL NOSEK (Czech Republic)

Research and processing of a collection of Hebrew prints held at the National Library of the Czech Republic

Determining the nature of the prints

The Documentation Centre was requested by the National Library to provide assistance in processing its collection of Hebrew prints. It was found that most of the prints are religious texts (Talmud, Mishnah, Shulchan Aruch, prayer-books, etc.). The collection consists of approx. 700 items.

Identifying the original owners

Further research revealed that most of the prints contain identifying markings on their title pages (stamps, adhesive labels). These features became the key source of information when identifying the original owners of the items, and enabled the collection to be divided into several different parts.

1. Prints originating in the Czech Republic – Kojetín (Moravia)
2. Prints originating in Germany – Munich, Hannover, Dresden
3. Prints originating in Austria – Vienna
4. Prints originating in Hungary – Budapest (Rabbinical Seminary)

In addition to a survey of the prints themselves, research also focused on documents in the archives of the National Library; the research showed that these books were taken by the Germans during the Second World War from collection points set up at chateaux in North Bohemia (Houska, Nový Falkenburk, Nový Berštejn and Mimoň); it is likely that they then found their way to the National Library.

Two important groups of items

The most important parts of the collection are books from the Moravian town of Kojetín (which belonged to the local rabbi Dr. S. Rosenzweig) and books from the Munich Jewish community (which at the library before the war were designated according to the rabbi Cosman Werner).

The entire collection has now been described, photographed, and entered into the Documentation Centre's database.

SOPHIE CŒURÉ (France)

Looted art and libraries: a challenge for post-war relationships between France and Czechoslovakia

A large body of literature has been devoted to the history of Nazi looting, which led to the greatest cultural dispersal in history. Restitution and provenance research has also gained prominence, as demonstrated by this conference. But the entangled history of the actual 'recovery' of cultural assets during the immediate post-war period has remained largely neglected. Drawing mainly on the archives of the French authorities responsible for these investigations, as well as diplomatic archives, my presentation aims to analyze how and why France contributed to organized Allied searches for looted cultural property. More precisely, I will show how French experts searched for, and sometimes identified, the country's looted heritage in the newly liberated territories of the Protectorate of Bohemia and Moravia and the Sudetenland. I hope that this focus, part of a broader story of this region's role as a crossroads for cultural goods, will shed new light on the history of post-war reconstruction and of the beginnings of the Cold War.

French looted cultural property and its journey to Czech territories

Within the context of Nazi plans for a new Europe ruled by the 'master race', leading to a large-scale programme of confiscation and plundering of cultural property, occupied France was targeted by rival agencies. From 1940 to 1944, the Wehrmacht, the German Embassy in Paris, a range of ministries and some NSDAP agencies alternately cooperated and competed with each other and with the Vichy collaborationist government. After the Liberation, the 'Directory of Plundered Goods' (*Répertoire des biens spoliés*) published by the French Government included 85,000 files describing more than 100,000 items of 'cultural property' (broadly defined as paintings, sculptures, jewellery, silverware, tapestries, furniture, manuscripts, rare books, etc.) in addition to the cultural assets that had already been returned, plus around 10 million books and at least 2 million archival documents.¹ While the works of art were

¹ *Répertoire des biens spoliés en France durant la guerre 1939-1945*, Berlin, Bureau central des restitutions, (1917-1949), 8 volumes and 6 supplements. <http://www.culture.gouv.fr/>

taken exclusively from private owners – mainly Jewish families – the books, archives and manuscripts were seized not only from the private collections of the ‘enemies of the Reich’ (Jews, freemasons, leftists and antifascists, Christian organizations, and German, Austrian and Russian emigrants), but also from the French ministries of Defence, Home Affairs and Foreign Affairs, the Colonial Office and French counter-intelligence agencies.²

We now know quite well from a range of academic studies³ that cultural property not immediately destroyed was shipped off to the Reich, either for personal recreational use by Nazi elites or for future dispatch to libraries, archives and museums. After the Allied bombing of Berlin began in 1943, many of these items were removed from the capital and transferred to parts of the Reich that were still safe. In violation of all international laws, the Sudetenland and the Protectorate of Bohemia and Moravia had seen harsh treatment meted out to Czech people and institutions (as demonstrated by the removal of 12,000 books from the library of President *Beneš himself*), and it was also home to secret troves of looted cultural goods. The main hiding places and repositories were established in Polish Silesia, as well as in Prague and across the former Polish-Czech, German-Czech and Austrian-Czech borders. The location of the cultural goods depended on the agency involved in the plunder, displacement, and dispersal:

The ERR. Among the Nazi agencies, the Einsatzstab Reichsleiter Rosenberg (ERR), headed by Adolf Hitler’s ideological henchman Alfred Rosenberg, was

documentation/mnr/MnR-rbs.htm

- 2 See the pioneering works by H. Feliciano, *The Lost Museum: The Nazi Conspiracy to Steal the World’s Greatest Works of Art* (New York, 1995-2001) - *Le musée disparu, enquête sur le pillage des œuvres d’art en France par les Nazis*, (Paris 1995, 2008), and L. Nicholas, *The rape of Europa. The fate of Europe’s Treasures in the Third Reich and the Second World War* (London-New-York, 1994) - *Le pillage de l’Europe* (Paris, 1995), see M. Poulain, *Livres pillés, bibliothèques surveillées: les bibliothèques publiques sous l’Occupation* (Paris 2008). M. Rayssac, *L’exode des musées. Histoire des œuvres d’art sous l’Occupation* (Paris 2007). S. Coeuré, *La mémoire spoliée. Les archives des Français, butin de guerre nazi puis soviétique de 1940 à nos jours* (Paris 2007-2013).
- 3 *Ibidem*. P. K. Grimsted, F. J. Hoogewoud, E. Ketelaar (ed.), *Returned from Russia: Nazi Archival Plunder in Western Europe and Recent Restitution Issues* (Leicester 2007-2013). P. K. Grimsted, ‘Silesian Crossroads for Europe’s Displaced Books: Compensation or Prisoners of War?’ In *The Future of the Lost Cultural Heritage: The documentation, identification and restitution of the cultural assets of WW II victims* (Prague 2006), 133-69. <https://socialhistory.org/sites/default/files/docs/silesian.pdf>. Also published in a Czech version.

responsible for most of the cultural plunder in Western and Eastern Europe.⁴ A selection of the items bought, confiscated or stolen by the Nazis across Europe during World War II was supposed to be sent to the cultural complex Hitler planned to build in his hometown of Linz. The works of art collected for the *Führermuseum* were originally stored in a number of repositories, including the Moravian castle of Nikolsburg (Mikulov),⁵ which received part of the famous Rosenberg, David-Weill and Rothschild collections. The last train to Nikolsburg, full of precious paintings, was stopped by the French Resistance in August 1944 – a romantic episode that inspired the 1964 film ‘The Train’, starring Burt Lancaster and Jeanne Moreau. As the Western Allies advanced across France, Belgium and Holland, most of the crates were transferred to the well-known salt mines of Altaussee in Austria, where US forces found them. Some crates, however, remained in the castle.

The Cistercian monastery of Vyšší Brod / Hohenfurth near the Austrian border. The Gestapo banned religious activities at the monastery, instead using it to store parts of the Linz collection. However, not all the paintings stored there came from the ERR.

The Reich Security Main Office – RSHA (Reichssicherheitshauptamt), headed by Reinhard Heydrich and combining the previously separate agencies of the SD (Sicherheitsdienst) and the Gestapo, was responsible for the seizure of a number of Jewish and Masonic libraries and archives. Patricia Kennedy Grimsted has discovered and explained how and when a large part of the RSHA library holdings (with some archival materials) found their way to the Sudetenland, to the village of Oberliebich (Horní Libčava) where the French counter-intelligence centre was located, and to four castles also located in the Böhmisches-Leipa (Česka Lípa) area: Niemess (Mimoň), Hauska (Houska) and Schloss Neu-Bernstein (Nový Berštejn). The castle of Falkenburg (Nový Falkenburk, in the vicinity of Jablonné v Podještědí) was also a cache used for a secret esoteric occult project.⁶ Last but

4 Anja Heuss, *Kunst und Kulturgutraub. Eine vergleichende Studie zur Besatzungspolitik der Nationalsozialisten in Frankreich und der Sowjetunion* (Heidelberg 2000).

5 M. Masurovsky, ‘Plundered Art. The fate of Nikolsburg hoard’ <http://plundered-art.blogspot.fr/2011/05/nikolsburg-hoard-revisited.html> ; and ‘The Nikolsburg hoard revisited’ <http://plundered-art.blogspot.fr/2011/04/fate-of-nikolsburg-hoard.html>

6 P. K. Grimsted, ‘Sudeten Crossroads for Europe’s Displaced Books: The „Mysterious Twilight” of the RSHA Amt VII Library and the Fate of a Million Victims of War’. In *Restitution of Confiscated Works. Wish or Reality? Documentation, identification and restitution of cultural property of the victims of World War II*. (Prague 2008), 123-180.

not least, some French collections were also shipped to the special Jewish library unit in the concentration camp of Theresienstadt (Terezín), in the Protectorate of Bohemia and Moravia.

Allied searches on the ground: the collaboration between France and Czechoslovakia (1945-1948)

Ending the war, organizing the searches

The formal inter-Allied declaration of 5 January 1943 established common principles to condemn acts designated as 'open looting' and 'plunder' committed by Nazis in occupied Europe.⁷ A few months later, the Conference of Allied Ministers of Education in London also created the Inter-Allied Commission for the Protection and Restitution of Cultural Material, with the French historian Paul Vaucher as its chairman. Dr. Jan Opočenský, head of the Foreign Affairs Archives in Prague from 1920, Consul General in France from 1936-1938, and librarian and record-keeper for the exile government's Ministry of Foreign Affairs in London from 1939, was Czechoslovakia's representative. The USSR never served on this commission, which was dissolved in November 1945.⁸ Though it was an inter-Allied declaration, action fell to each government – since at the time there was no plan for involving victims directly. All national restitution commissions had a dual mission: on the one hand the defence of national interests, and on the other the preparation of trials punishing Nazi war crimes at an international level.

In Moscow, the Extraordinary Commission investigating 'Nazi-Fascist' Crimes (ChGK) began work as early as 1942, collecting evidence in the territories liberated by the Soviet Union. In Paris, the provisional government of General de Gaulle and the first governments of the 4th Republic set up a number of agencies devoted to cultural restitution. The Office for Private Goods and

https://socialhistory.org/sites/default/files/docs/pkg-sudeten_crossroads.pdf. Also published in a Czech version.

- 7 C. Kecskeméti, 'La restitution des archives déplacées pendant et immédiatement après la Deuxième Guerre mondiale', in Jean-Pierre Babelon, François Terré (dir.), *Les Archives au fil du temps* (Paris 2002), 187-192.
- 8 Claude Lorentz, *La France et les restitutions allemandes au lendemain de la Seconde guerre mondiale (1943-1954)* (Paris 1998). Minutes from the Vaucher commission, Archives diplomatiques de France, ministère des Affaires étrangères, La Courneuve, Fonds Récupération artistique (MAE, RA 209sup, 297).

Interests (*Office des biens et intérêts privés*, OBIP), founded in 1919 to execute the Versailles Treaty's economic clauses on personal property, was tasked with the identification and restitution of looted property. And the Commission for the Recovery of Works of Art (*Commission de récupération artistique*, CRA) was tasked in 1944 with investigating relevant cases, under the authority of the Ministry of National Education. In Prague, the return of President Edvard Beneš to Košice in April 1945 enabled the reestablishment of an independent governmental policy, leading to the creation, within the Ministry of Foreign Affairs, of a Commission for the Recovery of Works of Art, led by Jan Opočenský.

Searches for victims of Nazi looting began in 1945. The continent was still in the grip of violence and disorder. Its borders were still in the process of being redrawn. Diplomatic relationships were restored under the watchful eye of both the United States and Soviet Union, with which Czechoslovakia had concluded a treaty of friendship signed in December 1943. The French chargé d'affaires Louis Keller arrived in Prague at the beginning of June 1945, and was followed by the Ambassador Maurice Dejean and the OBIP representative Jacques Pingaud.⁹ In Poland and Czechoslovakia, French diplomats managed restitutions directly. In Berlin and Baden-Baden, French representatives of the OBIP and the CRA co-managed restitution issues with the American, British and Soviet administrations and with the French military representatives in the four zones of occupation of Germany.

For a few crucial months, these organizationally complex structures had to deal on the ground with Allied troop dynamics. Thousands of Soviet and American soldiers stationed in Czechoslovakia simultaneously withdrew in December 1945. American 'monuments men' from the US Monuments, Fine Arts and Archives Program (MFA&A) had been following the US Army, as had the First French Army's Fine Arts Service in Germany. The Soviet military occupation administration, the SVAG, did little to constrain Red Army soldiers, who perpetrated uncontrolled plundering.¹⁰ At the same time, Stalin set up

9 Archives diplomatiques de France, ministère des Affaires étrangères, La Courneuve, Série Europe, sous-série Tchécoslovaquie, Situation économique (1945-1949), MAE 207 QO 64. Instruction publique et Beaux-Arts, Oeuvres françaises 1945-1949, MAE 207 QO 68.

10 N. Naimark, *The Russians in Germany. A History of the Soviet Zone of Occupation 1945-1949* (Harvard, MA 1997). F. Slavetski, *The Soviet Occupation of Germany: Hunger, Mass Violence and the Struggle for Peace, 1945-1947* (Cambridge, 2013). C. Möllet, A. Chubarian (ed), *Politika SVAG v oblasti kultury, nauki i obrazovanija: celi, metody, rezultaty 1945 – 1949* (Moscow, 2006).

a secret 'special committee on Germany', tasked with confiscating valuables in the occupied territories. All the Soviet ministries were required to send out 'trophy brigades' that were to select suitable goods and ship them home, in order to help compensate for the USSR's losses. According to the Russian historian Pavel Knychevsky, of the 48 brigades collecting trophies in the fall of 1945, 6 brigades were sent to Czechoslovakia, 7 to Poland, and 23 to Germany.¹¹ Last but not least, all Allied counter-intelligence services hunted for Nazi criminals and their archives, applying their own criteria of legality.¹²

Missions and restitutions: the collaboration between France and Czechoslovakia (1945-1948)

Deep disagreements among the Allies arose over the very principle of compensation, reparations and restitutions, compounded by incipient tensions over the political future of Europe as well as by the ever-increasing likelihood of a lasting division of the continent. Nevertheless, the Allies continued to collaborate regularly until at least 1948-1950. Information coming from German Occupation zones, from Poland and from Czechoslovakia was of course a major issue. While the American Art Looting Investigation Unit's report of May 1946 was generally correct in stating that 'looting in the East remains unexplored', consistent information pointed to the existence of repositories of potential interest to the French services. As early as May 1945, the French museum curator Rose Valland, embedded as a fine arts captain, learned from intelligence reports that the ERR Nikolsburg repository in Moravia was 'under the control of the Russian military'. She already knew about this location from 'spying' on ERR services at the Jeu de Paume in Paris.¹³ Some repositories in Sudeten territories incorporated into the Reich were

reported at the same time.¹⁴ In the spring of 1946 French reports provided US intelligence services with the opportunity to retrieve top secret German archives hidden in the woods several miles outside of Štěchovice, south of Prague, in an operation that sparked a diplomatic crisis between the US and Czechoslovak governments.¹⁵

The second step was to condense this information by creating lists and maps, enabling the organization of investigative visits, both in the British, American and Soviet zones of occupation and in newly liberated Eastern countries. French reports offer an interesting insight into the personal involvement and tenacity of field experts. In the spring of 1946, the French professor and rabbi Maurice Liber, who was sent to the American zone as an expert, learned from the German rabbi Leopold Neuhaus, who had just been liberated from the Terezín camp, that French Jewish collections, including a collection from the Parisian *Alliance israélite* and Rabbinical School, had been sent from the Institute for Research on the Jewish Question in Frankfurt to Terezín for 'cataloguing' by prisoners. These collections, Liber wrote, seemed to have been sent to Prague as 'spoils of war'.¹⁶ Thanks to an official invitation from Opočenský, the French Embassy and OBIP were able to organize a tour of Czechoslovakia led by the CRA expert Philippe Gangnat. France reciprocally agreed to allow experts to investigate some Czechoslovak collections that had mistakenly been shipped to Metz, and on the glassware collection of Dr. Gustav Pazaurek found in the French occupation zone, near Meiningen.¹⁷

In May-June 1947, Philippe Gangnat carried out an in-depth investigation. First, in Nikolsburg, he learned more about the devastating fire deliberately started in the spring of 1945 by Germans fleeing the Red Army's advance, and about Soviet pillaging in the area. Then he visited the Bohemian castles of Mimoň, Nový Berštejn, Houska and Nový Falkenburk and the Vyšší Brod

- 11 P. Knyshevsky, *Dobycha. Tajny germanskyh reparacii* (Moscow 1994). K. Akinsha, G. Kozlov, *Beautiful loot. The Soviet Plunder of Europe's Art Treasures* (New York 1995). K. Akinsha, 'Stalin's Decrees and Soviet Trophy Brigades: Compensation, Restitution in Kind, or "Trophies" of War?' *International Journal of Cultural Property* (17/2, 2010), 195-216.
- 12 M. Salter, *US Intelligence, the Holocaust and the Nuremberg Trials: Seeking Accountability for Genocide and Cultural Plunder* (Nijhoff 2009). E. Nemeth, 'Collecting Cultural Intelligence: The Tactical Value of Cultural Property', *International Journal of Intelligence and Counter Intelligence* (2011), 217-238.
- 13 R. Valland, *Le front de l'Art. Défense des collections françaises, 1939-1945* (3rd edn, Paris 2014). C. Bouchoux, *Rose Valland. La Résistance au musée* (La Crèche 2006). F. Destremau, *Rose Valland, résistante pour l'Art* (Grenoble 2008).

- 14 MAE, RA 209 sup/327, report from R. Valland, J. Dupont, J. Rigaud, 16 May 1945. MAE, RA 209 sup/894, a very comprehensive account by R. Valland: 'Artwork found in Nazi warehouses'. MAE, RA 209 sup/431, CRA report to General Chérière, commander of French forces in Austria, 21 September 1945.
- 15 D. Reece, 'Mission to Štěchovice. How Americans Took Nazi Documents From Czechoslovakia—and Created a Diplomatic Crisis', *Prologue Magazine* (2007, 39-4). <http://www.archives.gov/publications/prologue/2007/winter/stechovice.html>
- 16 MAE, RA 209 sup/526, extract from the Liber report: 'Russian zone'. Archives nationales de France (AN), Pierrefitte-sur-Seine, Ministère de l'Éducation, Archives de la sous-commission des livres de la CRA, AN F 171780, report by Maurice Liber, June 5, 1946.
- 17 MAE RA 209sup/378, letter from Mr. Pingaud about sending art experts, October 29, 1946.

monastery.¹⁸ Despite the war-related disorder, bumpy roads, and a lack of electricity, he managed to make some interesting discoveries among the 'piles' left in the castles, with the help of Dr. Krauss, a librarian from the University of Prague. Some of the books he saw came from the monastery of Metz, some were dedicated to famous French writers (Jules Romains, André Maurois, and others) or to the historian Marc Bloch, and some came from other French or Belgian owners. The last ones came from the French ministry of Interior. The French expert also traced back isolated cultural goods: one pendula, one antiphonary, etc. But in *Vyšší Brod*, according to the report, only old stones remained. The Americans had already shipped the works of art, including *Gobelin* tapestries from the French Rothschild collections. There was no news of Terezín Judaica either. And there were also false leads. According to local informers, a furniture repository had been located at a castle in Bensen (Benešov nad Ploučnicí near Děčín). Part of Himmler's art collection of paintings, sculptures and valuable furniture (of French, Belgian and Dutch provenance) had been flagged at his Moravian estate of Burg Busau (the Teutonic fortress of Bouzov).¹⁹ This last lead, which was pursued for a while, also had to be dropped due to lack of information from the Czechoslovak side, and there were no further investigations. Philippe Gangnat still managed to send several trucks full of French cultural assets, mainly consisting of books, to Prague.

After this somewhat fruitful trip, the legal process of an exchange of claims began, followed by discussions on restitution. But from Děčín (Tetschen), the French cultural attaché Mr. Lacombe reported that French books had already been distributed to schools. Indeed, by then the Czechoslovak official commissions had sorted most of the books hidden in the castles and transferred them to the University or to the National Library in Prague. While Philippe Gangnat wrote wryly that the authorities were reluctant to admit that there were still French books in Prague, the Czechs attracted the attention of the French representatives due to the presence of around 19,000 French books in their National Library. About 1,000 of these books were set apart as precious or as having belonged to identified owners. Of the remaining 18,000, half consisted of 'philosophy, history, Hebraic books, books

18 MAE 207 QO68, Letter from the French Ambassador in Czechoslovakia about the discovery in Bohemia of French documents and books, April 17, 1946. Very complete account with hand-drawn maps, MAE RA209sup/164, 'Philippe Gangnat - Mission in Czechoslovakia, May-June 1947'.

19 MAE RA209sup/312, "Very secret. Czechoslovakia. Repository of Furniture and Art coming from Berlin". Sent by R. Valland, August 17, 1948.

about occult sciences', one quarter were about 'the 1939-1945 War and national literature', and the rest included novels and journals.²⁰ Discussions finally led to a compromise: Mr. Pingaud and his Czech partners agreed that only the most precious or signed books would be sent back to France. The rest were to be sold (if there were duplicates), offered to Czech libraries or given to the French Institutes in Czechoslovakia.

According to a summary table by the CRA dated 7 June 1950, 808 batches from Czechoslovakia were received in Paris between 1945 and 1950, out of a total of 52,279 works or batches of works repatriated in 61 convoys from Austria (6,000 returns, including 450 crates from the major ERR repository in Amstetten in the Soviet zone), the French occupation zone in Germany (1,553), the Soviet occupation zone (742), and the British zone (615); the remainder came from the American zone, where the larger repositories had been established.²¹ A shipment of 116 crates of books arrived in Paris from Prague in April 1949, and another report from the same month gives the figure of 18,000 books (apparently unsorted). We have no indication that any additional cultural assets that arrived in Paris through the mid-1950s came from Prague. In the reverse direction, France sent back to Prague 'a painting by Edmund Adler recognized in Carl Friedrich's home in Ebingen', and directly delivered to the Embassy of Czechoslovakia '15 packets' of diplomatic archives, plundered in Paris in 1940 and sent back from Germany to France.²²

The end of the 'Czechoslovak bridge' between East and West?

By the time the last shipment arrived in Paris in 1949, however, the political climate of the discussions had of course changed significantly. Between 1945 and the Czechoslovak communists' seizure of power in 1948, diplomatic and

20 P. Gangnat's report, op. cit. AN F17 17881, Letter from J. Pingaud (Prague) to the OBIP, October 21, 1948. MAE RA 209sup/378, Letter from J. Pingaud to the OBIP, November 19, 1948.

21 Marie Hamon, *La récupération des œuvres d'art spoliées*, unpublished, Ministère des Affaires étrangères, Paris, 1993. Quoted in . Lorentz, *La France et les restitutions allemandes au lendemain de la seconde guerre mondiale, 1943-1954* (Paris 1998). P. Blumerel, *La restitution des biens culturels pillés en France par les Nazis, une histoire sans fin*, unpublished thesis, Sciences Po Lyon, 2005, available at http://doc.sciencespo-lyon.fr/Ressources/Documents/Etudiants/Memoires/Cyberdocs/MFE2005/blumerel_p/pdf/blumerel_p.pdf

22 AN, F 17 17977, April 19, 1949, "Arrival from Prague". F 17 17982, convoy from Prague, April 1949. AN F 17 17992, Attribution register, February-December 1946. MAE RA209sup/334, "Restitution to allied nations", October 1949.

cultural reports depicted an uncertain situation. Confident relationships with concerned authorities, information sharing, and 'perfect courtesy' led French representatives to believe that the intensive and special cultural collaboration developed between the two countries since 1918 was about to resume. The idea that Czechoslovakia's mission was to become a 'bridge' between socialism and capitalism, and a 'transition zone' between two Europes under opposite Soviet and American influences, was deeply rooted in each country, to the point of almost becoming a cliché.²³ The contrast with reports about Poland is striking, and may explain why mutual restitutions worked with Czechoslovakia, while restitution shipments to Poland were never reciprocated, not even for one single painting or book.

But as early as October 1945, a diplomatic note warned of the 'hardening of the Russian attitude' and 'its growing indifference to Western interests of any nature, be they economic, political or even cultural, in the countries subject to its influence'. Negative signals were on the rise: the growing influence acquired by the Communist Party in Czechoslovakia, the 'new conceptions imported by the liberating armies coming from the East', the massive nationalizations, the breakdown in negotiations on French holdings (in banks, Škoda factories, etc.) sold under duress to Germany from 1938 onwards and claimed by France, and finally, the failed discussions on the renewal of a bilateral cultural treaty.²⁴

Gangnat's report clearly underscored that Czechoslovak authorities had no interest in discussing the restitution issue at length, because of the ongoing expropriation of hundreds of thousands of ethnic Germans who were expelled from the country. However, Soviet policy was a more important factor than domestic issues. The Soviet Union's influence was all the more important now that Moscow was involved in the process of exchanging information and restituting property. Already in October 1945, the French military attaché in Prague alerted the Minister of Foreign Affairs, and then the French Embassy in Moscow, that a representative of General Zhukov, while inspecting the 'central service of military libraries' in Prague, had 'without any review' ordered

the removal of all the books, 'loaded in bulk into wagons headed to Russia'.²⁵ The transfer of the Linz collections to the USSR was also reported, and many similar reports came from Poland. Information about Soviet seizures and trophy policy remained incomplete: for example, nothing was known about the Horní Libchava repository, which was (as we now know) entirely moved to Moscow under the direct supervision of Lavrenti Beria.²⁶ While relations with the Soviets remained cordial until the beginning of the 1950s, their attitude was clearly noted. After an unsuccessful mission to Berlin-Karlshorst in 1949, Rose Valland lamented the 'Soviets' determination not to return anything' and explained their policy of extensive relocations, which targeted both German goods seized for 'reparations' and goods that had first been looted by the Nazis in Europe, and that were legally supposed to be returned to their original owners.²⁷ At the beginning of the 1950s, the CRA archived some of its reports about Czechoslovakia in a file entitled 'Russian zone and satellite states'!

Even in the divided Europe of the Cold War era, after the official disengagement of the United States and the USSR from the restitution process, and after the withdrawal of the Socialist bloc from international exchanges (Czechoslovakia left UNESCO in 1952), the presence of French cultural property in the East was merely suspected.²⁸ The suspicion was compounded by the USSR's publicized restitutions of archives 'saved' by the Red Army to its Czechoslovak, Polish or East German allies in the 1950s and 1960s. In 1951, a report from Prague lamented a 'violent political campaign against France' and 'the end of a precious cultural bridge'. French cultural institutes were unilaterally closed down. It became impossible to carry out investigations on the ground. However, this did not prevent French representatives from remaining alert. In 1954 for example, the Embassy learned about an exhibition of cartoons from Daumier and other French artists in Brno, and tried to check their provenance, 'seemingly' from Czechoslovak museums and private

23 A. Marès, Edvard Beneš. Un drame entre Hitler et Staline (Paris 2015).

24 MAE 207 QO 64, 68 passim. MAE Série Europe, sous-série Pologne, 199QO/83, 'French property and interests in Poland 1944-1949', unsigned note.

25 AN F 17 17977, copy of a letter from the Ministry of French Affairs (intelligence from the military attaché in Prague) to the French Ambassador in Moscow, October 29, 1945.

26 See for example MAE RA209sup/244, 'Artwork located in the Russian zone. Findings from interrogations conducted by Captain Rose Valland, CRA expert', 9 December 1946; MAE RA209sup/375, 'Transfer points. Russian zone'. S. Coeuré, op. cit.

27 MAE RA209sup/375, Rose Valland's account of her visit to Karlshorst, 28 May 1949, top secret.

28 MAE RA209sup/146, report by R. Valland, 'Art Restitution in Eastern countries', 3 November 1955.

collections.²⁹ The Thaw led to new discussions: in 1955, an agreement was signed to maintain the 'rights to restitution'.³⁰ At the beginning of the 1960s, on the basis of official Czech information, some French art experts were sent again to Nikolsburg/Mikulov.³¹ In 1964, a scientific and cultural treaty was at last signed. But the Cold War and changing European societies gradually solidified a memory framework that explains the public obliviousness to Nazi confiscations and transfers.³² It would take another 30 years, after the USSR's implosion, for the restitution issue to reappear in the news. Much has yet to be learned about the entangled story of the fate of French cultural assets in Central and Eastern European countries.

29 MAE 207 QO 64, Report from the French cultural attaché Marcel Girard, April 23, 1951, confidential. Report about the French Art exhibition in Brno, November 3, 1954.

30 P. Blumerel, op. cit.

31 To date very little is known about this mission, reported in H. Feliciano, *Le musée disparu*, op. cit., p. 415 from a letter in the Paul Rosenberg Archives in New York and in MAE RA209sup/378, file 'Missions in Czechoslovakia, 1946-1963'.

32 S. Coeuré, *La mémoire spoliée*, op. cit. C. Bouchoux, "Si les tableaux pouvaient parler..." *Le traitement politique et médiatique des retours d'œuvres d'art pillées et spoliées par les nazis (France, 1945-2008)* (Rennes 2013). *Pillages et restitutions. Le destin des œuvres d'art sorties de France pendant la Seconde guerre mondiale. Actes du colloque organisé par la Direction des musées de France le 17 novembre 1996* (Paris, 1997). A. Liskenne, 'Autour des restitutions de biens culturels de 1944 à nos jours', in A. Sumpf, V. Laniol (dir.), *Saisies, spoliations et restitutions, Archives et bibliothèques au XXe siècle* (Rennes, 2012), 313-326. P. K. Grimsted, 'L'ERR versus le RSHA. Les formes de pillage et de migrations de livres et d'archives comme facteurs intervenant dans le processus de restitution', *ibid.*, 37-65.

(VI)

Identification of looted cultural assets in European museums

Chair:

Martin Reissner, Czech Republic

IMMA WALDERDORFF (Austria)

Schloss Kleßheim – Adolf Hitler's guesthouse and its unknown inventory¹

The Baroque castle of Kleßheim was owned in the 19th century by Archduke Ludwig Viktor, and after World War I the area was bought by the province (Land) of Salzburg, to which it still belongs today.

Starting in 1938, Joseph Goebbels organized receptions in the castle during the Salzburg Festival.

At Adolf Hitler's request, Schloss Kleßheim was designated the "guesthouse of the Führer" and in 1940 it was subjected to an extensive reconstruction and adaptation to serve this new purpose.² In the vicinity of Kleßheim there were two main castle buildings, the so-called "Summer Castle" and the "Winter Castle". The winter castle was renamed the Kavalierhaus, which is still its name today. The whole property of Kleßheim Castle lies just a few kilometres outside Salzburg, in close proximity to Obersalzberg.

After the decision was made to use the summer castle as Hitler's guesthouse, the whole property was purchased by the Reich and the Munich-based architect Hermann Giesler was commissioned to adapt the buildings. Giesler commissioned the Salzburg-based architects Otto Strohmayer (1900–1945) and Otto Reitter (1896–1958) to carry out the required construction work and to organize the re-decoration.³ The summer castle was supposed to feature a ballroom and a dining room, three guest apartments with their own salons, studies, bathrooms and servants' quarters.⁴ The Kavalierhaus was adapted for the staff of state guests. The other buildings in the vicinity of Kleßheim were modified to house personnel (Hoyoschlößchen, Wurmbrandhaus, etc.).

1 Mag. Dr. Imma Walderdorff, Fonds zur Förderung der wissenschaftlichen Forschung (FWF), Projekt P 25211-G15 "Kleßheim Castle as 'The Fuehrer's Guesthouse' 1938–1945".

2 Salzburger Landesarchiv, Handschrift 1149, S. 1.

3 Hermann Giesler (1898–1987) was the General Government Architect (Generalbaurat) in Munich; Hermann Früchtel, *Der Architekt Hermann Giesler, Leben und Werk (1898–1987)*, München, 2008, p. 257, 272–275.

4 Salzburger Landesarchiv, RStH Kleßheim, fascicles 160 and 609.

The castle and the Kavalierhaus were entirely re-decorated to suit their new representative function. Two art dealers were placed in charge of this assignment: Friedrich Welz (1903–1980) from Salzburg and Arthur Heinrich Kreiser (1889–1958) from Berlin. To date, Friedrich Welz was the only known supplier of antiques for Kleßheim. An invoice from May 1944 gives evidence that Welz delivered a total of 24 paintings and several pieces of furniture for the guesthouse and the Kavalierhaus. The research showed that Friedrich Welz in fact played a subordinate role in comparison to Arthur Kreiser, although the individual items purchased by Welz were more expensive than Kreiser's.

Friedrich Welz

Before focusing on Arthur Kreiser, who had previously been completely unknown among World War II German art dealers, there should be a short explanation of the role played by Friedrich Welz, as it interacted with Kreiser's role in connection with a painting that has recently been identified as a purchase from Paris.

In 2014, the author was able to unequivocally identify a painting by Jacques-Antoine Vallin (1760–after 1831) entitled "Diana and Actaeon" in Burg Hohenwerfen, a castle owned by the Land of Salzburg, as a purchase by Friedrich Welz, based on the documentation on the rear of the painting.⁵

Welz sold Vallin's painting, described as being "small", to Kleßheim as "Galerie Welz Nummer 193" for 5,000 Reichsmarks.⁶ The painting was then incorporated into the so-called "Landesgalerie", which was the National Socialist picture gallery in Salzburg. It was issued the inventory number 271 (Landesgalerie = LG 271) and placed in the smoking room in the Kavalierhaus (room 23).⁷ To complicate matters, at the same time Friedrich Welz sold a second painting by Jacques-Antoine Vallin with the same subject, which was significantly bigger and inventoried as Landesgalerie number 234; the painting was placed in the summer castle.⁸ On February 10, 1950, one of these Vallin

5 After Schloss Kleßheim was let to Casino AG, part of the collection of paintings was moved to Burg Hohenwerfen/Salzburg.

6 BDA Archiv Wien, Restitutionsmaterialien, box 49/1, Welz I, fol. 94: in 1942 the painting is recorded in the St. Peter depot with a value of 350 Reichsmarks.

7 Salzburger Landesarchiv, RStH Kleßheim 615: inventory 1940 – 1944, without fol.

8 Jacques-Antoine Vallin "Diana u. Actaeon" measuring 112.5 x 150 cm, LG 234.

“Diana and Actaeon” paintings was restituted, as documented on a list drawn up in Paris; the restituted Vallin was without doubt the larger painting, LG 234.⁹

On February 19, 1942, the “small” Vallin was purchased by Friedrich Welz in Paris from the art dealer Marumo [also referred to as Marinno, Marino, or Mannino] for 350 Reichsmarks.¹⁰ In Welz’s inventory book he names Marumo as his second most important supplier. In 2000, Fritz Koller and the *Département des peintures* in the Louvre suggested the following persons as possible identities of Marumo: Albert, Claude or Paul Marumo.¹¹ According to the documents of the *Musée Nationaux Récupération (MNR)*, it was Albert Marino, 137, Bd Haussman, Paris.¹²

After World War II, on May 18, 1947, Vernon Kennedy (from the Property Control and Restitution Section at the Headquarters Zone Command Austria) made a request to provide 38 paintings to the central depot of the Salzburger Residenz/Rittersaal in order that they could be returned to the French government. 18 of them had come from Arthur Kreiser [in the report spelled with G instead of K] and 20 of them had come from Friedrich Welz, including the Vallin painting referred to as “Welz No. 271”.¹³ Until 1952, there were a number of requests regarding the whereabouts of the Vallin, but the responsible Austrian departments, first and foremost the Federal Monuments Office [Bundesdenkmalamt], were unable to trace it. As it turns out, the painting remained in place in the Kavalierhaus, which was used by the United States Army between 1945 and 1955 and to which the Austrian Federal Monuments Office did not have any access – a circumstance which explains why the painting could not be found. Requests regarding the picture submitted after the takeover of Kleßheim by the Land of Salzburg in 1955

were not processed by the Land of Salzburg.¹⁴ The Vallin first re-appears in an inventory from 1962, i.e. as the property of the Land of Salzburg, and it remained in place until 1993, when the castle was rented by Casino AG and its contents were removed. Subsequently the painting was transferred to Burg Hohenwerfen, where it was identified in 2014.

As the painting was purchased during World War II, the Land of Salzburg is at present investigating the procedure regarding Jacques-Antoine Vallin’s painting “Diana and Actaeon”, inventoried as Landesgalerie number 271.

After World War II and the occupation of Salzburg by the US Army, Friedrich Welz was considered by the staff of the Property Control and Restitution Section to have been the most important figure in charge of art dealing during the Nazi regime. During a visit to Kleßheim on November 21, 1947, in the company of the American Evelyn Tucker (who at the time was in charge of restitution matters), Friedrich Welz clearly stated: “not mine – this is Greiser’s”; regarding the large tapestries, he said: “I wonder where Greiser got these.”¹⁵ While discussing the provenance of the Kleßheim inventory, Welz declared that the following items had come from Kreiser:

- 1) All paintings
- 2) All tapestries
- 3) All other objects d’art such as furniture, Chinese and Japanese vases, Venetian mirrors, etc.
- 4) An original French furniture suite with 6 armchairs
- 5) Two armchairs with Gobelin upholstery, in his view extremely beautiful and valuable

Friedrich Welz explained that Kreiser was a German art dealer who had also made extensive purchases in France. Welz stressed the fact that the

9 Paris, Ministère des Affaires étrangères, La Courneuve, RA 1041: Listes des tableaux photographiés passés par le Dorotheum, Liste 5/4/2001; see <http://www.culture.gouv.fr/documentation/mnr/MnR-pres.htm> (accessed on 14.9.2015), Site Rose-Valland, Musées Nationaux Récupération (MNR), MNR 149.

10 Fritz Koller, *Das Inventarbuch der Landesgalerie Salzburg 1942 – 1944*, Salzburg, 2000, p. 210–211, no. 271.

11 Koller, 2000, p. 19–20, biographical data are unknown for all three persons.

12 Musées Nationaux Récupération 288, Acheté par Welz chez Marinno, Paris (sans doute Albert Marino, 137, Bd Haussmann); <http://www.culture.gouv.fr/documentation/mnr/MnR-accueil.htm> (accessed on 14.9.2015).

13 Salzburger Landesarchiv, Abteilung VIII, Residenzgalerie, without fol.: reclaim France.

14 Land Salzburg, Inventargegenstände: 2.9.1993, Stand 18.6.1993, Standort 9502 (Kleßheim), 1111130160, Diana in einer Landschaft, access 301114, price 40,000 Austrian schillings; the date of access is incorrect here.

15 Salzburger Landesarchiv, US records 1515.

items purchased by him in France had already been returned to France, while those that had come from Kreiser were almost all still in the castle. In her report on the Kleßheim visit, Evelyn Tucker recorded that she did not want to admit to Welz that she had never heard of a “Mr. Kreiser”, and she also noted: “Will check this as soon as possible.” But, as it turns out, Tucker apparently did not subsequently follow up on the reference to Arthur Kreiser. The question remains where Vernon Kennedy had obtained the name in May 1947, six months earlier, and on what basis he submitted the requests for Kreiser’s paintings to be returned. Furthermore, why did Tucker have no access to the documents from Vernon Kennedy?

Arthur Heinrich Kreiser

As it turns out, Arthur Kreiser played the leading role in creating the new interiors at Kleßheim. The remarkable thing about Kreiser is the almost incredible fact that his name is hitherto absolutely unknown in provenance research on the Nazi regime. Arthur Heinrich Kreiser was born in Berlin in 1889. In 1919, he established an interior design business in Berlin on Kurfürstendamm 190/192, and during World War II he opened a branch of the company in Karlsbad (today Karlovy Vary, Czech Republic). The address was Haus 2, Störche, Alte Wiese 346/7.

In Berlin, Kreiser furnished the palace of Reichspräsident Paul von Hindenburg (1847–1934) in 1928 and Schloss Bellevue in 1938, for its use as the “Guesthouse of the Reich”. According to Kreiser’s own declaration, he had not been a member of the Nazi Party (NSDAP), and no such membership could ever be proven. However, Kreiser was – against his will – a member of the Reichskammer der bildenden Künste (Reich Authority for the Fine Arts), where he remarked that he only traded in new items, not antiques.

Kreiser does not appear on any list of art dealers in Berlin,¹⁶ possibly because he officially maintained that he was not an antiques dealer. After his activity at Kleßheim up to 1943, his trail vanishes. All the author could find out is that he set up a business in Düsseldorf in 1953 and that he died in that city in 1958.

In August 1941, Kreiser began to deliver antiques for the interior décor of the castle and the Kavalierhaus. Officially, his business ceased to function

on August 17, 1942. On the other hand, archival records show that Kreiser was still selling und delivering Old Master paintings, furniture, oriental rugs etc. (a total 200 items) to Kleßheim; the last delivery dates from December, 31, 1943. It remains a mystery under what conditions Kreiser continued to deliver items to Kleßheim almost one and a half years after the deletion of his company from the Berlin commercial register!

Kreiser’s items were registered by a “Lg. Nummer” (Lg. = Lagerdepot?, i.e. warehouse number?); the lowest number delivered to Kleßheim was 168, the highest 46,277. Some of these Lg numbers are preserved on the rear of the paintings, written on paper tags. Still no information exists on the location, the ownership of the warehouse and the provenance of the antiques. To “store” such enormous quantities of items – we have to assume around 45,000 items – Kreiser must have had access to a huge warehouse. As he ran a business in Karlsbad (Karlovy Vary), he may have used storage facilities in the Protectorate of Bohemia and Moravia.

From Kreiser’s deliveries to Kleßheim, to date 28 paintings have been identified, one painting was stolen in 1948, five were ceded to the 3rd American Division and are now deemed lost, 16 paintings were found in the inventory of the Land of Salzburg, and six more are recorded in the inventory but cannot currently be found.

To this day, the form of collaboration between the two art dealers involved in the interior decoration of Kleßheim cannot be clearly identified: Friedrich Welz received commissions, as can be seen from his invoices for “Lg numbers”, though it is not clear from whom – but it is conceivable that he could have received these commissions from Kreiser.

According to what is known at the present time, more than 200 items delivered to Kleßheim by Kreiser still remain in Salzburg, since there is no provenance research regarding these items (except the paintings).

Concerning Arthur Kreiser, we still lack answers to the following questions:

- Where did the Kleßheim antiques come from?
- Was Welz’s statement correct when he said that Kreiser had made extensive purchases in Paris?

¹⁶ Thanks to Caroline Flick, Berlin, for the information.

- On what basis did Vernon Kennedy submit his request to restitute paintings from Arthur Kreiser to France?
- Where was the storage depot to which Kreiser had access? Who did it belong to and how were the items it contained acquired?
- Kreiser operated a branch in Karlsbad (Karlovy Vary). This raises the question of whether some of the items came from the Protectorate of Bohemia and Moravia and whether there was a storage depot nearby for these antiques.

MEIKE HOFFMANN (Germany)

Hildebrand Gurlitt and his dealings with German museums

With the unexpected discovery of the “Munich Art Trove” in November 2013, the name of Hildebrand Gurlitt – previously known only to a few academics – became famous overnight through media stories around the world. Spanning four distinct periods in German history, Hildebrand Gurlitt held many professional roles: art historian, museum director, head of art associations, art agent and dealer. During the Weimar Republic he became a driving force behind the museum reform movement, promoting a policy for arts and culture that supported the collection of contemporary art in German museums, which was a new concept at that time. After Hitler’s rise to power, Gurlitt came into direct conflict with the Nazis’ political and racial ideology. He had to step down from his museum role, and began a career as an art dealer, first independently and later on behalf of the Nazi authorities and Hitler himself. The extensive international art network he had developed as a museum director and as a dealer became a trade route for looted and seized art, as well as the springboard for his comeback in post-World War II Germany. In her lecture, Meike Hoffmann traced the fine lines between positive achievements, crime, and repression in Gurlitt’s professional and biographical journey.

MARGREETH SOETING (Netherlands)

The Stedelijk Museum and the Second World War: From provenance research to an exhibition

The Stedelijk Museum in Amsterdam - the museum where I work as a researcher - is a museum dedicated to modern and contemporary art and design. The museum was founded in 1895, and the earliest art in its collection dates from around the middle of the nineteenth century.

Twice in the recent past, Dutch museums were asked to research the provenance of their artworks. The initiative for the first provenance research project was taken in Amsterdam, in March 1998, during a meeting of Dutch museum directors. Concerns had been expressed about art which had been acquired by Dutch museums during the Second World War. Later that year, Dutch museums were asked to reconstruct the provenance of the artworks which had been added to their collections between 1940 and 1948.

The second research project began a few years later, in 2007. The reason for launching this second project was simple: the first project had been too limited in scope. Even before 1940 a museum might have acquired art that had been looted, and, of course, also after 1948.

These two research projects were set up and coordinated by the Dutch Museums Association. They advised the different museums and organized meetings and lectures, e.g. on how to recognize Jewish ritual objects, how to deal with journalists, and how to explain about the Dutch Restitutions Committee.¹

I conducted both the first and the second research projects for the Stedelijk Museum, and in this paper I will compare the two projects with each other, as the first one was conducted before the digital era and the advent of the internet, which made a huge difference. And while presenting this comparison I will focus on one particular work, a painting by Henri Matisse, titled *Odalisque*, which dates from 1920-1921.

During the first project I managed to compile a list of pieces that had been acquired by the Stedelijk between 1940 and 1948. Unfortunately, it was often

impossible to find information about previous owners. This was the case with the provenance of this particular painting by Matisse, *Odalisque*, which was bought by the Stedelijk Museum in 1941 from a Mr. Bangma. In the 1980s, the head of our research department had unsuccessfully tried to find out more about the original owner, which he thought had been a 'Mr. Steen'.

As I was finishing this first project I made a discovery in the attic of the museum.

In that attic I found boxes full of archival material which had apparently been placed there a long time ago and subsequently forgotten. These boxes contained lists and proofs of receipt dating from around the time of the Second World War. They also contained lists of works from other museums - like the Rijksmuseum - and from churches and libraries, as well as lists including paintings owned by the Royal Family, lists from art dealers, and from many, many private collectors. In total I found the names of approximately 500 institutions and individuals. All these institutions, art dealers and collectors had deposited art at the Stedelijk Museum for safekeeping.

On one of these lists - drawn up on 15 May 1940, the day the Dutch army capitulated - I noticed the mentioning of a painting by Matisse, titled *Bajadère*. I knew that the Matisse painting the Stedelijk had bought in 1941 was originally also called *Bajadère*. And here, on this list, the name of the owner was stated as a Mr. Stern. That looked suspiciously like 'Steen', but 'Steen' is a common Dutch name, not a typically Jewish one. However, 'Stern' is a Jewish name.

Later, when I had found more archival material, it became clear to me that the Matisse that had been given to the museum for safekeeping was in fact the same painting that the Stedelijk had bought in 1941.

When the Dutch Museums Association heard about my discovery of the 'lost' archive, they asked me to write an article about the history of the Stedelijk during the war, for a special edition of the Dutch art journal *Jong Holland*.²

1 For the Dutch Restitutions Committee see <http://www.restitutiecommissie.nl/en>

2 Margareeth Soeting, „Het Stedelijk Museum in Amsterdam tijdens de Tweede Wereldoorlog: een reconstructie aan de hand van archiefstukken die bewaard worden in het museum”, in *Jong Holland* 17 (2001)2, p. 11–24. With a summary in English, 'The Stedelijk Museum in Amsterdam during the Second World War. A reconstruction based on documents in the museum archives', p. 66-67.

At that time, little had been published about the history of the Stedelijk Museum. I knew that the curator of the Stedelijk had travelled to Spain in 1938 to find out what measures the Spanish museums had taken to protect their collections. After that trip, the director of the Stedelijk Museum and his curator decided that the Stedelijk needed a bomb-proof storage facility, i.e. an underground vault, at a safe distance from the Dutch ports and other potential targets of aerial attack. They found the perfect spot in the dunes near a coastal village about 40 km north of Amsterdam.

Because only the Stedelijk - and no other Dutch museum - had such a bombproof vault ready in April 1940, it made sense that many other institutions and individuals had entrusted their art to the Stedelijk for safekeeping. For example, on the tenth of May - the day the German army invaded the Netherlands - 140 of the most important paintings from the Rijksmuseum - amongst them Rembrandt's famous *Night Watch* – were stored in the vault of the Stedelijk.

However, even before the war broke out, the Stedelijk Museum was able to help. In one of the exhibition files dating from 1938-1939 I found notes and letters that explained how the Stedelijk Museum was able to save the collection (or at least part of the collection) of someone living in what was then Czechoslovakia.

In 1938 Oskar Federer, the general director of the Eisenwerk Witkowitz (Vítkovice Ironworks) in the Moravian city of Ostrava, was desperate to get his collection out of the country. In March of that year he had, on his own initiative, sent six paintings to the Stedelijk Museum: three paintings by Cézanne, a Van Gogh, a Manet, and a Gauguin. He had heard the museum was planning an important exhibition on French art and he hoped the museum could use his paintings for this exhibition.³ As the documents made clear, the Stedelijk did indeed display a couple of his paintings, and kept all of them in storage after the exhibition closed.

Later that year, after the Munich Agreement was signed on 30 September 1938, the director of the Stedelijk was able to help Mr. Federer once more – this time by pretending that the Stedelijk badly needed more of his paintings, for a new exhibition. On November 28, Mr. Federer wrote to the Stedelijk stating that he had been permitted to send another four paintings to Amsterdam.

3 The exhibition was *Honderd jaar Franche kunst* [One Hundred Years of French Art], on show in the summer of 1938 (2 July - 25 September).

The Stedelijk kept all ten paintings that Federer had sent to the museum until March 1939. By that time Mr. Federer had fled to Paris and had been forced to sell the paintings.

The results of the first national provenance research were published in 1999 by the Dutch Museums Association. In their report, they published only the acquisitions which they considered to be potentially 'suspicious'. The report does not mention the acquisition of the Matisse. It may well be that this was not considered a suspicious sale in the 1990s, as the museum had paid a fair price for this painting.⁴

The second provenance project was launched in 2007. This time I was assisted by several interns, and also by Dr. Gregor Langfeld, a specialist in international modernism, a German art historian working for the University of Amsterdam. Luckily for me, at this point the entire collection of the Stedelijk Museum was registered digitally, which allowed me to make lists of all artworks that had been acquired by the Stedelijk, per annum, from 1933 to the present. This time I could also digitally search for works that had an unknown provenance. Excluding all works made after 1945, I counted almost 4000 works of art that had to be researched for their provenance.

The introduction of the internet was also a great help. I could now easily search for information about Albert Stern, the original owner of the Matisse painting. Through the Digital Monument to the Jewish Community in the Netherlands⁵ I learned that Mr. Stern had lived in Amsterdam, and that he had not survived the war. In the Amsterdam City Archives more information about Mr. Stern and his wife was found. According to the so-called family card in the public record system of the municipal authority of Amsterdam, the couple came from Berlin and were registered in Amsterdam on 2 March 1937. On their card it is stated explicitly that they had no special reason to come to the Netherlands. And although Mr. Stern had bought passports from the Republic of Haiti, just a few days before the German army invaded the Netherlands, they were unable to use

4 This report, „Rapport Museale Verwervingen 1940-1948“, was published in 1999 and is available only in Dutch. See <http://www.musealeverwervingen.nl/1337/onderzoeksresultaten-1940-1948/>

5 <http://www.joodsmonument.nl/?lang=en>. This is an internet monument set up to preserve the memory of all men, women and children who were persecuted as Jews during the Nazi occupation of the Netherlands and did not survive the Shoah.

them – the date of their departure to Germany is noted as 3 April 1944. Through the internet we also found information about the textile business Mr. Stern owned in Berlin, as well as information about Mr. Bangma, the man who had sold Mr. Stern's painting to the Stedelijk. It turned out that Mr. Bangma had been a Dutch sales representative of the Berlin firm of Graumann & Stern.

Ultimately, the Stedelijk Museum's two research projects identified a number of works - 16 in total - with a potentially problematic provenance. The results of this second investigation, of all the participating museums, were published on a special website in 2013.⁶

This time *Odalisque* also made the list.

The two provenance research projects also resulted in an exhibition, *The Stedelijk Museum & The Second World War*, which was on show in the spring of 2015.⁷ The exhibition focused on several themes, in order to contextualize the provenance research. This enabled us to tell people something about the artists, art dealers and art collectors, many of them Jewish, who had arrived from Germany in the 1930s, and about their influence on the Dutch modern art world. We also explained to visitors how the art collections of the different Dutch museums were kept safe during the war. We showed how wartime exhibitions were organized by the Stedelijk Museum to support artists and photographers who had joined the resistance. The exhibition also offered us the opportunity to inform the public about the Dutch provenance project. In order to present more context, we published an exhibition catalogue.⁸

Thanks to the internet - and some further detective work - I was also able to locate a grandson of Albert Stern, who now lives in England. The Stern family is represented by the London-based Commission for Looted Art in Europe, which, in cooperation with the Stedelijk Museum, is working on further

research into the acquisition of the painting by the museum in 1941. Once the research is complete, a claim will be submitted to the Dutch Restitutions Committee for binding advice

6 For information on the second provenance research project, 'Museum Acquisitions from 1933 onwards', see <http://www.musealeverwervingen.nl/en/10/home/>

7 The exhibition was co-curated by Margriet Schavemaker, Margreeth Soeting and Gregor Langfeld, and was on show from 27 February to 31 May 2015.

8 Gregor Langfeld, Margriet Schavemaker and Margreeth Soeting (Eds.), *The Stedelijk Museum & The Second World War*. Amsterdam: Stedelijk Museum / Uitgeverij Bas Lubberhuizen, 2015.

PATRICIA KENNEDY GRIMSTED (USA)

Tracing Pan-European Looted Art in Russia – The Case of the Erich Koch Collection¹

My presentation today picks up a theme I addressed two years ago at the 2013 Czech Documentary Centre Conference in Podebrady of the unfortunate East and West divide within Europe in terms of the identification and provenance research of cultural property ‘displaced’ as a result of the Second World War and its aftermath.² Despite the increasingly ‘divided Europe’ in general today, I can report a small step forward in cooperation with the Russian Federation in the museum world.

In contrast to the extensive restitution of Soviet-captured European archives in Russia, with which I have been dealing over the past twenty-five years,³ virtually none of the ‘trophy’ or ‘displaced’ art seized by Soviet authorities during and immediately after the end of the war and remaining in the Russian Federation after 1992 has gone home. Some selections surfaced in the early 1990s, and some important paintings have been professionally identified in exhibition catalogues, such as the Hermitage 1995 exhibition of long ‘Hidden Treasures’ of Impressionist masterpieces from German private collections. Some 56 out of the total of 74 paintings exhibited were from the collection

brought together during the interwar period by the German industrialist Otto Krebs (1873–1941), seized in 1948 by (SVAG/SMAD) with a senior curator from the Hermitage, Ksenia A. Agafanova, from a basement safe on Krebs’ Holzdorf estate about 5 km from Weimar.⁴ Several of Krebs’ paintings and a few others exhibited in 1995 are now hanging with the permanent Impressionist collection on the top floor of the General Staff Building, newly opened in 2015 honoring the Hermitage 250th Anniversary. Meanwhile recent painted copies of some of Krebs’ paintings seized in 1948 hang in the second floor rooms of the former Krebs’ mansion in Landgut Holzdorf.⁵

Among the still ‘hidden treasures’ in the Hermitage is a much less spectacular collection of Nazi-looted paintings seized by the same SVAG team at the same time from a bank in Weimar, and which arrived in Leningrad in early 1949 in the same shipment as the Krebs Collection. Unlike the treasures from the Krebs estate, I have recently been focusing on the provenance and fate of a collection of Nazi-seized paintings brought together in Königsberg during the war by Erich Koch, Gauleiter and Ober-Praesident of East Prussia. Simultaneously Koch was Reich Commissar of Ukraine, and hence not surprisingly his personal collection also included paintings seized from Kyiv state museums that he ordered sent to Königsberg when the Germans were retreating from Ukraine.

1 This account provides a few updates from research subsequent to my article, “Nazi-Looted Art from East and West in East Prussia: Initial Findings on the Erich Koch Collection,” *International Journal of Cultural Property* 22 (2015), no. 1, pp. 7–60; at <https://socialhistory.org/sites/default/files/docs/pkg-kochcollectionijcpapr15.pdf>; the published article serves to document further many details that follow.

2 See P.K. Grimsted, “Progress in Identification and Restitution of ‘Displaced’ Cultural Loot? Access to Archives East and West,” in “*The West*” Versus “*The East*” or a United Europe? *The different conceptions of provenance research, documentation and identification of looted cultural assets and the possibilities of international cooperation in Europe and worldwide*. Proceedings of an international academic conference held in Poděbrady on 8–9 October, 2013; ed. Mečislav Borák (Prague Documentation Centre for Property Transfers of Cultural Assets of WWII Victims, 2014), pp. 120–43; at <https://socialhistory.org/sites/default/files/docs/grimsted-podebradyessay13.pdf>

3 See details about the captured archives in Moscow in Patricia K. Grimsted, F.J. Hoogewoud, and Eric Ketelaar, eds., *Returned from Russia: Nazi Archival Plunder in Western Europe and Recent Restitution Issues* (Institute of Art and Law [UK], paper edn 2013, with “Afterword–2013” by PKG).

4 See the 1995 exhibition catalogue by Hermitage curator Albert Kostenevich, *Hidden Treasures Revealed: Impressionist Masterpieces and Other Important French Paintings Preserved by The State Hermitage Museum St. Petersburg*, New York: Harry A. Abrams, 1995; also published in Russian. See also the report by Steven Erlanger, “Hermitage, in Its Manner, Displays Its Looted Art,” *New York Times*, 30 March 1995; <http://www.nytimes.com/1995/03/30/arts/hermitage-in-its-manner-displays-its-looted-art.html?pagewanted=1>. See also Konstantin Akinsha and Grigorii Kozlov, “Thuringia: Impressionist Masterpieces in a Cellar,” in *Beautiful Loot* (New York, 1995), pp. 142–43. See also the essay with reproduction of many of the paintings, “Otto Krebs Collection: Spoils of War or Plunder in Peace,” AAD reports, 20 September 2015, at <http://www.art-antiques-design.com/art-theft/542-otto-krebs-collection>

5 I am grateful to the Klassik Stiftung for hosting me in Weimar in October 2015. Many thanks to Sebastian Schlegel and Peter Prölss for arranging our Holzdorf visit, including a tour of cellar storage room (with a hole in the door) from which the SVAG/SMAD team removed Krebs’ Impressionist Collection. I noted the Krebs’ paintings and those from other private German Collection, including the Monet from the Bremen Kuntshalle in the Hermitage Impressionist exhibition in June 2015.



Fig. 1. Erich Koch, Gauleiter and Oberpräsident of East Prussia, Reich Commissar of Ukraine (a) in East Prussia, 1944; (b) on his estate of Gross Friedrichsburg, near Königsberg, 1945.

Images courtesy of Avenir Ovsianov, from his book, U nikh est' rodina (2010)

I could even call the Koch Collection seized by SVAG from Weimar 'twice-saved' in contrast to and unlike the rest of the estimated 900 paintings and 400 icons from three Kyiv state museums that the Einsatzstab Reichsleiter Rosenberg (ERR) Ukrainian Task Force Chief Georg Winter seized as the Germans were retreating from Kyiv in September and October of 1943. Winter was then

actually heading a successor agency under the control of Koch – the Provincial Authority for Archives, Libraries and Museums (LV ABM) – rather than Rosenberg's Einsatzstab. Koch at that point was still safely ensconced in the palace he had constructed on his elaborate estate near Königsberg, where he spent much more time during the war than in Ukraine. It was in Königsberg already in 1942 where he had the Amber Chamber from the Catharine Palace in Tsarskoe Selo reassembled in the impressive Teutonic Castle, under the supervision of German art historian and amber specialist Alfred Rohde. Presumably the Amber Chamber perished there, as a result of British bombs in August and September of 1944, if not by the Soviet onslaught in 1945. Most of the art from Kyiv Koch ordered to Königsberg was intentionally destroyed in the elegant manor house on the Von Schwerin estate of Wildenhoff, 70 km south of Königsberg (now Dzikowo in Poland), by an SS squad in February 1945, when the Red Army arrived to 'liberate' East Prussia, as a prelude to Soviet annexation.⁶



Fig. 2. (a) The Baroque palace on the Von Schwerin estate of Wildenhoff (now Polish Dzikowo Łławeckie), 60 km south of Königsberg, destroyed with crates of art from Ukraine in February 1945.

Image from a 19th-cen. engraving by Alexander Duncker.

⁶ Grimsted, "Art and Icons Lost in East Prussia: German Seizures from Kyiv Museums," *Jahrbücher für Geschichte Osteuropas*, 61 (2013), Heft 1, pp. 47–91; at: http://www.huri.harvard.edu/images/pdf/grimsted_kyiv_loss_mar_13.pdf



(b) The same lake in the village of Dzikowo (2014), (c) Ruins of the Von Schwerin mansion (2014).

Photographs by Almon John Grimsted

Before the 78 crates of art from Kyiv were first evacuated from Königsberg, Koch co-opted at least fifteen choice Western paintings from what is today the Khanenko Museum in Kyiv for his personal collection. Those few paintings from Kyiv museums that were accordingly ‘saved’ were lucky enough to survive the war. They were ‘saved’ a second time, when in the same month of February 1945, most of art from Kyiv was intentionally destroyed in Wildenhoff. Koch’s estate manager, SS-Standartenführer Albert Popp (1904–1978) evacuated ca. 67 paintings and 100 engravings from Koch’s personal collection to Weimar, together with an impressive collection of silver. Two months later, after a bomb hit the museum where the collection was stored in Weimar, Popp returned in a Red Cross vehicle with Swiss registration and made off with about two-thirds of the collection. Only one painting among those removed has surfaced since on Western auction, while two have been reported in private collections – one in the UK and another in the USA.⁷

Three and a half years later Soviet authorities (SVAG/SMAD) with Ksenia A. Agafanova, a senior curator from the Hermitage, removed the remaining at least 27 paintings from a Weimar bank. I found Agafanova’s reports with a group of long-hidden SVAG/SMAD documents in a Moscow archive 6 years ago, soon after it had been declassified. In her 1948 report she had claimed

that Koch had seized most of the paintings from Ukrainian museums, thus justifying her recommendation to send all the paintings to Moscow. She simultaneously reported finding the world-class Krebs Collection and listed most of the artists included, but she mentioned no artists for the Koch Collection. Her reports were reclassified after I examined them in 2009.⁸

Several years ago, I found published lists (in both Russian and the original German) of the paintings Koch had first deposited in Weimar in 1945.⁹ Then later I found copies of those lists and more documents about the collection Popp had brought to Weimar in the Stasi Archive, including a second list of the 27 paintings remaining in 1947 that were deposited in a local bank.¹⁰ Apparently the Stasi had become particularly interested because there was a rumor that the shipment also included crates of the Amber Chamber, which has kept treasure hunters busy ever since. The Stasi were apparently trying to outdo the Soviets by trying to find them and to find Popp, but there is no indication they found either, despite the considerable documentation they accumulated during their case dubbed “Operation Puschkin”.¹¹ Thanks to colleagues in the Klassik Stiftung in Weimar, a week before the Prague

8 Russian State Archive of the Economy (RGAE), fond 413, *opis’*16, earlier file 292, folios 192–96, 213–14 (since reclassified); Agafanova’s reports have now been withdrawn from the reprocessed series in the Soviet Foreign Trade records in RGAE, fond 413, *opis’* 16.

9 Avenir Ovsianov mentions the collection in his *V ruinaх starogo zamka. Dokumental’nye ocherki o poiskakh utrachennykh kul’turnykh tsennostei* (Kaliningrad: “Iantarnyi skaz,” 1997), I first saw Ovsianov’s Russian translation of the list in his Appendix 2: “Opis’ muzeinykh tsennostei gauliaitera Erikha Kokha, vyvezennykh iz Kenigsberga ego upravliaiushchim Poppa 9 fevralia 1945 goda,” pp. 392–97; I am grateful to Ovsianov for further consultations during my visit to Kaliningrad in August 2014, including a joint seminar. His translation is based on the German version, “Verzeichnis der vom Gauleiter Koch – Königsberg am 9. Februar 1945 aus Museumsgut im Landesmuseum eingestellten Museumsgegenstände. Eingbracht von Hausverwalter Poppa,” first published by Günther Wermusch, *Die Bernsteinzimmer-Saga. Spuren, Irrwege, Rätsel* (Berlin: Ch. Links Verlag, 1991), who had been one of the main Stasi operatives in the case. The original is in the Thüringische Hauptstaatsarchiv Weimar.

10 I have not found a published version of the 1947 list, which would have presumably included the paintings SVAG removed from the Weimar bank. Publication is planned once the list can be verified. The original is in the Thüringische Hauptstaatsarchiv Weimar.

11 See Grimsted, ‘Nazi-Looted Art’, *IJCP* 22 (2015), no. 1, pp. 18–20; 22–23, and especially note 70. See the more sensational account by Erich Wiedemann, ‘Operation Puschkin. Die Jagd nach dem Bernsteinzimmer (I)’, *Der Spiegel* 2000, no. 48, pp. 76–98. The second and third parts of Wiedemann’s article, *Der Spiegel*, 4 Dec. 2000, deal only with the Amber Chamber and do not mention Koch or his envoy Popp: <http://www.spiegel.de/panorama/0,1518,106180-6,00.html>. Popp married a wealthy West German heiress; he died in a hospital near Frankfurt am Main in August 1978.

7 Grimsted, ‘Nazi-Looted Art’, *IJCP* 22 (2015), no. 1, pp. 13–19.

conference in October 2015, I found most of the original lists of the Koch Collection and many related documents in two different archives in Weimar.¹²

Contrary to the Hermitage curator reports in my provisional analysis with help from Ukrainian sources, I had determined that only 13 or 14 paintings out of the 67 Koch sent to Weimar in February 1945 were possibly from the Kyiv Museum of Western and Oriental Art – as it was known in the Soviet period (now the Khanenko National Museum of Art). None were from the Kyiv Museum of Russian Art. And out of the assumed 27 paintings remaining that SVAG removed from the Weimar bank, I suspect only 7 or 8 were from the Kyiv museum. None of them have been returned to Kyiv.¹³

Thanks to those lists, and some help from Western art specialists and many other sources, I have able to establish provisional provenance for many of the paintings listed. Starting already in 1940, Koch had ‘purchased’ an even larger number of Western Old Masters from Reichsmarschall Hermann Göring, who had a larger hunting lodge in East Prussia, and was Koch’ strong supporter. Göring’s portrait along with Hitler’s appear on the 1945 list of paintings deposited the Koch Collection in the Weimar Provincial Museum. I provisionally identified 15 or 16 paintings from the Netherlands that Göring had ‘sold’ to Koch, some of which would appear to match those deposited in the Weimar Museum. Thanks to confirming sources in The Hague, I further documented that Göring had acquired those 16 or 17 paintings from the prominent Dutch Jewish dealer Jacques Goudstikker (Amsterdam). A Weimar document confirms there were Goudstikker labels remaining on several Koch paintings.

Given the many paintings from the Krebs Collection among the ‘Hidden Treasures’ in the Hermitage 1995 Exhibition, I had strongly suspected that the Koch Collection also went to the Hermitage. When I had requested access to the Hermitage Archive for this project starting in 2010, access was denied because they explained the documents I needed were planned for publication. Finally last December 2014 in honor of its 250th Anniversary, the Hermitage published a major volume of long-hidden documents

12 I am particularly grateful to Peter Prölss, and to the Klassik Stiftung for hosting me in Weimar and assisting with acquisition of appropriate copies from the Thüringische Hauptstaatsarchiv Weimar and the Goethe-Schiller Archive; additional analysis is underway.

13 Provenance details about the paintings below are summarized from my article, Grimsted, ‘Nazi-Looted Art’, IJCP 22 (2015), no. 1, pp. 23–53, with a few key citations or more recent findings indicated in subsequent notes.



(Fig. 3 (a)) Reichsmarschall Hermann Göring exiting the Goudstikker Gallery, Heerengracht 458, Amsterdam, 1941. Image from the National Archives of the Netherlands, courtesy Bureau Herkomst Gezocht (Origins Unknown Agency), The Hague. (b) Business card from the Jacques Goudstikker Gallery, Heerengracht 458, Amsterdam. Image courtesy of the Amsterdam City Archives.

from the years 1945–1958 about their ‘trophy’, or rather ‘displaced’ art (“*Peremeshchennoe iskustvo*”) as it is termed in the title.¹⁴ Quite to my surprise, immediately following publication, the Hermitage sent me a digitized copy, followed shortly by two copies of the printed volume (via international courier no less). Several of the published Hermitage documents indeed confirmed the Leningrad arrival of the Koch Collection in January 1949. Published Hermitage documents also confirm Goudstikker markings on 4 or possibly 5 of those received, including one listed specifically as Albert Cuyp’s *Boy with a Falcon*.

14 Gosudarstvennyye Ermitage: “*Peremeshchennoe iskustvo*” 1945–1958: *Arkhnnye dokumenty* – [State Hermitage: “Displaced Art”, 1945–1958: Archival documents], Chast I [Part I], comp. Anna Aponasenko (St. Petersburg: Izd-vo Gosudarstvennyye Ermitazha, 2014).



Fig. 4. Aelbert Cuyp (1620–1691), *Boy with a Falcon* (Goudstikker # 1284). Seized from the Goudstikker firm on behalf of Reichsmarschall Hermann Göring, 1940, and subsequently sold to Gauleiter Koch. Evacuated from Königsberg to Weimar, February 1945; received by the Hermitage, Leningrad, January 1949.
Image courtesy Bureau Herkomst Gezocht, *The Hague*, from the Dutch National Archives.

Several other probably Goudstikker paintings mentioned in the Hermitage documents will require further investigation, when it becomes possible to examine the paintings themselves and verify Goudstikker labels for confirmation.

Thanks to more clues in several Hermitage documents, I also identified provisionally as many as seven paintings sent by Koch to Weimar that were owned by the prominent French Jewish art dealer Georges Wildenstein; four or five of those reportedly arrived in the Hermitage. Most of them have been identified as having been seized on behalf of the ERR from the Château de Moire (a French National Museums safe haven), 2 August 1940, and later transferred to Göring (with some compensation reportedly received by his ayanized agent later in 1941). One of the Hermitage documents specifically identifies John Opie's *Woman in White* as being listed in the French postwar published volume detailing wartime losses. Indeed the second volume of the French *Repertoire des biens spoliés* lists that Opie painting as being claimed by Wildenstein; a better quality copy of the image

included was kindly furnished by the Archives of the French Foreign Ministry (AMAE).¹⁵



Fig. 5. John Opie (1761–1807), *Lady in White* – seized from the collection of Georges Wildenstein in Château de Moire; passed to Göring and subsequently to Erich Koch, deposited in Weimar, February 1945; received by the Hermitage, 1949.
Image courtesy of France, Ministère des Affaires Étrangères, Archives diplomatique, La Courneuve (209SUP/1035/515).

Because the Opie and other Wildenstein paintings went directly to Göring from Moire, already in July 1940, as noted in the newly published Göring catalogue in France, they were not processed by the ERR in the Jeu de Paume

¹⁵ Gos. Ermitage: "Peremeshchennoe iskustvo," p. 233, doc. 54; p. 274, doc. 63; see France, *Repertoire des biens spoliés en France durant la guerre* (Berlin, 1947), vol. 2, p. 74, no. 1206; from OBIP claim, no. 32.129. That listing is confirmed in the Georges Wildenstein claim held in AMAE in La Courneuve.

with some of the other parts of the Wildenstein Collection. Hence do not appear or in the extant ERR inventories of the Wildenstein Collection in our Jeu de Paume Internet database (<http://www.errproject.org>). The Opie painting does nonetheless appear as no. 33 on an extant German list of the paintings seized from the Château de Moire on behalf of the ERR on 2 August 1940.¹⁶

When I wrote to thank the Hermitage for the volume of documents, I again requested access to more sources in the museum. I was very pleased to be admitted for archival research on the Koch Collection for a week in June 2015. My receiving consultant, Anna Aponasenko, who had herself compiled the 2014 volume of documents, showed me the original files used for the publication and a few additional ones. While the visit provided important verification of the archival context and enabled further discussion, I found few more details to advance my inquiry. The investigation became more complicated, when Aponasenko explained that the paintings received with the Koch Collection had not been officially registered in museum acquisition registers because they were considered returned Soviet property. Also perplexing, the Hermitage did have copies of the crate lists for that arriving shipment, and Aponasenko told me she had been unable to find such documentation elsewhere.¹⁷

Even before my arrival, I had formally requested permission to examine the paintings involved, which would obviously be crucial in verifying their identity and provenance. During my June visit, however it was explained that the paintings I requested were “temporarily unavailable” in an offsite location where they were undergoing preservation. Optimist that I am, and still persistent, I came away with some hope that it would be possible to return in 2016 to continue my investigation. Particularly given current sanctions, counter-sanctions, and the burgeoning new Cold War with the West on many

other fronts, what research and discussion was possible in the museum world in the summer of 2015 was nonetheless indeed encouraging.

Even before full identification and provenance attribution is possible for those paintings listed in the Koch Collection deposited in Weimar my investigation is nonetheless proving an important example of the possibilities of East-West cooperation in the identification of still ‘displaced’ art from the Second World War. Besides, on a more general level, analysis of the Koch Collection raises attention to several important themes often overlooked in recent study of Nazi art looting and restitution issues, particularly involving the former Soviet Union.

(1) The Koch Collection is a prime example of the pan-European dispersal of important works of looted art during the war and its aftermath, which needs more serious attention today. To be sure, dispersal in Eastern Europe and across the oceans beyond is true for the sources needed for provenance research as well.

One blatant example was a group of four Canaletto paintings from the Jacques Goudstikker Collection, last exhibited in the Stedelijk Museum in Amsterdam in 1934; ‘sold’ to Göring, and then by Göring to Erich Koch and transported to Königsberg; all four were deposited together in Weimar in 1945. The latest edition of W.G. Constable’s *Canaletto* catalogue raisonné considers the four as being “by the same hand... from the school of Canaletto,” and reports one in a private collection in London. Although Constable noted “present location unknown” for the other three, two are probably in the Hermitage (one listed specifically by title in Hermitage published documents), and the fourth one was last rumored in private hands elsewhere in the former Soviet Union.¹⁸

16 The Opie is numbered 33 on the German list of seizures from Moire (2 Aug. 1940), National Archives of the United States in College Park, MD (NACP), RG 242: series: Records of the German Military Commander in France (NAID 7891226). Cf. Nancy H. Yeide, *Beyond the Dreams of Avarice: The Hermann Goering Collection* (Dallas: Laurel Publishing, 2009), A1059.

17 I am very grateful to Anna Aponasenko for assistance and consultations during my visit. Given the apparently lack of information about the paintings received with the Koch Collection, I proposed further collaboration for an eventual enhanced Russian edition of my study of the collection when further examination of the paintings themselves becomes possible.

18 W.G. Constable, *Canaletto: Giovanni Antonio Canal, 1697–1768*, 2nd edn, revised by J.G. Links, 2 vols. (Oxford/New York: Clarendon Press, 1989). (A) *Piazza Santa Margherita* (=Goudstikker #2166), reportedly received by the Hermitage, 1949; (B) *Il Campo di San Polo* (=Goudstikker #2165) reported by Constable in a London private collection; (C) *Isola San Giorgio* (=Goudstikker #2167) and (D) *La Riva degli Schiavoni* (=Goudstikker #2168) present location as yet undetermined. Yeide, Goering, A332, A333, A378. A379.



Fig. 6. School of Canaletto (Giovanni Antonio Canale, 1697–1768), *Four Views of Venice*, from the Collection of Jacques Goudstikker, Amsterdam; last exhibited together at the Stedelijk Museum, Amsterdam, 1934. Passed to Hermann Göring and then to Gauleiter Koch, 1940. Evacuated to Weimar, February 1945, and subsequently dispersed. Images from *Catalogue de la Collection Goudstikker, No 36 (1928–1929)*, Nos. 9–12; Courtesy of the Fine Arts Library, Harvard University.

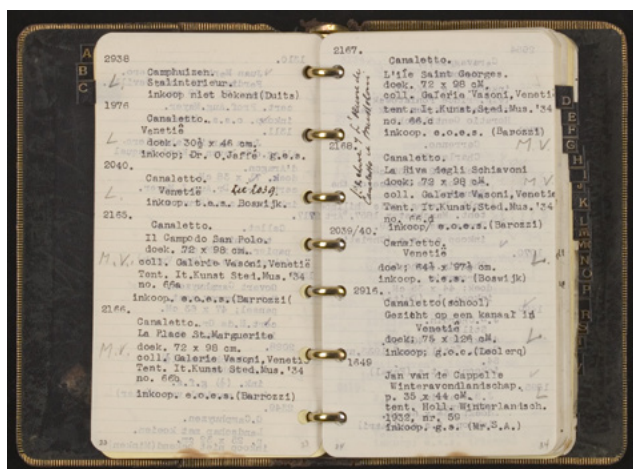


Fig. 7. Goudstikker's pocket catalogue of his collection, the Black Book, here open to the page with *Four Views of Venice* by the School of Canaletto (Fig. 6), nos. 2165–2168. Image from the original, courtesy of the Amsterdam City Archives

A second example are two paintings owned by Georges Wildenstein – portraits of the Count and Countess d'Arlincourt by the eighteenth-century Swedish portrait painter Alexander Roslin (1718–1793). The *Portrait of Countess d'Arlincourt*, seized for the ERR from the château de Moire in August 1940, was transferred to Göring soon after, and sometime thereafter to Erich Koch, presumably in Königsberg. Listed with the February 1945 Koch Weimar deposits, following presumed seizure from the Weimar Museum in April 1945, it is reportedly held in an unidentified private collection in the United States.

Meanwhile its mate, Roslin's *Portrait of Count d'Arlincourt and his Son*, was reportedly seized from a different Wildenstein source, although it does not appear in any of the Wildenstein claims examined thus far. A specialist queried in the New York Wildenstein firm recalled the two Roslin portraits and cited images in the Swedish Lundberg's *Roslin* catalogue raisonnée. Apparently, the Count's portrait avoided a detour to Königsberg for Koch, but it was nonetheless specifically named (with Wildenstein markings) in a Hermitage document listing other Koch paintings that arrived in Leningrad from Berlin in 1949.¹⁹

¹⁹ The two Roslin portraits are described and pictured by Gunnar Lundberg, *Roslin. Liv och verk*, 3 vols. (Malmö: Alhems förlag, 1957), nos. 568 and 570; images 165 and 166. A specialist in the Hermitage, who recognized the Roslin portrait of the Count, told me it had arrived from Berlin already in October 1945, but she could not furnish any documentation; a gap in its wartime provenance remains.



Fig. 8. Alexander Roslin (1718–1793), (8a) *Portrait of Count d'Arlincourt and his Son* – seized from the Collection of Georges Wildenstein, 1940; *Lundberg No. 568 (image 165)*. Subsequent gap in provenance; reported as received by the Hermitage, Leningrad, October 1945.

(8b) *Portrait of Countesse d'Arlincourt* – seized from the collection of Georges Wildenstein in Château de Moire, 1940; passed to Göring and subsequently to Erich Koch, deposited in Weimar, February 1945; last reported in a private collection in USA, 1957. *Lundberg No. 570 (image 166)*.

Images from Gunnar Lundberg, Roslin. Liv och verk (Malmö, 1957), Courtesy of the Fine Arts Library, Harvard University

These are but two examples from the Koch Collection that demonstrate the extent of migration works of art that have been magnified since the war, both involving Jewish art dealers in Western Europe.

(2) A second vitally important theme is the contrasting patterns of Nazi art-looting East and West. Nazi art looting in Western Europe was concentrated predominantly on private, and usually Holocaust-related seizures – mostly from collections of Jews who were forced to sell their art in order to flee abroad, who fled leaving art behind, or who were deported.

As examples, Koch's Western European acquisitions, most of them via Göring, came from two prominent Jewish art dealers: Jacques Goudstikker from Amsterdam, who died in an accident aboard the ship that was carrying him and his family to safety the same day Göring's Luftwaffe bombed Rotterdam, and Georges Wildenstein from Paris, who managed to flee to New

York. In both cases the Jewish firms were aryanized and continued to operate in the active wartime art market. There are still seven more so far only partially identified paintings allegedly from France that apparently were sold to Koch in Königsberg by Göring's favorite Munich dealer Walter Bornheim, but their provenance requires further investigation.

Significant Nazi art loot on the Eastern Front, by contrast, at least within the pre-1939 Soviet borders, came from Soviet state collections. Some of those, such as those from Kyiv mentioned at the outset in this case study, included major prerevolutionary collections that had been nationalized and dispersed during the Soviet regime, when rights to private property had been abolished. A prime example here is the collection of Bohdan and Barbara Khanenko. Today, the museum in Kyiv that was the source of most of Koch's Kyiv seizures bears their name, as the most prominent prerevolutionary Ukrainian collection; even today, the museum still occupies the building that was their prerevolutionary home.

(3) A case study of the Koch Collection highlights still another theme: With recent attention to the Gurlitt Case and the frustrations with German procedures and delay in the full and transparent identification of provenance for most of the paintings, many western specialists, and particularly the press, tend to forget about the many paintings still unidentified and lack of transparency further East (perhaps in face of the Russian legal ban on restitution to Germany). Western art specialists and Western museums need to find ways to work more closely with their Russian, Belarus, and Ukrainian counterparts, as the German-Russian Museum Dialogue program has been trying to do. The Russian ban on art loans to the United States in connection with the Chabad case, and now most recently to Sweden, where a planned loan of 40 Chagall paintings for an exhibition in Stockholm was cancelled in September 2015 in connection with the decision of the Permanent Court of Arbitration in the The Hague in the Yukos case. Such cancellations are making as many difficulties for Russian museums as they are for museums abroad. In my opinion we need dialogue and cooperation instead. Identification of more wartime and postwar 'displaced art' will succeed only through collaborative efforts East and West, and through international cooperation in provenance research.

(4) As to hopes for possible restitution, the East–West divide still remains in sharp contrast, unfortunately even including Poland, despite its

membership in the European Union. When captured cultural valuables from ‘the West’ surface and are identified in ‘the East’, and even those seized from Holocaust victims, finding ‘just and fair solutions’ for their restitution still remains virtually impossible. That is compared to paintings that surface in other countries further ‘West,’ and even here in the Czech Republic.

As an example, I include an image of the only painting I have actually seen that Reichsmarschall Hermann Göring sold to Erich Koch, following ‘purchase’ from Jacques Goudstikker in Amsterdam – *Landscape with a Peasant Farm*, or now in Polish *Huts on a Canal* (*Chałupy nad kanałem*), by Jan van Goyen (1595/96–1656). Although Göring’s sale to Koch is documented, transfer documents to Danzig have yet to be found. Acquired by the Danzig art museum c.1941, it is pictured in an illustrated volume of wartime acquisitions (many purchased on the Dutch art market) by the German wartime director, Willi Drost. According to museum records it was evacuated from Danzig twice during the war. Although apparently never in Königsberg, like some of Koch’s other Nazi-looted paintings, it did make a trip to the Hermitage. Seized by a Soviet trophy brigade from its second Danzig evacuation site in Schloss Friedrichstein near Gotha, it was taken to Leningrad at the end of the war.²⁰ Returned to Poland in 1956, it is now on display in the National Museum (Muzeum Narodowe) in Gdańsk.

20 Goudstikker BlackBook #1692; Yeide, Goering, C29; Willi Drost, *Die Danziger Gemäldegalerie: Neuerwerbungen 1940/41* (Danzig: Verlag A.W. Kafemann, 1943), p. 8 (image, p. 13). Danzig museum evacuation list (1944) to Gotha-Reinhardtsbrunn, and return list from the Hermitage (1956). See Grimsted, “Nazi-Looted Art from East and West in East Prussia,” pp. 26, 30–33.



Fig. 9a. Jan van Goyen (1595–1656), *Huts on a Canal* (Polish, *Chałupy nad kanałem*) or *Landscape with Peasant Farm* (=Goudstikker #1692); acquired by Göring in 1940, following seizure of the Goudstikker Gallery in Amsterdam; sold to Gauleiter Koch, Danzig. Now exhibited in the National Museum (Muzeum Narodowe) in Gdańsk.

Fig.9b. Goudstikker label on stretcher (Goudstikker BlackBook #1692)
Images courtesy of the Muzeum Narodowe, Gdańsk

Thanks to follow-up contacts from the Podebrady conference, I was invited to visit Gdańsk, where I learned more about the wartime and postwar migration of the Van Goyen painting, still bearing the label of Goudstikker provenance. In that connection I must again thank our Czech hosts for providing a continuing forum for such discussion and contacts.²¹

Regrettably, however, there still appears to be no viable procedure for a ‘just and fair solution’ and restitution to the Goudstikker heirs now resident in the United States of that painting seized by Göring in the Netherlands, and now held by a state museum in Poland. The Polish Ministry of Culture may suggest a legal appeal in such a case. But how could a Polish court provide a ‘just and fair solution’, when – if I understand the situation correctly – Poland still lacks a law – and a viable process for claims – providing for restitution to Holocaust and other Nazi victims at home or abroad of art and other cultural objects now held in Polish state museums.

The seemingly difficult road to restitution for that Van Goyen contrasts sharply with the case of a seventeenth-century Dutch painting that surfaced recently in the Netherlands. Consigned to auction in Amsterdam in 2011,

21 I am grateful to Kamil Zeidler and his father Mirosław for arranging my visit to Gdańsk.

Arcadian Landscape with Dancing Nymphs by Cornelis van Poelenburgh (1586–1667), was identified as having been seized in a state museum in Kyiv, as listed in the German database *lostart.de*. As the Germans were retreating from Ukraine in September 1943, it was listed in their receipt for paintings they took to Kamianets-Podilskyi in southeast Ukraine with its Kyiv museum registration number. It was likewise listed in the first crate of paintings that Erich Koch ordered shipped to Königsberg in December 1943.²²



Fig. 10. Cornelis van Poelenburgh (1586–1667), *Arcadian Landscape with Dancing Nymphs*, Painting from the prerevolutionary Khanenko Collection in Kyiv, seized by Germans in September 1943 and shipped to Königsberg in December 1943. Returned to the Khanenko National Museum of Art in Kyiv in April 2014.
Image courtesy of the Khanenko Museum, Kyiv..

When confronted with appropriate documentation, a private arrangement, considered as a ‘just and fair solution’, albeit a private one with a modest repurchase price, ensured its return to the Khanenko National Museum in Kyiv

22 The shipments from Kyiv to Kamianets-Podilskyi, 23 September 1943 and then to Königsberg on 11 December 1943 are documented in Grimsted, “Art and Icons Lost in East Prussia,” JGO; the inventory for the 47 crates shipped entitled “Verzeichnis der aus dem Landesmuseum Kiew nach Kamenez-Podolsk verbrachten und nach Königsberg weitergeleiteten Kunstgegenstände,” became part of the Nuremberg series, NG-4353, available on *NARA Microfilm Publication T-1139/roll 44*, the Poelenburgh was listed with registration #2610 in the first crate, numbered MW-1. A prerevolutionary image is found in an initial printed signature of an early 20th c. unfinished album of the Khanenko Collection, covering the Dutch paintings – *Tableau des écoles nederlandaises* (Kiev, 1911–1913), p. 51, with the title in French as *Sylène et bacchantes dans un payage*. That image, a small version of which appeared in the *Catalogue of Works of Western European Painters Lost During Second World War*, by O. Roslavets et al (Kyiv: ComPolis, 1998), pp. 60–61, accompanies the Ukrainian listing in *lostart.de* ID: 237262, which helped curator Olena Zhykova (now deputy director for science) substantiate the Kyiv claim.

in April 2015, even at the height of the Ukrainian crisis.²³ This Poelenburgh is the first Nazi-seized painting Koch ordered to Königsberg that has been returned to Kyiv. None of the other paintings from the Khanenko Museum that Koch ordered to Königsberg have returned home to Kyiv, including those retrieved by SVAG in Weimar. Somehow the Poelenburgh’s dancing nymphs were miraculously saved from the fate of the other paintings that were destroyed in Wildenhoff in February 1945, but their migration route to Western Europe has yet to be determined.

While alas, I must conclude as I did in Podebrady that we are still much too far from a ‘United Europe’ with respect to provenance research as a potential antidote to wartime plunder and as an aid to identification of still ‘displaced’ cultural valuables. Alas too many countries, even those in the European Union, and even those most anxious to retrieve their own wartime losses and see their ‘displaced’ art returned from abroad, lack adequate attention to identification and provenance research for ‘displaced art’ in their own museums.

And even more serious in terms of potential restitution, too many countries that have signed on to countless international resolutions calling for open archives and restitution to victims of the Holocaust, among other Nazi victims, still lack adequate and streamlined legal procedures for claims from victims of wartime art seizures or loss, be it claims from Holocaust victims in the West and Central Europe, or be it claims for losses from state museums in Eastern Europe and the now independent countries of the former Soviet Union.

23 See the announcement of the return: “Do Muzeiu Khanenkiv povertaet’sia vtrachena kartina” at <http://artukraine.com.ua/n/do-muzeyu-khanenkiv-povertayetsya-vtrachena-kartina#.Vb9JGChSYyG-> with a colored image of a related Poelenbourg painting. The return was made possible through the generosity of Peoples’ Deputy, and head of the Ukrainian Jewish Committee, Oleksandr Feldman. See also the article about the painting by the Khanenko Museum deputy director Olena Zhykova, “Zabuty nemozhna, povernuty!” at <http://aej.org.ua/exhibitions/1654.html>

Authors

Dr. Thierry Bajou

Chief Curator, Thierry Bajou worked at the Versailles Palace between 1988 and 2000 where he was responsible for the paintings of the seventeenth century. Between 2000 and 2005, as a researcher at the National Institute of History of Art (INHA) he worked on a catalogue of French paintings from the Primitives to the late eighteenth century, preserved in museums in Central European Countries.

From 2005, he was joined the central administration of the Ministry of Culture) before being in 2008, on his request, in charge of the claims of looted cultural items, including the «MNRs».

Besides studying the claims that reach the administration, which led to the recent return of 14 MNRs, he updated the website of the «MNRs», now called Rose-Valland, with the addition of digitized documents. Thus we can find the «Matteoli Report » prepared in 2000, which studied the looting system in France and suggested recommendations to the French government, the scan of the Répertoire des Biens Spoliés, published in 1947-1949 identifying confiscated property claims submitted by individuals to the Commission de Récupération Artistique (Artistic Recovery Commission), including copies of several volumes annotated by the Administration and reporting on the closing of files, a study of a set of photographs taken by the Germans at the jeu de Paume in Paris showing the looted works of Art with the identification of most of the visible works. Other publications and documents added online next (the Kümmel Report, study on the « Aulnay Train», the last shipment of works of art organized in August 1944 by the Nazis and blocked in Paris suburbs by the Resistance on Rose Valland informations ...).

He raised up a research program focused on Paris Auctions catalogue between 1938 and 1950; this programm is supported by the Foundation for the Memory of the Shoah and carried out by Emmanuelle Polack at the National Institute of Art History. This research will be soon available online, probably during the summer of 2015.

Since late 2013, he is a member of the « TaskForce » Gurlitt.

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is a student at the National University of Ireland. She works on the doctoral thesis “Nazi-era provenance and the Portuguese art market, 1933-1945” under the supervision of Prof. Filipe Ribeiro de Meneses.

In 2000, she received an M.A. Joint Honours in History & History of Art from the University of Edinburgh. She also holds an MA degree in Near Eastern studies with Concentration on Museum Studies from New York University, E.U.A. (2002), where she defended a thesis ‘Allah in the Museum – exhibiting Islamic Art’.

Inês Fialho Brandão has extensive experience in international work resulting from her museum work, where she held a number of positions, including managerial position at the Santa Marta Lighthouse Museum (2010-2011) and the Cascais Municipal Museums (2009). She also worked as a curator of museum exhibitions in Casa-Museu Dr. Anastácio Gonçalves (2007-2008, 2010), Museum of Portuguese Music (2009) and Cascais Cultural Centre (2009).

She regularly gives lectures at local and international conferences, mainly in the field of Nazi-era provenance and Portuguese art market.

Among other publications she has also edited or/co-edited several exhibition catalogues: *Coleccionar para a Res Publica, O Legado do Dr. Anastácio Gonçalves*, Instituto dos Museus e Conservação (co-editor, 2010); *Colecção António Olmos, Câmara Municipal de Cascais* (co-editor, 2009); *Multiple Voices on Art and Islam*, Instituto dos Museus e Conservação (editor, 2007).

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After graduation, she has held multiple postdoctoral positions, including a prestigious DAAD Stipend in Berlin (2011) and a Research Fellowship at the University of Bologna (2013-2014).

Dr. Cavarocchi is the author of more than thirty academic publications, including four books: *La comunità ebraica di Mantova fra prima emancipazione e unità d'Italia*, prefazione di Corrado Vivanti, Firenze, Giuntina, 2002; *Avanguardie dello spirito. Il fascismo e la propaganda culturale all'estero*, Roma, Carocci, 2010; *Firenze in guerra. 1940-1944* (ed. with V. Galimi), Firenze, Florence University Press, 2015; *Giorgio Castelfranco. Un monument man poco conosciuto*. Firenze, Museo Casa Siviero, 31 gennaio – 31 marzo 2015 (ed. with A. Cecconi), Pisa, Pacini, 2015.

Nawojka Cieślińska-Lobkowicz

Nawojka Cieślińska-Lobkowicz has worked as an art historian, curator and freelance researcher. She is an expert on the history of Polish and Jewish looted art and libraries, post-war restitution and issues of provenance. She has published on the history of Nazi plundering and on various issues relating to restitution in Polish and international publications and is currently completing a book dealing with the art market in occupied Cracow, Warsaw and Lviv.

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Sophie Cœuré is Professeure des Universités (Full Professor) at the University Paris 7 Denis Diderot, Director of the Master (MA) in History and Comparative civilizations, Assistant director of the Research Center Laboratoire Identités, cultures, territoires and Associate researcher to the CERCEC (Centre d'études des mondes russe, caucasien et centre-européen, EHESS – CNRS Paris). Her research interests include Russian and European diplomatic, cultural and intellectual History (20th century), Communism in a globalized world, Cultural diplomacy, Western reception of Soviet experience, Communism and French intellectuals, comparative political and cultural History of Archives.

Most recent books: *La mémoire spoliée. Les archives des Français, butin de guerre nazi puis soviétique (de 1940 à nos jours)*, Paris, Payot, 2007, 270 p., Paperback new edition 2013. Prize-winner, Prix Henri Hertz de la Chancellerie des Universités de Paris. *'Cousu de fil rouge'. Voyages des intellectuels français en Union soviétique. 150 documents inédits des archives russes*, dir. et préface par S. Cœuré, R. Mazuy, CNRS Editions, Paris, 2012, 337 p. *Pierre Pascal, La Russie entre christianisme et communisme*, Lausanne, Noir sur Blanc, 2014, 416 p. *Pierre Pascal, Journal de Russie (1928-1929)*, éd. par J. Catteau, S. Cœuré, J. Bouvard, Lausanne, Noir sur Blanc, 2014, 770 p.

Selected papers about looted cultural properties « Архивы в СССР: культурное наследие империи или памятник революции? Размышления о судьбе французских "трофейных архивов" в Советском Союзе после Второй мировой войны », *Ab Imperio, Studies of New imperial*

history and nationalism in the Post-Soviet Space, 3-2007, p. 371-401.

« Les Archives nationales, l'Occupation et les spoliations d'archives à Paris. Prises de conscience et retours d'expériences (1940-1949) », in A. Sumpf, V. Laniol (dir.), *Saisies, spoliations et restitutions. Archives et bibliothèques au XX^e siècle*, Rennes, Presses universitaires de Rennes, 2012, p. 179-198. « Le moment 1940 dans les archives publiques françaises: quel enjeu pour les contemporains? », in B. Fonck, A. Sablon du Corail, 1940, *l'empreinte de la défaite. Témoignages et archives*, Rennes, PUR, 2014, p. 27-41. « Archives dans les guerres, guerres des archives aux XX^e et XXI^e siècles: autorité, identité, vulnérabilité », *Pouvoirs*, n°53, 2015, p. 25-36. "Protéger, perdre, oublier ses archives dans la Défaite: une comparaison France 1940 – URSS 1941", Actes du colloque "Mai-Juin 1940, un trou noir mémoriel?", to be published, Ed. Riveneuve, 2015.

PhDr. Václav Erben

1973 – 1978 Faculty of Arts of the Charles University in Prague, Arthistory – Czech language

1980 – 1997 National Gallery in Prague, Dept. of modern plastic art and modern art with the focus on the European and Czech modern plastic art

1997 – 2000 Gallery of city of Prague, Dept. of painting, public relations

2001 – 2011 researcher of Documentation Centre

2012 – till now – researcher of Documentation Centre, p.b.o.

He is focused on processing archives documents on the works of art and their processing within the database "Works of Art", searching in the inventory files in galleries, with emphasis on the National Gallery in Prague and he is also in charge of the identification of the artworks from the confiscated Jewish collections deposited in these institutions.

PhDr. Jan Gebhart, DrSc.

Graduated from the Faculty of Arts at Charles University in Prague. He worked in the Historical Institute of the Czech Academy of Sciences of the Czech Republic, previous to that he worked in the Commission for Issuing the Certificates according to Act No. 255/46 Sb., also in the Military History Institute. He is focused on the Czech and Czechoslovak history between 1930 – 1945 with the specialization in the resistance movement in this country and abroad, occupation régime and Protectorate administration. In the year 2010 received DrSc. university degree.

Dr. Patricia Kennedy Grimsted

is an Associate of the Davis Center for Russian and Eurasian Studies and a Senior Research Associate at the Ukrainian Research Institute at Harvard University and an Honorary Fellow of the International Institute of Social History (Amsterdam). She received her Ph.D. in Russian history at the University of California (Berkeley) in 1964 and has taught at several universities. Among many fellowships and awards, she also received the Distinguished Contribution to Slavic Studies Award from the American Association for the Advancement of Slavic Studies in 2002.

She is the West's leading authority on archives in the former Soviet Union, and is the author of several historical monographs, documentary publications, and a series of directories and related studies on Soviet-area archives, including the comprehensive collaborative edition, *Archives of Russia: A Directory and Bibliographic Guide to Holdings in Moscow and St. Petersburg* (Russian edn, 1997; English edn, 2000). She continues to direct the English version of ArcheoBiblioBase, an Internet directory of Russian archives, maintained by the International Institute of Social History (Amsterdam), in collaboration with the State Public Historical Library (GPIB) in Moscow.

Over the last two decades she has become a major authority on displaced cultural treasures from the Second World War and restitution issues. She has been consulting for the Jewish Claims Conference, as author of *Reconstructing the Record of Nazi Cultural Plunder: A Guide to the Dispersed Archives of the Einsatzstab Reichsleiter Rosenberg (ERR)*, Internet edn Amsterdam:

IISH, 2011; revised edn, 2015– at www.errproject.org. Her wide range of publications in this field include the monograph *Trophies of War and Empire: The Archival Legacy of Ukraine, World War II, and the International Politics of Restitution* (Cambridge MA, 2001). She is editor and major contributor of *Returned from Russia: Nazi Plunder of Archives in Western Europe and Recent Restitution Issues* (Institute of Art and Law, UK, 2007; paper edn with PKG 'Afterword'–2013); and *Spoils of War v. Cultural Heritage: The Russian Cultural Property Law in Historical Context*, published as *International Journal of Cultural Property* 17, no. 2 (2010). Her full bibliography of related publications can be found at: <<http://socialhistory.org/en/russia-archives-and-restitution/bibliography>>.

Mgr. Jakub Hablovič

In 2014 he graduated from the Faculty of Law, University of West Bohemia. During his studies he was a member of a working team on the project "Legal situations during the Nazi occupation and its consequences", where he was dealing with the refugees and he also presented that subject at several conferences and had his papers published.

Mgr. Pavel Hlubuček

is the director of the Department of Museums, Galleries and Preservation of Movable Cultural Heritage of the Ministry of Culture of the Czech Republic. He worked as a chief and also an expert in institutions such as the Heritage Institute in Pardubice, the District Council in Semily and the Royal Canonry of Premonstratensians in Prague. Mr. Hlubuček's focus was mainly in the area of the furnishing funds management and museums' collections. Pavel Hlubuček is systematically occupied by topics of maintenance of the movable cultural heritage and ways of its presentation in historical objects. As a co-author, Mr. Hlubuček has been working on the national strategic documentations regarding the cultural heritage. He is a member of interdepartmental committees and committees of museums. Pavel Hlubuček is also an educator and a co-investigator in educational programmes about cultural heritage and UNESCO.

Dr. Meike Hoffmann, Ph.D.

Meike Hoffmann received her PhD for a dissertation on the German artist association Die Brücke. After working at the Brücke Museum in Berlin as research curator for five years, she worked as a freelance art historian, writer and curator. In 2006 she joined the “Degenerate Art” Research Center at Free University.

The main and ongoing project of the research center is the creation of a complete register of the works of „Degenerate Art“ confiscated from German museums in 1937. This Inventory of confiscated works has been produced as a database and is accessible via the Internet in German as well as in English (<http://www.entartetekunst.geschkult.fu-berlin.de>). It features a comprehensive and differentiated information source on the confiscation campaign of “Degenerate Art” for provenance researchers and museum staff.

2010–2012 Meike Hoffmann was part of the research project on the so called Berlin Sculpture Trove. In advance of underground construction works in front of the Red Town Hall in Berlin 16 sculptures banned by the Nazis as „Degenerate Art“ were uncovered from the bombed-out cellars of a Berlin house destroyed during World War II. Together with archaeologists, archivists and museum curators she researched the fate of the sculptures during the Third Reich, organized an internationally respected Conference and edited the results in a publication.

At FU Meike Hoffmann has also held a teaching position since 2007. The Center’s research work is closely connected with the courses taught at the Department. Seminars are offered on varying topics from the research field. She together with colleagues from the international working group of provenance researchers has furthermore developed a new course of study for provenance research, which has been offered as the first worldwide of its kind at the Freie Universität since 2011 frequently.

In 2012, she was commissioned by the German government to research the owner provenances of the modern art works found in the Munich art trove of Cornelius Gurlitt. In November 2013, she became an official member of the Task Force „Munich Art Trove“.

JUDr. Vilém Knoll, Ph.D.

Since 2000 he is a member of the Department of Legal History at the Faculty of Law, University of West Bohemia from which he also graduated in 2000 (Ph.D. in 2006). He is interested in legal history, mainly the medieval criminal law and medieval administration. He regularly publishes in the Czech Republic as well as abroad. During 2012 – 2014 he was a leader of the student research project “Legal situation during Nazi occupation and its consequences”.

JUDr. Tomáš Kraus

Graduated from Charles University, the Faculty of Law. Already at the times of his High-School studies he was active in the cultural life of the Czech capital, mainly in the Jazz Section of Musicians’ Union. He was in charge of the production of the Prague Jazz Days and other festivals, he contributed with articles and interviews to Jazz Bulletin and other magazines. The Jazz Section was persecuted by the Communist régime and became a part of the Czech disident movement.

After the graduation he worked for the Czech national record company Supraphon where he was in charge of exports, music production and, from 1984, headed the Music Video Department.

In 1985 Art Centrum, a Czech agency for creative artists, offered him a position of a project manager at EXPO 86 World Exhibition, later he became the assistant of the General Manager and then the head of commercial department of audiovisual presentations, advertising, exhibitions and architecture.

In 1990, together with Dr. Galský, he participated in revitalizing the life of the Czech Jewish community after the Velvet Revolution. In 1991 he was appointed the Executive Director of the Federation and in this position he paid attention to rebuilding the whole infrastructure of Czech Jewish Communities, from religious life to property management. His main task was, however, to negotiate for the return of Jewish property and for compensation for Holocaust survivors. Both parents of Dr. Kraus were Holocaust survivors.

He regularly publishes articles in Rosh Chodesh, a monthly of the Federation,

and in other newspapers and magazines.

For many years he has been cooperating with the Documentation Centre and in January 2012 he became the Chairman of the Board of Directors. He is also the Supervisory Board Chair at the European Shoah Legay Institute.

PhDr. Helena Krejčová

graduated from the Faculty of Arts, Charles University (ethnography – history)

1976 – 1990 Literary Archives of the Museum of Czech Literature

1991 – 2000 Institute of Contemporary History of the Czech Academy of Sciences, head of the Jewish Studies and Documentation Centre

2010 – onwards director of Documentation Centre

She is co-author of seven books.

Prof. JUDr. Jan Kuklík, DrSc.

graduated from the Faculty of Law at Charles University in Prague and received his doctoral degree (JUDr.) in 1989. In 1991-1992 he attended Oxford University as a visiting graduate student. He finished this postgradual doctoral studies with receiving doctoral degree (Dr.) in the field of legal history and the theory of law. Four years later he became a senior lecturer in Czech and Czechoslovak Legal History. In 2001 he gained a DrSc. university degree and since 2005 he has been a professor of legal history. He currently works as the Dean at the Faculty of Law at Charles University in Prague, professor at the Department of Legal History at the Faculty of Education at Charles University in Prague and also as the director of the Institute of Legal History.

He was a member of many scientific institutions for example the Coordinating Council of the Czech-German Discussion Forum (2003), the Scientific Council

of the Institute for the Study of Totalitarian Regimes (2008-2013) and the Scientific Board of the Faculty of Education at Masaryk University in Brno and Faculty of Education at University of West Bohemia, Plzeň (2014). Currently he is a member of the Scientific Council of the Faculty of Law, a commission for awarding DSc. Degrees in the field of Law, the Institute of State and Law of the Czech Academy of Sciences and the Council of the Institute of History of Sciences at the Czech Academy of Sciences.

He has taught master's and doctoral programs at the Bratislava School of Law (2006 - 2012) and participated in the US State Department project International Visitor Leadership Program (IVLP) focused on legal education at American universities (2007).

Since 2007 he has participated in 7 projects of the Czech Science Foundation (in 3 cases as a principal investigator or co-investigator), 1 project GA ČR of the Czech Science Foundation (co-investigator) and was the principal investigator of the European project OPPA (Operational Programme Prague – Adaptability) – Law Practise.

He currently works as the principal investigator in the project of the Czech Science Foundation „ the Minutes of the Exile government meetings and the project NAKI (Applied research and development of national and cultural identity) of the Ministry of Culture of the Czech Republic, devoted to the legal status of minorities.

In 1999 he was part of the expert team for issues of the Aryanization of Jewish gold which prepared a report for a mixed expert commission headed by the Deputy Prime Minister P. Rychteský (published as a book in Czech and English under the title Jewish Gold and Other Precious Metals, Precious Stones, and Objects Made of them, in the Czech Lands in the Years 1933 to 1945, Praha, Sefer 2001).

He also publishes and in 2012, 2013 the books Znárodně Československo (Nationalized Czechoslovakia) and Dlouhé stíny Mnichova (The Long Shadows of Munich), where he is one of the authors, were appreciated as two of the most important scientific monographs issued by Charles University. The monograph Osvobozené Československo očima britské diplomacie (Liberated Czechoslovakia through the Eyes of British Diplomacy) won a special award of the Rector of Charles University in Prague in 2011.

Mgr. Jan Machala

Mgr. Jan Machala works at the Institute for the Study of Totalitarian Regimes – Department of Research in the period 1938–1945. He is the guarantor of the project examining the application of anti-Jewish measures in the Protectorate practice. His most recent published studies: „Unbearable Jewish Houses of Prayer“. The Nazi Destruction of Synagogues Based on Examples from Central Moravia. In: *Judaica Bohemiae* No. 1 / 2014; Účast židovských vojáků v československých jednotkách na východě v roce 1943. In: *Válečný rok 1943 v okupované Evropě a v Protektorátu Čechy a Morava*. Praha, ÚSTR 2014.

Doc. JUDr. PhDr. Pavel Maršálek, Ph.D.

Doc. JUDr. PhDr. Pavel Maršálek, Ph.D. (1970) teaches Theory of Law and Political Science at the Faculty of Law, Charles University, Prague. Another field of study he is interested in, is History of Law. He has written two books on the history of the Nazi occupation of the Czech Lands, a book about the relation between law and society and a number of articles in academic journals and anthologies.

Dr. Antonija Mlikota

is working as Senior Teaching Assistant at the Department of Art History, University of Zadar in Croatia. In 2013 she completed her Ph.D at Zagreb University in Art History, History of Architecture and Urbanism the subject of her thesis being *Renovation and Construction of the Historic Center of Zadar after the Devastation in World War II*. She is interested in the 20th-century Art and Architecture, especially the life and work of textile designer Otti Berger (at first she was a student and later a teacher at Bauhaus school in Dessau), who after the war spread in Zadar, focused her attention on provenance research and transfer of cultural goods in ex-Yugoslav region before and during WW II (with the key research focused on the transfer of moveable Collection from the Museum of St. Donatus in Zadar to Italy during WW II). During the past six years she has been giving lectures on 19th and 20th-century Art and Architecture in Europe and Croatia to undergraduate and graduate students.

Mgr. Michal Nosek

Education

1990 – 1992 study abroad (Israel)

2004 – 2009 Hussite Theological Faculty, Charles University, Jewish Studies

Working experience

1. 2. 2002 – 31. 12. 2011 – Institute for Contemporary History – Documentation Centre for Property Transfers of Cultural Assets of WW II Victims

from 1. 3. 2012 - Documentation Centre for Property Transfers of Cultural Assets of WW II Victims, p.b.o.

Dr. Agnes Peresztegi

Has been the Executive Director of the Commission on Art Recovery, Europe (“Commission”) since 2001. Dr. Peresztegi has over 20 years of experience regarding Holocaust era property claims, giving advice to non-profit organizations representing survivors and heirs, including working on all issues related to restitution/compensation for human rights violations committed against Hungarian Jewry during WWII. As a member of the Commission, Dr. Peresztegi is responsible for Holocaust era looted art claims, including assisting the Commission in pressing for meaningful changes in the way in which European countries identify and publicize problematic art and arrange for its return to the rightful owners; coordinating and evaluating research projects in Europe, in the United States and in Israel; drafting legal documents and briefs, developing and organizing case files for looted art litigation in Hungary and in the United States, and for claims in other European countries, including Germany, UK, France, Poland, the Czech Republic and Slovakia, and also for Russia. Dr. Peresztegi is a Member of the Advisory Council for Nazi-Confiscated and Looted Cultural Property of the European Shoah Legacy Institute (“ESLI”), and she has been a legal instructor at the Provenance Research Training Program of ESLI. In addition, Dr. Peresztegi, is also a member of the „Schwabing Art Trove“ Task Force, established to assist with the review

of the artworks found in Mr Gurlitt's home, which may have been confiscated by the Nazis from their owners. Dr. Peresztegi is licensed to practice in New York, in Hungary and in Paris.

Mgr. Johana Prouzová

Mgr. Johana Prouzová (*1986) studied German and Hebrew philology at the Faculty of Arts, Charles University, Prague and graduated in 2013. For a long time she has worked for the Documentation Centre, where she has been employed as a researcherv since her graduation. In 2014 she took part in a workshop at the the Summer School in Holocaust Studies in Jerusalem, organised by the EHRI (European Holocaust Research Infrastructure). Nowadays she is dealing with the provenance research in the Museum of Decorative Arts in Prague with PhDr. Helena Krejčová and other colleagues.

PhDr. Mgr. Martin Riessner, Ph.D.

is the director general of the Moravian Museum, a university teacher, literary and art historian, reviewer and publicist.

He graduated from the Faculty of Engineering, Tecnical University Brno and also from Faculty of Arts and the Faculty of Pedagogy, Masaryk University. In 2007 he received PhDr. degree at Masaryk University for the thesis „Czech literature for youth“ and in 2012 he finished the doctoral studies at Masaryk University (PhD.).

Since mid-1990s he has been publishing texts on the theory of culture, fine art, literature, theatre, general and motoring history in several newspapers e.g. *Slovo*, *Zemské noviny*, *Lidové noviny*, *Rovnost* and *Právo*, as well as magazines such as *Bulletin Moravské galerie*, *Detail*, *Host*, *Ladění* or *Motorjournal*. He collaborates with the *Divadelní noviny* and with the Czech Radio 3 – Vltava as a reviewer. He has worked in the editorial board of *Ladění*, a magazine dealing with theory and reviews literature for children for more than 20 years, ten years as its editor-in-chief. He has given lectures on Czech culture and literature in the Czech Republic, Germany, France, Japan,

the USA and Russia. He is the author of the papers *German Jewish literature in the Czech Lands*, *Literature of Enlightenment*, and the monograph on painter Josef Klír, co-author of the books *Dějiny umění 12 (History of Art 12)*, *Odkaz Jaromíra Tomečka (Legacy of Jaromír Tomeček)*, *Fenomén kniha (The Book Phenomenon)*, several monographs and the dictionary of Czech Children's Literature, publications on St. Cyril and Methodius issued by the Moravian Museum, reports on the results of museums research work or the exhibition catalogue of the works by Zdeněk Burian. Since the 1990s he has been working in grant awording bodies in the field of literature. Before coming to the Moravian Museum he had worked as a member of the editorial board of the Portal of Czech literature, in the Czech IBBY section, he has been board member of the children's literature section / Writers' Association and juror of the Gold Ribbon Award (Zlatá stuha) and Magnesia Litera Award. He has initiated the creation of the Centre for Cultural History of the 20th Century and is the head of the working team on the project Mendelianum – attractive world of genetics (both are part of the Moravian Museum). He is a member of the Advisory Committee of the Institute of Vertebrate Biology /Academy of Sciences. He has never been a member of any political party or movement.

Mgr. Monika Sedláková

Since 1998 she has been working in the National Archive where she is in charge of the archives documents of the German Nazi occupation administration in the Protectorate of Bohemia and Moravia. She is focused on the issue of the Aryanization of the Jewish property in the Protectorate, especially the Jewish enterprises and businesses. She is the co-author of an edition of documents concerning the forced labour of the Czech population in the Protectorate. She is also focused, together with her colleagues from the National Archive, on the representatives of the German occupation administration, especially on the Office of the Reich's Protectore in Bohemia and Moravia and German State Ministry for Bohemia and Moravia and on single „Oberlandrats“.

Dr. Ulrike Schmiegelt – Rietig

Ulrike Schmiegelt was born in 1966 in Westerstede, FRG and studied art history, Eastern European history and Slavonic studies in Kiel and Moscow. She has specialised in Russian art in the 19th and 20th centuries. After an academic internship at the Deutsches Historisches Museum Berlin and the German-Russian Museum, in Berlin-Karlshorst (1998–2000), she was a research associate for the exhibition, 'Myths of Nations', at the Deutsches Historisches Museum. In 1989-90, she curated the exhibition, 'Moments in Time – 1989/1990' at the Deutsche Kinemathek, in Berlin. She was co-curator of the 30th Council of Europe exhibition, 'The Desire for Freedom. Art in Europe since 1945' at the Deutsches Historisches Museum. Since 2012, she has been a Research Associate at the Kulturstiftung der Länder for the research project, 'Russian Museums during Second World War'. Currently she is holding the position of an academic researcher at the Central Office for Provenance Research in Hessen, based at the State Museum in Wiesbaden. Moreover she is teaching Museology at the Institute of Material Culture at the Carl von Ossietzky Universität in Oldenburg.

Her fields of interest are: Art History / Art Historians and the NS-ideology; Memory making after the Second World War /Construction of history.

Prof. Dr. Uwe M. Schneede

Born 1939. 1965 doctor degree, history of art. Director Kunstverein in Stuttgart and in Hamburg. 1985-1990 Professor Modern Art History at University Munich, 1991-2006 Director Hamburger Kunsthalle. Several books about the history of modern art and artists. Since the beginning of 2015 member of the executive board of German Center Lost Cultural Property.

Margreeth Soeting, M.A.

Margreeth Soeting graduated from the University of Amsterdam with an MA in Art History. She has been working as a researcher at the Stedelijk Museum in Amsterdam since 1990. In 1998 she participated, on behalf of

the Stedelijk Museum, in the first national provenance research project, 'Museum Acquisitions 1940-1948', and also in the second national research project 'Museum Acquisitions from 1933 onwards'. She has researched the history of the Stedelijk Museum during the Second World War which resulted in several articles, including two for the catalogue of the exhibition The Stedelijk Museum and the Second World War (27 February – 31 May 2015), of which she was one of the curators and editors.

PhDr. Jiří Šitler

is a Czech diplomat and historian, designated by the Ministry of Foreign Affairs of the Czech Republic as a Special Envoy for Holocaust Issues and Combat of Antisemitism in March 2015. He has been dealing with World War II related issues since the 1990s he worked as press and foreign policy advisor to President Václav Havel (1993 - 1997), as head of the Czech delegation at the 1998 Washington Conference on Holocaust Era Assets, he was observer at the International Commission on Holocaust Era Insurance Claims, Ambassador-at-Large for World War II related issues, and chief negotiator for the compensation of Czech Nazi victims. Jiří Šitler is a founding member of the Board of Trustees of the German Federal Foundation "Remembrance, Responsibility and Future".

He was also Ambassador Extraordinary and Plenipotentiary of the Czech Republic to Romania (November 2010 - January 2015) and to the Kingdom of Thailand, the Kingdom of Cambodia, the Lao PDR and the Union of Myanmar/ Burma (May 2001- December 2006).

PhDr. Šitler is the author or co-author of numerous essays, articles and books, especially on Czech-German relations, World War II related issues, Czech political history and South-East Asia history.

Jiří Šitler studied at the Faculty of Arts, Charles University in Prague, where he graduated in history, May 1988. In April 1990 he obtained PhDr. degree in history, also at Charles University in Prague.

He also gave lectures and spent some time studying abroad (at the Catholic University in Eichstätt and Ludwig-Maximilian-University in Munich in 1992-3) in

Germany; Italy, State Archives Venice and University of Perugia (1990, 1991, 1992); USA, German Marshall Fellowship, Woodrow Wilson Foundation Program (1995, 1996); United Kingdom, Chevening Scholarship, Thai studies at the School of African and Oriental Studies in London (1997); lectures and seminars on Czech foreign policy at Charles University, Prague (1996-2001).

Jiří Šitler was a member of the Board of Trustees of the Endowment Fund for Holocaust Victims (until 2001), the Supervisory Board of the Czech-German Future Fund (until 2012) and the Board of Trustees of the Institute of the Terezín Initiative (until 2012).

He is also a holder of several medals and awards, such as the Medal of the Czech Union of Freedom Fighters (1999), Commemorative Medal of the Union of Forced Labourers for 2004 (June 2005), Red Cross Medal of Appreciation 2nd Class (HM Queen of Thailand, October 2005), Honorary Plaque of the Czech Council of Nazi Victims (June 2006), Knight Grand Cross of the Most Exalted Order of the White Elephant (HM King of Thailand, November 2006), Cross of the Romanian Royal House (May 2012), Free Burma Rangers Meritorious Service Medal (June 2014) and Honorary Member of the Association of the War Veterans of Romania (January 2015).

JUDr. et Bc. Jaromír Tauchen, Ph.D., LL.M. Eur. Integration (Dresden)

Jaromir Tauchen has worked at the Department of History of State and Law, Faculty of Law, Masaryk University in Brno (the Czech Republic). Having taken part in a number of international school tours and international research projects, Mr. Tauchen has studied at a couple of German and Austrian Universities, e.g. Innsbruck, Dresden, Frankfurt and Vienna. His research is mainly aimed at German legal history, especially the era of the Third Reich in Germany and the history of Germans in the Czech Lands. He published his articles especially in the Journal on Legal Science and Practice (*Časopis pro právní vědu a praxi*). Further, he was a co-author of a couple of monographs published in Germany. Mr. Jaromir Tauchen is certified judiciary sworn interpreter and translator (German/Czech) and a member of the Deutsch-Tschechische Juristenvereinigung e.V. and the European Society for History of Law.

Mag. phil. Dr. phil. Imma Walderdorff

2005 MA (Art history and history): *Die primären Aufgaben der institutionellen Denkmalpflege im Kronland Salzburg*

2010 PhD (Art history): „The Archiepiscopal residence in Salzburg, under Prince Archbishop Hieronymus Count Colloredo (1772–1803/1812): Art in the Service of the Enlightenment?“, Univ. Prof. Dr. Hans Aurenhammer, University Vienna

FWF Austrian Science Fund project no. P18670-G13 „The Salzburg *Residenz* from the 16th century up to 1803“ (36 months)

FWF Austrian Science Fund project no. P 22188-G18 „Czernin Collection of Old Master Paintings“ (36 months)

FWF Austrian Science Fund project no. P 25211-G15, „Klessheim Castle as „The Fuehrer’s Guesthouse“ 1938–1945: Function and Furnishing: From a Baroque Castle to the NS Representative Residence in an international Context“ (36 months)

Anne Webber

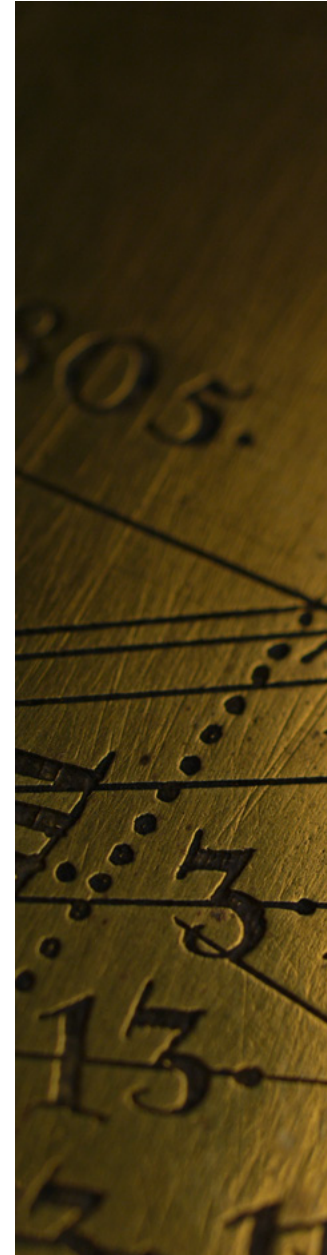
is founder and Co-Chair of the Commission for Looted Art in Europe (CLAE), the expert, non-profit representative body which researches, identifies and recovers cultural property on behalf of families, institutions and governments worldwide. CLAE negotiates restitution policies and procedures with governments internationally and promotes the identification of looted cultural property and the tracing of its rightful owners. CLAE is an executive board member of the International Research Portal for Records Related to Nazi-Era Cultural Property, and works to promote access to all relevant records.

She was a member of the drafting team of Council of Europe Resolution 1205 (1999) on the restitution of looted cultural property in Europe, on the organising committee of the Vilnius International Forum 2000 and the Prague Conference 2009 and is a member of the Advisory Council of the European Shoah Legacy Institute. She was a member of the British

Spoliation Advisory Committee which supervised the provenance research work of British museums throughout its term of 1999-2008. She was a member of the Hunt Museum Review Group. She founded and chaired the UK's International Tracing Service (ITS) Stakeholder Committee which negotiated the UK taking a digital copy of the ITS records to be housed at The Wiener Library, London.

Prof. UG, Dr. hab. Kamil Zeidler

professor of Law at the Department of Theory and Philosophy of State and Law, Faculty of Law and Administration, University of Gdansk (Poland). Author of more than 400 papers and books on legal protection of cultural heritage, theory and philosophy of law, international law and European law; participated and cooperated in the organization of numerous conferences in the above fields. Twice (2003, 2007) he gained scholarships to do cultural heritage legal research from the Ministry of Culture of the Polish Republic; DAAD scholarship at Friedrich Wilhelms University in Bonn (1997); and others. Member of international scientific associations: *Internationale Vereinigung für Rechts und Sozialphilosophie (IVR)*, *Polish Branch of International Law Association (ILA)*, *Polish National Committee of International Council on Monuments and Sites (ICOMOS)*, *Polish National Committee of International Council of Museums (ICOM)*; director in the Centre for East Asia Studies at the University of Gdansk.



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Auspices

Documentation Centre:

The Documentation Centre for Property Transfers of Cultural Assets of WWII Victims was established on 1 November 2001 on the basis of a decision by the Mixed Working Committee (created by Czech Government Decree no. 773 on 25 November 1998), chaired by the Deputy Prime Minister Pavel Rychetský. The Committee was disbanded on 15 March 2002, and the work begun by its expert team was taken over by the Centre: researching historical and economic issues connected with the 'Aryanization' of Jewish property (mainly artworks), and also expanding on the expert team's activities by carrying out heuristic research in Czech and international archives and in the acquisitions records and inventories of individual museums and galleries (made possible by the Centre's close cooperation with the Czech Ministry of Culture). On 1 November 2006 the Czech Government issued a resolution (no. 1249) extending the Centre's activities up to the end of 2011.

The Centre's tasks and mission were set out in section II.3.5 of the Czech Government resolution no. 87 – „A concept for more effective management of the movable cultural heritage in the Czech Republic for the period 2003-2008 (A concept for the development of museums)“, 22 January 2003.

Up to the end of 2011 the Centre formed part of the Academy of Sciences of the Czech Republic.

Government resolution no. 683 (14 September 2011) changed the status of the Centre to that of a 'public benefit organization'; this came into existence on 6 February 2012 under the official title 'Documentation Centre for Property Transfers of Cultural Assets of WWII Victims, p.b.o.' (Centrum pro dokumentaci majetkových převodů kulturních statků obětí II. světové války, o.p.s).

In accordance with internationally accepted recommendations and the obligations incumbent upon the Czech Republic, the purpose of the Centre is to carry out research into issues connected with the expropriation of cultural assets belonging to victims of World War II and to communicate the findings of this research to state bodies and organizations in the Czech Republic, as well as to regional, municipal and/or private museums, galleries and libraries, and individuals applying for the restitution of looted cultural assets. The Centre collaborates with similar institutions abroad, including

those institutions representing applicants for restitution, provided that such applicants meet the conditions stipulated by Act no. 212/2000 Sb.

The Centre carries out primarily the following activities for public benefit: archive research in the Czech Republic and abroad focusing on previously unresearched stocks, research of inventories and acquisitions records in state museums and galleries, storage of research data in two internal databases, communication of information to the Ministry of Culture and the Ministry of Foreign Affairs regarding artworks and books removed from their country of origin and requiring repatriation, compilation of expert reports for state bodies, collaboration and assistance in international restitution cases. Recently the activity of Documentation Centre has also been focused on consultancy regarding individual restitution applications, including mediation and compilation of research reports for restitution applicants on the basis of the form 'Request for a research report for the purposes of submitting a restitution claim' in accordance with Act no. 212/2000 Sb. and Act no. 531/2006 Sb.

