

Opening Remarks - The Administrator General and Inheritance Registrar

The Holocaust (Shoah) is the most despicable genocide ever recorded in human history. Alongside the plan to exterminate the Jewish People – men, women, and children, in the course of the Second World War, the Nazis engaged in the theft of cultural assets on an unprecedented scale. To this end, they established a systematic mechanism aimed at the plunder of individual Jewish property and looting the collective cultural treasures of the Jewish People. In doing so, the Nazis sought not only to physically eradicate the Jewish people, but to also destroy the nation's culture, the lifeblood of the Jewish People.

Acknowledging the moral, historical, and national importance of this issue for the State of Israel, two years ago the then Administrator General, Adv. Sigal Yaakobi, initiated the creation of an intergovernmental team to formalize the procedures pertaining to the cultural assets looted during the Nazi era. Over the years, this issue has been handled only partially in various frameworks but without the formulation of a comprehensive design for the complex issues that arise from it. The intergovernmental team was therefore formed with the aim of advancing the implementation of provenance research in Israel, determining the rights of the pre-war owners and their heirs to works that are discovered to be looted, reinstating these works or formulating relevant just and fair solutions, and designating the use of works to which no heir or rightful owner is found.

This initiative was taken up jointly, with a shared sense of importance and responsibility, by various government entities: the Ministry of Culture and Sport, the Ministry for Social Equality, the Ministry of Heritage, the Administrator General, and the Counselling and Legislation Department in the Ministry of Justice, all striving to formulate comprehensive regulation in this sensitive and important subject matter. I wish to thank the representatives of the different bodies for combining their efforts to advance this exertion, together with the Ministry of Justice. I also wish to thank the Minister of Justice MK Yariv Levine and the Ministry's Director General Mr. Itamar Donenfeld for their support in advancing the process.

The intergovernmental team conducted numerous in-depth discussions and deliberations, heard a diverse range of voices and opinions from Holocaust survivor organizations that have endeavored to advance this issue for many years, and received valuable information from museums, the academia, and experts in this field from Israel and abroad. At the basis of the recommendations formulated by the team is the aspiration to conduct provenance research i.e., to identify the owners of the works and cultural assets appropriated during the Nazi era, to locate their heirs and current rightful owner, and to formulate relevant just and fair

solutions. The importance and uniqueness of the cultural assets looted during the Shoah constitute a further facet of the effort to commemorate the Shoah and of the perpetuation of its memory among the generations to come.

The team sought to formulate practical recommendations that will facilitate fair and efficient implementation of the process as accepted in international mechanisms and in other relevant countries, while ensuring the necessary relevant balances.

Publication of the recommendations constitutes a significant stage towards enshrining the regulation via legislative amendments.

I wish to thank the team members for their cooperation and the productive and professional discussions they conducted to formulate the proposed regulation.

Ben-Zion Feigelson

Administrator General and Inheritance Registrar

Summary of the Report and Main Recommendations

General

1. The restitution of cultural assets spoliated during the Nazi era to their owners is an issue of general historical and moral importance, and particularly for the State of Israel as the nation state of the Jewish people. There is no doubt therefore of the merit in conducting provenance research on the works suspected as looted during this period, both on the Israeli public level and on that of international law that includes dedicated legal mechanisms that Israel took part in formulating.¹
2. The intergovernmental team was appointed with the objective of compiling a comprehensive resolution pertaining to stolen works, regarding both provenance research and restitution. The proposal put together by the team is based on several principles: establishing historical justice; promoting restitution of the works or for alternative just and fair solutions; ensuring transparency; and contributing to the preservation of the memory of the Shoah and commemoration of the Jewish culture that the Nazis sought to destroy.
3. In essence, the proposed resolution seeks to strive for the restitution of looted works to their owners or heirs. Nevertheless, it well known that this is an undeniably complex issue, both due to the time that has since elapsed and because of the intricacy involved in the locating relevant information on the work and on its owners and heirs and conducting the research.
4. It important to note the main premises relevant to Israel and influenced the recommendations made by the team. Firstly, Israel did not exist at the time of the war and did not take part in the spoliation. In the early 1950's, then "heirless" art, books and Judaica distributed after the war, from the collecting points, by the JRSO and JCR organizations were also sent to Israel. Furthermore, museums in Israel are not state-owned, but rather private entities, established in different legal structures, and only partially funded by the state.
5. The team believes that the proposed resolution should, in the future, be applied to all the museums and entities in possession of cultural assets. Nevertheless, in light of the complexity of applying the resolution to a variety of entities and of their unique characteristics, it was decided to initially apply it only to museums recognized by the

¹ Provenance research is the study of historical identity of an artwork's ownership, from the time of its creation by the artist until its current possessor. For more details, see the chapter 'Provenance Research – From Theory to Practice'.

Ministry of Culture and Sport according to law (hereinafter: "The Ministry of Culture", "Recognized Museums"). At the same time, it was proposed that the resolution be reexamined, with relevant changes, five years after its implementation in order to assess its application to a wider range of entities.

Provenance Research

6. The team based its proposal to obligate the recognized museums to conduct provenance research, on the fact that the museums are in possession of the works and have both the practical and scholarly capability to conduct such research. The scope and frequency of the research will be determined by the recognized museums and subject to the approval of the Ministry of Culture. At the same time, exemption from the obligation to conduct provenance research will be given to a recognized museum that, according to its own declaration, is not at that time in possession of artworks requiring such research.
7. The obligation to conduct the research will be acted upon subject to the provision of dedicated support funds by the Ministry of Culture for this purpose. The process of conducting the research will include a preliminary mapping of the works that answer the criteria for Holocaust-era provenance research and a multi-year work plan, to be approved by the Ministry of Culture.
8. Failure to conduct provenance research may lead to a reduction of up to 20% of the Ministry's ongoing financial support to which a recognized museum is entitled, subject to the discretion of the Ministry of Culture.
9. Implementation of the resolution and funding the processes of provenance research and determining rights in looted artworks, requires the dedication of funds from the state budget, primarily for determining a support mechanism for the museums. The proceeds from assets of Holocaust victims that are realized by the Company for Location and Restitution of Holocaust Victims' Assets Ltd. (in liquidation) can constitute an additional possible budget source for funding these processes during their initial years.
10. The team proposed to determine that, at this stage, a recognized museum's obligation to conduct provenance research will apply only in relation to plastic artworks,²

² The terms "plastic artwork" or "work" refer to a cultural asset that is one of the following: painting, drawing, illustration or photograph; sculpture or relief; engraving, print, lithograph or graphic artwork; assemblage or montage.

created prior to December 31, 1945, on condition that its current possessor obtained the work after January 1, 1933, including by purchase, exchange, gift, donation or borrowing or by any other means, and where suspicion exists that the work was spoliated during the Nazi-era. The team recommends that after acquiring experience in provenance research processes, the obligation to conduct such research should also be extended, with relevant changes, to other works, such as books and items of Judaica.

11. The team proposed to determine conditions for prioritizing provenance research within the relevant works, based on the extent of information and the ability to locate further information about the work and the artist, and pending claims regarding the work.
12. The team proposed that provenance research will be conducted by the recognized museum in possession of the work, through an investigator with relevant academic education and proven experience in conducting provenance research, and who has received specially designated training on Holocaust-era spoliation.
13. The team proposed to determine a uniform structure for the provenance research report that summarizes the findings of the provenance research process conducted for a specific work, and to determine that this report, together with a supplementary report are to be submitted to the Ministry of Culture, signed and approved by the provenance researcher, in order to assist in the process of locating the work's heirs and in its restitution.
14. The team proposed to determine provisions on a museum holding a relevant artwork during the research period, mainly to prevent disposition of the works and to facilitate the realization of the proposed resolution.
15. The team proposed to authorize the Ministry of Culture to act as the Regulator of the field of provenance research, and to be responsible for supervising and monitoring all procedures related to the conduct of provenance research.

Formalizing Ownership Rights in Stolen Works

16. The team proposed to authorize the Administrator General to conduct research in order to locate the rightful owners of looted artworks, to legally identify and verify the rightful owner or their heirs and to authorize the reinstatement of those rights.
17. The team proposed to formalize the procedure of submitting a request to recognize rights to a spoliated work, and of the Administrator General to investigate and adjudicate such a request. Furthermore, it was proposed that the Administrator

General will be entitled to determine the identity of the rightful owners of the work, even if no such request has been submitted.

18. The team proposed to establish an Appeals Committee consisting of three members to be appointed by the Minister of Justice. The committee will have jurisdiction of a range of legal matters:
 - Discuss appeals submitted against decisions of the Administrator General pertaining to requests to determine rights to spoliated artworks
 - Issue declarations of death of victims of the Holocaust
 - Obligate a person or entity to divulge information, documents, knowledge, or explanations in order to facilitate procedures aimed at identifying and determining the rightful owners
 - Issue orders regarding the substitutes of Holocaust victims, as stipulated in the Assets of Holocaust Victims Law (Restitution to Heirs and Dedication to Aid and Commemoration)5766-2006) that will serve as an alternative to an Inheritance Decree or a Probate Order, for the purpose of reinstating the specific spoliated works.
19. The team proposed to determine arrangements to be applied in cases where not all of the rightful owners or their heirs were located.
20. Once the rightful owners or their heirs are declared by the Administrator General, the declaration will be returned to the relevant museum for settlement. Although the team promotes restitution in-kind, it also welcomes other just and fair solutions, agreed upon by the rightful owners or their heirs. The museum will not be entitled to reinstatement of fees incurred by it during the period it held the artwork. The heirs, on the other hand, will not be entitled for any compensation or usage fee.

Reporting, Publication, and Transparency

21. The team proposes the creation of a dedicated website that will gather information on provenance research processes and procedures to locate and determine rights to works found to be looted following provenance research.
22. The team proposed to determine provisions pertaining to the publication of information on provenance research, and on the location of the rightful owners and determination of rights. The proposed provisions were concluded with the aim of balancing between the ability to implement the research and rights determination processes on the one hand, and the public's right to know and the importance of

transparency on the other hand, especially given the historical and moral importance of this information.

23. The team proposed to obligate the documentation of the different parts of the process of provenance research, heir tracing and determination of rights, for both historical research and monitoring purposes.
24. The team proposed that periodical reports will be submitted to the Ministry of Culture and the Administrator General, in order to facilitate the supervision of the provenance processes and the fulfillment of the law's purpose, in accordance with the historical and international importance of this issue.

Preserving Memory and Commemoration

25. The team proposed to determine that in cases where the owners or heirs of a work suspected as being spoliated cannot be traced, the individual or entity in possession of the work will be required to safeguard and to strive to commemorate its story. Such a work will also be commemorated on a central database on a dedicated website.
26. Such commemoration will be undertaken by displaying the work, including via digital media, and by presenting the provenance research report in a suitable and publicly accessible format.
27. The team recommended that the State strive to commemorate and promote educational and public activity to raise awareness of this issue, making use of the looted works, of the provenance research and its findings, and of the processes to determine rights-holders, with the aim of increasing familiarity with this subject and learning about Jewish culture and the horrors of the Shoah.

Civil Law

28. The primary issues examined in relation to civil law are jurisdiction to adjudicate, conflict of laws, statute of limitations laws and good faith acquisitions (market overt). Reciprocal connections exist between these different issues, and they all have implications on the ability to retribute and facilitate just and fair solutions. It was proposed to comprehensively address the three issues mentioned above and to advance the stated proposed amendments which will lead to a correct and proper prioritization of those impacted by the Shoah or of their heirs.
29. The team recommended to revoke the option to claim good faith acquisitions (market overt) in relation to spoliated works and to claim statute of limitations. Furthermore,

for reasons of public policy, it is necessary to legislate the exclusive application of Israeli law (while negating the application of any other foreign law) with regard to looted works located in Israel.