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**Network of European  
Restitution Committees  
on Nazi-Looted Art**

# EDITORIAL

The Network of European Restitution Committees on Nazi-Looted Art is now two years old, and Austria is handing over the presidency to the Netherlands. As mentioned several times in the previous Newsletters 6/2020 and 7/2020, the Network's year in 2020 was dominated by the COVID-19 pandemic, particularly with regard to the planned public and internal conferences and the hoped-for intensified exchange of ideas and experiences. Last year was marked by a series of postponements and then cancellations of all activities and events where people could get together. As a result, the Austrian presidency had to end with a list of what might have been. In spite of this, contacts between the various committees were stepped up, as proposed last year by former federal minister Clemens Jabloner, chairperson of the Art Restitution Advisory Board. The national committees reported to one another on their activities under the conditions of the pandemic and in other respects, enabling us all to find out what was happening in other countries. We should like to express our extreme gratitude to our British, Dutch, French and German colleagues – and friends – for their outstanding collaboration and, above

all, for the regular exchange of information and ideas, which have been summed up in our Newsletters. The idea of looking at the activities of the other signatories to the Washington Principles was also taken up and we look forward to developing this exchange of experiences in the future.

It remains to be seen how far the difficult global situation will continue in 2021 and whether it will affect the Network's activities as massively as it did in 2020.

The year also ended spectacularly for the Network with the report "Striving for Justice" on the work of the Dutch Restitutiecommissie and the resignation of its chairperson Alfred Hammerstein. In his words of farewell in this Newsletter you can read a number of arguments, which the various committees need to examine on the basis of their own guidelines, as compiled in 2019 by our French colleagues in their ["Guide to the Work of the Restitution Committees"](#). We are eagerly looking forward to the discussions and wish our Dutch colleagues a successful and interesting presidency in 2021.

Goodbye,

*Pia Schölnberger*  
Administrative director  
Commission for Provenance Research

*Clemens Jabloner*  
Chairperson  
Art Restitution Advisory Board

*Lisa Frank*  
Provenance researcher, Bureau  
Commission for Provenance Research





# NEWS

## RESTITUTIECOMMISSIE

The most important recommendations of the Committee for the Evaluation of the Restitution Policy for Cultural Heritage Objects from the Second World War (the Kohnstamm Committee), published in its report “*Streven naar Rechtvaardigheid*” (“*Striving for Justice*”).

They can be summarized as follows:

1. Resume systematic research into the provenance of artworks in the NK Collection and into the original owners and their heirs. Update the relevant databases and trace rightful owners wherever possible. Ensure that archives relevant to provenance research are as accessible as possible.
2. Incorporate an unambiguous assessment framework into the Decree Establishing the Restitutions Committee that, in accordance with the Washington Principles, focuses as much as possible on restitution or finding alternative solutions.
3. Improve the way applicants are treated and communication about restitution procedures, and change the procedure to make it less formalistic and, where necessary, to allow scope for the Restitutions Committee to play a more mediating role.
4. Establish a helpdesk under the responsibility of the Minister that ensures information is provided, both passively and actively, about restitution policy nationally and internationally.

The Committee added its opinion that no termination date should be set for Dutch restitution policy at this time.

### Interview with Acting Chair Els Swaab about the advisory report “*Striving for Justice*” from the Kohnstamm Committee.

How did the Minister respond to the Kohnstamm Committee’s report?

*The Minister expressed her appreciation for the committee’s work and the recommendations it made. Her comments were general in nature.*

What does the proposed assessment framework look like?

*The assessment framework continues to be based on nationally and internationally accepted principles such as the Washington Principles. However, the Kohnstamm Committee recommends that a number of considerations and*

*interests currently involved in the appraisal of restitution applications should be dropped. Examples of these are the significance of the work to the applicant, to the owner and to public art holdings. The extent to which the applicant may have endeavoured to recover the work previously may similarly no longer be taken into account. Ownership and involuntary loss of possession remain key factors.*

What is the Restitutions Committee’s reaction to the advisory report “*Striving for Justice*”?

*We welcome the constructive recommendations in the report “Striving for Justice” because we expect that the recommended assessment framework will give the appraisal of restitution applications greater transparency. The Restitutions Committee (RC) will use its best efforts to adapt its working practices such that they are perceived as being less remote. This will include intensifying communication with applicants and formulating recommendations and decisions even more understandably. As always, the Restitutions Committee’s priority is to reach a “just and fair solution”, as expressed in the Washington Principles in 1998.*

Can the RC continue its work going forward until the Minister adopts a policy position pursuant to the advisory report?

*Absolutely. The RC can ask the Restitutions Expertise Centre (ECR) to launch investigations into new restitution applications, as it does currently. The ECR can furthermore continue its current investigations. When the ECR’s investigation into the facts is complete, the RC will ask the parties involved whether they opt for an assessment of the application in accordance with the current assessment framework or whether they prefer to wait for the case to be handled using the new one. As things stand now, however, it is not yet clear to the parties involved (and the RC) what exactly the new assessment framework will look like.*

Given that the advisory report has been published and the fact that the RC has a positive opinion of it, isn’t it very difficult to still appraise current cases using the old assessment framework?

*As such that does not always need to be so. It is possible that the RC and the parties involved anticipate on the basis of the investigation into the facts that the assessment using the old framework will very probably result in restitution. But as I said earlier, it is up to the parties involved to make a choice jointly.*



Can the new assessment framework be considered as a “new fact” with regard to previous cases, in other words a reason to reopen a closed case?

*We assume that applicants may see a new assessment framework as a reason to submit a new application. Those are possible applications for which the procedure would have to be clearly spelled out by the Minister in the transitional provisions.*

Do you expect that the proposed assessment framework is more likely to lead to a positive result for applicants?

*In general, the proposed assessment framework would make the position of claimants stronger. This is because as soon as it has been established that the applicant is the original rightful claimant or an heir, and that there was involuntary loss of possession, the other interests as such cannot lead to a recommendation to reject the claim. That also applies to the good faith of the current owner. In that case, there will be restitution or more mediating decisions would be possible.*

When do you hope that the Minister will respond? What will be the follow-up to the publication of this report?

*The RC hopes that the Minister issues her policy response soon so that there is clarity. The Minister’s Decree Establishing the Restitutions Committee and the RC’s Regulations will both have to be amended.*

How is 2021 looking for you?

*It will be an extraordinary year. Currently I’m the Acting Chair. With effect from 1 January 2021 the Netherlands takes over the chair of the Network of European Restitution Committees on Nazi-Looted Art. This coincides with the RC’s twentieth anniversary. You’ll be hearing from us again in the near future.*

### Message from Margriet Drent, Interim Secretary



I have been Interim Secretary of the Restitutions Committee (RC) since the end of November 2020. Over the coming months I will deputize for Secretary Eric Idema, who is ill. I started at a momentous time, when a number of developments coincided. These were Fred Hammerstein’s departure, a new Acting Chair and an evaluation report from the Kohnstamm Committee about Dutch restitution policy that also concerns the RC and the assessment of restitution applications. We stand on the

threshold of 2021, which will be a special year for us because the RC will mark its 20<sup>th</sup> anniversary and will also take on the chair of the Network of European Restitution Committees on Nazi-Looted Art. It will be a pleasure and an honour for me to contribute, together with the Acting Chair and the other RC members, and I look forward to getting to know you better in the near future.

### From the former chairman Alfred Hammerstein A few words of farewell

For nearly four years it has been my honour to chair the Dutch Restitutions Committee. This has not been a peaceful period because a great deal was happening. The researchers, who used to work directly for the Committee, moved to the Restitution Expertise Centre (NIOD). They do their work there independently of the Committee. There has also been much criticism in the Netherlands and other countries of some recommendations. This criticism is unjust in so far as it was asserted that the Restitutions Committee gave greater weight to the interests of the museum than to the claim for restitution of looted art. Every application for restitution has to be considered against the background of the horrors of the Holocaust, and therefore there is great disappointment if the result of the procedure is not the desired one. A number of factors play a special role in this, such as the following.

The expression looted art is used as though it has a specific meaning. The Washington Principles refer to “confiscation”. This indicates that the artwork was actually taken from the owner by the Nazis. The Dutch Committee employs the broad-based concept of involuntary loss of possession. This means that sale during the Nazi era can also have been involuntary as a result of the nature of the circumstances in which, for example, Jewish citizens were compelled to sell their belongings.

The Principles call for a fair and just solution in the light of the circumstances of the case. As argued by Professor Matthias Weller, among others, a weighing up of the interests is consistent with this. Interests are, after all, important circumstances including, of course, the circumstances in which ownership of the artwork was lost. Yet there are also other circumstances that can play a role in a moral-ethical assessment of a just solution.

There is, finally, one further circumstance about which there is controversy regarding whether or not it should be considered. It relates to the status of the applicants. There is no doubt that the direct descendants of the victim are entitled to restoration of rights, but it is an open question whether grandchildren and great-grandchildren also have

a moral claim. This is not self-evident with regard to all other parties who follow in the victim's footsteps on the basis of succession under property law.

I hope that further thought will be given to these subjects within the scope of this excellent collaborative context so that the committees arrive at uniform solutions. I wish you every success in your work.

Dr. A. Hammerstein



*As Fred Hammerstein steps down as Chairman of the Dutch Restitution Committee, the Network of European Restitution Committees would like to acknowledge his commitment to its creation. In 2019, Mr Hammerstein enabled the Restitutiecommissie to achieve a new level of cooperation with the French, Austrian, British and German committees:*

*"Everyone involved found this opportunity to consult, co-operate and share information and ideas very useful" (extract from Fred Hammerstein's Editorial in our third newsletter). Mr Hammerstein has fully supported and implemented the ideas of the "Fair and Just Solutions" conference in The Hague in 2012, where the idea of closer cooperation between the committees in Europe was born.*



## CIVS & M2RS

### Forner : A painting returns to France

Last year, we reported in the [3<sup>rd</sup> Newsletter](#) that Peter Forner, a Berlin citizen, handed over a painting by the French painter Nicolas Rousseau to the French state, represented by Ambassador Anne-Marie Descôtes, at the French Embassy in Berlin. During the Second World War, the painting was transported from France to Berlin, where it remained in the custody of the Forner family.

Faced with this unprecedented situation, the CIVS then devised an innovative solution, based on a deposit contract, under the terms of which the work will be temporarily deposited in the premises of the CIVS's Berlin office within the French Embassy in Berlin, pending its transfer to France.

Despite all the research carried out by the CIVS and the Mission de recherche et de restitution des biens culturels spoliés entre 1933 et 1945 (Ministry of Culture), the



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origin of the painting, the location of the spoliation and the identification of the legitimate owners have not yet been precisely established. Today we are happy to announce that we have finally found a place to welcome Nicolas Rousseau's painting.

With its particular involvement in Franco-German and European relations, the World Centre for Peace, Freedom and Human Rights in Verdun is an ideal place to present Nicolas Rousseau's painting to the public and to advance research on the provenance of the painting, while contributing to the historical presentation of an exhibition module relating to the Second World War and becoming the custodian of this painting.

It was collected by Mr Hansch, director of the World Centre, on 5 August 2020 at the CIVS offices in the French Embassy in Berlin, where it was temporarily stored. The return of this work of art to France is in line with the wishes of Peter Forner, a German citizen, who owned the painting after his father was instructed by his superiors during the Second World War to bring it back to Germany.

From mid-August 2020, the painting has been exhibited at the Centre, which receives around 60,000 visitors a year, in order to raise public awareness and advance the search for the provenance of the painting. The official restitution of Nicolas Rousseau's painting took place on 12 October 2020 in Verdun with the support, among others, of Martin Schulz, Honorary Co-Chairman of the World Centre, Bruno Le Maire, Minister of Economic Affairs, Finance and Recovery and Honorary Co-Chairman of the World Centre, Michel Jeannoutot, Chairman of the CIVS, and David Zivie, head of the Mission de recherche et restitution des biens culturels spoliés entre 1933 et 1945 (Ministry of Culture).





## SPOILIATION ADVISORY PANEL

## New Publication: Museums and the Holocaust

In January 2021, the Institute of Art and Law will publish the second edition of Norman Palmer's classic work, *Museums and the Holocaust*. In the twenty years since the first edition was published the scale of the looting and deprivation carried out during the years 1933–1945 has become ever more apparent, and looted art works are resurfacing in museums and galleries around the world. The ways in which museums and governments have responded to the challenges of achieving justice when confronted with claims vary greatly and this book looks at a representative sample of countries to examine their approaches to this issue and, where relevant, the legislation they have enacted.

The book contains chapters on each of the countries with restitution committees (Austria, France, Germany, the Netherlands and the United Kingdom), together with a selection of other countries which highlight differences of approach (Australia, Greece, Hungary, Israel, Poland and the United States). Separate chapters examine issues of common concern, including the passing of title (ownership), limitation of actions and immunity from seizure. Transnational developments are also examined, including the discovery of the Gurlitt Hoard, the efforts of the Max Stern Art Restitution Project to recover lost works and the role of the Monuments Men during and in the aftermath of the Second World War.

Advance copies of the book will be available from mid-December and we are happy to offer readers of the Newsletter a discount: the hardback will be on offer until 15 February at the discounted rate of £35 (£70 on publication) and the paperback at £19 (£38 on publication): to place your order, go to: <https://ial.uk.com/5zvq>. For further information, please email Ruth Redmond-Cooper: [rrc@ial.uk.com](mailto:rrc@ial.uk.com)

## MUSEUMS AND THE HOLOCAUST

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Second edition

Institute of Art and Law



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## KOMMISSION FÜR PROVENIENZFORSCHUNG

### Advisory Board Decisions

On 25 September 2020, the Art Restitution Advisory Board met for its ninety-sixth session. It recommended to the Federal Minister of Art, Culture, Public Service and Sport that a collection of molluscs in the Natural History Museum be restituted to Göttweig Abbey, which was expropriated by the Nazis. You can find further details in the Case Study in this issue.

It also recommended the restitution of six objects from the collection of Albert Pollak in the Austrian Museum of Folk Life and Folk Art in Vienna. After the Jewish businessman Albert Pollak had fled in December 1938 from his hometown of Bielitz (Bielsko-Biala), he attempted in vain to recover his seized art collection. Instead, it was dispersed under the direction of Hans Posse among various museums, including the Museum of Folk Life and Folk Art. Although the fourteen objects there were restituted to Pollak's heirs after 1945 – he had died in Dutch exile in 1943 – the Federal Monuments Office had six glass objects returned to the museum as a condition for issuing authorization for the remaining objects to be exported to the heirs, who

now lived abroad. As had been the case previously with objects from the Pollak collection in the Albertina and Kunsthistorisches Museum, the Advisory Board once again recommended restitution because of the clear causal link between the return of the objects to the museum and the issuance of an export authorization for the remaining objects.

Lastly, a further fifty-one sheets from the Werkstatt für decorative Kunst in the Theatre Museum were recommended for restitution, in addition to the 1,500 costume designs and décor sketches already recommended for restitution. The proprietor, Wilhelm Berman, had offered to sell them to the museum shortly before his company was "Aryanized". It is not known whether Berman was ever paid. He was deported with his wife and daughter in autumn 1941 to Litzmannstadt (Łódź) and murdered there.

At the same session, the Board decided on the incorporation into it of the committee set up in parallel to investigate the provenance of objects in the Leopold Museum Privatstiftung and to have the provenance research in the Leopold Museum carried out in future under the supervision of the Commission for Provenance Research.

### Lexicon of Provenance Research

Since December 2020, fifteen new entries have been added to the Lexicon of Provenance Research:

[Lotte Adametz](#)

[Bernhard Altmann](#)

[Sepp Finger](#)

[Otto Fürth](#)

[Heeresgeschichtliches Museum](#)

[Marcel Kammerer](#)

[Julius Kien](#)

[Robert Mayer](#)

[Georg Popper](#)

[Central-Antiquariat Moritz Stern](#)

[Friedrich Trauth](#)

[Hermann Trenkwald](#)

[Leo Weiser Versandbuchhandlung](#)

[Flora Wilhelm](#)

[Paul Zsolnay](#)

The website, which is to be relaunched in 2021, will also contain English versions of these entries.



# CASE STUDIES

## RESTITUTION: MAX PECHSTEIN "NUS DANS UN PAYSAGE"

During its plenary session on 10 July 2020, the CIVS recommended the restitution of Max Pechstein's painting "Nus dans un paysage", looted from Hugo Simon during the occupation in France.

Hugo Simon (1880–1950) was a multifaceted character: banker, politician, patron and art collector, he was one of the key figures in Berlin's life during the Weimar Republic. In his villa in Berlin Tiergarten, he regularly welcomed prominent personalities such as Max Liebermann, Thomas Mann, Bertolt Brecht and Stefan Zweig, and on his walls works by Monet and Pissarro were hung side-by-side with those of the German Expressionists such as Ernst Ludwig Kirchner, Erich Heckel and Max Pechstein.

Like most German intellectuals, many of whom were Jewish, Hugo Simon had to flee the Nazi regime in 1933. He and his wife Gertrude left Germany in March and managed to take a large part of their art collection with them. They arrived in Paris in April 1933. A few months later, in October, all their belongings in Germany were seized. They remained in Paris from March 1937 to June 1940, staying in various hotels and then renting an apartment at 102, rue de Grenelle in the 7<sup>th</sup> arrondissement. In June 1940, they were forced to leave Paris for Marseille and later to abandon war-torn Europe altogether and go into exile in Brazil, where they arrived in March 1941.

A large part of Simon's collection was looted by the ERR (Einsatzstab Reichsleiter Rosenberg). Nevertheless, some of his possessions remained in his apartment in Paris, pos-

sibly including a painting "Landscape with Nudes" by Max Pechstein, which later became part of the collection of the Musée national d'art moderne (MNAM) in Paris.

Pechstein's painting entered the French national collections thanks to a young art inspector, who noticed the painting in 1966 during a visit to the art depot of the Palais de Tokyo. He discovered a "pile" of paintings and drawings without any annotation or even classification. Pechstein's painting attracted his attention particularly because there were then really few German Expressionists in the national collections. By an order of 13 September 1966, the status of this artwork was regularized. The painting entered the inventory of the art depository under the number 28.823 and was allocated to the MNAM, where it was entered in the museum's own inventory under the number 28.823 - Max Pechstein - Paysage 1912 - A.M. 4364 P.

During his stay in Paris, Hugo Simon continued to lend works, notably for the Exhibition of Twentieth Century German Art held at the New Burlington Gallery in London in July 1938, which included works by artists rejected by Nazi Germany. On the back of Pechstein's painting there is a two-part label mentioning this exhibition, including "Modern German Art", and "Owner: Hugo Simon". The exhibition catalogue mentions only one of Pechstein's paintings belonging to Hugo Simon, "Italian Landscape", which could not refer to the painting "Landscape with Nudes" because of its different size and title. However, it is now known that the catalogue did not include all the works in the exhibition. Lucy Wasensteiner and Martin Faass



© Musée des beaux-arts de Nancy



wrote in their publication “Defending ‘degenerate’ art” regarding the 1938 London exhibition that Hugo Simon had loaned “at least 20 works”.

Later in November 1938 another exhibition took place in Paris, at the Maison de la Culture, rue d’Anjou, with the title Free German Art, which featured some of the same artworks. It was organized by the art critic Paul Westheim, himself a refugee in Paris, who had been one of the organizers of the London exhibition. Paul Westheim’s archives, stolen in Paris by the Germans, then seized by the Soviets and now kept in Moscow, revealed lists of artworks drawn up for the London and Paris exhibitions, including many works belonging to Hugo Simon.

At the end of 1940/beginning of 1941, the ERR seized the contents of the apartment on rue de Grenelle. Only three Pechsteins, which do not correspond to the MNAM’s, appeared on the ERR list. On 15 and 16 October 1941, six boxes of objects from Hugo Simon’s apartment left the Jeu de Paume for Germany. The ERR inventory described the so-called “degenerate” works in Hugo Simon’s collection as “vernichtet” (“intended for destruction”). Hugo Simon’s apartment was extensively looted by the ERR. However, not everything was removed: testimony written by Rose Valland indicated that there was still furniture in the apartment when Paris was liberated. In 1944, the Bank of Algeria, the owner of the building, drew up a list of all the remaining assets.

After the liberation of Paris, the apartment was requisitioned by the Administration des Domaines (administration of state-owned property). Mrs Kahn, who lived in the apartment, complained about the furniture left on the premises. An inventory of Hugo Simon’s furniture in Kahn’s apartment was drawn up in July 1948, with the mention of one painting: “grande toile cadre doré” (Red House).

Hugo Simon submitted his claim to the Commission for Art Recovery from Brazil, quoting his collection from memory. In 1946, he mentioned the Expressionist paintings and several artists, including Pechstein, without giving any title or size.

In 1947 and 1948, artworks and furniture were returned to Hugo Simon. The Pechstein was not one of them.

The Bank of Algeria gradually furnished its offices with his furniture. In 1964, the bank’s movable and immovable property were auctioned along with the last assets left in Hugo Simon’s former apartment (which the bank had kept as security to cover the unpaid rent).

Throughout this period, no paintings by Pechstein were restored to Hugo Simon and then his wife and daughters. In the meantime, Germany admitted the spoliation of Hugo Simon in the BRÜG proceedings.

How and why the painting arrived in the art depot of the Palais de Tokyo, where the young art inspector “discovered” it in 1966, is unknown. There is no documentary evidence or trace of a purchase of the painting by the state or a public institution, whether for a fee or free of charge.

The way the painting became part of a public collection is therefore suspicious. Moreover, the MNAM considered the entry to be “irregular”. Consequently and with account taken of the above-mentioned aspects, the CIVS advisory panel, based on research by the Mission de recherche et de restitution des biens culturels spoliés entre 1933 et 1945 (Ministry of Culture), recommended that the work should be removed from the national collections “on account of improper registration”. The Commission considered that Simon was deprived of this painting because of the war’s circumstances, regardless of the way the work ended up in the Palais de Tokyo. Hugo Simon had to flee France, leaving his home, which was largely looted, and he was unable to find this painting by Max Pechstein, which later reappeared at the Palais de Tokyo. The fact remains that neither Hugo Simon, nor any of his heirs, nor his agents recovered possession of “Landscape with Nudes” or consented to sell it. Today, the MNAM/CCI supports the return to its status quo ante bellum.

The proceedings initiated with the CIVS and the Mission de recherche et restitution des biens culturels spoliés entre 1933 et 1945 (Ministry of Culture) at the initiative of Hugo Simon’s successor, led by his great-grandson, will result in the painting being returned to its rightful owner.



## GÖTTWEIG ABBEY: A CASE STUDY

### Provenance research in the Natural History Museum

Since the adoption of the Art Restitution Act in 1998, the collections at the Natural History Museum in Vienna (NHM) have also been investigated for objects confiscated by the Nazis. In 2019/20, the team, formed in 2017, investigated a herbarium (collection of preserved plants or plant components) and a collection of mollusc shells

from the Catholic Göttweig Abbey in Lower Austria, both of which were acquired by the NHM during the Nazi era. This article provides a brief explanation of the case.

### Göttweig Abbey

Göttweig Abbey in the Wachau, Lower Austria, was founded in 1083. After Melk, it is the oldest Benedictine abbey in Lower Austria, and because of its location on a hill it is

## CASE STUDIES

often referred to as the “Austrian Monte Cassino”. The abbey has a library, museum, archive and music archive, and a graphic, numismatic and art collection. In the year 2000 it was included in the UNESCO World Heritage list with the abbeys of Melk and Göttweig and the old town of Krems as part of the Wachau Cultural Landscape.

### Göttweig Abbey during the Nazi era

Although the abbey’s independence was not immediately threatened after the annexation of Austria to the Nazi German Reich in March 1938, its affiliated institutions were closed that same year. The private school and boys’ choir school were dissolved and several properties expropriated. During the annexation by the Nazis of Sudetenland, an artillery company with 120 soldiers was billeted in the abbey.

The abbey was expropriated at the start of the “Klostersturm”, during which around 300 Catholic abbeys and other church establishments were seized and expropriated between 1940 and 1942. In many cases their assets were confiscated as being “inimical to the State and the Volk”.

Directly after the appointment of a temporary administrator in February 1939, the monks were interrogated in the abbey and at the Vienna Gestapo headquarters so as to obtain material for the expropriation. Several of the monks suffered violence during the interrogations. After their release in April 1939, they were forbidden from returning to the abbey and were put under house arrest in a rectory belonging to it. The Gestapo accused the monks of sexual abuse – there had in fact been court cases for sexual abuse, which were already concluded before 1938 – and of mismanagement. Following the approval of the Reich Ministry of the Interior and the Reich Commissar for the Reunifica-



Crate mollusc shells Göttweig Abbey © NHM Wien, Thomas Mayer

tion of Austria with the German Reich, on 15 September the Vienna Gestapo ordered the complete expropriation of the abbey in favour of the city of Krems. Thereafter, practically all of the furniture was removed from the building along with the art and natural history collections.

All of the abbey’s efforts to legally protest against the expropriation failed and it was dependent on donations from other dioceses for its survival.

The empty building was now used for other purposes. In October 1940, Germans resettled from Bessarabia and after September 1941 from Bukovina and Serbia, and also French prisoners of war were all housed in the abbey. From January 1943 to early 1945 there was a National Political School of Education (Napola) in the abbey. During this time students destroyed some of the interior. Towards the end of the war the building escaped war damage, but it was plundered after the arrival of the Red Army on 8 May 1945.

### Confiscation of the natural history collections

After 1940 most of the contents of the abbey, including manuscripts, books and paintings, were removed from the abbey and dispersed among various institutions. The natural history collections – a herbarium and a collection of minerals – were transferred initially to the Stadtmuseum in Krems.

The herbarium was split up. A small part went to the museum of Reichsgau Niederdonau, while the majority was transferred to the Botanical Department of the NHM. Thereafter, all trace was lost and it is assumed that it was either destroyed in a fire at the museum depot at the end of May 1945 or exchanged afterwards.

The second natural history collection transferred from the abbey to the NHM was the collection of mollusc and snail shells from various terrestrial, fresh water and marine

Mollusc shells from Göttweig Abbey © NHM Wien, Thomas Mayer



animals compiled in the nineteenth century. The crate containing the collection remained unopened in the NHM for decades. The objects were neither inventoried nor processed or exhibited. It was not until an inventory in 2003 that the crate was discovered. The NHM contacted the abbey, but the crate remained at the museum.

Given the fact that the shells were packed in cigarette packets and matchboxes, sawdust and newspapers from 1940 (see photo), the current container, a wooden crate measuring approx. 50 cm × 30 cm × 30 cm, is thought to be the same crate as the one used for transport in 1941.

### Attempts at restitution after 1945 and recommendation for return in 2020

Although Göttweig Abbey attempted to have all of the confiscated properties, furnishings and collections returned after 1945, the natural history collections were not explicitly mentioned in the restitution proceedings and out-of-court settlements. This could have been due to the fact that the abbey was unaware of the whereabouts of the herbarium and shell collection at the time. Most of the confiscated assets were returned after 1945, but the natural history collections remained in the possession of the NHM and the province of Lower Austria.

Andreas Liška-Birk, the provenance researcher for the Lower Austria Provincial Collections drew the attention of the provenance research team at the NHM to the confiscation of the Göttweig herbarium. In 2019 he had written a dossier on the part of the herbarium that was still owned by what was now the federal province of Lower Austria.

In March 2020, eight fascicles from the original herbarium were returned to abbey representatives.

A further indication from the Göttweig Abbey collection manager Bernhard Rameder referred to the crate containing the mollusc shells that was thought still to be in the NHM, a supposition confirmed by Anita Eschner, head of the NHM mollusc collection. On the basis of the dossier on the confiscation of the herbarium and shells from Göttweig Abbey, the Austrian Art Restitution Advisory Board recommended to the Federal Minister of Art, Culture, Public Service and Sport at its ninety-sixth session on 25 September 2020 that the shells be returned from the NHM to Göttweig Abbey. This also applied to the herbarium, "should it be identified in the course of further research into the NHM's holdings". As the Catholic church and its orders were not subject in general to persecution by the Nazi regime, the Board had to determine whether the objects from Göttweig Abbey had in fact been confiscated. In view of the Gestapo order of 15 November 1939, it considered that this was indeed the case.

[http://www.provenienzforschung.gv.at/beiratsbeschluss/Stift\\_Goettweig\\_2020-09-25.pdf](http://www.provenienzforschung.gv.at/beiratsbeschluss/Stift_Goettweig_2020-09-25.pdf)

*Dario Alejandro Luger* has been a provenance researcher at the NHM on behalf of the Commission for Provenance Research since 2017.

*Thomas Mayer* is a science historian and has been a provenance researcher at the NHM on behalf of the Commission for Provenance Research since 2019.



## REPORTS

### 2019 CIVS ACTIVITY REPORT

The 2019 CIVS Activity Report has been published and is now available online in English and French, with the German version to follow in January. This special edition reviews the activities carried out by the Commission for Compensation of Victims of Spoliation (CIVS) during 2019. For the first time this year, the CIVS celebrated the implementation of the new mechanism ordered by the Prime Minister to promote the restitution of looted art, in particular artworks kept in museums.





Commission pour l'indemnisation des victimes  
de spoliations intervenues du fait des législations  
antisémites en vigueur pendant l'Occupation



## Rapport public d'activité de la CIVS 2019

Actes du colloque du 15 novembre 2019

This year, the Commission's report is notable for two reasons:

First, it looks back on the twenty years (1999–2019) during which the Commission has carried out its mission of reparation for antisemitic spoliations perpetrated during the occupation.

Second, its thematic section is devoted to the Proceedings of the Colloquium organized on 15 November 2019 to celebrate the twentieth anniversary of the CIVS.

Discover the 2019 [CIVS Activity Report](#)



## PERSONALIA: JANINE DRAI

The ten members of the CIVS advisory board are appointed every three years by decree of the Prime Minister. When it sits in ordinary plenary session, the CIVS Council is composed of two councillors at the Court of Cassation, two state councillors, two senior councillors at the Court of Auditors, two university professors and two experts. Since 2017, it has had an equal number of men and women.

This year, the Council was renewed by a decree of 2 September 2020. Michel Jeannoutot and François Bernard were confirmed in their positions as Chairman and Vice-Chairman of the CIVS. This renewal also

included the nomination of Janine Drai to succeed Dominique Schnapper.

Ms Drai is an adviser at the Court of Cassation and she chairs the investigating committee of the Court of Justice of the French Republic. She is also a member of the disciplinary commission of the French Anti-Doping Agency. Finally, she set up the "crime against humanity" unit at the Paris Court of First Instance.



## JUST ACT – JUSTICE FOR UNCOMPENSATED SURVIVORS TODAY

The report commissioned by the US government under the Justice for Uncompensated Survivors Today Act (JUST Act) is accessible online. The purpose of this legislation is to evaluate the reparation policies implemented by European countries in connection with Nazi crimes (compensation, memoirs, testimony, educational programmes, etc.). "The JUST Act Report is an essential tool for highlighting the important actions countries have taken to provide restitution or compensation for property confiscated during the Holocaust or subsequently nationalized during the Communist era". More specifically, the aim is to assess the progress made since 2009 by the forty-six signatory countries of the Terezín Convention.

<https://www.state.gov/wp-content/uploads/2020/02/JUST-Act5.pdf>

In general, the US State Department considers that "progress is too slow" in the field of research and restitution of looted cultural property, pointing in particular the "bureaucratic inertia" and stressing the urgency of action to be taken in view of the rise of anti-semitism throughout Europe.

The Network of European Restitution Committees on Nazi-Looted Art is highlighted as a "positive trend".

The report, which is broadly descriptive, provides an overview of the measures in each of these countries:



## FORFEITURE OF ASSETS – AUSTRIAN POST-WAR JUSTICE AND RESTITUTION AS ILLUSTRATED BY THE WATCHMAKER BARTHOLOMÄUS SCHMID

During the online annual meeting of Forum Justizgeschichte on the subject “Theft without restitution?”, Konstantin Ferihumer from the Commission for Provenance Research delivered a paper entitled “Forfeiture of assets – Austrian post-war justice and restitution as illustrated by the watchmaker Bartholomäus Schmid”. He suggested that restitution in the early post-war period in Austria was shaped not only by specific restitution and export laws but also by criminal law provisions, particularly in the form of the Austrian “Volksgericht” system and the forfeiture of assets pronounced by these courts.

### Volksgericht jurisdiction and forfeiture of assets

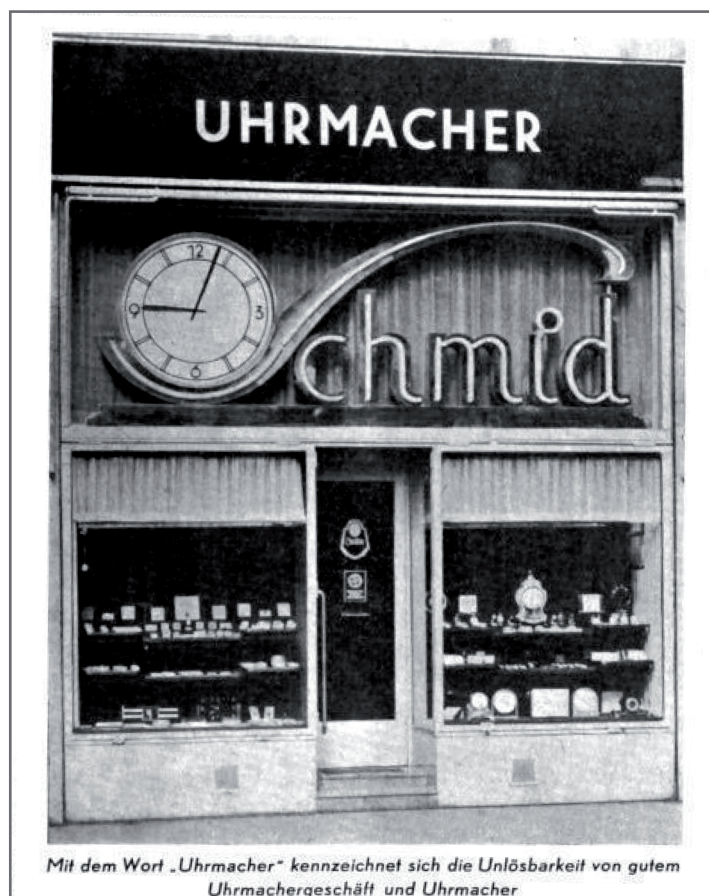
After the Second World War, the Provisional Government of Austria established special courts to prosecute Nazi crimes. The Prohibition Act (Verbotsgesetz) of 8 May 1945 and the War Criminals Act (Kriegsverbrechergesetz) of 26 June 1945 laid the foundations for the ten years during which the Volksgericht system was in operation. Most of the Prohibition Act is still in force today, including the provisions banning NSDAP activities and the public denial, trivialization, endorsement and justification of Nazi crimes. Apart from imprisonment and the death penalty,

the courts were able to pronounce the forfeiture of the convicted person’s assets in favour of the Republic of Austria. On 30 November 1945, the Amendments to the Provisions on the Forfeiture of Assets (Ergänzung der Bestimmungen über den Vermögensverfall) dealt with a problem that had not been considered hitherto: individuals convicted by a Volksgericht were by definition National Socialist perpetrators. This meant that among the assets forfeited by them could well have been items confiscated from persons persecuted during the Nazi era. Section 1.1 of the Amendments therefore stated that such assets were to be “set apart”. Although this was meant to make restitution easier, the law contained no provisions as to how the provenance was to be determined and, in particular, who should be responsible for it in the future.

### The case of Schmid

Directly after the annexation of Austria to the National Socialist German Reich in March 1938, Bartholomäus Schmid (born on 2 August 1906 in Prien am Chiemsee, Bavaria), a watchmaker resident in Vienna, managed on account of his long-standing links with the NSDAP milieu, to make a career in the city administration. He occupied key positions during the “Aryanization” of the watch, clock and jewellery sector. In December 1938, he also “Aryanized” the watch and jewellery business of Ernst Steiner, which was situated in a prime location in Vienna. His rising financial fortunes during the Nazi era enabled him to acquire artworks, including the oil painting “Interior of a Larder” by Hubertus van Hove. It had previously been part of the Gomperz family collection, deemed Jewish, and had been seized by the Gestapo, from whom Schmid purchased it.

In a case before the Vienna Volksgericht after the Second World War, the court ordered the securing of Schmid’s small art collection consisting of eleven paintings and watercolours. Three objects that had disappeared, including “Interior of a Larder”, were labelled as “war losses”. Schmid was sentenced in March 1948 to two years’ imprisonment with the forfeiture of his assets in accordance with the Prohibition Act. Thereupon, most of his forfeited art collection was handed over to the Viennese



*Ernst Steiner's former business, source: Die Uhrmacherkunst, vol. 66, no. 7, 14 February 1941, p. 47; picture: SLUB Dresden / Digitale Sammlungen / 318594536; original: Deutsche Gesellschaft für Chronometrie e.V.*

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auction house Dorotheum and auctioned. Ernst Steiner, who had spent the Nazi era in exile in the USA, applied for restitution of his business, which was granted in 1952 – for the time being.

Schmid had appealed against the sentence, and his Volksgericht trial was reopened in 1953. The 1948 conviction was repealed and the case was taken back to the preliminary investigation stage and abandoned a short time afterwards. This meant that the restitution decision of 1952 was no longer valid, resulting in a paradoxical situation whereby the original owner of the business was required to return it to the “Aryanizer”. If that were not enough, when two of the lost pictures from Schmid’s collection, including the work by Hubertus van Hove, turned up in 1966, they were returned to Schmid. The clear evidence in the files of the confiscation by the Nazis of at least one of the two paintings was completely ignored.

### Summary

This case illustrates how closely criminal law was connected with restitution and Austria’s policy towards its past. Whereas the forfeiture had a direct effect on the redistribution of assets after the war, it also had a direct influence on the restitution of potentially confiscated assets, such as



*Bartholomäus Schmid at the First Greater German Assembly of Watchmakers in Vienna on 20 January 1939, source: Uhrmacherkunst, 10 February 1939, p. 103 [118]; picture: SLUB Dresden / Digitale Sammlungen / 318594536; original: Deutsche Gesellschaft für Chronometrie e.V.*

those of the Steiner business. The auction of Schmid’s paintings in the Dorotheum and the unquestioning return of the paintings in 1966 reflect the absence of procedural regulations to set apart assets of questionable provenance and their offhand treatment. This was also prompted by the rapidly dwindling political will to prosecute Nazi crimes in Austria. Schmid at least received a lenient sentence in 1948, but his specious account of the affair to a completely non-transparent appeal board was sufficient to have this decision reversed a few years later – with wide-ranging consequences.

*Konstantin Ferihumer* is provenance researcher on behalf of the Commission for Provenance Research, from 2016 to 2020 at the Academy of Fine Arts Vienna and since 2021 at the Leopold Museum.



## FROM THE “WASHINGTON PRINCIPLES” TO THE “HANDREICHUNG”

In 1998, the Conference on Holocaust-Era Assets took place in Washington, where 44 participating states affirmed their commitment to the so-called Washington Principles, 11 non-binding guidelines on how to handle cultural assets confiscated by the National Socialists. Germany was among the participants and in the following set out to implement the adopted principles. In December 1999, the Federal Government, Federal States and local authorities issued a “Joint Statement”, in which they agreed to ensure “that works of art that have been identified as Nazi-confiscated property and can be attributed to specific claimants are returned, upon individual examination, to the legitimate former owners or their heirs”. As a result, several German museums established initial – mostly temporary – positions for provenance researchers.

Both public institutions and provenance researchers were thus facing a new challenge. Examining the provenance of cultural works as such was not a new discipline. The art market and the academic field of art history had always been concerned with establishing the authenticity and utilization context of works of art in order to confirm the value of a piece. Provenance research as established following

the Washington Principles, however, has a different goal. Its concern is not so much the authentication of an object to a specific artist, but rather the broader political, legal and economic circumstances under which a work changed hands in recent history. In other words, the scope of provenance research extends far beyond the search for proof of ownership. It covers artists’ circles and dealers’ networks, the fates of entire collections and even the buying strategies of individual institutions, while including political considerations, legal frameworks and economic implications.

The limits of conventional authenticity research thus expanded significantly. Therefore, it was all the more important to establish orientation criteria for public institutions to consult for when examining their own collections to determine whether a particular piece was originally confiscated as a result of National Socialist persecution or not. The result was the so-called “Handreichung”, guidelines for public institutions, initiated by the Federal Government, Federal States and local authorities and prepared in professional cooperation with representatives of museums, libraries and archives. It was completed on February 1, 2001. The “Handreichung” consolidated existing insights



about persons involved, circumstances and types of art deals, with view to developing a matrix. This encompassed a relatively detailed index of indicating grounds for concern with regard to potential of confiscation as a result of National Socialist persecution, such as: National Socialist organizations on the buyer's side, notorious art dealers, large acquisitions in the form of donations, conspicuous provenance gaps, or transactions in occupied territories.

The "Handreichung" was fundamentally revised in 2007 and 2019. While the criteria in the guidelines were not fundamentally changed, they were enhanced by insights gained during the intervening years, so that the original 20-page booklet has now nearly doubled in size. Another notable difference is an increased sensitivity for multiple persecution contexts in which cultural goods could be confiscated during the National Socialist era. While the 2001 edition merely mentioned cultural goods of "definitely Jewish provenance" as examples of dubious acquisitions, the focus has been broadened since 2007 to include all cultural goods of "unclear provenance" or items with provenance gaps. In other words, for a case to be considered suspect, confirmed Jewish ownership of an item during the National Socialist era is no longer a prerequisite; it is sufficient if Jewish ownership cannot be ruled out.

In its overall organization, the "Handreichung" exercises the option recognized in the Washington Principles of putting the abstractly formulated goals of the principles in practice in accordance with nation-state traditions. Particularly for German law, confronting facts where moral sense demands a reversal of transactions possibly conducted under a mantle of legality, was nothing new. Such constellations had been the object of legal regulations time and again since 1945. The first was the United States Military Government law no. 59 on the "restitution of identifiable property to victims of National Socialist repression" of November 10, 1947 and the subsequent regulations for the British zone and Berlin (both dating from 1949). The principles set forth in that law were in turn adopted by the Federal Republic after its inception, both at the state and federal level, and were finally summarized – though partially in significantly moderated form – the Federal Indemnification Law (Bundesentschädigungsgesetz, 1953/56) and the Federal Law on Restitution (Bundesrückerstattungsgesetz, 1957).

The "Handreichung" used these historic precursors to substantially extend the general clauses of the Washington Principles on one salient point. While the Washington Principles deal exclusively with "confiscated art", a major portion of the "Handreichung" is dedicated to the problem of defining what constitutes "loss due to National Socialist

persecution" even in the absence of direct state intervention. In this regard, the "Handreichung" follows the Military Government law no. 59 more or less verbatim. This is true of numerous definitions of terms as well as with regard to the criteria under which sales of cultural goods can also be considered National Socialist seizures.

The Military Government law no. 59 first defined what is envisaged by "confiscated property", in order to then establish a basic "presumption of confiscation". Whenever a person who was persecuted, be it individually or collectively, concluded a legal transaction – in particular a sale – it was presumed in that person's favor that the asset was seized unlawfully. This presumption could in turn be refuted if "the transferor was paid a fair purchase price", although proof of this alone was not sufficient if the seller was denied "the free right of disposal of the purchase price".

Transactions after September 15, 1935 – the date of the infamous Nuremberg Laws – were assessed even more stringently. As a general rule, any legal transaction could be challenged. The only exception was when "the transaction as such and with its essential terms would have taken place even in the absence of National Socialism" or "the transferee protected the property interest of the claimant [...] in an unusual manner and with substantial success, for example, by helping him in transferring his assets abroad or through similar assistance." All these considerations are repeated virtually verbatim in the "Handreichung"; however, the latter also includes in its periodization the "Vertraulicher Erlass Nr. 64" (confidential decree) of May 14, 1938 and the "Verordnung über den Einsatz jüdischen Vermögens" (Ordinance on the Use of Jewish Assets) of December 3, 1938, which largely prohibited the Jewish population from dealing in valuable works of art. For any transactions occurring after this point in time, the "Handreichung" considers proof of free disposal of the purchase price to be practically impossible.

Point 11 of the Washington Principles called upon the states "to develop national processes to implement these principles, particularly as they relate to alternative dispute resolution mechanisms for resolving ownership issues". Since there was no longer any legal recourse for the restitution of Nazi-looted art due to the statute of limitations, institutions needed to be established which could bring about "fair and just solutions" to individual cases under dispute, outside of judicial proceedings. In consequence, the "Advisory Commission on the return of cultural property seized as a result of Nazi persecution, especially Jewish property" was founded in Germany in 2003. Notably, the Advisory Commission therefore directly owes its creation to the Washington Principles, even though the Principles only deal explicitly with the exact circumstances which

the Advisory Commission has never dealt with to this day: that of confiscated art. Where cultural goods of persecuted persons were confiscated by the state, confiscation as a result of National Socialist persecution is generally so obvious that the works of art in question are returned without contention. The exception to the rule: Works of so-called “degenerate” art were also seized; they were removed from museums for propagandistic purposes and either sold or destroyed. However, private owners were only affected by these measures if their cultural property was on loan to public institutions, and even then without consideration of the person. To this day, the loss of “degenerate art” is therefore not considered to be a result of individual or collective National Socialist persecution.

As a whole, the “Handreichung” endeavors to provide a clearer outline to the “fair and just solutions” demanded by the Washington Principles. It deliberately forgoes rigid rules, in order to do justice to the particular circumstan-

ces of individual cases, as their complexities and historical uniqueness often do not fit the constraints of overly strict standardization. The procedure according to the “Handreichung” is therefore deliberately open; in particular, it waives numerous legal formalities that would be necessary for an actual forensic proceeding, giving greater scope to a discussion of moral questions. This also allows it to address the problem of burden of proof raised in Point 4 of the Washington Principles. At the same time, the “Handreichung” does not formulate a task to right historical injustice in general. The matrix of the “Handreichung” only applies in cases where historical injustice occurred in the form of a violation of property rights of cultural goods. In this sense as well, the purpose of the “Handreichung” remains bound to the Washington Principles.

*Benjamin Lahusen*

Head of the office of the Advisory Commission



## 20<sup>TH</sup> ANNIVERSARY OF THE ARBEITSKREIS PROVENIENZFORSCHUNG E.V.

By signing the Washington Principles on Holocaust-Era Assets on December 3, 1998, the signatory states committed themselves to intensify research on works of art confiscated during the National Socialist era, to identify them transparently, to locate the pre-war owners or their heirs and to find “just and fair solutions”.

Two years later, in November 2000, four researchers organized a meeting in Cologne on the topic of “Museums and Art under National Socialism”. These researchers, all of them women, were Dr. Ute Haug (Hamburger Kunsthalle), Dr. Ilse von zur Mühlen (Bayerische Staatsgemäldesammlungen, Munich), Laurie A. Stein (The Art Institute of Chicago Museum / St. Louis Art Museum), and Katja Terlau (Wallraf-Richartz-Museum, Cologne). They met to share their ideas on approaches and research methods in this field for the first time. This exchange of colleagues, organized on their own initiative, was indispensable, especially in view of the lack of (institutional) experience, official guidelines, or firmly established methods for dealing with cultural property from unclear ownership that could have been drawn upon. The term provenance research did not yet play an explicit role here. It was not until a second meeting of an extended group of people in February 2001 in Hamburg that the term “Arbeitskreis Provenienzforschung” was finally established. The exchange of knowledge, information and data as well as the better coordination of research steps – which then as now take place under time pressure

– was already the fundamental goal of the “Arbeitskreis” in 2000, especially in view of the non-existence of basic research and research literature at that time. These aspects are still the main goal of the “Arbeitskreis Provenienzforschung e.V.” existing today. It is significant, however, that despite the clear demands of the Washington Principles as well as the subsequently published joint declaration of the German Länder and the municipalities in December 1999 (see the article by B. Lahusen above, p.14), this initiative did not come from politics but from the researchers themselves.

The need for a constant exchange of information about resources, relevant archival holdings, libraries and databases, as well as finding the right contacts, e.g. in the art trade, but also for questions about (related) research projects, restitution cases, led to the establishment of a steadily growing community of researchers, which formed the basis for the now unique international network. The colleagues met twice a year in changing cities and presented and discussed projects, case studies and problems together. They established specialized working groups to establish methods and standards for provenance research (data). This commitment cannot be appreciated enough. The first public conferences in 2001 and 2002 were formative for the development of this very young field of research and helped to raise awareness of the topic in public museums. Initial contacts with important

political decisionmakers such as the Koordinierungsstelle für Kulturgutverluste in Magdeburg, the Federal Government Commissioner for Culture and the Media (BKM), and the Kulturstiftung der Länder were instrumental in setting the course for the development of provenance research in Germany.

Although until then there had only been a loosely-knit and completely independent network of researchers, the increasing development and institutionalization of the funding situation for provenance research in Germany, particularly through the Arbeitsstelle für Provenienzforschung at the Stiftung Preußischer Kulturbesitz in Berlin, which was founded in 2008, gradually forced the working group to consider (re)constituting itself. While the number of participants grew steadily, the working group was confronted with the consequences of the (often short-term) temporary employment contracts of its members. For this reason, two spokespersons were elected for the first time in July 2011, whose task was the internal and external coordination of the Arbeitskreis. By April 2014, it had already developed into an alliance of over 90 members, who finally voted for the transformation into a registered nonprofit association. In November 2014, the foundation of the Arbeitskreis Provenienzforschung e.V. (Association for Provenance Research) was proclaimed, the statutes were announced and its first board with five members was elected.

Since then, the association has been expanding its structures and is constantly accepting new members. Today the Arbeitskreis für Provenienzforschung e.V. is a nonprofit membership organization for the promotion of provenance research in all its interdisciplinary variety. As the world's largest organization of professional provenance researchers, the Arbeitskreis is committed to the further development and sustainability of its field. In 2020, it lists more than 350 members with backgrounds in art history, history and contemporary history, linguistics and literary studies, archaeology, ethnology, and law. Our colleagues work in museums, in the public sector, in the art market, at universities or as independent researchers in Germany, Great Britain, the Netherlands, France, Austria, Switzerland or the USA.

In an attempt to promote direct personal and professional exchange, the Arbeitskreis holds one general assembly per year, usually in November (this year's anniversary assembly, however, had to be postponed until April 19–20, 2021, due to COVID-19). The Arbeitskreis maintains a lively exchange with relevant political and cultural institutions such as the German Lost Art Foundation (DZK), the Deutscher Museumsbund, ICOM Germany, the Kulturstiftung der Länder, the BKM (Federal Government Commissioner for Culture and the Media), the CIVS, the Österreichische

Kommission für Provenienzforschung, or the Schweizerischer Arbeitskreis Provenienzforschung. The association promotes the systematic research of museal collections by strengthening the professional position of its members and advocating a systematic and permanent integration of provenance research into museums, libraries, archives, the art market, and academic research.

The focus of research is particularly on objects taken as a result of Nazi persecution, but in recent years it has increasingly been extended to contexts such as objects seized in the Soviet occupation zone or the former GDR, as well as objects taken in a colonial context. Several working groups facilitate the accessibility of archival sources or develop professional standards either for a regional focus (e.g. France) or a thematic focus (such as Judaica, Postcolonial Provenance Research or Digital Methods, etc.). In addition to identifying so-called wrongfully appropriated items, this research also advances knowledge about the history of collections and institutions in order to understand the processes of authentication, (value) attribution, manifestation, or appropriation of what is now defined as cultural property.

Since 2019, the international "Day of Provenance Research" has taken place once a year in April with contributions from all over the world (in 2020 via social media only). This initiative of one of our working groups draws international attention to the social and academic relevance of the complex work of provenance researchers, explains and communicates the diverse issues and methods of this field of research, and introduces itself to a broad audience.

Although the Arbeitskreis Provenienzforschung e.V. is the only international network of its kind and can be considered a success story in every respect, we are still at the beginning of our work. The Arbeitskreis is committed to improving the working conditions at public and private institutions that employ researchers predominantly on short-term contracts (examining hundreds, sometimes even thousands of objects) as part of externally funded projects, thus jeopardizing the sustainability of the project and the long-term documentation of the research results. Finally, this results in a lack of professional anchoring in academic or non-academic research and instruction and thus a lack of methods as well as strategies for sustainable (digital) research infrastructures – not only in Germany.

Although the "Washington Declaration" of 1998 has led to important initiatives in European countries, these are not coordinated internationally. And although a central funding institution has been established in Germany since 2015 in the form of the Deutsches Zentrum Kulturgutverluste (DZK) in Magdeburg, this has proved rather an



obstacle to international project structures. Although researchers – especially in Germany as the former perpetrator state – are readily used as political figureheads in the “restitution marathon”, at the same time they have no valid legal basis whatsoever, but must refer to definitions and guidelines from the Allied occupation law, which has lost its legal validity for decades.

Therefore, last year on December 3, 2019, in a hearing at the EU Parliament in Brussels, the Arbeitskreis appealed for more recognition of our research at the international level, for more cross-national cooperation, for inter- and transnational funding programs for long-term (= sustainable) research models, for the establishment of shared terminologies, guidelines and definitions (e.g. on “flight goods”) as well as for the legal protection and preservation of our work. We still cannot grasp the dimension of dispossession, relocation, and looting because the traces have

been covered in the contexts of injustice as well as in post-war societies. And we still produce isolated and intransparent “knowledge silos” based on inconsistent content and semantic as well as technological standards, depending on the respective national policy in Europe. And this is not only a burden for us, but also for survivors and their relatives. To work together on a “fair and just”, which also means an efficient and sustainable provenance research – this is what we owe not only to our members but also to the victims of the most atrocious war crimes. Looking back on the success story of the Arbeitskreis in the last twenty years gives us hope that we can also achieve a lot within the next twenty years. Please support our association in this endeavor – we can only address this challenge together!

*Meike Hopp, Carolin Lange*

Vorstand Arbeitskreis Provenienzforschung e.V.

<https://arbeitskreis-provenienzforschung.org/>

## FIELD REPORT

### THE BUREAU OF THE COMMISSION FOR PROVENANCE RESEARCH SEEN FROM THE OUTSIDE

During an internship from October to mid-December, I was able to obtain a profound insight into the multifaceted tasks of the bureau of the Austrian Commission for Provenance Research. The members – Anneliese Schallmeiner, Anita Stelzl-Gallian and Lisa Frank – who can only be described as excellent in both professional and human terms, gave me theoretical and practical instruction to enable me to work on some of the broad spectrum of activities undertaken by the bureau. Because of the short time and the limited nature of my activity, however, I was mostly an observer, a status which my colleagues tell me is sufficient for a field report. What follows is therefore an insight, albeit far from comprehensive, into the core or hub of the Austrian Commission for more than twenty years.

#### What does the bureau of the Commission do?

The bureau is located in the Federal Monuments Office, whose archives contain readily accessible information essential for provenance research. These archives provide the basis for the bureau’s main work, the processing of external inquiries. Auction houses, independent provenance researchers, relatives and/or successors of victims of the Nazi regime, lawyers and journalists regularly ask the bureau for assistance in discovering the whereabouts of artworks and the property situation of persons from the past. Requests for export approval, documents

on earlier restitutions from the years after 1945, depot lists and other documents in the Federal Monuments Office archive often provide an initial indication regarding artworks possibly or actually confiscated. To answer the inquiries, it is often necessary to consult external archives as well. Asset declarations in the Austrian State Archive, for example, provide the information that many inquirers are looking for. These declarations were made pursuant to the Regulation on the Declaration of Jewish Assets of 26 April 1938 (dRGBI. 1938 I p. 414, GBlÖ 102/1938), which required all persons considered Jewish in the meaning of the Nuremberg Laws of 1935 (dRGBI. 1935 I S. 1146, GBlÖ 150/1938), their non-Jewish spouses and relatives living in the same household to list their assets as at 27 April 1938. As such they are key documents in connection with people in Austria who were persecuted, disenfranchised and expropriated because they were Jews.

A typical inquiry might say: “We have a painting here by x that used to belong to the collection y, but it is unclear when and for how long it was owned by y. Can you help?” The bureau always responds to such inquiries, even when they are obscurely formulated. Account is taken of the fact that sometimes entire families were persecuted, many of them murdered, and the few survivors (or their successors) might not have had any precise recollections or relevant documents relating to the individual assets. The bureau’s

export database can check by artists and collectors, the secured property file can be searched for all known criteria, and the asset declarations in the State Archive can be examined. Ideally, this would be enough in this case to determine whether the painting was part of collection y. With external inquiries, however, the office of the Commission cannot conduct in-depth research into the provenance of individual items and can only provide assistance to the best of the bureau members' ability. If it should transpire that the object was owned by the Republic of Austria, the provenance researchers working on behalf of the Commission would then be tasked with investigating the case.

The provision of documentation for those affected or for the researcher community is not limited to archives. The identification, transcription and evaluation of primary sources is also called for and serves as a basis for the long-standing and ongoing digitization of documents relevant to provenance research. A typical example is the inventory list of the applied art objects stored at Kremsmünster Abbey intended for the "Führermuseum" in Linz. The typewritten list, compiled in the 1940s, contains 1,212 items, which were recently digitized by me.

The processing of the following case by Anita Stelzl-Gallian with my collaboration would have been much simpler if all the documents had been digitized. To examine the contents of an art collection confiscated from the collector Bruno Jelinek, who was considered by the Nazi regime to be a Jew, we compared several lists of the collection contents to check whether they matched. The items appear in the original collection inventory, the list drawn up after they were secured, various auction catalogues over a period of more than thirty years (sometimes with details of the buyer) and documents from post-war restitution proceedings. Moreover, some of the collection items have already been restituted. And as the lists were drawn up in a wide variety of circumstances, the names and the descriptions of the individual items are just as heterogeneous, again making it difficult to match the lists, which all exist only on paper. The consolidation of all available sources in a single Excel file was a painstaking process but allows a direct comparison of documents, as well as digital searches and updating of the results.

There are still further uncounted inventory, depot, transport and inventory lists in the Federal Monuments Office archive. It takes hours to transcribe each document into a searchable digital form with a view to simplifying work in future. But bureau staff do not have the time for this kind of work. Nor is it too easy to decide which work should be transcribed first, regardless of the prioritization criteria

chosen. It is to be hoped that long-term solutions (or more interns) can be found in future.

The many different types of research, tools and inquiries make the staff of the bureau into experts with extensive knowledge of the different historical art collections and perpetrators of Nazi confiscations. The knowledge acquired in this way is made available to the public in the form of contributions to the online [Lexicon of Austrian Provenance Research](#). These articles are written by all members of the Commission, the bureau staff and persons associated with the Commission. I also had the possibility of writing articles based on the results of my research. The online entries are compiled in accordance with defined research criteria and verified in detail by the editorial team, in this way providing a reliable source for provenance research and the publication of research results. At present the Lexicon entries are only available in German, but an English version is currently being prepared.

The electronic dossiers created for each operation are not for publication. This useful documentation is intended so that the operations carried out in the Commission bureau can be traced. They represent a classic (and sometimes tedious) administrative task which the members of the bureau team are permanently called upon to carry out.

The Newsletter that you are reading here was compiled in the Commission bureau by Pia Schölnberger, administrative head of the Commission, with contributions from various committees and members of the Commission for Provenance Research and ultimately published on the Commission's website by Lisa Frank, who is responsible for all the above-mentioned steps, including layout and design.

This report gives only a meagre idea of the wide range of activities carried out in the Commission's office. I hope to have given a small insight into an institution that frequently remains invisible – unjustifiably so, because the work it carries out is really important. I should like here to thank the three members of the bureau – at once colleagues, supervisors and role models – for this highly instructive time.

*Elisabeth Schroll* studied museology in Berlin. She started the internship in Vienna in February 2020 but had to interrupt it after a month, returning to complete it from October, just before the second lockdown. She would like to continue her career in provenance research and is particularly interested in researching the confiscation of cultural objects in the Soviet Occupation Zone and the former German Democratic Republic.



# ADDENDUM

## THE JEWISH DIGITAL CULTURAL RECOVERY PROJECT (JDCRP)

The organised looting of cultural objects by the Nazis, their allies, and collaborators happened not only in Germany but throughout almost all of Europe. The international dimension of the greatest art theft in history was immediately perceived, and the need for a central registry has been acknowledged since the end of WWII. It was not until the late 1990's, however, that the idea of a central database was concretely addressed. In the wake of the 1998 Washington Conference on Holocaust-Era Assets, there were attempts to compile information, but most databases that various countries – Germany, Austria, France, the Czech Republic, the Netherlands, the United States, and others – tried to create primarily reflected the existing collections of their museums. The Conference on Jewish Material Claims Against Germany (Claims Conference) and the World Jewish Restitution Organization (WJRO) recognized the need to go back to the original archives of looting. They realized that in view of the great scattering of movable cultural objects and of the archives concerning them, international cooperation needed to be paramount. The focus was on the Einsatzstab Reichsleiter Rosenberg (see <https://www.errproject.org/>), and the first object-level integrated database rooted in archives that included information on what was taken, from whom, and the fate of the objects, if known, was the Database of Art Objects at the Jeu de Paume (ERR Database) (see <https://www.errproject.org/jeudepaume/>) that the Claims Conference produced in cooperation with the German Federal Archives, the Diplomatic Archives of the French Ministry of Foreign Affairs and International Development, the United States National Archives and Records Administration, the United States Holocaust Memorial Museum, and the Commission for Art Recovery (CAR).

The success of that database led in 2016 to discussions organized by Wesley Fisher of the Claims Conference-WJRO and Agnes Peresztegi of CAR with the main government agencies, archives and art history organizations of France, the Netherlands, Belgium, Germany, Austria, and the United States. There was consensus that the experience of the ERR Database, along with developments in technology, the greater opening of archives, and the knowledge acquired through other databases and related provenance research projects could be forged to build something much larger with the participation of a greater international network. And so the Jewish Digital Cultural Recovery

Project (JDCRP) was born with the goal of creating a comprehensive archival based presentation of all Jewish-owned cultural objects plundered by the Nazis and their allies from the time of the objects' spoliation to the present. The idea is not to replace the currently published and often excellent existing databases but to find new ways of improving and refining research and educational tools.

The sense was that such an initiative needs to be run primarily in Europe, so in 2019 the JDCRP Stiftung was established in Berlin, Germany, with an international team and an initial network of international partners that it is hoped will only continue growing. Amongst these partners are the Archives Nationales of France; the Belgian State Archives; the Bundesarchiv; the Centre allemand d'histoire de l'art, Paris; Christie's; the CIVS of France; the Deutsches Zentrum Kulturgutverluste; the Getty Research Institute; the Institut national d'histoire de l'art; the Ministère de la Culture et de la Communication of France (including the Archives de France and the Service interministériel des Archives de France); the United States National Archives and Records Administration; Sothebys: Fine Art Auctions and Private Sales; the United States Holocaust Memorial Museum; and the German Zentralinstitut für Kunstgeschichte. Also participating are the Fondation pour la Mémoire de la Shoah, France; the Expertisecentrum Restitutie, NIOD Instituut voor oorlogs-holocaust-en genocidestudies; the Austrian Kommission für Provenienzforschung, and others.

An enterprise as ambitious as the JDCRP's comprehensive database requires an underlying case study that will provide a coherent methodological framework with which to test and prove the project's feasibility. On January 1, 2020 the JDCRP launched its pilot project: The Fate of the Adolphe Schloss Collection, co-funded by the European Union. Its purpose is to test and create a sustainable model database that captures and displays historical information about all Jewish-owned objects of art which were looted and displaced by the National Socialists and their allies between 1933 and 1945. The JDCRP pilot project that concentrates on items that were part of the Schloss family's collection includes all the phases of implementation, with a smaller volume and thematic scope, that will allow for the JDCRP database to be designed and built based on the results.



The Schloss collection consisted of 333 paintings of mainly Dutch and Flemish old masters assembled by Adolphe Schloss, a French-German internationally-renowned art connoisseur. This ultimately very European collection was looted in France in April 1943 and dispersed around the world in the ensuing years. The pilot project is exploring how art dealers, art galleries, auction houses, collectors and looting agencies, determined the fate – licit and/or illicit – of the Schloss paintings. One-third of the collection is still unaccounted for and circulating in the international art market. The pilot project is amassing thousands of documents and photographs from archives in France, Germany, the Netherlands and the United States from which critical information will be extracted, processed and analyzed for inclusion into the model database. The relevant sections of historical databases developed by other research projects created using archival sources will complement the pilot project's database model. Experts from three advisory groups (archives, digital technology, and provenance research/art history) provide critical input to the pilot project on how best to organize, analyze, and display the thousands of pieces of information. The pilot project will ensure that all documents, texts, and images are fully searchable and can be queried so as to elicit complex analytical results which can also be visualized. An additional outcome of the pilot project is the creation of educational materials designed for both specialized and lay audiences on a variety of topics surrounding the project such as: archival research, provenance research methods, comparative and critical reading and analyzing of historical documents, to name but a few. The pilot project will also promote best practices on how to draft and present the history of objects from the time of their creation to the present.

Led by Marc Masurovsky, Academic Director, who was also responsible for the ERR Database, and by Avishag Ben-Yosef, Project Manager, the pilot project database relies on an event-based approach to tell the story of art objects as they move across time and space through the events and entities that shape their movement. Equal weight is assigned to the objects, the people and the events shaping their destiny. In an event-based database, the object-specific narrative is de-centered while the object becomes recontextualized. The event-based approach, as opposed to the traditional object-based approach, innovates in its focus on the institutions and individuals who are involved directly or indirectly with the fate of displaced art objects. The pilot project will conclude its initial tests, on schedule, as of the end of June 2021.

In consultation with its partner organizations and advisors, the JDCRP will then move to the next phase, which will consist of moving tens of thousands of items taken primarily in France, including many that did not go through the Jeu de Paume but are currently being held in the ERR Database waiting to be transferred to the new general database, after which will begin the challenge of incorporating hundreds of thousands of objects from a similar number of archival documents from a variety of sources. The database will enable researchers, ministries of culture, museum curators, art dealers and auction houses – but also families and the generally curious – to investigate the fate and history of looted cultural objects.

If we have been able to adhere to our timeline, it has been largely due to the wonderful cooperation of our various partner organisations. The current global health crisis could have theoretically ground our project to a halt. The travel bans enacted and the closing of archives were indeed problematic for our first phase, which consisted in the compiling and extraction of information from various repositories in numerous countries. Many of the archives were extremely cooperative, sending us documentation and information during the quarantines enforced in many European countries. Our partner list went from a two-dimensional enumeration of organizations to a multi-dimensional network of people who believe in the project. In our decentralised and globalized world, international cooperation cannot be sidelined. A project as large as the JDCRP is nothing if not international. The JDCRP Stiftung looks forward to furthering cooperation by sponsoring a number of related projects and by helping develop education in provenance research and education on the Holocaust generally through the history of the artworks and other cultural property that was plundered.

For further information, see <http://jdcrp.org/>.



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