

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

Report 2016

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Declaration forms from the files of the Netherlands Art Property Foundation (SNK).

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Foreword



1. Willibrord Davids

As emerges from the recommendations contained in this report, in the year under review the Committee recommended rejection of the application for restitution in all five cases about which it issued advice (cases numbers RC 1.147; 1.155; 1.160; 1.149 and 1.150). Here I do not include the atypical case RC 3.153 in which the Committee decided not to take it under consideration. Rejection is not all that these applications have in common. The grounds for these rejections were also the same. In all of these cases the rejection was based on negative answers with regard to the ownership issue. This issue means that it must be highly likely that the work of art was the property of the person who, according to the

applicant or applicants, was the original owner. I point out here that the Committee - in accordance with the recommendations of the Ekkart Committee - does not require 100% conclusive proof. The words 'highly likely' or 'highly plausible' are sufficient with regard to ownership. Apart from a few questions of a formal nature, it is the first issue that the Committee addresses during the investigation into the merits of an application. In its recommendations in 2016 the Committee therefore did not address the next issue, namely whether the original owner lost his possession against his will as a result of circumstances directly related to the Nazi regime. It is tempting, of course, but nevertheless irresponsible to conclude that this is the start of a trend which will lead to many applications being rejected because the ownership issue cannot be resolved with sufficient certainty. I would not - at least yet - dare to conclude that the implementation of the restitution policy has now progressed so far that in the present remaining cases the ownership situation is more doubtful than before. In this context I would furthermore point out that in 2015 it was considered highly likely in six of the eight cases that the works of art had belonged to the original owners designated by the applicants. The two revised recommendations have not been included here.

It can be very disappointing for an applicant if the application is rejected because the uncertainty about the original ownership is too great. The Committee's remit with regard to individual restitution applications is to advise about the issue of what a just and fair solution is, as the Washington Principles put it. The restitution of a work of art when the chance that someone other than the ancestor of the applicant or applicants was the original owner is not negligible is not a just and fair solution. So therefore, no matter

Disclaimer

This English version is a translation of the original Dutch report 'Verslag 2016', in case of possible differences in translation we refer you to the Dutch report.

Frequently used abbreviations:

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

how much empathy the Committee may have for such feelings of disappointment, the Committee would not be carrying out its job properly if it were to let such empathy prevail.

The Minister has let it be known that she intends to encourage applicants and current owners to reach agreement through amicable consultation without the Committee being called upon.¹ That sounds reasonable. Dealing with a restitution application in this way, however, only leads to a just and fair solution if there is equality of arms, as the European Court of Human Rights expresses it, for resolving a dispute or, in perhaps more mundane terms, if there is a level playing field. In restitution matters this is by no means always the case. Take the position of a museum that, tied as it is to its ethical codes, finds itself in a situation where it has to express justified doubts about the ownership issue to an applicant, who may or may not be receiving legal assistance, in whose family history the horrors of the Nazi regime are evident and still perceptible. In such a case it will be readily argued that the museum is suspected of giving more weight to its own interests as current owner than to those of a robbed Jewish family. The disappointment undergone by the family will sometimes be blamed on the museum. My experience as Chair of the Restitutions Committee is that such a reaction is far from pleasant. It was a wise decision by the ministers and state secretaries who gave shape to the implementation of the restitution policy at the beginning of this century to give a leading role to an independent, impartial and expert third party, like the Committee, in that stress field of differences of opinion.

It has been my privilege to serve with great pleasure and satisfaction for eight years as Chair of the Committee. That was the result of many factors, including making a contribution to the importance of handling individual restitution applications reasonably and fairly as well as finding the right solution for difficult and significant problems. Another major factor was without doubt the close cooperation with fellow members of the Committee and the staff in the secretariat. I owe them all a great debt of gratitude. My position as Chair was taken over by Dr A. Hammerstein with effect from 23 December 2016. I would like to wish him similar pleasure and satisfaction.

Willibrord Davids
Chair until 23 December 2016

¹ Verbal consultation with the Standing Committee for Education, Culture and Science of the Dutch Lower House on 21 November 2016. The Minister in response to a question from Member of the Lower House Van Veen (VVD (People's Party for Freedom and Democracy)). See also the letter from the Minister to the President of the Lower House of 4 October 2016. Lower House, session year 2016-2017, 25 839, no. 42. Appendix 5.

1. Introduction

This is the fifteenth annual report of the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (the Restitutions Committee). The Restitutions Committee was established by the State Secretary for Education, Culture and Science (OCW) through a decree of 16 November 2001, and it gives opinions and recommendations about applications for the restitution of Nazi looted art.²

This annual report follows annual reports published previously, which describe in detail the Restitutions Committee's history, policy framework and working methods. Please see these publications for more detailed information about these subjects.³ This report concentrates on the activities carried out in 2016.

Chapter 2 contains a brief description of the Restitutions Committee's history, the Committee's composition (which changed on 23 December 2016) and its staff. The advisory tasks and the applicable Dutch restitution policy are summarized in chapter 3. This is followed by a discussion of the intended changes in the implementation of the restitution policy. Chapter 4 addresses the year under review—2016—with an account of the activities carried out and a few interesting international developments concerning Nazi looted art. Chapter 5 contains a quantitative overview of the opinions and recommendations issued from 2002 to 2016 inclusive, and in chapter 6 there is the full text of the recommendations that the Committee issued in 2016.

² Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War, 16 November 2001. The Decree Establishing the Restitutions Committee was amended by the State Secretary of OCW by a decree of 4 July 2012. Appendix 1 contains the 2001 Decree Establishing the Restitutions Committee and the associated explanatory notes. The entire amended text of the Decree Establishing the Restitutions Committee, which came into effect on 19 July 2012, can be found in Appendix 2. See section 2.4 of the 2012 annual report for more information about the amendment of the Decree establishing the Restitutions Committee.

³ Previous annual reports can be consulted in digital form on the website <http://www.restitutiecommissie.nl/publicaties.html> (Dutch version) or <http://www.restitutiecommissie.nl/en/publications.html> (English version). Please contact the secretariat (the address can be found at the end of this report) to request printed copies of the annual report.

2. The Restitutions Committee

2.1 History in Brief

Between 1933 and 1945 the Nazis seized, stole or purchased artworks, antiques, jewellery and other objects from private individuals and art galleries on a large scale throughout Europe. After the country was liberated, the allies found many of these items of cultural value, particularly in Germany, after which they were brought back to their country of origin. This recovery was accompanied by the instruction to national governments to manage the art being returned and to ensure it was returned (restituted) to the rightful owners or their heirs. In the Netherlands, the Netherlands Art Property Foundation (SNK) was tasked with the recovery and restitution activities.⁴ Some of the items of cultural value that were not restituted after the war were auctioned off by the Dutch State during the nineteen-fifties. The remainder was incorporated in the Netherlands Art Property Collection (NK collection), as part of the Dutch National Art Collection.

Starting at the end of nineteen-nineties, renewed interest arose in the Netherlands and other countries in the return of art treasures that had been looted during the Second World War. There were calls for a flexible restitutions policy, for example in such international instruments as the Washington Principles on Nazi Confiscated Art (1998) and in a resolution on Looted Jewish Cultural Property (1999) adopted by the Parliamentary Assembly of the Council of Europe. Recommendations were made to opt for a form of alternative dispute settlement outside the standard judicial process.

The actions taken in the Netherlands in response to these principles included establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (Restitutions Committee) in a decree dated 16 November 2001. The Origins Unknown Committee, also known as the Ekkart Committee, played an important role in its history.

Under this committee's supervision, between 1997 and 2004 the Origins Unknown Agency (BHG) investigated the provenance of all objects in the NK collection. At around the same time, the government gave notice of a more liberal restitutions policy based on recommendations made by Ekkart Committee in 2001, 2003 and 2004. Within the scope of this generous policy, since 2002 the Restitutions Committee has been advising the Minister of OCW about decisions to be taken on individual applications for the restitution of items of cultural value looted during the Nazi regime.⁵

⁴ For a comprehensive overview see Eelke Muller and Helen Schretlen, *Betwist Bezit. De Stichting Nederlands Kunstbezit en de teruggave van roofkunst na 1945* (Disputed Ownership. The SNK and the Restitution of Looted Art after 1945), Waanders Uitgevers, 2002.

⁵ See Appendix 3 for an overview of the documents concerning the restitution policy.

2.2 Composition of the Restitutions Committee

When the Restitutions Committee was established at the end of 2001 it was expected that this late form of restoration of rights with regard to the looting of items of cultural interest in the Second World War could be completed within a few years. At the end of the twentieth century public opinion in the United States and European countries had generally accepted that after the war there was no recompense, or not sufficient recompense, for the Nazi robbing of persecuted and murdered Jews and of Sinti and Roma. This was recognized - albeit not without difficulty - in international circles as an omission, so a policy for return or compensation had yet to be specified. While Nazi looting could not only be recognized and calculated, but also settled, in other sectors of society around the turn of the century, individual works of art and above all their restitution had proved to be a subject of longer duration and of larger scope. Members of the Restitutions Committee have been repeatedly reappointed since 2001, the last time up to the end of 2016, in anticipation of completion of the process of restitution. It became clear in 2016 that this expectation has to be revised. Both the restitution process and the Committee have actually become parts of a policy, the end of which is not in sight (in so far as it can ever be ended).

On 23 December 2016 the terms of appointment of all seven members of the Restitutions Committee ended. In the interests of continuity and the retention of accumulated knowledge, the Minister of OCW has decided to have a staged system for appointment, reappointment and retirement. Three of the seven sitting members, including the Chair, have not been reappointed at their own request. In a decision dated 9 December 2016⁶ the Minister appointed a new Chair and two new members for a term of three years beginning on 23 December 2016. This term may not be renewed more than once. At the same time four members were reappointed: I.C. van der Vlies as Vice-Chair and H.M. Verrijn Stuart as a member until 23 December 2018; J.T.M. Bank and P.J.N. van Os as members until 23 December 2017.

Pursuant to the Decree Establishing the Restitutions Committee (article 3, paragraph 4) one of the members shall have sufficient expertise in art history or museology to be able to make a substantial contribution to the committee's work. The Committee has repeatedly benefitted from that substantial contribution from E. J. van Straten. He was appointed in 2001, when he was Director of the Kröller-Müller Museum in Otterlo. He was also a member of the Museum Acquisitions 1940-1948 Committee, which conducted the first investigation into the origins of works in Dutch museums that were acquired during that period. He became indispensable thanks to his doctorate in art history and his experience in the theory and practice of museums. Such expertise is of great value when investigating the origins of claimed artworks through advice about the searching process and also about the interpretation of the art historical style and material properties of the works of art concerned. This includes discovering indications of the ownership and its history.

⁶ Appointment/reappointment decision, *Netherlands Government Gazette*, 22 December 2016, no. 70170.

The Committee has seen its confidence in his expertise consistently confirmed. He contributed his expertise to the Committee in a firm manner and in a sober tone; firm and sober because it emerged that he knew what he was talking about. He displayed this same combination to the Committee as Secretary and Treasurer. Such characteristics can be effective when it comes to making decisions about claims, responding to which calls for a combination of detailed knowledge and appropriate empathy.

G.N. Verschoor, art historian and writer, joined the Committee at the end of 2016. She is Director of CODART, the international network of curators of Dutch and Flemish art.

R. Herrmann was a member of the Committee from January 2013 to December 2016. Previously – from December 2007 to October 2008 – he had served as Chair. During the committee’s deliberations he brought exhaustive expertise in legal argumentation and precision to bear. He acquired this as a judge - as a justice and Vice-President of the Amsterdam Court of Appeal and thereafter as a member and Vice-President of the Supreme Court. He was chair of the Dutch department of Amnesty International and a member of the Human Rights Committee of the Advisory Council on International Affairs.

In the Committee Herrmann was the legal support and anchor when the moment came to draw conclusions after investigation of the theft. He made a substantial contribution to assessments in which sometimes a significant weight was given to plausibility because, at times out of sheer necessity, investigation of the facts was incomplete and in which great importance also had to be given to the validity and precision of argumentation. Of the Committee members, he was the fiercest advocate of justice; an argument that as such did not automatically lead to conclusions benefitting either the claimant or the party with possession.

J.H.W. Koster joined the Restitutions Committee at the end of 2016. He is a lawyer and partner in the law firm Clifford Chance in Amsterdam.

The Restitutions Committee was chaired between 1 January 2009 and 23 December 2016 by W.J.M. Davids. Shortly before, he had retired as President of the Supreme Court on account of reaching the mandatory retirement age. In Nijmegen he studied to become a notary. After an academic career in Groningen in the nineteen-eighties he became a member and later Vice-President of the Court of Assen before being appointed to the Supreme Court in 1986. He was President between 2004 and 2008. Shortly after he became Chair of the Restitutions Committee he was furthermore invited to chair a committee that was tasked with investigating the Dutch government’s decision making about participation in the invasion of Iraq by the USA and the UK. A critical final report was published at the beginning of 2010.

In recent years the Restitutions Committee has been able to derive great benefit from the legal skill and experience of its Chair. Decision making about restitution is rarely simple. The arguments relating to any decision cannot be compiled until after thorough research, so its progress calls for good guidance. In hearings, the possibility of which has been



2. From left to right, front row: Marck, Van der Vlies, Davids, Verrijn Stuart and Van Os; back row: Herrmann, Nachbahr, Bank and Van Straaten

offered in more and more cases in recent years, leadership is important and flexibility and determination must be applied appropriately. At the end of this procedure is the need for decisiveness, which furthermore has to be expressed in clear argumentation. As Chair, Davids mastered and monitored all these stages, maintained a fitting tempo, and aimed at careful formulation of the conclusions. Finally it should be recalled that every now and again the Chair could also steer a meeting with confidence and style, particularly if that seemed appropriate.

The Committee is extremely grateful to its departing Chair for the way he guided the continuation and renewal of the restitution process initiated by the Minister of OCW. It was attentive and critical supervision which from his side focussed attention primarily on the retention and protection of the legal meticulousness of the procedure and on preservation of the expertise and experience acquired over the years in conducting research and by the researchers.

A. Hammerstein took over the Chair from W.J.M. Davids at the end of 2016. Hammerstein was a judge in Arnhem and later a justice and President of the Court of Appeal in that city. In 1998 he was appointed a justice in the Supreme Court and later was Acting Advocate General. He was also an extraordinary state councillor and Professor of Dispute Resolution at Radboud University.

At the end of 2016 R.A.M. Nachbahr ended his activities for the Restitutions Committee. He was Acting Secretary from 1 March 2015 and Secretary from October 2015. In this position he combined education in art history and training as a lawyer. This enabled the Committee to benefit from its Secretary in both fields. The Committee is very appreciative of its Secretary's dedication and expert efforts over the last two years.

M.C.J. Kooij was appointed Secretary of the Restitutions Committee with effect from 1 January 2017.

Members of the Restitutions
Committee until 23 December 2016:

W.J.M. Davids (*Chair*)
I.C. van der Vlies (*Vice-Chair*)
J.T.M. Bank
R. Herrmann
P.J.N. van Os
E.J. van Straaten
H.M. Verrijn Stuart

Members of the Restitutions
Committee from 23 December 2016:

A. Hammerstein (*Chair*)
I.C. van der Vlies (*Vice-Chair*)
J.T.M. Bank
J.H.W. Koster
P.J.N. van Os
H.M. Verrijn Stuart
G.N. Verschoor

2.3 Restitutions Committee Employees

The Committee's day-to-day activities were carried out in the Committee's research bureau and secretariat under the supervision until the end of 2016 of the General Secretary, R.A.M. Nachbahr. The other members of the team were A. Marck (Deputy Secretary/researcher/spokesperson), A.W.G. Brandse (office manager), I. El Achkar (management assistant), E.J.A. Idema (legal assistant), A.M. Jolles-van Loo (archivist), F.M. Kunert (researcher), J.M. Mooren (researcher) and E. Muller (researcher). M. van Kooten worked for the organization as a freelance.

The Restitutions Committee's office is located at Lange Voorhout 13 in The Hague. The research team also has an office available in the National Archives of the Netherlands in The Hague.



3. From left to right: Hammerstein, Davids, Koster and Verschoor

3 Dutch Restitution Policy

3.1 Restitutions Committee's Tasks

The Restitutions Committee's primary task is to issue advice to the Minister of OCW about claims to items of cultural value in the Dutch National Art Collection, in other words the collections in the possession of the Dutch State.⁷ Not all the items of cultural value whose possession was lost by the former owner as a consequence of the Nazi regime ended up in the Dutch National Art Collection. Some can be held by provinces, local authorities, foundations or private individuals. This is why the government gave the Restitutions Committee a second task, which is to issue opinions about restitution issues to which the Dutch State is not a party.⁸ Such cases therefore involve items of cultural value in the possession of owners other than the Dutch State.

See the Committee's website for more information about the procedures it employs in the opinion-related tasks referred to above.

3.2 Current Restitution Policy

The original Decree Establishing the Restitutions Committee of 16 November 2001 stipulated that the Restitutions Committee shall conduct its advisory task with regard to claims to items of cultural value in the Dutch National Art Collection giving due regard to government policy in this respect. The most important components of this policy were formed by three sets of recommendations by the Ekkart Committee. These were the Interim Recommendations Concerning Private Art Ownership (2001), the Recommendations Concerning Restitution of Art Dealers' Artworks (January 2003) and the Final Recommendations (December 2004).⁹

As a result of an amendment of the Decree Establishing the Restitutions Committee, the assessment framework for evaluating applications for restitution of items of cultural value in the Dutch National Art Collection was changed step by step. With effect from 19 July 2012 claims to items of cultural value in the Dutch National Art Collection that do not belong to the NK collection are assessed using the 'yardsticks of reasonableness and fairness'. With effect from 30 June 2015 this assessment framework also applies to claims to items of cultural value that do belong to the NK collection. As a consequence of these two changes the assessment framework for claims to items of cultural value in the Dutch National Art Collection is the same as that for items of cultural value belonging to collections other than the Dutch State's.¹⁰

⁷ Decree Establishing the Restitutions Committee, 16 November 2001, article 2, paragraph 1. Appendix 1.

⁸ Decree Establishing the Restitutions Committee, 16 November 2001, article 2, paragraph 2. For more information see the explanatory notes to this Decree Establishing the Restitutions Committee. Appendix 1.

⁹ The said sets of recommendations can be consulted via the Restitutions Committee's website.

¹⁰ See chapter 2 of *Report 2015* for a comprehensive description of these changes and their backgrounds.

3.3 Future of the Restitution Policy and Its Implementation

At the end of November 2015 the Minister of OCW announced that she would inform the Lower House in 2016 about future policy on the restitution of Nazi looted art. The Minister asked Bureau Berenschot to conduct an investigation into and formulate recommendations about the set of activities associated with restitution of art plundered during the Second World War. On 4 October 2016 the Minister sent a letter to the Lower House¹¹ in which she unfolded her plans for changes to the implementation of the restitution policy. According to the Minister there are no reasons for making changes in the restitution policy but a few measures need to be taken to improve implementation of the policy.

An important change in the implementation of the policy announced in this letter is the establishment of the Second World War Plundered Art Expertise Centre. In so doing the Minister wants to combine and permanently anchor the knowledge and skills that are currently spread among the researchers of the Origins Unknown Agency, the Restitutions Committee and the Netherlands Museums Association. The Expertise Centre will have an information function and also a research function. The option will also be introduced for the Expertise Centre to conduct an investigation at the joint request of the applicant and the current owner. In the letter the Minister also states that she does not consider the introduction of an appeal procedure for the restitution policy to be expedient. The letter contains the expectation that the proposed measures will be executed during the course of 2017 at the latest. There will be an evaluation of the policy and the organizational structure in 2020.

The letter to the Lower House came up for discussion during a meeting between the Standing Committee for Education, Culture and Science and the Minister on 21 November 2016. Member of the Lower House Van Veen (VVD (People's Party for Freedom and Democracy)) asked a few questions about the letter, and the Minister answered them¹².

¹¹ Letter from the Minister of OCW to the Lower House, 4 October 2016. Appendix 5.

¹² Minutes of consultations about legislation, pp. 8 and 56. Lower House, session year 2016-2017, 34 550 VIII, no. 90.

4. A Look Back at 2016

4.1 Cases under Consideration in 2016

In 2016 the Committee held eight meetings and organized four hearings concerning cases under consideration. During the year under review twenty-one cases were considered.

Four of them arose from the *Museum Acquisitions since 1933* investigation.¹³

The Committee issued five recommendations and one decision in 2016.¹⁴ The Committee will issue recommendations or opinions about the remaining cases in 2017 or thereafter.

4.2 Symposiums, Presentations and Study Days

The focus on restitution and restitution policy continued unabated throughout 2016.

As a result Committee members and employees attended national and international symposiums and maintained contacts with committees, researchers, students and institutions in the Netherlands and beyond. The most important activities are summarized below in chronological order.

- *28 January*: Kunert attended the symposium *Provenienz macht Geschichte, Quellen und Methoden zur Erforschung der Herkunft von Zeichnungen zwischen 1933 und 1945* in the Walraff Richartz Museum in Cologne;
- *17 March*: Nachbahr gave a lecture to students of the Reinwardt Academie (Amsterdam University of the Arts);
- *19 March*: Nachbahr and Idema attended the second day of the conference *Fair and Just Practices: Art and heritage worlds from the perspectives of markets and law* organized by the Maastricht Centre for Arts and Culture, Conservation and Heritage in Maastricht;
- *24 June*: Nachbahr attended the second *Art and Cultural Heritage Law Conference* organized by the University of Geneva. One part of the programme was about dealing with Nazi looted art;
- *6 July*: Davids gave a lecture about the Committee's work for the Rotary Club in Wassenaar;
- *24 October*: in the office in The Hague Nachbahr and Marck received Messrs Hütte and Franz from the Deutsches Zentrum Kulturgutverluste (German Lost Art Foundation) in order to share experiences;
- *13 - 16 November*: Nachbahr and Mooren attended the conference *Collecting and Provenance*, which was held in The Israel Museum in Jerusalem;
- *1 December*: researchers Mooren and Kunert gave a guest lecture about research into Nazi looted art to art history students at the Free University Amsterdam.

¹³ For more information about this investigation see <http://www.musealeverwervingen.nl> and *Report 2011*, section 4.3.

¹⁴ The complete texts of the recommendations and a decision issued in 2016 are in chapter 6.

4.3 Information Meeting for Collection Managers

On 16 June 2016 the Restitutions Committee's secretariat organized an information meeting for collection managers at Museum Catharijneconvent in Utrecht. The meeting attracted some fifty attendees and Andrea van Pol was the day's chair. There were presentations by Deputy Secretary Marck (about the procedures used by the Committee), notary M.R. Meijer (about inheritance law issues), I. Looman (OCW) and E.W.M. Rodrigo (RCE (Netherlands Cultural Heritage Agency)) (about the restitution policy and the new Heritage Act) and P. Schrier (about the Missing Works of Art research project¹⁵ of the Origins Unknown Agency). In addition the day's chair spoke with Marieke van Schijndel (Director of Museum Catharijneconvent), Ralph Keuning (Director of Museum De Fundatie) and Pieter van Diemen (Nijmegen City Council senior legal policy advisor) about their experience with the Restitutions Committee, and he interviewed Siebe Weide (Director of the Netherlands Museums Association) and Secretary Nachbahr.

4.4 Documentary

Starting in 2014 the documentary maker Ditteke Mensink followed from the beginning to the end two cases that were under consideration by the Restitutions Committee. The result can be seen in her documentary *De Claim, zoektocht naar roofkunst uit WOII* (The Claim: Quest for Second World War Looted Art), which premiered at the IDFA (International Documentary Film Festival Amsterdam) in 2016. Thereafter the documentary was shown on television by the NPO (Dutch public broadcaster).

The first case that was followed (RC 3.140) concerned two portraits by Ferdinand Bol, which after the war came into the possession of Roosendaal City Council.¹⁶ It emerged from research conducted by the Committee in this case that the paintings had been sold at auction during the war without the permission of the Jewish owner at the time. After weighing up the interests of the parties involved, the Committee advised Roosendaal City Council to return the paintings to the heir of the original owner.

The second case followed in the documentary (RC 1.149)¹⁷ was about an application for restitution of a painting by Isaac Israëls, which is currently in Museum Arnhem. After extensive investigations by the Committee and the applicant in this case, the Committee came to the conclusion that it had not become sufficiently plausible that this painting had come from the possessions of the applicant's grandfather, as the applicant had contended. The Committee therefore recommended rejection of the restitution application.

The documentary and the work of the Restitutions Committee were covered in various media.

¹⁵ See also section 4.5.

¹⁶ To consult this recommendation see *Report 2015*, pp. 36-41, or the Restitutions Committee website.

¹⁷ To consult this recommendation see chapter 6 of this annual report or the Restitutions Committee website.

4.5 Revamped Origins Unknown Agency Website / Missing Works of Art Project

The Origins Unknown Agency (BHG) was established in 1998 on the instructions of the State Secretary for OCW to conduct provenance research into the NK collection. The results of this research have traditionally been published by the BHG on its website.

The BHG launched its revamped website on 9 December 2016. The launch was attended by members and employees of the Restitutions Committee. There were speeches by Marens Engelhard (General State Archivist), Marjan Hammersma (Secretary-General of OCW), Wesley Fisher (Research Director of The Conference on Jewish Material Claims Against Germany) and Rudi Ekkart (former Director of the RKD - Netherlands Institute for Art History).

After its revamp the website now also has data about works of art that were reported as missing after the Second World War and are mostly still missing. This addition is the result of the Missing Works of Art project, the objective of which is to digitize and give access to information about missing works and, where possible, to identify them. Some 15,000 declaration forms and the associated image material from the files of the Netherlands Art Property Foundation (SNK) and the RKD - Netherlands Institute for Art History form the basis for this project. Although the project has not yet been completed, various important artworks have already been traced. The first claim arising from this project was submitted to the Restitutions Committee at the beginning of 2017. The website is an indispensable provenance research tool and it will contribute to the sharing and retention of knowledge about provenance research for private individuals and professional institutions worldwide.

4.6 International Developments

Germany

Germany has had a restitutions committee, the *Beratende Kommission im Zusammenhang mit der Rückgabe NS-verfolgungsbedingt entzogener Kulturgüter, insbesondere aus jüdischem Besitz*, since 2003. This *Beratende Kommission* makes recommendations about claims to Nazi looted art. There were three in 2016. Three new members were also appointed to the *Beratende Kommission* in 2016. A number of changes were made in 2016 too, primarily in order to increase transparency. One of these changes concerns a *Verfahrensordnung*, a set of rules in which the procedural and material criteria for making a recommendation are specified. The *Deutsches Zentrum Kulturgutverluste* (German Lost Art Foundation), which incorporates the *Beratende Kommission*, also launched a new website (www.kulturgutverluste.de).

United States

President Obama of the United States signed the Holocaust Expropriated Art Recovery (HEAR) Act into law on 16 December 2016. The United States does not have a restitutions committee and therefore a claimant to Nazi looted art has to go to court. In practice many restitution claims fail in court because they have become statute-barred. The HEAR Act is intended to put an end to this through the introduction of a uniform time limit for claims to Nazi looted art. Previously there were different time limits in different states. Under the HEAR Act a claimant to Nazi looted art must submit his claim within six years after he has become cognizant of the identity and location of the work of art, and after he has become cognizant of an ownership interest in the work of art concerned. If the claimant submits his claim within this six-year term, it will not have become statute-barred. This also applies to claims that previously could not be brought before the court on the grounds of time limits applicable at the time. The HEAR Act will be in force until 1 January 2027.



4. Revamped Origins Unknown Agency website

5. Overview of Restitutions Committee Recommendations and Opinions

5.1 Overview from 2002 to 2016

Between January 2002, when the Restitutions Committee took up its duties, and the end of 2016, the Minister of OCW requested advice about 166 cases. Of these, 145 related to items of cultural value from the Dutch National Art Collection; 138 were requests for advice ‘in the first instance’ and seven concerned requests for revised advice.¹⁸ The other 21 cases were about artworks with current owners other than the Dutch State, such as provincial and local authorities, foundations or private individuals.

The data presented in section 5.2 relate to all the cases concerning the Dutch National Art Collection. Cases involving works that are not in the Dutch National Art Collection are discussed in section 5.3.

5.2 Dutch National Art Collection Cases

By the end of 2016 the 145 Dutch National Art Collection cases brought before the Committee resulted in the issue of 133 recommendations.¹⁹ A few of the cases that had been submitted were withdrawn before advice could be issued, and on occasion a case was combined with a restitution application submitted later. The Committee furthermore considered itself not to be competent to advise in two cases.

Of the 133 recommendations issued, 62 were fully in the applicants’ favour, 53 were to reject the claim in full and 18 were to partly grant and partly reject the claim. The scope of the cases ranged from a single artwork to claims calling for the return of a few hundred items. The 133 recommendations issued concerned approximately 1,540 claimed items of cultural value.

Dutch National Art Collection cases per year

<i>Submitted to the RC</i>		<i>Recommendations issued by the RC</i>	
2002	12	2002	5
2003	4	2003	7
2004	9	2004	2
2005	16	2005	7
2006	15	2006	12
2007	35	2007	16
2008	12	2008	15
2009	10	2009	16
2010	6	2010	10
2011	2	2011	13
2012	5	2012	9
2013	3	2013	7
2014	8	2014	2
2015	6	2015	7
2016	2	2016	5
Total	145	Total	133

5.3 Cases Concerning Works not in the Dutch National Art Collection

As explained, when it was established the Restitutions Committee was assigned a second task in addition to assessing claims to works in the Dutch National Art Collection. This involves investigating and evaluating disputes about items of cultural value from collections other than the Dutch National Art Collection. The Committee discharges this task by giving a binding opinion within the meaning of article 7:900 of the Dutch Civil Code (contract of settlement).

By the end of 2016 the Restitutions Committee had received 21 requests for an opinion in the context of this task. The Committee issued binding opinions in a total of twelve cases in 2008, 2010, 2012, 2013 and 2015.²⁰ In eight of these twelve cases the recommendation was to reconstitute the disputed objects, while the binding opinion in the other four cases was that the restitution application should be rejected. During the year under review in one case the Committee issued a decision not to take an application under consideration.²¹

¹⁸ The Committee has dealt with a total of seven cases about items in the Dutch National Art Collection in which it issued revised advice. These concerned cases about which the Committee had advised previously and restitution applications that had been rejected wholly or in part. See *Report 2015*, section 4.3 for a separate table.

¹⁹ During the handling of a few cases, the advice was split up into two parts, so there were partial recommendations. The recommendations and opinions issued by the Committee can be consulted on its website. See Appendix 6 for an index by case number of all the opinions and recommendations issued by the Committee during the 2002-2016 period.

²⁰ See *Report 2008*, *Report 2010*, *Report 2012*, *Report 2013* and *Report 2015*.

²¹ See chapter 6, Decision concerning eleven majolica plates (RC 3.153).

Binding opinion cases per year

<i>Submitted to the RC</i>		<i>Opinions issued by the RC</i>	
2006	2	2006	-
2007	1	2007	-
2008	1	2008	3
2009	-	2009	-
2010	-	2010	1
2011	5	2011	-
2012	1	2012	1
2013	2	2013	4
2014	2	2014	-
2015	4	2015	3
2016	3	2016	1 ²²
Total	21	Total	13

5.4 Status at the End of 2016

At the end of the year under review a total of fourteen cases were still being dealt with, of which seven concern the Dutch National Art Collection and seven²³ are binding opinion cases.

The time taken to process a request for advice or an opinion varies from case to case. For example, the procedure takes longer if the historical investigation is time consuming. This can be due to the scope or the nature of the research needed. An investigation can take longer if the Committee is dependent on third parties for gathering information, such as archives in the Netherlands and other countries. In addition, procedural reasons often contribute to a longer turnaround time. In some cases, for instance, there are several claims relating to the same work of art, so a number of response stages are desirable and cases have to be kept open until investigation of the various claims has been completed. Applicants also regularly request an extension of the response times, for example so that they can do some research themselves.

²² This concerns a decision and not an opinion. See chapter 6, Decision concerning eleven majolica plates (RC 3.153).

²³ One binding opinion case has lapsed, and consequently there are seven to consider instead of eight.

6. Recommendations Issued in 2016

Below is the full text of the recommendations and the decision issued by the Restitutions Committee in 2016. The recommendations and decision are given in chronological order. The dates given for recommendations are based on when they were finalized²⁴

1. Decision of the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War, The Hague, (hereinafter referred to as the Committee) with regard to the request from XX and the Municipality of Rotterdam for an opinion concerning the dispute about restitution of eleven majolica plates²⁵
(Case number: RC 3.153)

- In a letter of 14 January 2015 XX, residing in YY, ZZ, according to his statement acting also on behalf of the family members he mentioned, asked the Committee for an opinion about the application he had submitted to the Municipality of Rotterdam (hereinafter referred to as the Municipality) for restitution of eleven majolica plates. In a letter of 27 February 2015 L.F. Kruidenier made a similar request for an opinion from the Committee on behalf of the Municipality. The majolica plates belong to the city collection and are kept by Museum Boijmans Van Beuningen. In an email of 18 March 2015 the Minister of Education, Culture and Science (hereinafter referred to as the Minister) informed the Committee of her agreement to the dispute being handled by the Committee.
- On the grounds of article 2 paragraph 2 of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War of 16 November 2001 (hereinafter referred to as the Decree Establishing the Restitutions Committee), the Committee is tasked at the Minister's request with issuing an opinion about disputes relating to the return of items of cultural value between the original owner who involuntarily lost possession as a result of circumstances directly linked to the Nazi regime, or his or her heirs, and the current owner, not being the State of the Netherlands.
- In the context of the aforementioned task, on the grounds of article 4 paragraph 2 of the Decree Establishing the Restitutions Committee, the Committee adopted Regulations for the opinion procedure. On the grounds of article 5 paragraph 3 of the Regulations, after the Minister has presented the dispute to the Committee, it will hear the dispute after the parties have stated in writing that they accept these Regulations and that will accept the opinion issued by the Committee as binding. On the grounds of paragraph 4, if, after a request to that effect, the parties have not complied with the stipulation referred to in paragraph 3 within four weeks, the dispute will not be heard. The Committee may extend the terms on the grounds of paragraph 5.
- Together with its request for an opinion, the Municipality submitted a decision by the Mayor and the Executive Board of the Municipality ('het college van Burgemeester en Wethouders') of 3 February 2015 in which they stated that they accepted the Regulations and would accept the Committee's opinion as binding.
- In letters of 9 April 2015, 24 September 2015 and 17 December 2015, the Committee requested XX to state that he accepts the Regulations and will accept the Committee's opinion as binding. In the last of these letters the Committee stated that if there was not compliance with this request by 31 January 2016 at the latest, in accordance with article 5 paragraph 4 of the Regulations it will feel compelled to decide not to hear the dispute. The Committee sent copies of these letters to the Municipality. The Committee has not received any response to the aforementioned letter of 17 December 2015.
- Since there has not been compliance with the requirement that all parties state in writing that they accept the Regulations and will accept the Committee's opinion as binding, the Committee will not hear the dispute.

²⁴ See Appendix 6 for an index by case number of all the opinions and recommendations published by the Committee during the 2002-2016 period.

²⁵ This concerns a decision and not an opinion.

7. In this regard the Committee notes the following. If XX does comply with the stipulations in article 5 paragraph 3 of the Regulations and if the Mayor and the Executive Board of the Municipality have not by then revoked their decision of 3 February 2015, the Committee will deal with the request.

DECISION

The Committee will not handle the request from XX and the Municipality of Rotterdam for an opinion concerning the dispute about restitution of eleven majolica plates.

Adopted on 1 February 2016 by W.J.M. Davids (Chairman), J.T.M. Bank, R. Herrmann, P.J.N. van Os, E.J. van Straaten and H.M. Verrijn Stuart, and signed by the Chairman and the Secretary.

(W.J.M. Davids, Chairman)

(R.A.M. Nachbahr, Secretary)

2. Recommendation regarding a tapestry (case number RC 1.147)

In a letter dated 17 December 2014 the Minister of Education, Culture and Science (hereinafter referred to as the Minister) asked the Restitutions Committee (hereinafter referred to as the Committee) for advice about the application from AA (hereinafter referred to as the Applicant), represented in this case by BB (hereinafter referred to as BB). This application concerns a tapestry (hereinafter also referred to as the tapestry), which is in Stadsmuseum in CC [Town Museum in CC] (hereinafter referred to as the Town Museum).

The Committee conducted an investigation into the facts in response to the Minister's request for advice. The results of the investigation are recorded in an overview of the facts dated 22 July 2015. The Applicant and the Minister were given the opportunity to respond to this overview of the facts. The Minister stated in a letter dated 11 August 2015 that she did not have any comments. The Applicant responded in a letter dated 3 September 2015.

On 13 October 2015 there was a meeting between BB and the Committee's chairman, secretary and one of its researchers. Subsequent to this meeting the Committee conducted supplementary research into the facts. The Committee held a hearing on 1 February 2016. BB was present on behalf of the Applicant. The Minister was represented by policy assistants I. Looman and C. Klopman, and E.W.M. Rodrigo, Dutch National Art Collection consultant. CC Council was represented by DD, a consultant.

The Committee adopted its advice to the Minister in its meeting of 7 March 2016. The Committee amended the overview of the facts in view of the Applicant's response to the initial overview of the facts. This amended overview of the facts will be sent to the Minister together with the adopted advice.

Considerations

1. The Minister's request for advice from the Committee was prompted by a letter from BB, on behalf of the Applicant, to Town Museum dated 18 November 2013. In this letter BB refers to information about the tapestry [...]. BB wrote that [...] EE (hereinafter referred to as EE) previously possessed [a few Gobelins]. These Gobelins were taken during the Second World War. [...]. BB also wrote that he, without telling the Applicant beforehand, showed her a photograph of the tapestry, and her immediate response was that a similar tapestry used to hang in her home. In his letter BB requests the Town Museum to investigate whether the tapestry in the museum might be one of [these missing] Gobelins.
2. This request was forwarded to the Committee through intervention by the Minister. The investigation conducted by the Committee revealed the following. EE stated the dimensions of the missing Gobelins [...] in [post-war correspondence]. EE furthermore mentioned that they were all in gilded frames [...]. After EE was evicted from his house in 1942, the Gobelins and his other possessions were taken by the Sicherheitsdienst (German Security Service). No further information about the Gobelins referred to in [post-war correspondence] was found during the investigation.
3. The following is known about the tapestry in the Town Museum. The approximate dimensions are 205 x 201 cm. It depicts a hunting scene. Among the documents sent to the Minister there is a statement dated 28 November 1979 by a certain FF of CC with the following declaration.

'The undersigned, FF of CC, herewith declares that he received on loan from Mrs GG, resident of CC [...] a Gobelin depicting a hunting scene. Upon the death of Mrs GG this Gobelin will be transferred within 14 days to the [Town Museum] by the undersigned = without any payment - in accordance with the agreement with Mrs GG. Signed in CC on 28 November 1979.'

It can be deduced from an internal CC Council memo dated 21 April 1988 that FF handed over the tapestry to Town Museum on 20 April 1988.

In the CC Council file there are also two pages of handwritten telegram-style notes. 'JJ, 9 June 1988' is at the bottom of one of the pages. The notes are as follows.

*neighbours
Heldring & Pierson - archive
Tapestry was hanging on my wall with the approval of Dr H. Gerson. Deceased. Gobelin probably dating from 1600 - 1700 - end 1800.*

*Gobelin was in the strongroom
Netherlands Institute for Art History (RKD).
War 40 - 45
Korte Vijverberg 7*

On 9 June 1988 a council employee noted the following, among other things, after a telephone call.

*Note JJ 9 June 1988
Heldring & Pierson archive DWC
Was hanging at the RKD
obtained from former "head" of RKD, Gerson. On loan or really received.
Various telephone discussions with N.N. about the fact that the donation has not been officially accepted by the council because of the dubious origin and that Mrs HH does not want to hear anything more about it*

During that period Mrs GG was head of the cleaning and catering department of the RKD (Netherlands Institute for Art History).

After receipt of the tapestry, the council had to address the question of whether it wanted to accept it as a gift. Finally, on 21 February 1989, the council executive decided not to.

4. The final report of the Museum Acquisitions 1940-1948 Project, published in 1999, summarizes the tapestry's provenance as follows. *'The museum states that in 1988 it received an artwork with an "obscure wartime history" from a private individual. It was a Gobelin depicting a hunting scene The donation was never officially accepted by CC Council because the work had arrived at the museum with question marks about its provenance. According to the museum the status of the Gobelin in the current collection is perhaps that of an item in safekeeping rather than a donation. The museum has a note with a few comments about the Gobelin's provenance. In so far as it is possible to draw conclusions from these comments, during the war the Gobelin was in the strongroom of the Netherlands Institute for Art History (RKD). At a certain moment the work allegedly ended up, with permission from an RKD employee, with the woman who later on donated it. The museum states that it has no way to retrieve more detailed information about the artwork's provenance. This is connected to the fact that at the time the donor washed her hands of the Gobelin, with the express comment that she no longer wanted to be approached about this issue. The donor does not have any close relatives who could provide more information about the work's origins. The researcher of the Museum Acquisitions 1940-1948 Committee asked a number of institutions and private individuals about the artwork's provenance. These efforts did not produce any new information.'*
5. It is stated on the relevant website [...] that further investigation after 1999 yielded no new data. The research conducted by the Committee into the tapestry's provenance and, linked to this, into Mrs GG did not unearth any relevant new information either.
6. The Committee does not consider it likely on the basis of the results of the investigation into the facts that the tapestry in the Town Museum is one of the [...] Gobelins reported by EE [...] as missing. A decisive reason for this is the difference between the dimensions of this tapestry (205 x 201 cm) and those of the Gobelins specified by EE [...] after the war (...). In addition to the difference in dimensions, there is also a clear difference in shape. The Gobelins referred to in the [post-war correspondence] are rectangular whereas the tapestry in the Town Museum is nearly square. It cannot be excluded that EE was mistaken about the dimensions [...]. But the Committee does not consider this to be likely. The Committee points out that [in later documents] EE quoted the same dimensions as in a previous letter [...]. The difference in shape also contributes to the improbability that EE was mistaken.

There are furthermore no connections between the currently known provenance of the tapestry and EE. The Committee moreover does not consider it part of its task in this case to give an opinion about the tapestry's provenance.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to reject AA's application for restitution.

Adopted at the meeting of 7 March 2016 by W.J.M. Davids (Chairman), J.T.M. Bank, R. Herrmann, P.J.N. van Os, E.J. van Straaten, H.M. Verrijn Stuart and I.C. van der Vlies (Vice-Chair) and signed by the Chairman and the Secretary.

(W.J.M. Davids, Chairman)

(R.A.M. Nachbahr, Secretary)

3. Recommendation regarding Jacobson-Granaat (II) (case number RC 1.155)

In a letter dated 8 May 2015 the Minister of Education, Culture and Science (hereinafter referred to as the Minister) asked the Restitutions Committee (hereinafter referred to as the Committee) for advice about the application for restitution of 10 March 2015 from XX (hereinafter referred to as the Applicant) for restitution of a winter scene by J. Griffier I and the painting *God Appears to Abraham at Shechem* by C.N. Moeyaert. Both works are part of the Netherlands Art Property Collection (hereinafter referred to as the NK collection). The painting by Griffier I is registered under number NK 2121, but is missing. The work by Moeyaert is registered under number NK 3401 and is currently in the custody of Stichting Museum Catharijneconvent.

Assessment framework

Pursuant to article 2, paragraph 1, of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War, as amended, there is a Committee that is tasked with advising the Minister at the Minister's request about decisions to be taken regarding applications for the restitution of items of cultural value whose original owner involuntarily lost possession due to circumstances directly related to the Nazi regime and which are:

- part of the NK collection or
- among the other holdings of the Dutch State.

Pursuant to paragraph 4, the Committee advises about applications as referred to in paragraph 1, under a, submitted to the Minister before 30 June 2015 with due regard for government policy in this respect.

The procedure

The Committee conducted an investigation into the facts in response to the Minister's request for advice. The results of the investigation are recorded in a draft investigation report dated 14 September 2015. The Applicant responded to it by email of 2 December 2015. As a result of this response the Committee conducted additional research, the findings of which are recorded in a Note dated 17 December 2015, which was sent to the Applicant. The Applicant's response of 2 December 2015 and the Note of 17 December 2015 are appended to the final investigation report. The Applicant did not make use of the opportunity given to her to respond to the Note. The investigation report was subsequently adopted on 29 June 2016.

Considerations

- The Applicant is requesting restitution of NK 2121 in her capacity as heir of her great-aunt Rosa Jacobson-Granaat (1888-1944). She is requesting restitution of NK 3401 in her capacity as heir of her grandfather Siegfried Granaat (1891-?). The Committee has no reason to doubt the Applicant's status. In this procedure the Applicant has also stated that she is acting on behalf of her sister YY.
- Siegfried Granaat and Rosa Jacobson-Granaat were the children of David Granaat (1855-1928) and Deborah Polak (1868-1915). David Granaat owned a diamond factory in Amsterdam. Rosa Granaat married Abraham Simeon Jacobson (1879-1944), an ear, nose and throat doctor and one of the founders of the CIJ (central Jewish nursing home) in Jacob Obrechtstraat in Amsterdam. During the war the Granaats lived at Minervalaan 88 II. On 3 September 1944 they were deported via Westerbork to Auschwitz, where they were murdered. Siegfried Granaat fled to England in 1940. The occupying forces appointed a *Verwalter* (administrator) to manage his assets.



5. Winter landscape by J. Griffier I (NK 2121)

- In her letter to the Minister of 10 March 2015 the Applicant writes that for some time she and her sister have been searching for the large art collection that their grandfather Siegfried Granaat and his sister Rosa Jacobson-Granaat possessed. In 2006 in case RC 1.22 the Committee recommended that the painting *Family Portrait* by J.M. Quinckhard should be restituted to the heirs of Rosa Jacobson-Granaat. The Applicant writes that with help from the Origins Unknown Agency (hereinafter referred to as BHG) she tracked down more paintings from the collection of her grandfather and great-aunt, including NK 2121 and NK 3401.

NK 2121

- NK 2121 is a winter landscape by J. Griffier I. The painting, which is oil on canvas and signed, measures 28 x 43cm. In 1973 the work was stolen from the Bonnefantenmuseum in Maastricht, where it was being held at the time, and has been missing ever since. The provenance prepared by BHG for the work begins on 30 June 1936, when it was auctioned at Frederik Muller in Amsterdam. At that time BHG places the work in the collection of C.W.A. Buma in Marssum. On that date BHG also mentions the name 'Jacobson' with the comment: 'No information was found about this painting in the files of the SNK (Netherlands Art Property Foundation) under the name Jacobson'. The next entry in the provenance relates to 1942, when the work once again came under the hammer at Frederik Muller. It is not known who put it into the sale. The work was purchased at this sale by the Goudstikker/Miedl gallery in Amsterdam, which sold it to C. Becker of Cologne on 8 November 1943.
- As stated in BHG's provenance, NK 2121 was put into a sale at Frederik Muller of Amsterdam in 1936. The sale catalogue describes this painting as follows.

[Mak.] 746 JAN GRIFFIER - Paysage d'hiver avec rivière prise par la glace,
[Jacobson] où se divertissent des patineurs, et traversée par un pont en pierre A gauche une habitation rustique, sur la rive droite des groupes de maisons avec tour d'église. - Signé. - Toile. - Haut. 28, larg. 34 cent. [100.-]
A été exposé à titre de prêt au Musée Boymans à Rotterdam.

The words shown in square brackets are notes that were written in the catalogue later in pen or pencil. They indicate that the painting was sold for 100 guilders to 'Mak. Jacobson'.

6. This gives rise to the question of who the note 'Mak. Jacobson' refers to. The note 'Mak. Jacobson' occurs a second time on the same page as the work by Griffier alongside a painting by R. Nooms. A similar note, 'Mak. Brandt', was made next to a painting by J. van Kessel. This last note most probably refers to Paul Brandt, a well-known art and antiques appraiser and dealer. If that is so, it suggests that 'Mak. Jacobson' means *makelaar* (dealer) *Jacobson*. A dealer called Nehemia Jacobson was in business in Amsterdam in 1936, and his field of activity included art and antiques.
7. There are no indications that link NK 2121 to the name Jacobson apart from the aforementioned note in the sale catalogue. The administrator who was appointed after the war to manage the absent Granaats' possessions corresponded with the SNK about the loss of various artworks from the couple's collection. The painting by Griffier I is not referred to in this correspondence. Abraham Simeon Jacobson was a doctor. The Committee therefore deems it unlikely that he was denoted as 'Mak. Jacobson'. This note is most probably a reference to the dealer Nehemia Jacobson.
8. Pursuant to the restitution policy that applies to this claim, restitution can be recommended if the ownership rights have been established as being very plausible and there are no indications to the contrary. On the grounds of the foregoing the Committee takes the view that this requirement has not been met with regard to the request for the restitution of NK 2121. The Committee will therefore advise the Minister to reject the Applicant's claim to NK 2121.

NK 3401

9. NK 3401 is large painting by C.N. Moeyaert. The work, entitled *God Appears to Abraham at Shechem*, is oil on canvas with dimensions 102 x 168 cm. The painting is signed and dated 1628. The provenance compiled by BHG contends that between 1911 and 1936 the work was part of the collection of D.S. (David) Granaat of Amsterdam. Between 18 June 1936 and 28 May 1941 the BHG places the picture with 'H. Hamburger (art gallery)' of Paris with the comment: 'On 18 June 1936 this painting was given to S. Granaat by H. Hamburger for safekeeping'. This is a reference to Siegfried Granaat. In 1941 the work ended up, through Eduard Plietzsch, an employee of the *Dienststelle Mühlmann* (Mühlmann Agency), in the collection of the Führer Museum to be established in Linz.
10. As stated in BHG's provenance, NK 3401 was originally part of the collection of David Granaat and later that of his son Siegfried Granaat. The latter owned a considerable amount of property, including 579 Herengracht, where the bank Hamburger & Co's Bankierskantoor was located, and 512 Herengracht. The latter was also his residence. Documents relating to the ownership situation of NK 3401 were found in the file opened by the *Abteilung Feindvermögen* (Enemy Assets Department) of the *Generalkommissariat für Finanz und Justiz* (General Commissariat for Finance and Justice) during the Nazi occupation concerning management of Siegfried Granaat's assets. The following is relevant to the assessment of the Applicant's claim.
11. On 20 May 1930 Siegfried Granaat and Hamburger & Co's Bankierskantoor recorded in a registered private instrument that the bank purchased a group of artworks from Granaat with a value of NLG 230,515. The said artworks are described in a list attached to the instrument. Under that instrument the items were subsequently given by the bank for safekeeping to Granaat, who acknowledged receipt of them for safekeeping subject, among other things, to the obligation to return the items to the bank as and when the bank requested. Granaat was credited by the bank with the aforementioned sum. He was also entitled to buy back the goods within a year, provided that he paid the bank the price in cash. The bank was entitled to oblige Granaat to buy back all or some of the goods at the price the bank paid for them. If Granaat was unable to fulfil this obligation, the bank was entitled without judicial intervention to have the artworks auctioned off or sold privately. A work by Moeyaert is mentioned under the heading '*Paintings in the dining room*' on the fifth page of the list, signed by Granaat and the bank, attached to the instrument as:

C. Moeyaert. Biblical scene. [f.] 9.000,-

On 29 December 1930 the bank and Granaat entered into a similar agreement with regard to a number of other artworks.
12. In a letter dated 11 May 1936 from Siegfried Granaat to Hamburger & Co's Bankierskantoor N.V. the former confirmed that the bank has written the following to him on 11 May 1936.

Pursuant to article 5 of the undertaking between you and us entered into by you on 20 May 1930 and 29 December 1930, we request you to buy back from us the works of art we purchased from you in accordance with those agreements for the prices referred to in article 1 of the aforementioned agreements no later than 18 May next, the total amount of the prices being f. 230,515.-- and f. 40,305.00, or a total of f. 270,820.--, in cash, that is to be paid to us on the aforesaid 18 May next at the latest in return for the delivery of the aforementioned works of art. In the absence of this payment, pursuant to the provisions of article 6 of the agreements referred to several times in the foregoing we will have to sell the aforementioned works of art.

In that same letter he responded to this as follows.

To my regret I have to inform you that I am unable to pay either before or after the date of 18 May next referred to in your letter the amount due to you for buying back and paying for the works of art you refer to.

13. It emerges from a letter from Granaat to the bank of 18 June 1936 that the notification from Granaat to the bank that he was not able to buy back the works of art he had previously sold, including NK 3401, resulted in their sale by the bank to Herman Hamburger. In this letter Granaat refers to a letter from the bank to him of the same date.

Further to our letter of 11 May last, we advise you herewith that the works of art etc. in question and referred to on the enclosed lists signed by us have been sold by us to Mr Herman Hamburger, Paris, 121 Avenue de Wagram, from a combined sum of f. -67,000.- (...)

In his letter Granaat furthermore stated that he concurred with the content of the bank's letter. The SNK's management file about Gustaaf Hamburger was found to contain copies of a few inventories with the heading '*belonging to the statement of 18 June 1936 by the undersigned*', which probably refers to the aforementioned statement by Siegfried Granaat. According to the copy the list was originally signed by Siegfried Granaat.

At the top of the first list there is the following note written in pencil: '*issued on 24-10-49 by Mr Somers Dir Hamburger & Co's Bankierskantoor*'. At the top of each page it is moreover stated that the inventory concerns '*the works of art etc. that are in the property at 512 Herengracht, Amsterdam, and which are being kept there in custody by the undersigned according to the aforementioned statement for Mr Herman Hamburger, Paris, 121 Avenue de Wagram*'.

On the third page of the list, under the heading '*Paintings in the dining room*', the works identified include still lifes by De Heem and Kalf as well as '*C. Mooyaert. Biblical scene*'.

14. It can be deduced from the course of events outlined above that Siegfried Granaat sold NK 3401 to the bank in 1930. When Granaat was not able to buy back the painting in 1936, the bank sold it to Herman Hamburger. The painting was then held by Siegfried Granaat in safekeeping for Herman Hamburger at 512 Herengracht. It can be deduced from a report dated 19 February 1941 by C.H. Oldach, who had been appointed as administrator of Siegfried Granaat's assets, that this situation remained unchanged until the beginning of the occupation. The report was addressed to the *Generalreferat Feindvermögen* of the *Generalkommissariat für Finanz und Wirtschaft* (General Section of the Enemy Assets Department of the General Commissariat for Finance and Economics) and was based on the documents referred to in considerations 11 to 13. Oldach reported that the circumstances connected with Herman Hamburger's claim had been carefully investigated and he enclosed a list of all the household effects that were at 512 Herengracht. This list was prepared by the estate agent Jac. Leefson Jzn. of Amsterdam on the instructions of the primary creditor. NK 3401 is included in the list of artworks that belonged to Herman Hamburger.
15. After Oldach had contacted the Mühlmann Agency at the request of the Enemy Assets Department, on 12 May 1941 an employee of that agency, Dr Eduard Plietzsch, came to see the artworks at 512 Herengracht. In a letter of 14 May 1941 he specified ten paintings among the possessions of Herman Hamburger that he was interested in. Among them was the painting now known as NK 3401. In the end this work was sold by the Mühlmann Agency to Hitler for 13,270 reichsmarks.
16. In her response of 2 December 2015 the Applicant stated that she thought it strange that NK 3401 was supposedly sold by Siegfried Granaat but subsequently remained in his home. She also points out that the draft investigation report contains discrepancies in so far as on the one hand it discusses the property and other possessions of Granaat and on the other hand Granaat's debts to the bank, among others. Finally she notes that the 'Granaat collection' was still being talked about after the war. As a result of this reaction the Committee conducted further research into Siegfried Granaat's financial position. This additional investigation revealed that while Granaat had substantial possessions, he was in debt to various enterprises for even greater sums. The origin of these debts was probably Siegfried Granaat's acceptance of the estate of his father D.S. Granaat, who had died in 1928, the shares that there were in this estate, and the 1929 stock market crash that occurred shortly afterwards and which heralded a period of economic crisis. It can be deduced from various documents that were found that in 1939 Granaat's three major creditors made agreements about liquidating his debt position.
17. Granaat's sale on 20 May 1930 of a part of the art collection to the bank, including NK 3401, is completely consistent with the picture that has emerged from the additional investigation into Siegfried Granaat's awkward financial situation. In 1936 Granaat decided not to buy back NK 3401. From that moment he held the painting at his residence at 512 Herengracht in safekeeping for Herman Hamburger. Since Granaat sold the claimed NK 3401 in 1930 and since there are no indications that he subsequently acquired ownership of it again, the Applicant's claim cannot be eligible for granting on the grounds of restitution policy applicable to this case. The Committee will therefore advise the Minister to reject the Applicant's claim to NK 3401.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to reject the Applicant's claim to NK 2121 and NK 3401.

Adopted at the meeting on 29 June 2016 by W.J.M. Davids (Chairman), J.T.M. Bank, R. Herrmann, P.J.N. van Os, E.J. van Straaten, and I.C. van der Vlies (Vice-Chair), and signed by the Chairman and the Secretary.

(W.J.M. Davids, Chairman)

(R.A.M. Nachbahr, Secretary)

4. Recommendation regarding Hamburger III (case number RC 1.160)

In a letter dated 3 November 2015 the Minister of Education, Culture and Science (hereinafter referred to as the Minister) asked the Restitutions Committee (hereinafter referred to as the Committee) for advice about the application of 14 September 2015 from XX (hereinafter referred to as the Applicant) for restitution of the painting *God Appears to Abraham at Shechem* by C.N. Moeyaert. This work is part of the Netherlands Art Property Collection (hereinafter referred to as the NK collection) with inventory number NK 3401. It is currently in the custody of Stichting Museum Catharijneconvent. The Applicant is represented by James Palmer of Mondex Corporation in Canada.

Assessment framework

Pursuant to article 2, paragraph 1, of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War, as amended, there is a Committee that is tasked with advising the Minister at the Minister's request about decisions to be taken regarding applications for the restitution of items of cultural value whose original owner involuntarily lost possession due to circumstances directly related to the Nazi regime and which are:

- a. part of the NK collection or
- b. among the other holdings of the Dutch State.

Pursuant to paragraph 4, the Committee advises about applications as referred to in paragraph 1, under a, submitted to the Minister before 30 June 2015 with due regard for government policy in this respect. The Committee deals with applications as referred to in paragraph 1, under a, submitted on or after 30 June 2015 in accordance with paragraph 5.

Pursuant to paragraph 5, the Committee advises with regard to applications on the basis of the yardsticks of reasonableness and fairness.

The change in the assessment framework with effect from 30 June 2015 is laid down in a Decree by the State Secretary for Education, Culture and Science of 4 July 2012, regarding an amendment of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War in connection with evaluation of the restitution policy.

The procedure

The Committee conducted an investigation into the facts in response to the Minister's request for advice. The results of the investigation are recorded in an overview of the facts dated 7 March 2016. The Applicant responded to it in an email dated 4 May 2016. The Minister gave the Committee to understand that no response would be forthcoming. The Applicant and the Minister have let it be known that they have no need for a hearing.

Considerations

1. The Applicant is the only heir of her father Gustaaf Hamburger (1887-1977), hereinafter also referred to as Hamburger. She contends that possession of the claimed painting was lost involuntarily at the time of the Nazi occupation as a result of circumstances directly connected with the Nazi regime. In her opinion all known information points to the fact that, at the time possession was lost, the painting belonged to Hamburger.

Gustaaf Hamburger

2. The Jewish banker Hamburger was born on 29 October 1887 in Utrecht. He was married to Clara Bertha Gerzon (1900-2007). They had two children: Peter Lionel Hamburger, born on 21 July 1921 and the Applicant, XX, born on YY. Hamburger collected art, including paintings and porcelain. He died in 1977.

3. In 1920 Hamburger founded the bank Hamburger & Co's Bankierskantoor N.V. (hereinafter also referred to as the bank) in Amsterdam together with his brother Albert Hamburger and A.E.D. von Saher. Day-to-day management of the bank was in the hands of Albert and Gustaaf Hamburger. In addition to being a director of the bank, Albert Hamburger was also formal director of N.V. tot Uitoefening van den Kunsthandel (hereinafter also referred to as the gallery) in Amsterdam, which was founded in 1927 by David Hamburger, Abraham Hamburger and Izaak Hamburger, all of whom lived in Paris. In practice the business was run by Herman Hamburger, one of the uncles of Albert and Gustaaf. Herman Hamburger, together with family members, was also active as an art dealer in Paris under the name Hamburger Frères. During various periods the bank and the gallery were housed at 551 Herengracht and 579 Herengracht in Amsterdam.

The claimed painting

4. The claimed painting is a large work by C.N. Moeyaert. The work, entitled *God Appears to Abraham at Shechem*, is oil on canvas, measuring 102 x 168 cm. The painting is signed and dated 1628. The provenance compiled by the Origins Unknown Agency (hereinafter referred to as BHG) for this painting states that between 1911 and 1936 the work was allegedly part of the collection of D.S. (David) Granaat of Amsterdam. Between 18 June 1936 and 28 May 1941 BHG places the picture with '*H. Hamburger (art gallery)*' of Paris with the comment: '*On 18 June 1936 this painting was given to S. Granaat by H. Hamburger for safekeeping*'. This is a reference to Siegfried Granaat, David Granaat's son. On 28 May 1941 the work ended up, through Eduard Plietzsch, with the *Dienststelle Mühlmann* (Mühlmann Agency), and then in the collection of the Führer Museum to be established in Linz.
5. As stated in BHG's provenance, the painting currently being claimed was originally part of the collection of David Granaat and later that of his son Siegfried Granaat. The latter owned a considerable amount of property, including 579 Herengracht, where the bank Hamburger & Co's Bankierskantoor was located, and 512 Herengracht. The latter was also his residence. Documents relating to the ownership situation of the painting currently being claimed were found in the file opened by the *Abteilung Feindvermögen* (Enemy Assets Department) of the *Generalkommissariat für Finanz und Justiz* (General Commissariat for Finance and Justice) during the occupation concerning management of Siegfried Granaat's assets. The following is relevant to the assessment of the Applicant's claim.
6. On 20 May 1930 Siegfried Granaat and Hamburger & Co's Bankierskantoor recorded in a registered private instrument that the bank purchased a group of artworks from Granaat with a value of NLG 230,515. The said artworks are described in a list attached to the instrument. Under that instrument the items were subsequently given by the bank for safekeeping to Granaat, who acknowledged receipt of them for safekeeping subject, among other things, to the obligation to return the items to the bank as and when the bank requested. Granaat was credited by the bank with the aforementioned sum. He was also entitled to, within a year, buy back the goods, provided that he paid the bank the price in cash. The bank was entitled to oblige Granaat to buy back all or some of the goods at the price the bank paid for them. If Granaat was unable to fulfil this obligation, the bank was entitled without judicial intervention



6. *God Appears to Abraham at Shechem* by C.N. Moeyaert (NK 3401)

to have the artworks auctioned off or sold privately. A work by Moeyaert is mentioned under the heading 'Paintings in the dining room' on the fifth page of the list, signed by Granaat and the bank, attached to the instrument as:

C. Moeyaert. Biblical scene. [f.] 9,000.--

On 29 December 1930 the bank and Granaat entered into a similar agreement with regard to a number of other artworks.

7. In a letter dated 11 May 1936 from Siegfried Granaat to Hamburger & Co's Bankierskantoor N.V., the former confirmed that the bank had written the following to him on 11 May 1936.

Pursuant to article 5 of the undertaking between you and us entered into by you on 20 May 1930 and 29 December 1930, we request you to buy back from us the works of art we purchased from you in accordance with those agreements for the prices referred to in article 1 of the aforementioned agreements no later than 18 May next, the total amount of the prices being f. 230,515.-- and f. 40,305.00, or a total of f. 270,820.--, in cash, that is to be paid to us on the aforesaid 18 May at the latest next in return for the delivery of the aforementioned works of art. In the absence of this payment, pursuant to the provisions of article 6 of the agreements referred to several times in the foregoing, we will have to sell the aforementioned works of art.

In that same letter he responded to this as follows.

To my regret I have to inform you that I am unable to pay either before or after the date of 18 May next referred to in your letter the amount due to you for buying back and paying for the works of art you refer to.

8. It emerges from a letter from Granaat to the bank of 18 June 1936 that the notification from Granaat to the bank that he was not able to buy back the works of art he had previously sold, including the painting currently being claimed, resulted in their sale by the bank to Herman Hamburger. In this letter Granaat refers to a letter from the bank to him of the same date.

Further to our letter of 11 May last, we advise you herewith that the works of art etc. in question and referred to on the enclosed lists signed by us have been sold by us to Mr Herman Hamburger, Paris, 121 Avenue de Wagram, for a combined sum of f. -67,000.-- (...)

In his letter Granaat furthermore stated that he concurred with the content of the bank's letter. In the management file of the Netherlands Art Property Foundation (hereinafter referred to as the SNK) about Gustaaf Hamburger, copies were found of a few inventories with the heading 'belonging to the statement of 18 June 1936 by the undersigned', which probably refers to the aforementioned statement by Siegfried Granaat. According to the copy the list was originally signed by Siegfried Granaat.

At the top of the first list there is the following note written in pencil: 'issued on 24-10-49 by Mr Somers Dir Hamburger & Co's Bankierskantoor'. At the top of each page it is moreover stated that the inventory concerns 'the works of art etc. that are in the property at 512 Heerengracht, Amsterdam, and which are being kept there in custody by the undersigned according to the aforementioned statement for Mr Herman Hamburger, Paris, 121 Avenue de Wagram'.

On the third page of the list, under the heading 'Paintings in the dining room', the works identified include still lifes by De Heem and Kalf as well as 'C. Moeyaert. Biblical scene'.

During the occupation

9. It can be deduced from the course of events outlined above that the bank sold the claimed painting to Herman Hamburger in 1936. The painting was then held by Siegfried Granaat in safekeeping for Herman Hamburger at 512 Herengracht. It can be deduced from a report dated 19 February 1941 by C.H. Oldach, who had been appointed as administrator of Siegfried Granaat's assets, that this situation remained unchanged until the beginning of the occupation. The report was addressed to the *Generalreferat Feindvermögen* of the *Generalkommissariat für Finanz und Wirtschaft* (General Section of the Enemy Assets Department of the General Commissariat for Finance and Economics) and was based on the documents referred to in considerations 6 to 8. Oldach reported that the circumstances connected with Herman Hamburger's claim had been carefully investigated and he enclosed a list of all the household effects that were at 512 Herengracht. This list was prepared by the estate agent Jac. Leefson Jzn. of Amsterdam on the instructions of the primary creditor. The painting currently being claimed is included in the list of artworks that belonged to Herman Hamburger.
10. After Oldach had contacted the Mühlmann Agency at the request of the Enemy Assets Department, on 12 May 1941 an employee of that agency, Dr Eduard Plietzsch, came to see the artworks at 512 Herengracht. In a letter of 14 May 1941 he listed ten paintings among the possessions of Herman Hamburger that he was interested in (hereinafter referred to as the Plietzsch list):

68. Wouwerman, *Painting of a horseman*
75. De Heem. *Large still life*,
182. Mooyaert. *Biblical scene*,
183/4. *two seventeenth-century still lifes*
185. F. van Mieris. *Portrait of a man*
186. De Heem. *Still life*.
191. Hendrik Pot. *Portrait of a man*
192. Willem Kalf. *Still life*
266. Couwijn. *Kitchen interior*

The painting currently being claimed, number 182 on this list, was ultimately sold by the Mühlmann Agency to Hitler for 13,270 reichsmarks.

After the war

11. In the autumn of 1945 Gustaaf Hamburger made a declaration to the SNK about the involuntary loss of possession of a part of his art collection. No declaration under his name concerning the loss of possession of the painting currently being claimed was found. However, three declaration forms regarding the painting currently being claimed were found in the SNK files. Two of them were internal declaration forms, which means they were filled in by an SNK employee. It is stated on the internal declaration form dated 6 October 1945 that the painting was originally in the possession of Siegfried Granaat. The form was completed using information provided by J. Jolles, the lawyer of the Amsterdamse Bank N.V. The declaration is probably connected to the fact that this bank attached Siegfried Granaat's house in 1939. It is stated on the declaration form completed by Herman Hamburger and dated 31 October 1945 that the painting was originally held by Siegfried Granaat in safekeeping. This form was registered by the SNK under number 3390. Finally there is the internal declaration form of 3 December 1945, also with serial number 3390. On it there is a statement that the painting was originally in the possession of 'Albert Hamburger, 20 Waldeck Pymontlaan, South Amsterdam, but was held by S. Granaat of 512 Heerengracht, Central Amsterdam, in safekeeping.'
12. So although declarations were made to the SNK immediately after the war about the loss of possession of the painting currently being claimed, it did not lead to its restitution. This was indeed not possible because in 1946 the painting was not returned to the Netherlands but to Belgium. It was not to be transferred to the Netherlands until 1956. On 17 August 1956 the Dutch Embassy in Brussels reported that it had received the work on 9 August. It was then sent to the Ministry of Finance in The Hague. On 14 November 1956 the aforementioned J. Jolles wrote the following about the currently claimed painting in a letter to this ministry. 'This painting had been attached by the tax authorities and the Amsterdamsche Bank, yet it probably belonged to Mr Herman Hamburger. On behalf of the Amsterdamsche Bank N.V. I can advise you that the bank no longer lays claim to the painting and that you can consider the claim, which I originally lodged in this regard, as having lapsed.'
- In addition a letter was found from the Administration Directorate of the General Treasury of the Ministry of Finance dated 12 April 1957 to the Dutch Embassy in Bonn. In the letter, which was about the Dutch claim for restitution by the Federal Republic of Germany of the currently claimed work, it was stated that the ministry had received a painting from Belgium, a biblical scene by Moeyaert, and that the Hamburger heirs had yet to inform the ministry about the identification of the painting. No further correspondence about this was found.
13. However, documents were found about five other paintings on the Plietzsch list, as described under A, B and C.

A. In the first place it concerned a 'large still life' by De Heem (no. 75) and a still life by Willem Kalf (no. 192). Declaration forms signed by Herman Hamburger on 31 October 1945 concerning both works were found. On them it is stated that the paintings were originally given to Siegfried Granaat for safekeeping. Herman Hamburger died on 21 September 1948. On 24 September 1949 his son Gilbert Hamburger wrote a letter from the Ritz Hotel in London to the SNK in which he contended that these two still lifes had been reclaimed by his father and that the 'aforementioned paintings had been part of the Granaat collection, which was purchased by the late Herman Hamburger in around 1936 on the instructions of Mr G. Hamburger and that he had consented to the said paintings being put at the disposal of G. Hamburger by your Foundation.'

Gustaaf Hamburger wrote to the SNK on 4 October 1949 saying that he was enclosing a power of attorney from Gilbert Hamburger authorizing release of the paintings by Kalf and De Heem to him.

B. Documents were furthermore found in the SNK files relating to the portrait of a man by Van Mieris (no. 185). It is stated on a declaration form signed by Herman Hamburger on 31 October 1945 that this painting was originally given to Siegfried Granaat for safekeeping. It is stated on an internal declaration

form dated 3 December 1945 concerning the same painting that the declaration was made by Herman Hamburger, and the missing painting was originally in the possession of 'Albert Hamburger, 20 Waldeck Pyrmontlaan, South Amsterdam, but was held by S. Granaat of 512 Heerengracht, Central Amsterdam, in safekeeping', and that it came into the possession of 'Dr Mühlmann' as a result of a forced sale. The painting was ultimately returned at the end of 1953 to the managing director of Hamburger & Co's Bankierskantoor, as authorized representative of Gustaaf Hamburger, but not until Gilbert Hamburger had declared he consented to this.

C. Finally, documents were found in the SNK files about the portrait of a man by Hendrik Pot (no. 191) and the still life by De Heem listed under no. 186. Declaration forms signed by Herman Hamburger on 31 October 1945 concerning both works were found. On them it is stated that the paintings were originally given to Siegfried Granaat for safekeeping. Gustaaf Hamburger stated on a declaration of receipt prepared by the SNK and signed by him that before the works came into the hands of the Germans he had been the only rightful owner of the works.

Assessment of the claim

14. The restitution application concerns an item of cultural value that is part of the NK collection. The present application was submitted after 30 June 2015 and therefore the Committee must give advice about this application 'on the basis of the yardsticks of reasonableness and fairness'. In an assessment on the basis of these yardsticks it is furthermore the case that the return of a claimed item of cultural value can only be recommended if it has been established that the right of ownership is highly likely and if there are no indications that contradict this, as expressed in the eighth recommendation of the Ekkart Committee in 2001. It is explained in the notes to this recommendation that conclusive proof of ownership is not requested from the former owner or the then owner's heirs.
15. The documents referred to in considerations 6 to 8 give a description of the claimed painting's prewar ownership situation. It follows from the document of 20 May 1930 that the bank acquired the claimed painting from Granaat at that time. One of the conditions of this purchase was that Granaat had to buy it back when the bank requested him to do so. When the bank made such a request in 1936 and Granaat was unable to buy it back, the bank sold the claimed painting to Herman Hamburger. This emerges from the bank's letter to Granaat of 18 June 1936 that Granaat quoted. Thereafter the claimed painting was kept by Granaat for Herman Hamburger at 512 Heerengracht, from where it was ultimately removed by the Mühlmann Agency. There are no indications that the claimed painting had at that moment become the property (again) of the bank or of Gustaaf Hamburger.
16. When the overview of the facts was sent to the Applicant she was asked on what grounds she believed she had a case for restitution of the claimed painting despite the absence of any indications that she is an heir of Herman Hamburger. In her response the Applicant contended that the documents relating to the post-war restitution of other artworks on the Plietzsch list by the SNK to Gustaaf Hamburger are an indication that the actual owner (she uses the term '*beneficial owner*') of the currently claimed painting was Gustaaf Hamburger. According to the Applicant a number of artworks on the Plietzsch list, with provenances comparable to that of the claimed painting, were given back to Gustaaf Hamburger after the war. The claimed painting should therefore be returned to her.
17. All the paintings on the Plietzsch list were part of the transaction of 20 May 1930 between Siegfried Granaat and the N.V. Hamburger & Co's Bankierskantoor. Above there is a description of what happened to five of these paintings after the war. The '*large still life*' by De Heem and the paintings by Kalf and Van Mieris were given back to Gustaaf Hamburger by the SNK, but not until the heir of Herman Hamburger, Gilbert Hamburger, had granted authorization or had given permission. The '*still life*' by De Heem and the painting by Hendrik Pot were handed back to Gustaaf Hamburger. It is not known whether Gilbert Hamburger also gave permission for these returns. So although five works on the Plietzsch list with provenances comparable to that of the claimed painting were restituted to Gustaaf Hamburger, the fact that the return of three of these works required authorization or permission from Gilbert Hamburger is in fact an indication that apparently these works were not considered to be the property of Gustaaf Hamburger. The Committee furthermore takes the view – as explained in considerations 9 and 10 – that there are clear indications that at the time it was acquired by the Mühlmann Agency in 1941 it belonged to Herman Hamburger. With regard to the assessment of the present application, the Committee therefore attributes no decisive significance to the circumstance that after the war the SNK supposedly returned two of the artworks referred to on the Plietzsch list to Gustaaf Hamburger without authorization or permission from Herman Hamburger or his heirs.
18. On the grounds of the above the Committee finds that it has not been sufficiently established that in 1941, at the time it was obtained by the Mühlmann Agency, the claimed painting belonged to Gustaaf Hamburger. It will therefore recommend rejection of the Applicant's claim.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to reject the Applicant's claim.

Adopted at the meeting on 29 June 2016 by W.J.M. Davids (Chairman), J.T.M. Bank, R. Herrmann, P.J.N. van Os, E.J. van Straaten, and I.C. van der Vlies (Vice-Chair), and signed by the Chairman and the Secretary.

(W.J.M. Davids, Chairman)

(R.A.M. Nachbahr, Secretary)

5. Recommendation regarding the painting *Children on the Beach* by Isaac Israels (case number RC 1.149)

On 27 March 2014 Mr AA of BB requested the Minister of Education, Culture and Science (hereinafter referred to as the Minister), also on behalf of his cousin CC of DD, to reconstitute the painting *Children on the Beach* by Isaac Israels, which is part of Museum Arnhem's collection. In a letter of 15 August 2014 the Minister requested the Restitutions Committee (hereinafter referred to as the Committee) to advise on this request as if it were a Dutch National Art Collection case. Museum Arnhem agreed to this.

Assessment framework

Pursuant to article 2, paragraph 1, of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War, as amended in 2012, there is a Committee that is tasked with advising the Minister at the Minister's request about decisions to be taken regarding applications for the restitution of items of cultural value whose original owner involuntarily lost possession due to circumstances directly related to the Nazi regime and which are part of:

- a. the NK collection or
- b. the other part of the Dutch National Art Collection.

Pursuant to paragraph 5, the Committee advises with regard to applications as referred to in paragraph 1, under b, on the basis of the yardsticks of reasonableness and fairness.

The procedure

The restitution application was prompted by the listing of the claimed painting on the website *Museum Acquisitions since 1933*, an online database concerning items held by museums with provenances that – as explained on the website – indicate theft, confiscation, forced sale or other suspicious circumstances that occurred during the Nazi regime.

The Committee conducted an investigation into the facts in response to the Minister's request for advice. Meanwhile, in a letter of 7 October 2014, the Applicant submitted a preliminary report containing the results of his own investigation. On 3 November 2014 this was supplemented by further research results he had obtained. He also requested a discussion with the Committee. In the context of organizing the investigation, a discussion took place on 19 February 2015 between the Applicant, the Chairman and two of the Committee's researchers. This was followed on 12 March 2015 by a discussion between the Applicant and two researchers.

The results of the Committee's investigation of the facts are recorded in an overview of the facts dated 9 November 2015, which was sent to the Applicant and the Minister. The Minister responded to it in a letter of 24 March 2016. The Applicant responded in an e-mail of 28 March 2016. In the meantime the Committee conducted research into one supplementary point. The results of this supplementary research were sent to the parties in a letter of 21 April 2016.

The case was heard on 23 May 2016. The Applicant was there assisted by EE, curator of the Camp Westerbork Memorial Centre. On behalf of the Minister the hearing was attended by FF, policy assistant, and GG, Dutch National Art Collection consultant. HH and II appeared on behalf of the Museum. Minutes were sent to the parties on 2 June 2016.

During the hearing the Applicant argued that the Committee could have conducted more research in files about Hausraterfassung (domestic property registration) and members of the SD (Sicherheitsdienst [Security Service]) and SS, and in the archives of the military authorities. The Committee disagrees. Both the Committee and the Applicant carried out very extensive research. The

Committee reported the results in the overview of the facts and the supplementary letter, in so far as it produced relevant information. The Applicant has furthermore not stated which information, according to him, should be sought and in what respect it could be relevant. Additional investigation as advocated by the Applicant would have been very laborious with a negligible chance of finding relevant data. In view of the circumstances the Committee believes that it cannot reasonably be required to do this.

Considerations

1. The Applicant is requesting restitution of the painting *Children on the Beach* by Isaac Israels, which is part of Museum Arnhem's collection under inventory number GM05019. The Applicant identifies this artwork as a painting that was stolen by the German occupying forces from the home of his grandfather JJ during the Second World War. The Committee has taken note of some inheritance-law-related documents concerning the estate of JJ and his second wife. On the basis of this documentation the Committee sees no reason to doubt the Applicant's position as one of the rightful claimants to the estate of his grandfather JJ.
2. The facts relevant to the assessment of the restitution application were established on the basis of research by the Applicant, the overview of the facts of 9 November 2015 prepared by the Committee, the responses to it that were received, the Committee's supplementary research and the information provided during the hearing. A summary is sufficient in the following considerations.

JJ

3. JJ was born in Amsterdam on 21 June 1884. He married KK, who died in 1935. Five children were born to the marriage, including LL, the Applicant's father. During the occupation JJ and his second wife, with whom he had no children, were deported to Auschwitz and murdered there. A large part of his family fell victim to persecution of the Jews. LL and CC, a grandson of JJ, survived the war.
4. It emerges from archival documents that the home of JJ at Berkelstraat 19hs in Amsterdam was stripped by the Nazi authorities in February 1943. During this operation all the items in the home were seized. The Applicant sent the Committee an inventory taken from his father's files relating to the household effects taken from Berkelstraat 19hs. On the inventory, under the heading 'Drawing Room', there is an entry '4 paintings including 1 Isreal'. There is apparently a typing error in the last word, and here and below the Committee takes this word to be 'Israels'. There is no further information on the list, such as this Israels's initial or first name, the scene depicted in the painting concerned, the dimensions and the materials used.

The claimed painting

5. The Applicant contends that he identifies the Israels stolen from his grandfather's home as the painting *Children on the Beach* by Isaac Israels, which is now part of Museum Arnhem's collection under inventory number GM05019. This work is an oil painting on cardboard that is glued to a panel. The dimensions are 41 x 57.5 cm. The painting shows three children riding donkeys on a beach.
6. It emerges from records consulted during the investigation that the claimed work was found after the Second World War in Velp, near Arnhem, in a dwelling that had been lived in 'by an SD man from Amsterdam'. At the time the artwork was handed over to the head of the local Political Criminal Investigation Service, Superintendent M.O.F. van der Heul. It is stated in post-war reports that Superintendent Van der Heul made various attempts to unearth who the artwork's owner was. A few months after the liberation, for instance, he had a notice placed in an Amsterdam newspaper, but this attempt produced no result. Finally Van der Heul contacted F.W. van der Haagen, head of the State Art Protection (Movable Property) Inspectorate in Arnhem, to whom he handed over the painting in mid-January 1946. Van der Haagen, who received the painting for safekeeping on behalf of the Netherlands Art Property Foundation (hereinafter referred to as the SNK), handed over the artwork at some point to Arnhem Municipal Museum, the forerunner of the current Museum Arnhem.

The restitution application

7. The provenance information quoted under consideration 6 was published in October 2013 on the website *Museum Acquisitions since 1933*. This publication prompted AA's restitution application.
8. The Applicant asserts that the painting presently in Arnhem is the same work as the Israels missing from his grandfather's possessions. In this regard the Applicant refers to the inventory referred to in consideration 4, together with the following factors:

a) the fact that his father LL often told the Applicant that there was a painting by Isaac Israels in his parents' home.

'For as long as I can remember, my father LL (born in 1910) told me that in his home (his parents' dwelling) there was an Izaak Israëls. ... The velvet curtains would be closed and then he would look at the painting in the soft weak light and let his thoughts drift.'



7. *Children on the Beach* by Isaac Israels

JJ, who was a tailor, supposedly acquired the painting directly from Isaac Israels in return for making a suit for the artist.

The applicant states that his father, when recalling these memories, sometimes referred to family trips to the seaside resort of Zandvoort.

'Dad told me that perhaps once a year they would take the Blue Tram to Zandvoort, which had made an indelible impression on a boy who was 5 or 6 years old. These excursions to Zandvoort ... were the family get-togethers.'

b) the fact that in the nineteen-eighties LL bought a reproduction of an Isaac Israels painting depicting children riding donkeys on a beach.

'It was abundantly clear that the painting of children on the beach was important to him. Without giving a reason, during the nineteen-eighties a reproduction depicting 3 donkeys and girls and a person appeared above the desk in his study.'

This reproduction is of a well-known painting by Isaac Israels in the Rijksmuseum Amsterdam (inv. no. SK-A-3597). The scene it depicts has many similarities with that of the currently claimed work. The reproduction is still owned by the [...] family and was shown during the hearing. The Applicant argues that his father hung this reproduction on the wall because the scene depicted in it reminded him of the stolen Israels he knew as a child. The Applicant therefore considers the similarity between the scene in the reproduction that his father owned and that in the claimed work in Arnhem to be proof of his contention that he identifies the painting in Arnhem as the artwork stolen from his grandfather's possessions.

9. The Applicant conducted extensive historical and art historical research in various archives to support his claim. The results of the Applicant's research, in so far as relevant to the advice, will be discussed below.

Assessment of the claim

10. On the grounds of the Decree Establishing the Restitutions Committee, the Restitutions Committee advises in Dutch National Art Collection cases, in so far as they do not concern NK works, on the basis

of the yardsticks of reasonableness and fairness, in the course of which the Committee is charged with *'giving great weight to the circumstances of the acquisition by the owner and the possibility that there was knowledge about the suspect provenance at the time of the acquisition of the item of cultural value concerned'*. (Decree Establishing the Restitutions Committee, article 2, paragraph 6). In this connection the Committee points out that the painting being claimed in the present case has a noteworthy provenance. Immediately after the liberation the artwork was seized after it had been found in the home of an *'SD man'* in Velp. Thereafter it was received for safekeeping by the SNK, which handed it over to Arnhem Municipal Museum, later to become Museum Arnhem, where it still is. The investigation unearthed minutes of meetings of the Municipal Museum's Supervisory Board from which it emerges that this handover took place at the time *'subject to the condition that it will be returned to the owner if the owner comes forward'*. The Committee takes the view that this provenance is very similar to the provenances of artworks in the NK collection that were recovered from enemy possession and handed over to the SNK for the purposes of restituting them to the rightful owner. In the present case the Committee therefore considers there to be good reason to be guided, in conformity with the assessment of NK cases, by the recommendations made by the Ekkart Committee in 2001, in so far as correspondingly applicable.

11. In the first place the Committee needs to address the question of whether the claimed work in Arnhem can be identified as the Israels stolen from JJ. On the grounds of the eighth recommendation of the Ekkart Committee in 2001, there may be restitution if the right of ownership has been established as being very plausible and there are no indications to the contrary.
12. The Committee observes that on the grounds of the inventory referred to in consideration 4, it can only be concluded that JJ had a painting by Israels in his possession. The inventory furthermore does not indicate whether this entry concerns a work by Jozef Israëls or Isaac Israels. The inventory similarly does not state what was depicted in the stolen painting, which materials were used, and what the dimensions were.
13. Both the Applicant and the Committee conducted research in the files of the SNK in order to retrieve further written information about the painting missing from JJ's possessions. No documents were found during these investigations concerning artworks stolen from JJ. The Committee then searched through the declaration forms in the SNK files that were used after the war to report missing artworks. Two forms were found during this search concerning oil paintings by Isaac Israels on the theme of *'donkey rides on the beach'*. Both cases, which have no connection with the [...] family, concern a painting that was stolen by the Nazis during the Second World War from the home of a Jewish resident of Amsterdam and not recovered after the war. The painting on the first form is described as a *'Beach view with two donkeys and figures, there is no sky or cloud painted on it. A summer day. I would describe it as having pinkish grey and beige tints'*. The work concerns a *'painting with gilt frame'* measuring *'approximately 42-60 cm'*. On the second form the missing work is described as a *'Painting with gold frame'*, depicting *'Donkey riding on the beach. One of the ladies is, I believe, Freule van Schimmelpenninck - lady-in-waiting to Her Majesty'*. According to the declaration the dimensions of this work are 55 cm by 45 cm. The Committee conducted additional research as a result of these declarations but no new information was unearthed.
14. On the grounds of the above the Committee concludes that no written sources were found during the investigation from which more information can be extracted about the scene depicted in, the dimensions of and the materials used for the painting that had been in the possession of JJ. It does emerge from research in the SNK files, however, that during the war in any event two oil paintings by Isaac Israels depicting *'donkey rides on the beach'* were stolen from the household effects of two other Jewish residents of Amsterdam. These paintings were not recovered after the war and are probably still missing. Yet one cannot automatically rule out the possibility that the painting presently in Arnhem is one of these two works.
15. The Committee furthermore conducted research into indications in the provenance of the work currently being claimed that could refer to former possession by JJ. In the process the Committee was also able to make use of the extensive research conducted by the Applicant. The Committee finds, on the grounds of the available documentation, that no direct connection can be established between the claimed artwork in Arnhem and JJ as former owner. Although the Committee believes on the basis of the claimed painting's wartime history – as described in consideration 6 – that the work probably came from Amsterdam and has a provenance that indicates theft or confiscation, no references were found in the available archival information to JJ or to any other household effects or collection from which the painting could have come.
16. In the process of searching for more information, the Applicant tried to find out the name of the *'SD man from Amsterdam'* in whose home in Velp the painting was found after the war. The Applicant is convinced on the grounds of extensive archival research that he has established the identity of this SD man. The Committee has carefully considered the arguments put forward by the Applicant but it cannot go along with his assertions with regard to them. It does not emerge from the documentation that the person being put forward by the Applicant, who supposedly came from Amsterdam, was actually the individual who took the work to Velp. In addition the Committee is bearing in mind that many other scenarios are conceivable. The SD's Arnhem *Einsatzkommando* (Task Force) was based in Velp. After the allied invasion of Normandy in June 1944, the German occupying forces moved their offices from The Hague to Gelderland. The Gestapo's *Referat* (Section) *IV B 4* – the *'Jewish Section'* – was established in Velperstraat in Velp, where it continued to operate until February 1945. It appears from this that various SD men lived

in the Velp region during the occupation, among whom there would also have been some who had come from Amsterdam. The Committee furthermore finds that even if the identity of the SD man were to be established incontrovertibly, it would not automatically be conclusive evidence that the currently claimed artwork is the painting lost by JJ.

17. The Applicant maintains that JJ acquired the presently claimed artwork directly from the painter Isaac Israels himself in return for providing an article of clothing produced by JJ. The Applicant argues to that end that both his grandfather and Isaac Israels worked during the same period in the building of the fashion house Hirsch & Cie in Amsterdam. Indications were found during the Committee's investigation that make this assertion uncertain. The Committee refers to a catalogue published on the occasion of a sale at Frederik Muller & Co. in Amsterdam on 19 March 1907. A painting by Isaac Israels is listed in this catalogue. It concerns an oil painting on cardboard on panel with dimensions 41 x 57.5 cm. There is also the following description.

Excursion sur la plage / Par une superbe journée d'été, trois jeunes filles sont sorties pour se promener sur des ânes le long de la plage; leurs feutres écarlates et leurs costumes clairs égaient, par leur éclat, le fond blue formé par la mer.

The Committee observes that the materials used, the dimensions and the description of the scene depicted in this painting correspond exactly with the specifications of the artwork currently being claimed. The Committee therefore takes the view that serious consideration should be given to the possibility that the listing in the 1907 catalogue refers to the currently claimed artwork. Notes in the catalogue indicate that the painting went under the hammer at the sale for 200 guilders and was sold to the Amsterdam gallery Frans Buffa & Zn., which is incompatible with the scenario outlined by the Applicant. The Committee also notes that additional research conducted by an employee of the Netherlands Institute for Art History (RKD) in the files of Frans Buffa & Zn. did not unearth any further information about the auctioned work.

18. Since no direct or indirect information has been found in the available archival material that refers to JJ as the former owner of the currently claimed work, the Committee is brought to the question of how much weight, in conjunction with the other known facts, should be given to the recollections of the Applicant's father quoted in consideration 8 and the fact that he purchased a reproduction of a painting in the Rijksmuseum that has similarities with the currently claimed work. In order to answer this question properly, the Committee researched the number of paintings in Isaac Israels's oeuvre that depict *'donkey rides on the beach'*. It emerges from this investigation that Isaac Israels produced thousands of paintings, a substantial number of which depict a beach scene and the theme *'riding donkeys'*. One of the sources on which the Committee bases this conclusion is the 2007 publication by art historian Antoon Erfteimeijer about the Dutch and Italian beach scenes by Isaac Israels. It is stated in this publication that there are approximately 100 known works in oils on this theme and about 35 are specifically about children riding donkeys along the beach. The Committee points out that the numbers quoted are nothing more than an indication and in reality they are probably larger in view of the fact that in addition to the documented, known artworks by Isaac Israels – which usually have an unclear provenance or location – unknown works are still being discovered on a regular basis. The Applicant asserts that the composition of eight of these works, including the currently claimed painting, are – virtually – identical in regard to such details as the directions of donkeys' head, the number of children and the background to what is depicted in the reproduction that his father purchased. The Applicant concludes from this that the subset of paintings to which the artwork lost by his grandfather should belong is relatively small. The Committee does not endorse this contention. The reproduction made the father recall the painting in his parents' home. It may not be concluded from this that the details of the reproduction also correspond with the painting in the parental home. This is all the more persuasive given that the reproduction is one of the painting in the Rijksmuseum that is the easiest for the public to obtain and that – based on information from the Applicant – his father brought home in the nineteen-eighties on the occasion of the major Isaac Israels exhibition in the Berlage Stock Exchange in Amsterdam.
19. It cannot be excluded that the description of the painting with only the surname of the painter Israels on the inventory of the confiscated household effects of JJ, bearing in mind the Applicant's description of his father's recollection and the latter's purchase of a reproduction resembling the claimed work, applies to the currently claimed work in Museum Arnhem's collection. The Committee takes the view, however, that these circumstances, unsupported by further information, are insufficient to be able to identify it with sufficient plausibility as being the painting stolen from the possessions of JJ. One of the factors that plays a role here is that the scene depicted on the claimed work is a subject that frequently occurs in Isaac Israels's oeuvre. The Committee can furthermore not disregard the fact described in consideration 13 that in the Second World War the Nazis stole in any event two paintings by Isaac Israels on the theme of *'donkeys rides on the beach'* from other Jewish residents of Amsterdam.
20. Taking all the facts and circumstances together, the Committee is of the opinion that it has not been established with a high degree of plausibility that the painting *Children on the Beach* by Isaac Israels in Museum Arnhem's collection was stolen from the possessions of JJ. The Committee will therefore advise the Minister to reject the Applicant's restitution application.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to reject AA's restitution application.

Adopted on 20 July 2016 by W.J.M. Davids (Chairman), J.T.M. Bank, R. Herrmann, P.J.N. van Os, E.J. van Straaten and H.M. Verrijn Stuart (Members), and I.C. van der Vlies (Vice-Chair), and signed by the Chairman and the Secretary.

(W.J.M. Davids, Chairman)

(R.A.M. Nachbahr, Secretary)

6. Recommendation regarding De Haan (II) (case number RC 1.150)

In a letter dated 7 July 2014 the Minister of Education, Culture and Science (hereinafter referred to as the Minister) asked the Restitutions Committee (hereinafter referred to as the Committee) for advice about the application of 29 May 2014 from AA (hereinafter referred to as the Applicant) for the restitution of seven paintings that are in the Netherlands Art Property Collection (hereinafter referred to as the NK collection). According to the Applicant her uncle, Simon de Haan, sold these paintings involuntarily during the Second World War under pressure resulting from circumstances directly connected with the Nazi regime. The application concerns the following works.

NK 1416 – P. Coecke van Aelst, *Triptych: Adoration of the Magi* (centre); *The Virgin Adoring the Christ Child* (left); *Presentation of Christ in the Temple* (right)
NK 1509 – follower of B. Fabritius, *Bearded Man*
NK 1536 – anonymous, *Roman Capriccio*
NK 1862 – J.F. van Douven, *Hunters Resting at the Edge of a Wood*
NK 1910 – H. Goltzius, *Diana and Her Nymphs Discover Calisto's Pregnancy*
NK 2583 – J.J. van Goyen, *Ice Scene with Skaters Near a Village*
NK 2772 – F. van Mieris I, *The Violinist*

Assessment framework

Pursuant to article 2, paragraph 1, of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War, as amended, there is a Committee that is tasked with advising the Minister at the Minister's request about decisions to be taken regarding applications for the restitution of items of cultural value whose original owner involuntarily lost possession due to circumstances directly related to the Nazi regime and which are:

- a. part of the NK collection or
- b. among the other holdings of the Dutch State.

Pursuant to paragraph 4, the Committee advises about applications as referred to in paragraph 1, under a, submitted to the Minister before 30 June 2015 with due regard for government policy in this respect.

The procedure and earlier recommendations

The restitution application was prompted by a visit the Applicant made to the exhibition *Looted, But From Whom?* in 2007. This was followed by contact between the Applicant and the Origins Unknown Agency (hereinafter referred to as the BHG). Thereafter in the first instance in 2007, 2009 and 2010 the Applicant requested the then State Secretary for Education, Culture and Science (OCW) to retribute twenty-three NK works, including those currently being claimed. The State Secretary asked the Committee to issue advice about this request. This concerned case RC 1.106.²⁶ While that advice procedure was pending, the Applicant withdrew her claim to the seven NK works currently being claimed and two other NK works. The final advice in case RC 1.106 of 13 October 2011, which was to reject the Applicant's claim, therefore concerned fourteen NK works. The State Secretary rejected the restitution application in a decision dated 3 November 2011.

²⁶ See *Report 2011*.



8. *The Violinist* by F. van Mieris I (NK 2772)

The Applicant asked the Minister to revise this decision. In response to this request, on 27 January 2014 the Minister asked the Committee to issue revised advice. This procedure was registered at the Committee as RC 4.142.²⁷ On 18 May 2015 the Committee advised the Minister to let the decision of 3 November 2011 to stand.

In a letter of 29 May 2014 the Applicant requested the Minister to retribute the seven aforementioned NK works. The Minister laid this claim before the Committee for advice. The Committee conducted an investigation into the facts. The results of the investigation are recorded in a draft investigation report dated 14 December 2015. The Applicant responded to it in a letter dated 31 March 2016. The Committee conducted additional research as a result of this response. The results of this investigation are recorded in a draft report dated 8 June 2016. This report was sent to the Applicant for response. The Applicant responded in a letter dated 3 July 2016.

There was a hearing on 5 September 2016. It was attended on behalf of the Applicant by her husband BB and her daughter CC. Minutes of this hearing were sent to the Applicant. The Committee conducted a supplementary investigation as a result of this hearing. The results of this investigation are recorded in a draft report dated 10 October 2016. It was sent to the Applicant for response. The Applicant responded to it in a letter dated 25 October 2016.

The Committee adopted the investigation report on 8 November 2016.

The Applicant asserted in writing and at length during the hearing that she objected to the Committee's procedure because the draft investigation report does not give any weighting to the facts it contains. The Committee considers this objection to be unfounded. The Committee's procedure involves an investigation of the relevant facts first, followed by the preparation of a draft report. There is no weighing up of the facts at this stage because it would not be correct if the Committee were to interpret the facts before the Applicant has been given the opportunity to respond to this determination of the facts. There would moreover be no clear distinction between establishing the facts and preparing the advice. The Applicant was informed about this in a letter dated 6 July 2016.

²⁷ See *Report 2015*.

Considerations

1. The Applicant is the only heir of her uncle Simon de Haan (hereinafter also referred to as De Haan), as can be seen from a certificate of inheritance, executed on 1 September 2010 before M.R. Meijer, notary in Amsterdam.
2. The relevant facts are described in the investigation report dated 8 November 2016. The following summary is sufficient here. Simon de Haan (hereinafter referred to as De Haan) was born on 6 June 1901 in Amsterdam to Salomon de Haan and Abigaël Buitenkant. Simon de Haan was of Jewish descent. A family registration card in The Hague Municipal Archives states that De Haan called himself 'Henri Simon De Haan'. He was also known as 'Hans de Haan'. On 5 April 1933 De Haan married Elsbeth Dorothea Hilda Haufschild. According to the certificate of inheritance referred to in 1, this marriage was probably subsequently dissolved through the granting of a divorce. Investigation reveals that from 1929 De Haan lived variously in The Hague and Amsterdam. De Haan's last registered address was 22 Surinamestraat in The Hague. This was also the residential address of Eduard Hollander (hereinafter referred to as Hollander). He is known, among other things, to have acted as lawyer for De Haan.
3. De Haan worked in the art trade. It emerges from the files of the Commercial Register of the Chamber of Commerce and Industry of The Hague that from 1929 De Haan with Hendrik Maas Szn. was director of N.V. Internationale Kunsthandel (hereinafter referred to as Galerie Internationale) in The Hague. This art trading business had a branch in Amsterdam. De Haan stopped working for this company after a few years. This can be seen from a declaration by Maas dated 17 September 1934 in the Amsterdam Commercial Register in which reference is made to the dismissal of De Haan and the closure of the Amsterdam branch of Galerie Internationale.
4. During its investigation the Committee found information showing that De Haan remained active in the art trade. After the war, for example, the Tilburg art collector H.F.J. Weijers stated that De Haan acted for him as an intermediary for the purchase of almost his entire collection. The Hoogendijk archive at the Netherlands Institute for Art History (RKD) is another source. It contains an overview prepared by accountants of settlements/transactions between February 1939 and December 1940 headed 'H.S. de Haan, 's Gravenhage, in rekening courant met D.A. Hoogendijk & Co' [H.S. de Haan, The Hague, current account with D.A. Hoogendijk & Co]. This overview includes paintings in regard to which in many cases there are notes about the purchase and sale of the works concerned and the commissions paid. None of the artworks referred to corresponds with any of the currently claimed paintings.



9. *Hunters Resting at the Edge of a Wood* by J.F. van Douven (NK 1862)

A list entitled 'Aankopen Simon de Haan op de veilingen van Mak van Waay 1934-1940' [Purchases by Simon de Haan in sales at Mak van Waay 1934-1940] submitted by the Applicant in case RC 4.142 shows that during this period De Haan was referred to as buyer in twelve sales organized by this auction house. De Haan also bought and sold through the Van Marle & Bignell auction house in The Hague. None of the purchases concern a painting currently being claimed.

5. Documentation that has been unearthed furthermore reveals that before the war De Haan was a buyer for the Amsterdam gallery J. Goudstikker N.V., which was run by the Jewish Jacques Goudstikker. De Haan continued these activities as an art buyer/intermediary after the German invasion of the Netherlands, even after the gallery was taken over by the German Alois Miedl, which traded under the name Voorheen J. Goudstikker N.V. (hereinafter referred to as Goudstikker-Miedl) with Hermann Göring among others. This emerges from statements and other documentation that the Committee found during its investigation and that are referred to in the investigation report. The Committee took note, for instance, of reports prepared during the occupation by the accountant Elte about Goudstikker-Miedl. In a report dated 13 September 1940 (hereinafter referred to as the Elte report) there are several references to payments or settlements concerning De Haan. Among other things they are about commissions owing. Various paintings are recorded in the Goudstikker-Miedl stockbook with a reference to the name 'de Haan' in the 'Inkopen' [Purchases] column. The investigation report also refers to other documentation from the business records of Goudstikker-Miedl in which the name of De Haan was found.
6. All seven works that are currently being claimed were part of a transaction agreed on 2 August 1940 between Miedl and the brothers Benjamin and Nathan Katz of the Katz gallery in Dieren (hereinafter also referred to as Katz). The transaction involved Goudstikker-Miedl buying over 500 paintings from Katz for NLG 1,822,500. This transaction was well documented and can be found in the surviving business records of Goudstikker-Miedl and elsewhere. All the currently claimed works, for example, are on the lists in the Elte report of the works that Goudstikker-Miedl supposedly bought 'FROM THE FIRM OF KATZ DATED 2 AUGUST 1940'. This transaction can also be found in the Goudstikker-Miedl stockbook and in the accounting book, which was used to record the incoming and outgoing items. Both Miedl and Benjamin Katz stated after the war that De Haan was involved in this transaction. Miedl stated that De Haan acted as an intermediary on his behalf. Katz stated that a referral commission was paid to De Haan. Others also made statements about this transaction and De Haan's role. Victor Modrzejewski, for instance, an art dealer of German origin, stated after the war that: 'Hans de Haan, een joodse kunstkenner, die reeds voor den oorlog inkoper bij de N.V. Goudstikker was, was mijn vriend. Het is mij bekend dat deze De Haan voor de later als eigenaar optredende A. Miedl verschillende schilderijen inkocht o.a. bij de gebroeders Katz te Dieren' [Hans de Haan, a Jewish art expert who was a buyer with N.V. Goudstikker before the war, was my friend. I know that this De Haan purchased various paintings while acting for A. Miedl, who was later to act as owner, from the Katz brothers in Dieren and others].
7. De Haan was arrested around the time of or shortly after this transaction. The aforementioned Modrzejewski stated the following about this: 'De Haan werd in Augustus 1940, het kan 2 Augustus 1940 geweest zijn, gearresteerd door de Duitse politie. Met behulp van de Duitser A. Miedl heb ik getracht Hans de Haan vrij te krijgen (...)' [De Haan was arrested by the German police in August 1940, it might have been 2 August 1940. I tried with help from the German A. Miedl to get Hans de Haan out of custody...] De Haan was sentenced to two years imprisonment. He was in Scheveningen prison from 6 December 1940 to 17 February 1941. He was then transferred to a prison in Wuppertal. There is a note on a card from the registration system of this prison that De Haan was convicted for 'Beschimpfung der d. Wehrmacht und Verbr. unwahrer Behauptungen u.s.w.'. After his imprisonment formally ended on 10 January 1943, De Haan was transferred to Westerbork on 12 February 1943, and from there he was deported on 16 February 1943 to Auschwitz, where he was murdered on 19 February 1943.
8. As early as 26 September 1942 an article appeared in the English edition of the newspaper *Vrij Nederland* which reported that De Haan had been arrested following a complaint by Miedl. This article, entitled 'Goering and Funk in a Dispute / About Stolen Dutch Old Masters', which was allegedly based on information from 'EEN NEDERLANDER, uit het bezette gebied ontsnap' [A DUTCHMAN who has escaped from German occupied territory], states the following about De Haan: 'In Den Haag woont prof. Friedlaender, een oude, grijze Duitse schilderijen-expert. Miedel nam hem geheel in dienst en Friedlaender werd verplicht heele reeksen certificaten voor schilderijen af te geven. Zoo verscheen er een Friedlaender-certificaat voor een Jan Steen, die zoo valsch was als een looden gulden. Een der agenten van Miedel, zekere De Haan, protesteerde tegen deze handeling. Hij verweet Miedel zijn geknoei. Kort daarop verdween hij van het toneel. Hij had den "Fuehrer beleedigd" en was op aanklacht van zijn werkgever gearresteerd' [Professor Friedlaender, an old, grey German art expert, lives in The Hague. Miedel gave him a full-time job and Friedlaender was obliged to issue whole series of certificates for paintings. For example a Friedlaender certificate was issued for a Jan Steen that was as fake as a lead guilder. One of Miedel's agents, a certain De Haan, protested at this practice. He reproached Miedel for his tampering. He disappeared shortly afterwards. He had "insulted the Fuehrer" and was arrested following a complaint by his employer.].

Articles with essentially identical wording appeared on 25 November 1942 in the Dutch language weekly *Onze Toekomst*, which was published in the United States, and on 30 March 1943 in the American monthly *Click. The National Picture Monthly*.
The Committee refers to consideration 12 of its advice regarding RC 1.106.

Assessment of the claim

9. The Applicant has asserted that De Haan was the owner of the currently claimed paintings and that he sold them to Miedl under duress. As support for this she refers to the information about the works on the BHG website, where the name De Haan is mentioned in the different provenances. She refers, with specific regard to NK 1416, to information from the German Historical Museum's *Die Kunstsammlung Herman Göring* database. Regarding NK 1416 and NK 2583 she refers to the publication *Beyond the Dreams of Avarice: The Hermann Goering Collection* (2009) by Nancy H. Yeide.
10. The Committee cannot concur with the Applicant's assertion. As stated in consideration 6, all the paintings currently being claimed were part of the transaction between Katz and Goudstikker/Miedl of 2 Augustus 1940. It does not emerge from the currently known facts that De Haan owned the currently claimed works at any moment prior to this transaction. This is also not considered to be plausible. De Haan's role in this transaction was described by those directly involved as well as others as that of an intermediary. This is consistent with what else is known about De Haan's activities as described in considerations 3, 4 and 5, and with the comment by BB during the hearing that the activities of H.S. de Haan would be described these days as those of a consultant. References to De Haan's name in all seven provenances on the BHG website also point to De Haan's intermediary role in the transaction between Katz and Goudstikker-Miedl. In each case BHG places the works on the date concerned, around the beginning of Augustus 1940, with the Katz gallery, De Haan and Goudstikker-Miedl. As regards the references in the database *Die Kunstsammlung Herman Göring* and in Yeide's publication, the Committee finds that these references are based on the entries on the BHG website. No independent arguments in support of the Applicant's vision can be derived from them.
11. The Applicant repeatedly asked the Committee to devote more attention to the relationship between De Haan and Hollander, who was referred to in consideration 2 of RC 4.142. According to the Applicant it is possible that Hollander, who is known to have sold three paintings to Miedl, held paintings for De Haan in safekeeping. In response to this the Committee first of all refers to its recommendation RC 1.97 of 12 October 2009, which concerned this same Hollander. Hollander is therefore not unknown to the Committee. The Applicant furthermore also referred to the relationship between De Haan and Hollander in her request for revised advice (RC 4.142). Consideration 16 of the advice given in that case addresses this point. The currently claimed works did not end up with Goudstikker/Miedl via Hollander but were all part of the transaction between Katz and Goudstikker/Miedl of 2 Augustus 1940. It is therefore not just implausible that Hollander supposedly held the currently claimed works in safekeeping for De Haan. It also conflicts with what is known about the provenance of these works. Consequently the Committee has not considered it necessary in this case to devote more attention to the relationship between De Haan and Hollander than it already has.
12. On the grounds of the applicable restitution policy, it is possible to recommend restitution if ownership is very plausible and there are no indications to the contrary. In view of the above, the Committee takes the view that it is not very plausible that De Haan owned the currently claimed works at any moment. The Committee will therefore advise the Minister to reject the Applicant's claim.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to reject the Applicant's claim.

Adopted on 8 November 2016 by W.J.M. Davids (Chairman), J.T.M. Bank, R. Herrmann, P.J.N. van Os, E.J. van Straaten, H.M. Verrijn Stuart and I.C. van der Vlies (Vice-Chair) and signed by the Chairman and the Secretary.

(W.J.M. Davids, Chairman)

(R.A.M. Nachbahr, Secretary)

Appendices

1. Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War, 16 November 2001 (text valid until 18 July 2012). 46
2. Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (text valid with effect from 19 July 2012). 52
3. Overview of the documents on which the restitution policy is based. 55
4. Regulations for opinion procedure under article 2, paragraph 2, and article 4, paragraph 2 of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (text valid with effect from 3 March 2014). 56
5. Letter from the Minister of OCW to the Lower House of 4 October 2016. 60
6. Index by case number of the Restitutions Committee's recommendations and opinions (2002 to 2016). 66

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

Reference
WJZ/2001/45374(8123)

Zoetermeer
16 November 2001

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

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

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

Herewith decrees as follows:

Article 1

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

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

Article 2

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

Article 3

1. The Committee shall comprise no more than 7 members, including the chairman and the deputy chairman.
2. Both the chairman and the deputy chairman shall be qualified lawyers (meester in de rechten).

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

Article 4

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

Article 5

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

Article 6

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

Article 7

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

Article 8

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

Article 9

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

Article 10

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

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

Article 11

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

Article 12

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

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

The State Secretary for Education, Culture and Science

[signed]

F. van der Ploeg

Explanatory notes**General**

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

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

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

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

Based on its own experience, the Ekkart Committee currently expects that the Advisory Committee will be asked to consider 30 to 50 cases relating to objects currently held by the State. There are no indications as yet about the number of applications that might be submitted to the Advisory Committee by private individuals, nor is it clear how many years the Committee is going to need to fulfil its tasks. The figures mentioned seem to point to a term of 3 to 5 years.

Explanatory notes on each article

Article 2

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

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

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

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

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

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

The government also wishes to make available a facility for the settlement of disputes between private individuals concerning an object of which the original owner lost possession involuntarily due to circumstances directly related to the Nazi regime. In its assessment of such applications from private individuals the Advisory Committee will be guided by the principles of reasonableness and fairness.

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

Articles 3 and 4

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

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

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

Article 5

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

Article 6

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

I have lifted the restrictions on the public accessibility of records filed in State Archives by virtue of Article 15, fifth paragraph of the 1995 Public Archives Act so as to enable the Advisory Committee to gather all the information it needs in the shortest possible time. This obviously only concerns those records that are relevant to the execution of the Advisory Committee's task. The fact that the Committee is allowed to inspect restricted documents does not automatically open up those documents to others as well, given that the members of the Advisory Committee themselves are bound to observe secrecy under Article 2:5 of the General Administrative Law Act regarding information that comes to their knowledge and the confidential nature of which is evident.

Article 10

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

The State Secretary for Education, Culture and Science,

[signed]

(F. van der Ploeg)

Decree Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (text valid as from 19-07-2012)

Decree Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War

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

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

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

Herewith decrees as follows:

Article 1

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

- a. the Minister: the Minister for Education, Culture and Science;
- b. the Ministry: the Ministry for Education, Culture and Science;
- c. the Committee: the Committee as referred to in Article 2 of this Decree;
- d. NK-collection: collection of recuperated cultural objects that are presently in the possession of the State of the Netherlands and which are registered with the National Service for Cultural Heritage in the NK-inventory section.

Article 2

1. There shall be a Committee whose task is to advise the Minister, at his request, on decisions to be taken concerning applications for the restitution of items of cultural value of which the original owners involuntarily lost possession due to circumstances directly related to the Nazi regime and which:
 - a. are part of the NK-collection; or
 - b. belong to the other possessions of the State of the Netherlands.
2. A further task of the Committee shall be to issue an opinion, on the Minister's request, on disputes concerning the restitution of items of cultural value between the original owner who, due to circumstances directly related to the Nazi regime, involuntarily lost possession of such an item, or the owner's heirs, and the current possessor which is not the State of the Netherlands.
3. The Minister shall only submit a request for an opinion as referred to in the second paragraph to the Committee if and when the original owner or his heirs and the current possessor of the item in question have jointly asked the Minister to do so.
4. The Committee gives advice about applications within the meaning of the first paragraph, under a, submitted with the Minister before 30 June 2015, with due observance of the relevant government policy. Applications within the meaning of the first paragraph, under a, submitted on or after 30 June 2015 are handled by the Committee in accordance with the fifth paragraph.
5. The Committee gives advice about applications within the meaning of the first paragraph, under b and the second paragraph based on the principles of reasonableness and fairness.
6. In its advisory role, referred to in the first paragraph, the committee attaches great importance to the circumstances of the acquisition by the possessor and the possibility of knowledge of the suspicious origin at the time of the acquisition of the cultural object in question.

Article 3

1. The Committee shall comprise no more than 7 members, including the chairman and the deputy chairman.
2. Both the chairman and the deputy chairman shall be qualified lawyers (*meester in de rechten*).
3. The Committee shall include at least one member whose expertise on matters concerning World War II constitutes a substantial contribution to the work of the Committee.
4. The Committee shall include at least one member whose expertise on matters concerning art history and museology constitutes a substantial contribution to the work of the Committee.
5. The Minister shall appoint the chairman, the deputy chairman and the other members for a period not exceeding three years. They shall not form part of the Ministry or work in any other capacity under the responsibility of the Minister.
6. The chairman, the deputy chairman and the other members may be reappointed.

Article 4

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

Article 5

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

Article 6

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

Article 7

1. Every year the Committee shall report to the Minister on the current situation regarding the tasks referred to in Article 2.
2. The first report shall be submitted in January 2003.

Unofficial English translation

Article 8

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

Article 9

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

Article 10

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

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

Article 11

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

Article 12

This Decree shall be cited as: Decree Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War.

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

The State Secretary for Education, Culture and Science,

F. van der Ploeg

Policy framework of the Restitutions Committee

The Decree establishing the Restitutions Committee stipulates that to the extent that the applications for restitution concern objects in the National Art Collection, the Committee shall conduct its advisory task with due regard for relevant national policy. Below is an overview of the documents from which the policy framework emanates. Some of this documentation can be found in the appendices to previous annual reports of the Committee.

Date	Description
April 1998	Recommendations of the Origins Unknown Supervisory Committee
20 May 1998	State Secretary's response to the recommendations of the Origins Unknown Supervisory Committee
21 March 2000	Letter to the Dutch Lower House concerning the government's overall position on WWII Assets
14 July 2000	Letter to the Dutch Lower House concerning the government's position on restitution and recuperation of items of cultural value
26 April 2001	Recommendations by the Ekkart Committee regarding the restitution of works of art
29 June 2001	Government response to the Ekkart Committee's recommendations
16 November 2001	Additional government response to the Ekkart Committee's recommendations
28 January 2003	Ekkart Committee's recommendations regarding the restitution of works of art belonging to art dealers
5 December 2003	Government response to the Ekkart Committee's recommendations regarding the art trade
14 December 2004	Ekkart Committee's final recommendations
8 March 2005	Government response to the Ekkart Committee's final recommendations
22 June 2012	Letter from the State Secretary of OCW to the Lower House with his response to the advice of the Council for Culture about the restitution policy in regard to items of cultural value. Appendix to this letter: Advice of the Council for Culture about the policy for restituting items of cultural value, 25 January 2012.
4 July 2012	Decree regarding an amendment of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War, in connection with evaluation of the restitution policy.

N.B. These new regulations were published on 3 March 2014, and have applied since then.
See Appendix 4 of Report 2012 or the website (<http://www.restitutiecommissie.nl/en/publications.html>) for a copy of the old regulations, which applied until 3 March 2014.

Please note this is an unauthorised translation of the original Dutch text "*Reglement inzake adviesprocedure in het kader van artikel 2, tweede lid, en artikel 4, tweede lid, Besluit adviescommissie restitutieverzoeken cultuurgoederen en Tweede Wereldoorlog*"

Regulations for opinion procedure under Article 2, paragraph 2, and Article 4, paragraph 2 of the Decree establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War.

Definition

Article 1

The terms used in these regulations are defined as follows:

- a. the Committee: the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War pursuant to the Decree establishing the advisory committee on the assessment of restitution applications (hereinafter the Decree);
- b. the Secretariat: the Secretariat as referred to in Article 5 of the Decree;
- c. the Minister: the Minister of Education, Culture and Science;
- d. the Ministry: the Ministry of Ministry of Education, Culture and Science;
- e. the work: the item or items of cultural value, as referred to in Article 2, paragraph 2 of the Decree, that is or are the subject matter of the dispute;
- f. the applicant: the person applying for restitution of the work;
- g. the owner: the current owner, other than the State of the Netherlands;
- h. the parties: the applicant and the owner.

Task

Article 2

1. At the request of the Minister, the Committee has the task of giving an opinion to the parties about disputes concerning the return of the work.
2. The Committee does this by issuing a binding opinion within the meaning of Article 7:900 of the Dutch Civil Code (contract of settlement) or by promoting a settlement between the parties.

Article 3

The Committee issues an opinion on the basis of reasonableness and fairness and may, in any event, take the following into consideration:

- a. internationally and nationally accepted principles such as the Washington Principles and the government's policy guidelines concerning the restitution of looted art in so far as they are applicable;
- b. the circumstances in which possession of the work was lost;
- c. the extent to which the applicant has endeavoured to recover the work;
- d. the circumstances in which the owner acquired the work and the inquiries the owner made prior to acquiring it;
- e. the significance of the work to the applicant;
- f. the significance of the work to the owner;
- g. the significance of the work to public art collections.

Admissibility

Article 4

The Committee can declare an application inadmissible if:

- a. it concerns a dispute regarding which one of the parties has already instituted proceedings before a court, or

- b. this is a dispute on the substance of which a court has already given a decision, or
- c. the applicant has previously explicitly relinquished his or her rights to the work at issue, or
- d. it emerges that the applicant does not represent all those entitled to the assets of the supposed original owner.

The hearing of disputes

Article 5

1. The application is submitted to the Minister and may be addressed to the Committee.
2. Both parties request the Minister to submit their dispute to the Committee in accordance with Article 2, paragraph 3 of the Decree.
3. After the Minister has presented the dispute to the Committee, it will hear the dispute after the parties have stated in writing that they accept these regulations and that they accept the opinion to be issued by the committee as binding.
4. If the parties, after a request to that effect, have not complied with the stipulation referred to in paragraph 3 within four weeks, the dispute will not be heard.
5. The Committee may extend the terms.
6. The chairman decides which Committee members will issue the binding opinion.

Article 6

1. The Committee sends both parties these regulations and notifies them in writing that it has received the request for an opinion from the Minister.
2. The Committee gives the parties the opportunity to provide an explanation concerning their viewpoint within six weeks and to provide the Committee with further information.
3. In their explanation, each of the parties can express the wish that:
 - a. the Committee conducts further investigation, if required, of specified items, and
 - b. there is a hearing.
4. The Committee may decide at any point during the handling that:
 - a. there will be a hearing;
 - b. the Committee will obtain information and/or conduct further investigation itself;
 - c. the parties will be given the opportunity to respond subject to a term of six weeks and/or
 - d. the applicant and/or the owner will provide further documents or information, such as a certificate of inheritance, subject to a term to be set by the Committee.
5. The Committee may extend the terms.

Article 7

1. Should the Committee decide that it will carry out further investigation itself, it will record its findings in an overview of the facts.
2. The Committee sends the overview of the facts to the parties. The parties may respond to it in writing within a term of six weeks.
3. At the request of the parties, the Committee will arrange for an (unauthorised) English translation of the overview of the facts.
4. Should further investigation be limited to hearing witnesses or experts or having research conducted by one or more experts it designates, it will then suffice for the Committee to send the report concerned to the parties, to which they may respond within a term of two weeks.
5. The Committee may extend the terms.

Article 8

1. Should the Committee decide that a hearing is to take place, it sets the place, day and time and informs the parties accordingly.

2. The Committee may allow the parties to bring witnesses or experts and have them heard. The names and addresses of such persons are to be given to the Committee at least two weeks before the hearing.
3. In regard to the planned hearing, the parties may send documents to the Committee at least four weeks beforehand.

Article 9

The Committee sends copies of the documents it receives from a party to the other party.

Article 10

If the parties reach a settlement, the Committee will record its contents in the form of a binding opinion.

Opinion

Article 11

Among other things the Committee may recommend that:

- a. the work be handed over to the applicant;
- b. the work be handed over to an impartial third party on behalf of all those entitled to the assets of the former owner, if necessary subject to the provisions of an arrangement about the associated costs;
- c. the work be handed over for a consideration, to be specified, to be paid by the applicant to the owner;
- d. the work be handed over to the applicant subject to further provisions;
- e. rejection of the request for restitution;
- f. rejection of the request for restitution, subject to the obligation on the owner to exhibit the work stating the provenance and the original owner;
- g. rejection of the request for restitution, subject to the specification of a consideration to be paid by the owner to the applicant;
- h. rejection of the request for restitution subject to further provisions.

Article 12

1. The Committee's chairman or vice-chair and the director sign the opinion, which is sent to the parties with a copy to the Minister.
2. The Committee's Chairman may correct evident errors and/or evident calculation or writing errors in the opinion, either on his or her own accord or in response to a written request from one of the parties submitted no later than two weeks after the opinion was sent.
3. The parties are informed in writing of any changes or corrections.

Article 13

1. The handing over takes place where the work is located, unless the Committee decides otherwise.
2. Any costs incurred by the parties themselves with regard to the handling of the dispute and the implementation of the opinion are to be borne by the parties, unless the Committee decides otherwise.

Confidentiality, objection and exemption

Article 14

Without prejudice to the provisions in articles 9, 12 and 16, the Committee is obliged to treat as confidential all information relating to the parties of which it has become cognizant during the handling of the dispute.

Article 15

1. One or both parties may object to a member of the Committee on the basis of facts or circumstances that might make the formation of an impartial opinion difficult.
2. Having regard to the provisions in Article 4 of the Decree, the chairman decides about allowing an objection. If the objection concerns the chairman, the vice-chair decides.
3. A member of the Committee may claim exemption in respect of a dispute on the basis of facts or circumstances as referred to in the first paragraph. The member is obliged to do so if the Committee's chairman is of the opinion that the said facts and circumstances do indeed exist in his or her case.
4. The parties are informed of the decision as referred to in the second paragraph.

Publication

Article 16

The Committee may publicize its opinion, if necessary by anonymizing personal details, unless one of the parties has compelling reasons why that should not be done..

Liability

Article 17

The chairman, vice-chairman, members, director and other Committee staff are not liable for any actions or omissions with regard to a dispute the parties have submitted to the Committee.

Reversal

Article 18

1. The Dutch courts are exclusively competent to rule on disputes about the binding force on the parties of a binding opinion issued by the Committee.
2. The Committee's binding opinion may only be reversed if it has been submitted to the ordinary court for review within two months after the opinion was sent to the parties. This relates exclusively to review as referred to in Title 15 of Book 7 of the Dutch Civil Code. The opinion becomes irreversible if the decision is not submitted to the ordinary court within the said term.

Unforeseen

Article 19

The Committee decides in all cases not provided for in these regulations on the basis of the yardsticks of reasonableness and fairness.

Transitional and final provisions

Article 20

1. These regulations will be published on the Committee's website.
2. The regulations will take effect as soon as they have been published.
3. The regulations as sent to the parties will apply to any cases being considered at the time the regulations take effect.

Article 21

These regulations were adopted at the Committee meeting on 3 December 2007 and amended at the meetings on 12 January 2009, 19 September 2011 and 27 January 2014.

Ministerie van Onderwijs, Cultuur en
Wetenschap

>Return address P.O. Box 16375 2500 BJ The Hague

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Our reference
916962

Date October 4th, 2016

Re Policy on Restitution of Items of Cultural Value and the Second World War

During the Second World War a great deal of art was stolen or destroyed by the Nazis. In the Netherlands, too, owners were forced to surrender their works of art. Many of these owners did not survive the war, but some of their art did. This art was housed in the Netherlands Art Property Collection (*Nederlands Kunstbezit-collectie*), part of the National Art Collection (*Rijkscollectie*). Until 1952 the Netherlands Art Property Foundation (*Stichting Nederlands Kunstbezit*) dealt with restitution. After that, things went quiet until the 1990s, when there was renewed national and international interest in stolen art and its restitution. There was growing awareness that more could be done, and this led to a new policy.

Under this policy, works of art that were certainly – or very probably – stolen, confiscated or forcibly sold between 1933 and 1945 can be restituted to the heirs of the original owner. In legal terms the limitation period has expired for Dutch restitution cases under the statute of limitations. However, a policy has been formulated in the Netherlands under which current owners can proceed with restitution on a voluntary basis, on moral and ethical grounds. This usually happens on the advice of an independent committee, the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War, referred to in brief as the Restitutions Committee. The Dutch policy with respect to restitution aims to achieve a “fair and just solution” in accordance with the Washington Principles.¹ This policy is highly regarded and internationally renowned, among other things due to the way in which the Restitutions Committee has implemented the policy.² I support the principles and feel committed to this policy.

¹ These principles call for the identification and publication of art stolen by the Nazis, open and accessible archives for the use of investigators, the creation of a fair and reasonable restitution policy, and the appointment of an alternative arbitrator.

² Wesley A. Fisher and Ruth Weinberger, *Holocaust-Era Looted Art: A Current World-Wide Overview* (Saint Petersburg 2014).

The Dutch restitution policy in its current form has now existed for 15 years. During this time the context of the restitution policy has changed. This letter is to inform you about this development and about the steps that I intend to take with respect to implementing the policy for restituting art works that were looted by the Nazis and that are in Dutch possession. With this letter I am meeting my commitment to inform the House of Representatives about the future of the policy on returning art stolen by the Nazis.³

Assessment of the implementation of the current restitution policy

I asked the Berenschot consultancy to examine and make recommendations regarding the combination of activities involved in the restitution of art stolen in the Second World War. I can now present this report to you.⁴ Berenschot concludes that the Dutch policy on restitution is successful, but that there are “duplications, blank spots and imbalances” in the way the current policy is implemented.⁵ Below, I will elaborate on the most important points where Berenschot has found that there is room for improvement.

Berenschot points to fragmentation of the knowledge, skills and activities relating to the restitution of art stolen by the Nazis that is in Dutch possession. The consulting firm also reports that in practice, investigations by Restitutions Committee investigators are not aligned with advisory opinions given by the Restitutions Committee.⁶ Berenschot indicates further that tasks and roles belonging to bodies involved in the restitution process could be described more clearly. Rules relating to the appointment and reappointment of Restitutions Committee members are based on the original assumption that the restitution policy was of a temporary nature. Furthermore, Berenschot noted that there are a number of different restitution procedures, depending on whether an object from the National Art Collection is involved or an object from another collection.⁷ Berenschot also questions the procedure for obtaining a new advisory opinion and notes finally that it is not always equally clear to applicants and current owners which procedure should be used in which case and what conditions are attached to that procedure. A “one-stop-shop” for applicants and other stakeholders is lacking.

Separately from the above investigation, I have observed that the tone, content and complexity of the applications for restitution are changing. There are fewer and fewer first and second-generation applicants, and we regularly see other types of heirs as applicants. In some cases, such applicants are only distantly related or completely unrelated to the original owner. Increasingly, applicants are seeking assistance from agencies that work on a “no cure no pay” basis and that have a major financial interest in the outcome of a case. Procedures that are intended to be easily accessible have become subject to increasing juridification over the years as a result of these external developments. Meanwhile, the number of cases is slowly but steadily decreasing, apart from a few fluctuations.

³ House of Representatives 2015-2016, 34 300 VIII, no. 127, pp. 35, 66 and 77.

⁴ Berenschot, *Een toekomstgericht restitutiebeleid. Over een duurzame, transparante en onomstreden organisatie rondom restituties* (A future-oriented restitution policy. Regarding a sustainable, transparent and undisputed organisation for restitution) (The Hague 2015).

⁵ Berenschot, *Een toekomstgericht restitutiebeleid*, 40.

⁶ Ditto, 42.

⁷ Ditto, 40-42.

The vast majority of cases (more than ninety per cent) concern works of art that are in the possession of the State. At the same time, it is noticeable that the cases are increasing in complexity.

Although the existing restitution policy is still of a temporary nature in principle, it is clear, given international views on the issue, that the end of the policy is not yet in sight.

After reading the Berenschot report and considering the various points highlighted there, I have concluded that there is no reason to make changes to the restitution policy, but that some measures should be taken to improve its implementation. These measures will be introduced at the latest in the course of 2017 and they are covered by the available multiannual budget.

Unchanged policy, adjusted implementation

The basic premise of the Dutch policy is and remains that it should be an easily accessible and temporary policy for restituting art stolen by the Nazis that is in Dutch possession – a policy based on moral and ethical principles and upholding the interests of all those involved.

There are two elements at the heart of the changes that I propose. Firstly, I want to make it possible for an investigation to be carried out at the joint request of the applicant and the current owner. This is currently only possible following a request from the Restitutions Committee to one of the investigators associated with it. This change will enable the applicant and the current owner, if they wish, to arrive at a mutually agreed settlement, based in part on an independent investigation and without intervention and advice from the Restitutions Committee. This expands the possibilities for people to reach a solution together. Secondly, I will bring together the knowledge and skills that have been acquired and that are now spread among the researchers of the Origins Unknown Agency, the Restitutions Committee and the Dutch Association of Museums, and ensure that they are embedded for the long term. This means that the investigative tasks will be brought together in the "Expertisecentrum Oorlogskunst Tweede Wereldoorlog" (*Centre of Expertise for Looted Art from the Second World War*), which has yet to be established. The advisory function is and remains the task of the Restitutions Committee.

A future-proof environment for restitution of looted art in the Netherlands

A procedure for applicant and current owner

The applicant and the current owner will be given a more central role in the procedure for restituting art stolen by the Nazis than they had previously. They are primarily responsible for finding a mutually satisfactory solution. The parties can decide jointly to submit their case to the Restitutions Committee. However, they can also decide first to commission a factual report from the Centre of Expertise, which they can use to decide whether they can arrive at a solution that is satisfactory to both of them. The factual report gives them initial guidance for making a decision. If they cannot find a mutually satisfactory solution, they can still submit their case to the Restitutions Committee.

Centre of Expertise for Looted Art from the Second World War

In order to bring together and firmly embed the knowledge and skills that have been acquired over the last 15 years by the Origins Unknown Agency, the investigators from the Restitutions Committee and the Dutch Association of Museums, I will set up the Centre of Expertise for Looted Art from the Second World War. With this centre I will create a recognisable national contact point for applicants, current owners and holders of artworks, museums, the media, researchers and other interested parties.

The Centre of Expertise will first of all have an informative function. Among other things, it will provide general information to stakeholders and interested parties, refer people on to archives, provide factual information about the restitution procedures, and assist with research questions from third parties, such as journalists and students.

In addition, the Centre of Expertise will have an investigative function. This research is important to applicants, current owners and museums in the context of applications for restitution. The Centre of Expertise will only undertake an investigation at the request of the Restitutions Committee or at the joint request of the applicant and the current owner. As part of my political responsibility, I will also be able to ask the Centre of Expertise to investigate. The research will be independent and of high quality.

The processes and working methods of the Centre of Expertise will be designed in such a way that investigators will be able to do their work without pressure from the parties involved and no situations will arise in which there is a conflict between providing information relating to potential applications on the one hand and the independent investigation for the purpose of an application for restitution on the other hand.

Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War

Without prejudice to the new possibility created by me for the applicant and the current owner to arrange for an investigation without the involvement of the Restitutions Committee, and on the basis of the investigation results to arrive at a settlement, the Restitutions Committee remains the ideal instrument for alternative arbitration as referred to in the Washington Principles. The Restitutions Committee is an independent committee and, as is now the case, it will only give advice at the joint request of the applicant and the current owner. A factual investigation by the Centre of Expertise will precede and will be a precondition for the Restitutions Committee providing an advisory opinion. In order to reach a decision, the Restitutions Committee will be able to ask the Centre of Expertise for additional investigative work and to ask specific questions.

Advice will continue to be given on the basis of the Washington Principles, the advice of the Origins Unknown Committee and the Dutch government's policy framework.⁸ In giving its advisory opinions, the Restitutions Committee will, moreover, comply with general legal principles. An advisory opinion from the

⁸ House of Representatives 2000-2001, 25 839, no. 26; House of Representatives 2001-2002, 25 839, no. 27; House of Representatives 2003-2004, 25 839, no. 34; House of Representatives 2004-2005, 25 839, no. 36 and appendix; and: House of Representatives 2011-2012, 25 839, no. 41 and appendix.

Restitutions Committee is independent, is carefully prepared and is of high quality. The procedures involved in the provision of advice by the Restitutions Committee will be carried out as far as is possible in the same way, regardless of whether an application concerns an object in the National Art Collection or an object in another collection. For the restitution of objects from the National Art Collection I shall always ask for the opinion of the Restitutions Committee, following investigation by the Centre of Expertise, unless it is clear that an application does not come under the policy.

In view of the fact that the policy on restitution is lasting longer than originally estimated, I am introducing a maximum three-year term of appointment for members of the Restitutions Committee, with the possibility of one reappointment. From the start of 2017 I will introduce phased appointments. In this way I can achieve a balance between renewal and a balanced composition on the one hand, and safeguarding and transferring knowledge and skills on the other hand.

Furthermore, I will abolish the procedure for obtaining a new advisory opinion. If new facts emerge, the applicant and the current owner will be able to request a new advisory opinion from the Restitutions Committee, with the Centre of Expertise first being asked to investigate the new facts presented. In the case of alleged or proven formal errors in advisory opinions from the Restitutions Committee, for example if an opinion is arrived at in a way that is considered unacceptable according to standards of reasonableness and fairness, recourse to the civil courts would be more appropriate than a request to the same committee for a new opinion.

In my opinion it would not be appropriate to introduce an appeals procedure for the restitution policy. According to Dutch law, the limitation period has expired for restitution cases and it is the responsibility of the current owner, in consultation with the applicant, to consider carefully the matter of restitution and arrive at a solution. That is why in 2001 the choice was explicitly for a non-legal approach to requests for restitution of art stolen by the Nazis that is in Dutch possession. For this reason, it is not appropriate to introduce an appeals procedure that will only lead to increased juridification and is not in line with the basic principle of Dutch restitution policy. It is therefore my opinion that the possibilities given above are sufficient.

Conclusion

With these improvements I am bringing implementation of the restitution policy up to date, with this policy being based on the Washington Principles, the advisory opinions of the Origins Unknown Committee and the Dutch government's policy framework. In doing this I also make sure that the Netherlands will continue to have a high-quality restitution policy for the future. A restitution policy that has support in Dutch society and maintains its international good name and renown.

In 2020 the policy and the organisational structure will be evaluated. This evaluation will look in more detail at the number of applications for restitution and the possibility of making a transition from the existing form of the Restitutions

Committee to an ad hoc Restitutions Committee, as recommended by the Origins Unknown Committee in 2012.⁹

The Minister of Education, Culture and Science,

Dr Jet Bussemaker

⁹ House of Representatives 2011-2012, appendix to 25 839, no. 41, p. 5.

Index recommendations Restitutions Committee by case number (2002 t/m 2015)

RC case no.	Recommendation regarding:	Date recommendation
1.1	<i>Paschal Lamb</i> by J. Beuckelaer	25 March 2002
1.2	The Gutmann collection	25 March 2002
1.3	<i>Venus in Vulcan's Smithy</i> after F. Boucher	22 April 2002
1.4	<i>Portrait of a man with a greyhound</i> by Thomas de Keyser and <i>The sleeping innkeeper</i> after Nicolaas Maes	7 April 2003
1.5	<i>Portrait of a woman with a little dog</i> and <i>View of Binnen-Amstel and the Blauwbrug</i>	23 September 2002
1.6	The Koenigs collection	3 November 2003
1.7	<i>Portrait of Don Luis de Requesens y Zuñiga</i>	28 October 2002
1.8	<i>Still life with kippers, oysters and smokers' accessories</i> by Floris van Schooten	24 April 2003
1.9	<i>Still life with fish on trestle table</i> by Van Beyeren	18 September 2003
1.10	Art dealership J. Stodel	18 April 2005
1.11	<i>The Rhine near Coblenz</i> by Gerard Batten	18 September 2003
1.12	18th century Frankfurts cupboard	18 September 2003
1.13	Herri met de Bles	29 June 2005*
1.14	Three paintings by Troost and Van der Mijn owned abroad	7 February 2005
1.15	Goudstikker	19 December 2005
1.16	<i>Elegant company making music on a terrace</i> by Dirk Hals	15 December 2003
1.17	<i>Fisherman on horseback</i> by Jozef Israëls	22 March 2004
1.18	Four nineteenth-century landscapes	18 May 2004
1.19	Art dealership Vecht	30 March 2005
1.20	Three paintings by Troost and Van der Mijn owned abroad	7 February 2005
1.22	<i>Family portrait</i> by J.M. Quinckhard	6 March 2006
1.24	<i>Venus and Adonis with Amor</i> by J.A. Uytewael	7 September 2005
1.25	<i>Landscape with river and windmills</i> by J.M. Graadt van Roggen	27 June 2005
1.26	<i>Charles, Prince de Rohan Soubise</i> by J.F. Voet and four 18th-century Louis XV armchairs	3 July 2006
1.27	A saucer and the painting <i>Woman and child at a cradle</i> by J.S.H. Kever	12 March 2007
1.28	<i>Poultry</i> by M. d'Hondecoeter and <i>Saint Peter repentant</i> by G. Reni	24 April 2006
1.29	<i>Three men in a boat on turbulent water</i> by A.H. Lier and <i>Mountain landscape with castle</i> by T. le Feubure	12 June 2006
1.30	A ceremonial Kiddush cup	3 April 2006
1.31	<i>Wooded landscape with shepherd and cattle</i> by B.C. Koekkoek	3 July 2006
1.32	Drawing by Hendrick Goltzius on the back of a playing card	15 May 2006
1.33	<i>A girl in a pastoral dress holding a basket</i> by J. van Noordt	12 March 2007
1.34	<i>Still life with fruit and dead fowl</i> by J. Fyt	14 May 2007
1.35	Koenigs III (Kiev claim)	14 April 2014
1.36	<i>Portrait of a man</i> by N. de Largillière	31 July 2006
1.37	Art dealership Mozes Mogrobi	12 February 2007
1.38	Estate of Anne Frank	24 April 2006
1.39	Von Marx-May	25 June 2007
1.41	<i>Wooded landscape with herd near a pond</i> by J.S. van Ruysdael	27 November 2006
1.42	Hakker/Anholt	12 March 2007
1.43	<i>Couple in an Interior</i> after A. van Ostade	14 May 2007
1.44	<i>The circumcision</i> , anonymous, previously attributed to Meester van Kappenburg	18 December 2006
1.46	Kaufmann	18 December 2006
1.47	Four gilded silver chalices and a fifteenth-century silver crosier	14 May 2007

* no substantive advice

RC case no.	Recommendation regarding:	Date recommendation
1.49	Art dealership Stodel (II)	7 April 2008
1.50	Marcus de Vries	3 December 2007
1.51	Art dealership Mossel	7 January 2008
1.52	An eighteenth-century commode in the style of Louis XVI	12 February 2007
1.53	Van Brabant	4 February 2008
1.54	<i>Unloading the hay wagon</i> by Isaac van Ostade	1 October 2007
1.55	<i>Reclining Nude</i> by J.C.B. Sluijters	11 June 2007
1.56	A bamboo quiver and an oak three-door milk cupboard	12 March 2007
1.57	Van Messel	4 February 2008
1.58	An eighteenth-century Savonnerie carpet	16 April 2007
1.59	Letowski	6 August 2007
1.60	A bronze statue <i>Stonemason</i> by C.E. Meunier	13 April 2011
1.61-A	Arnhold (A)	21 November 2011
1.61-B	Arnhold (B)	17 December 2012
1.62	Art dealership Staal	7 April 2008
1.63	China 'Famille Rose' plate with flower vase decor	7 January 2008
1.64	Art dealership Rubens	6 May 2008
1.65	Nardus	6 April 2009
1.66	Lachmann	3 March 2008
1.67	Oppenheimer	4 February 2008
1.68	Weijers	1 December 2008
1.69	A tin Maccabee lamp	3 December 2007
1.70	Larsen	1 July 2009
1.71	Behrens	3 July 2008
1.72	Dotsch	3 July 2008
1.73	Von Podwinetz	2 June 2008
1.75	Semmel	1 July 2009
1.76	May	10 November 2008
1.77	Proehl	9 February 2009
1.78	Bachstitz	14 September 2009
1.79	Heppner	9 March 2009
1.80	Von Pannwitz	6 April 2009
1.81	Schönemann	12 October 2009
1.82-A	Rosenbaum (A)	31 January 2011
1.82-B	Rosenbaum (B)	19 December 2011
1.84	Cassirer	6 April 2009
1.86	Wassermann	1 December 2008
1.87	Art dealership Van Lier	6 April 2009
1.88	Bachstitz (II)	12 January 2009
1.89-A	Mautner (A)	12 October 2009
1.89-B	Mautner (B)	17 December 2012
1.90-A	Art dealership Katz (A)	1 July 2009
1.90-B	Art dealership Katz (B)	17 December 2012
1.91	Adelsberger	9 March 2009
1.96	Stern	3 May 2010
1.97	Hollander	12 October 2009
1.98	Art dealership Koch	3 June 2013

RC case no.	Recommendation regarding:	Date recommendation
1.99	Glaser	4 October 2010
1.100	Zadick	3 May 2010
1.101	Wolf	9 November 2009
1.102	Van Aldenburg Bentinck	6 September 2010
1.103	S. van Leeuwen	2 April 2012
1.104	A persian medallion carpet (Wolf/Van den Bergh)	29 March 2010
1.105	Rosenberg	3 May 2010
1.106	De Haan	13 October 2011
1.107	Morpurgo (II)	5 March 2012
1.108	Mathiason	31 January 2011
1.109	Joseph Stodel	7 June 2010
1.110	Von Goldschmidt-Rothschild	6 December 2012
1.111	Mayer	7 March 2011
1.112	May (II)	19 September 2011
1.113	Gutmann (II)	29 June 2010
1.114-A	Gutmann (III-A)	6 December 2010
1.114-B	A sculpture in Fritz Gutmann's collection (Gutmann III-B)	11 April 2011
1.115-A	Gutmann (IV-A)	19 December 2011
1.115-B	A Gubbio dish from the Gutmann collection (Gutmann IV-B)	21 June 2012
1.116	Hiegentlich	14 November 2011
1.117	Jonas	19 December 2011
4.118	Weijers (II)	6 September 2010
4.119	De Vries (II)	6 September 2012
1.120	A bronze sculpture <i>Hercules</i> (Oppenheimer II)	7 June 2011
4.123	Koenigs (II)	12 November 2013
4.124	Larsen (II)	22 March 2013
4.125	Van Aldenburg Bentinck II	5 March 2012
1.130	Hamburger (II)	9 December 2013
1.133	Tapestry <i>Chastity with two putti</i> (Oppenheimer III)	8 April 2013
1.134	Goudstikker - Kummerlé collection	2 September 2013
1.136	S.B. Levie	27 January 2014
1.137	Hamburger	4 March 2013
4.138	Revised recommendation Bachstitz	1 December 2015
1.139	Stettiner	2 February 2015
4.142	Revised recommendation De Haan	18 May 2015
1.143	Bachstitz (III)	1 December 2015
1.145	Mogrobi (II)	20 July 2015
1.146	Witmond	18 May 2015
1.147	Tapestry	7 March 2016
1.148	Juda Heijman de Vries	2 February 2015
1.149	<i>Children on the Beach</i> by Isaac Israels	20 July 2016
1.150	De Haan (II)	8 November 2016
1.155	Jacobson-Granaat (II)	29 June 2016
1.160	Hamburger (III)	29 June 2016

RC case no.	Binding opinion regarding:	Date binding opinion
3.45	<i>A Prayer Before Supper</i> by Jan Toorop (Flersheim I)	7 April 2008
3.48	<i>Thames at London</i> by Jan Toorop (Flersheim II)	3 March 2008
3.93	<i>The Marriage of Tobias and Sarah</i> by Jan Steen (Von Saher/The Hague Municipal Council)	6 October 2008
3.95	<i>Road to Calvary</i> , Brunswijker monogrammist	3 May 2010
3.126	<i>The Landing Stage</i> by M.F. van der Hulst (Semmel/Groninger Museum)	25 April 2013
3.127	<i>Stag Hunt in the Dunes</i> by Gerrit Claesz. Bleker (Semmel/Municipality of Haarlem)	25 April 2013
3.128	<i>Christ and the Samaritan Woman at the Well</i> by B. Strozzi (Semmel/De Fundatie)	25 April 2013
3.129	<i>Allegory of autumn</i> by Jacob de Wit (Gutmann/Province of Drenthe)	3 September 2012
3.131	<i>Madonna and Child with Wild Roses</i> by Jan van Scorel (Semmel/Centraal Museum)	25 April 2013
3.135	<i>Riddle of Nijmegen</i> by Christiaen Coeuershof (Vita Israël/Nijmegen City Council)	20 July 2015
3.140	Two paintings by Ferdinand Bol (Hamburger/Municipality of Roosendaal)	13 April 2015
3.144	<i>Portrait of Joan Huydecoper after Bartholomeus van der Helst</i>	30 March 2015
3.153	Decision regarding eleven majolica plates	1 February 2016

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