

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



Report 2018

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Sculpture *Moses* by Alessandro Vittoria
(Recommendation regarding case number RC 3.163, see chapter 6)

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Foreword



1. Chair Dr A. Hammerstein

In 2018 the Restitutions Committee issued three binding opinions to parties that had requested them. This modest number is not in proportion to the large amount of work done on these cases and is furthermore a consequence of complications arising from two issues. Firstly a great deal of time was devoted to the transition of the researchers from the Committee to the new Second World War and Restitution Applications Expertise Centre, which is part of the NIOD Institute for War, Holocaust and Genocide Studies. Secondly the Committee was faced with negative publicity.

Starting with this second subject, towards the end of 2018 there was criticism in the national and international media about how the Committee interprets the ‘just and fair solution’ prescribed by the Washington Principles in its assessments of cases. There are strong emotions underlying this

criticism. It goes without saying that the Committee takes such criticism seriously because it fully understands that the feelings of victims of the Nazi regime, their descendants and the Jewish community are concerned. The nature of the Committee’s work is such that disappointment for some claimants is inevitable. The rejection of a claim is the obvious example of this. It is, however, the Committee’s task to assess impartially and independently whether it can be satisfactorily established that an object is Nazi looted art. The Washington Principles prescribe that an assessment of whether something is Nazi looted art must take account of ‘unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era’. Experience has shown that there are frequently gaps in an artwork’s provenance, and this makes it difficult to draw responsible conclusions. This is why the Committee empathizes as much as possible when assessing claims because they are always rooted in the horrors of the Nazi regime and the history of the Holocaust, and everything associated with them. Yet the task entrusted to the Committee also demands carefulness and precision in how it uses the national and international yardsticks it is obliged to apply. The Committee has employed the greatest possible meticulousness in the formulation of all its recommendations and opinions. It does realize, however, in part because of the misunderstandings that have arisen on occasion about the reasoning behind its recommendations and opinions, that it is necessary to explain more clearly the considerations on which a recommendation or opinion is based.

Disclaimer

This English version is a translation of the original Dutch report ‘Verslag 2018’, in case of possible differences in translation we refer you to the Dutch report.

Frequently used abbreviations:

BHG	Origins Unknown Agency
Expertise Centre	Second World War and Restitution Applications Expertise Centre
NIOD	Institute for War, Holocaust and Genocide Studies
NK Collection	Netherlands Art Property Collection
OCW	Education, Culture and Science
RCE	Cultural Heritage Agency
SNK	Netherlands Art Property Foundation

The primary criticism levelled at the Committee's work is that in its considerations it has given weight in a number of cases to the importance of an artwork to the current owner, in many cases a museum that obtained the artwork lawfully. The Committee's approach to the weighing up of interests is based on the Washington Principles and is spelled out in the Decree Establishing the Restitutions Committee. This approach has always applied since the Committee was established, but not to applications concerning objects in the Netherlands Art Property Collection (NK collection). In 2012 the Decree Establishing the Restitutions Committee was amended such that from 2015 the weighing up of interests may also be appropriate in cases concerning objects in the NK collection, but since this amendment the interests of the Dutch State as 'owner' have never played a role in the Committee's recommendations. The Committee weighs up all the circumstances in claims to objects that are not in the NK collection. This may include the interests of the current owner if that party had no reason at the moment of acquiring the artwork to doubt the soundness of the provenance. This may mean, for instance, that some form of compensation other than restitution is offered (as is often the case in France).

The key criterion for the Committee in its deliberations is a fair result. Unlike proceedings in civil courts, no time limits apply, there is no burden of proof, and the applicant can leave the complex investigation into the facts largely to the independent researchers in the Expertise Centre. The property rights of the current owner, who acquired an object in good faith, are also not automatically protected. Lawful acquisition by the current owner does not need to stand in the way of redressing Nazi-related injustices. The Restitutions Committee was, after all, established for the purposes of restoring the rights of victims of the Holocaust who involuntarily lost possession of property during the war. Involuntary loss of possession is much broader than 'theft' and therefore there can be scope, if necessary, to weigh up the circumstances.

With effect from 1 September 2018 all the Committee's researchers transferred to the Expertise Centre, which is part of NIOD. Although this has created some distance between the Committee and its researchers, as was the intention, they, under the supervision of a new coordinator, Ellen Grabowsky, continue unabatedly to contribute to the often complicated quest for the facts from a distant and dark past. I feel it important to once again underline the fact that the Committee is not able to issue advice and opinions responsibly without all the research done with great dedication and complete objectivity.

This year there have once again been changes in the Committee's composition. With effect from 16 March 2018 Els Swaab was appointed to fill the vacancy left by Inge van der Vlies. On 23 December 2018 Dick Oostinga filled the vacancy created by the departure of Heikelien Verrijn Stuart, the Committee's longest serving member, who left with all her knowledge and memories going back to when the Committee started. She always threw herself heart and soul into this work and made a substantial contribution. I want to take

this opportunity to once again thank her most sincerely. Els Swaab succeeded her as vice-chair. Our Secretary Marijn Kooij left when the Expertise Centre was being established. His efforts contributed to the successful conclusion of this transition. Eric Idema was appointed Secretary as of 1 September 2018. Our support staff, which furthermore consists of Office Manager Tonie Brandse, deserves great praise for her professionalism and sterling efforts in coping with the extra work.

Important steps were taken in dealings with external parties in 2018. Contacts between the restitution bodies in five European countries were intensified. The goal is to have more consultation and cooperation in order to harmonize standards and working practices in these five countries so that these five bodies handle and assess claims as much as possible in the same way. Here too the underlying principle is that everything must be done, in accordance with the Washington Principles, to do justice to the Nazi regime's victims and their descendants.

Fred Hammerstein
Chair

1. Introduction

Since January 2002 the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (hereinafter referred to as the Restitutions Committee or the Committee) has been issuing advice and opinions about claims to items of cultural value whose owners were involuntarily dispossessed of them between 1933 and 1945 as a consequence of the Nazi regime.

The Restitutions Committee was established by the State Secretary for Education, Culture and Science (OCW) by a decree of 16 November 2001. It comprises lawyers, a historian and an art historian.¹ The Committee's members and support staff do their work independently of the Ministry of OCW.

The subject of this seventeenth annual report is the work of the Restitutions Committee and its support staff in 2018.

Chapter 2 contains a brief description of the Restitutions Committee's history, its advisory tasks and the applicable Dutch restitution policy. The Second World War and Restitution Applications Expertise Centre established on 1 September 2018 is also addressed. Chapter 3 is about the Committee's composition and the changes to its supporting staff. Chapter 4 addresses the year under review with an account of the activities carried out. Chapter 5 contains a quantitative overview of the opinions and recommendations issued from 2002 to 2018, and in chapter 6 there is the anonymized text of the opinions that the Committee issued in 2018.

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. The Decree Establishing the Restitutions Committee was amended by decrees of 4 July 2012 and 20 September 2018. Appendix 1 contains the 2001 Decree Establishing the Restitutions Committee and the associated explanatory notes. The amending decree of 4 July 2012 is in Appendix 2 and the amending decree of 20 September 2018 is in Appendix 3. The entire amended text of the Decree Establishing the Restitutions Committee, which came into effect on 2 October 2018, can be found in Appendix 4.

2 Dutch Restitution Policy

2.1 History in Brief

Between 1933 and 1945 the Nazis seized, stole or purchased artworks, antiques, jewellery and other objects of cultural value 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 to the rightful owners or their heirs. In the Netherlands, the Netherlands Art Property Foundation (SNK) was tasked with the recovery and restitution activities.² 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 stolen during the Nazi regime.³

² 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.)

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

2.2 Restitutions Committee's Remit

In the first place the Restitutions Committee's 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.⁴ 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.⁵ Such cases therefore involve items of cultural value in the possession of Dutch owners other than the Dutch State.

For more information about the procedures the Restitutions Committee employs for both of its tasks, see the Committee's website and the website of the Netherlands Cultural Heritage Agency, which is responsible for handling individual restitution applications on behalf of the Minister of OCW.

2.3 Restitution Application Assessment Criteria

The original Decree Establishing the Restitutions Committee of 16 November 2001 stipulated that the Restitutions Committee shall conduct its advisory task with regard to requests for restitution of 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).⁶ Summarizing, the policy meant that if the original ownership of the item of cultural value and the involuntariness of the loss of its possession were sufficiently plausible, the item of cultural value could be returned to the heirs of the original owner.

With regard to applications for restitution of items of cultural value in collections other than that of the Dutch State, the Committee must advise on the basis of the yardsticks of reasonableness and fairness. During the assessment of these applications it is possible to take into account the interests of owners who purchased items of cultural value in good faith, not knowing they were looted art.

In 2012 the then State Secretary for OCW changed the assessment criteria. As a result of this change, claims submitted after 19 July 2012 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'. This assessment framework also applies to

⁴ Decree Establishing the Restitutions Committee, 16 November 2001, article 2, paragraph 1. Appendix 1.

⁵ 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.

⁶ These recommendations can be consulted via the Restitutions Committee's website.

claims submitted after 30 June 2015 to items of cultural value that do belong to the NK collection. As a consequence of these two changes the formal 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.⁷

2.4 Second World War and Restitution Applications Expertise Centre

In 2016 the Minister of OCW told the Lower House of the Dutch Parliament about her plans for changes to the implementation of the restitution policy. The important part of these plans was the establishment of an expertise centre relating to the restitution of Nazi looted art. This Second World War and Restitution Applications Expertise Centre is part of the NIOD Institute for War, Holocaust and Genocide Studies in Amsterdam and started work on 1 September 2018. The Expertise Centre's primary task is conducting research for the Restitutions Committee. At the request of the Minister of OCW, the Expertise Centre can also conduct research into cases about which the Restitutions Committee has not, or not yet, been asked to advise. The Expertise Centre will also act as a national and recognized focal point for museums, the media, researchers and other interested parties. The knowledge acquired during the last fifteen years about Nazi looted art is being combined and embedded by establishing the Expertise Centre in the NIOD.

A number of amendments have been made to the Decree Establishing the Restitutions Committee in connection with the establishment of the Expertise Centre.⁸ The advisory task of the Restitutions Committee has remained unchanged. The most important consequence of the Expertise Centre's establishment for the Restitutions Committee is that with effect from 1 September 2018 its researchers no longer work directly for the Committee but are employed by NIOD.



2. Minister Ingrid van Engelshoven and Wim Saarloos, president of the KNAW, during the signing for the newly established Expertise Centre.

⁷ See chapter 2 of Report 2015 for a comprehensive description of these changes and their backgrounds.

⁸ Amending Decree of 20 September 2018. Appendix 3.

3. The Restitutions Committee

3.1 Restitutions Committee Members

Until 23 December 2018 the Restitutions Committee comprised the following members:

Dr A. Hammerstein (Chair)
H.M. Verrijn Stuart (Vice-Chair)
J.H.W. Koster
Dr J.H. van Kreveld
E.H. Swaab
Dr G.N. Verschoor
Dr C.C. Wesselink

E.H. Swaab joined the Committee with effect from 16 March 2018.⁹

On 23 December 2018, H.M. Verrijn Stuart stepped down as a member, and also vice-chair, of the Committee.¹⁰ She has been replaced as a Committee member for the coming three years by D. Oostinga. Committee member Swaab has been appointed vice-chair.¹¹

3.2 Restitutions Committee Support Staff

Until 1 September the Committee was supported by the following employees:

A.W.G. Brandse (office manager), I. El Achkar (management assistant), E.J.A. Idema (legal assistant), F.M. Kunert (researcher), J.M. Mooren (art history researcher) and E. Muller (researcher). A.M. Jolles-van Loo (archivist) left the Restitutions Committee organization on 12 May 2018 upon reaching retirement age. She started working for the Committee in August 2006.

In addition P.W. Kievit and N.F. Dufais provided support for a part of the year under review.

Until 1 July the support organization was led by the Secretary M.C.J. Kooij. After that E.J.A. Idema was Acting Secretary until 1 September.

Since 1 September 2018

On 1 September 2018 the three researchers and an assistant transferred to the Expertise Centre. Since then the members of the Restitutions Committee have been supported in the execution of their task by E.J.A. Idema (Secretary) and A.W.G. Brandse (office manager).

The Restitutions Committee's office is located at Lange Voorhout 13 in The Hague.

⁹ Appointment decision, *Netherlands Government Gazette*, 27 March 2018, no. 16719.

¹⁰ See also the Chair's Foreword.

¹¹ Appointment decision, *Netherlands Government Gazette*, 31 December 2018, no. 73969.

4. A Look Back at 2018

The year under review was marked by the establishment of the Expertise Centre. The associated organizational and personnel matters generated a great deal of work on top of the day-to-day activities.

4.1 Cases under consideration in 2018

In 2018 the Restitutions Committee held nine meetings and organized a hearing in one case. During the year under review eighteen cases were considered. Five of them arose from the *Museum Acquisitions since 1933* investigation.¹² In 2018 the Committee issued three binding opinions.¹³ The Committee will issue a recommendation or a binding opinion in the other cases in 2019 or thereafter.

4.2 Symposia and Lectures

Twenty years after the Washington Principles were signed, interest in Nazi looted art remains at a high level. Committee members and employees were approached on a regular basis to give presentations about restitution. They maintained contacts with committees, institutions, researchers and students in the Netherlands and abroad. The most important activities are summarized below.

- *5 May*: Chair Hammerstein gave a lecture about the Committee's work to members of the Koninklijke Industriële Groote Club (Royal IGC) in Amsterdam;
- *12 October*: Idema represented the Restitutions Committee at a meeting of representatives of European restitution committees in London;
- *9 November*: Committee member Wesselink spoke at the symposium *Boijmans in de Oorlog [A Controversial Past: Museum Boijmans Van Beuningen and the Second World War]* in De Doelen in Rotterdam;
- *26 and 27 November*: Hammerstein and committee members Verschoor and Wesselink attended the conference *20 Years Washington Principles: Roadmap for the Future* in Berlin, organized by the Deutsches Zentrum Kulturgutverluste. Former committee member Bank took part in a panel discussion on the same day.

¹² For more information about this investigation see <http://www.musealeverwervingen.nl> and *Report 2011*, section 4.3.

¹³ The complete texts of the binding opinions issued in 2018 are in chapter 6.

4.3 International Cooperation

At a meeting in September 2017 in London, delegations from the five European restitution committees (in Germany, France, the Netherlands, Austria and the United Kingdom) expressed the desire to maintain contacts with one another and to initiate closer cooperation. This meeting was followed up by a meeting of the secretaries of the five committees on 12 October 2018 in London. This in turn resulted in the establishment of the Network of European Restitution Committees, an unofficial cooperative alliance of the five European restitution committees. The Network's purpose is to maintain contacts between the five committees and share information. A further objective is to review how the five committees can harmonize and improve their working practices. This will also include a substantive analysis of claim assessment procedures. The Action Plan prepared after the conference on Nazi looted art, *70 Years and Counting: Europe's Final Opportunity?*, in London in September 2017 is the blueprint for this.

The Network will be chaired in its first year by the French Commission for the Compensation of Victims of Spoliation (*Commission pour l'indemnisation des victimes de spoliations*). The Network's activities will include publication of a newsletter and a guide describing the five committees. A new meeting of the committees in November 2019 in Paris will be organized.

5. Overview of Restitutions Committee Recommendations and Opinions

5.1 Overview from 2002 to 2018

Between January 2002, when the Restitutions Committee took up its duties, and the end of 2018, the Minister of OCW requested advice or an opinion about 176 cases. Of these, 152 related to items of cultural value from the Dutch National Art Collection; 143 were requests for advice ‘in the first instance’ and nine concerned requests for reconsideration of previously issued advice. The other 24 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 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 2018 152 Dutch National Art Collection cases had been brought before the Committee, of which eight are still under consideration. No recommendation concerning a Dutch National Art Collection case was issued during the year under review, and therefore the number of recommendations issued has remained at 140.¹⁴ 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 140 recommendations issued, 65 were fully in the applicants’ favour, 56 were to reject the claim in full and 19 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 140 recommendations issued concerned approximately 1,560 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
2017	4	2017	7
2018	3	2018	-
Total	152	Total	140

5.3 Cases Concerning Works Not in the Dutch National Art Collection

As explained above, 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 2018 the Restitutions Committee had received 24 requests for an opinion in the context of this task. The Committee issued binding opinions in a total of 13 cases in previous years¹⁵ and a further three in the year under review.¹⁶ In nine of these 16 cases the ruling was to reconstitute the disputed objects, the binding opinion in six cases was that the restitution application should be rejected and in one case it was decided not to take a request under consideration.

¹⁴ 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 2002-2018 period.

¹⁵ See *Report 2008, Report 2010, Report 2012, Report 2013, Report 2013, Report 2015* and *Report 2016*.

¹⁶ See the binding opinions RC 3.162 (*Blick auf Murnau mit Kirche* by Wassily Kandinsky), RC 3.163 (*Moses*, a sculpture attributed to Alessandro Vittoria) and RC 3.141 (*Painting with Houses* by Wassily Kandinsky) in chapter 6.

Binding opinion cases per year

<i>Submitted to the RC</i>		<i>Recommendations 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 ¹⁷
2017	3	2017	-
2018	-	2018	3
Total	24	Total	16

5.4 Status at the End of 2018

At the end of the year under review a total of fifteen cases were being dealt with, of which eight concern the Dutch National Art Collection and seven are binding opinion cases.¹⁸

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 or other countries. Applicants also regularly request an extension of the response times, for example so that they can do some research themselves.

¹⁷ This concerns a decision and not a recommendation. See *Report 2016*, chapter 6, Decision concerning eleven majolica plates (RC 3.153).

¹⁸ One binding opinion case has lapsed, and consequently there are seven to consider instead of eight.

6. Opinions Issued in 2018

Below is the full text of the opinions issued by the Restitutions Committee in 2018. The opinions are given in chronological order. The dates given for opinions are based on when they were finalized.¹⁹

1. Binding opinion regarding the dispute about restitution of the painting *Blick auf Murnau mit Kirche*, by Wassily Kandinsky, currently in the possession of Eindhoven City Council (case number RC 3.162)

Date of binding opinion: 29 January 2018

Binding Opinion

regarding the dispute between
AA, also on behalf of
BB, CC, DD, EE, FF, GG, HH, II and JJ
 (hereinafter referred to as the Applicants),
 and
Eindhoven City Council (hereinafter referred to as the City Council),
 represented by **KK**, Director of the Van Abbemuseum (hereinafter also referred to as the Museum).

issued by the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War in The Hague (the Restitutions Committee), hereinafter referred to as the Committee.

1. The Dispute

The City Council has owned a painting titled *Blick auf Murnau mit Kirche* (hereinafter referred to as the work) by Wassily Kandinsky since 1951. The work is part of the Museum's collection. The Applicants contend that the work belonged to the collection of their grandmother/great-grandmother Johanna Margareta Stern-Lippmann (1874-1944, hereinafter also referred to as (Margareta) Stern-Lippmann). They state that they are the only rightful claimants to the estate of Stern-Lippmann and they claim restitution of the work on the grounds of their contention that there was involuntary loss of possession as a result of circumstances directly associated with the Nazi regime. The Applicants have conducted their own research and the findings are recorded in a report titled *Collectie Stern* (2015).

2. The Procedure

In a joint letter, received by the Committee on 18 February 2016, the parties laid the Applicants' claim to the work before the Committee for investigation and a binding opinion.

The parties declared in writing that they would submit to the Regulations for the Binding Opinion Procedure in accordance with article 2, second paragraph, and article 4, second paragraph, of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (approved by the Committee on 3 December 2007, most recently amended on 27 January 2014, hereinafter referred to as the Regulations) and would accept the Committee's opinion as binding. The Committee satisfied itself of the identity of the parties.

The Committee took note of all the documents submitted by the parties. It forwarded to the other party copies of all documents. The Committee also conducted additional independent research. As part of its investigation the Committee put questions in writing to the parties and requested information. The findings of the investigation are recorded in an overview of the facts dated 16 October 2017. The Applicants responded to it in an email of 15 November 2017. The City Council responded in a letter dated 20 November 2017.

¹⁹ See Appendix 6 for an index by case number of all the opinions and recommendations published by the Committee during the 2002-2018 period.

There was a hearing about the case in The Hague on 25 January 2018. AA accompanied by LL appeared on behalf of the Applicants. The City Council was represented by KK and MM, the Museum's curator and head of collections. Minutes were taken of the hearing.

3. The Facts

The Committee established the facts on the grounds of the overview of the facts and the responses to it that were received. The following summary is sufficient here.

3.1 Johanna Margareta Lippmann was born on 6 January 1874 in Berlin and was of Jewish origin. She married Samuel Siegbert Stern (1864-1935), who was also of Jewish descent and among other things was an art collector. The couple lived in Babelsberg near Berlin and had four children: Annie Regina Stern (1899-1989), Hilde Sophie Stern (1901-1984), Hans Martin Stern (1907-1953) and Luise Henriette Stern (1909-1944). Mr and Mrs Stern built up a substantial art collection. This emerges, for example, from a will drawn up by the couple in 1924. It refers to 144 numbered artworks, including over 100 paintings and drawings. This will mentions one painting by Kandinsky (*Landschaft*). The Applicants submitted a copy of a transcript of a typescript of this will, on which it is stated, '*Verkündet am 14. Oktober 1935*'. It is not known when this painting was acquired. A part of Mr and Mrs Stern's art collection can also be seen in an album containing photographs of the interior of their residence in Babelsberg. One of these photographs is of a room in which there are two paintings on the wall, including the currently claimed work by Kandinsky. Further artworks can be seen in other photographs, including the painting *The Circumcision*, about which the Committee advised in case RC 1.44. According to the Applicants it is plausible that the photograph album dates from the 1933/1934 period, in any event before the death of Siegbert Stern in 1935 because he is in one of the photographs. A photography expert who examined the album at the request of the Committee concluded that the album was compiled between around 1915 and 1940. The photography expert did not give a more precise dating of the photographs on which the currently claimed work can be seen, and there is no other method available for doing so.

3.2 Samuel Siegbert Stern died on 7 August 1935 in Berlin. Stern-Lippmann moved to Badenweiler in southern Germany in the spring of 1937 in connection with the anti-Jewish measures. Stern-Lippmann took a small proportion of her possessions with her when she moved. She was also faced with anti-Jewish measures in Badenweiler, so in the summer of 1938 she fled to the Netherlands via Switzerland. A number of Stern-Lippmann's relatives also fled to the Netherlands. Her brother-in-law Albert Stern, for instance, was registered as living in Amsterdam in March 1937 and her brother Heinrich Lippmann in June 1938. Stern-Lippmann's children had also settled in the Netherlands in the nineteen-twenties and -thirties.

Meanwhile, from Switzerland Stern-Lippmann instructed Konstantin Balaszkeskul in Berlin, whom she had appointed as her authorized agent, to take care of her financial affairs in Germany, including managing and liquidating her assets. This was a complex task because the Nazi authorities were keeping a close eye on the possessions of Jewish emigrants. Among other things Balaszkeskul sold off Stern-Lippmann's property, including the mansion in Babelsberg, which was finally sold on 2 November 1940. Prior to this sale he also arranged to have the household contents moved to the Netherlands. In order to obtain permission from the German authorities for the shipment, among other things Balaszkeskul had to submit an inventory and provide an opportunity for the goods to be inspected. A number of gold and silver objects were removed from the household effects because they had to be surrendered on the grounds of anti-Jewish measures. Ultimately the household contents were transported to Amsterdam, probably in December 1939. Four lists of possessions were found concerning the shipment of Stern-Lippmann's household effects. An entry on one list refers to approximately 38 '*Bilder*', while another mentions '*1 Ölbild*' in the '*Großes Wohnzimmer*'.

3.3 Stern-Lippmann was registered as living at various addresses in Bloemendaal and Amsterdam during the 1938-1940 period. She lived with her youngest daughter Luise in Bloemendaal from 15 September 1939. According to the haulage company's invoice that was found, the household effects that were sent to the Netherlands in December 1939 went to '*Amsterdam - Doklaan*'. It is not clear which paintings were shipped and where they ended up thereafter. It is possible that part of Stern-Lippmann's collection came to the Netherlands outside this official household removal.

In the autumn of 1940 Stern-Lippmann moved to Hilversum, where she lived at several addresses, including Wernerlaan 30. Hermann Stern (not a relative), a merchant of German-Jewish descent who fled to the Netherlands in 1938, had lived at this address previously. In 1937 one of his two daughters, Doris, married Salomon George Kaufmann, the son of Carl and Alice Kaufmann. The name Kaufmann plays a role in the work's provenance. No information was found, however, to show that this refers to Salomon Kaufmann or his family.

Stern-Lippmann was declared stateless in 1941. She then tried to obtain an emigration visa for herself and her family. Part of this process involved putting the painting *Portrait of Miss Edith Crowe* by Fantin-Latour at the disposal of the *Dienststelle Mühlmann* (Mühlmann Agency), a German organization that acquired works of art for Germany. This painting was not in the Stern-Lippmann collection. She bought it at the end of 1941 especially for this purpose from the firm of D'Audretsch in The Hague for NLG 40,000. The German-Jewish art dealer Myrtl Frank, who had been living in Hilversum since the beginning of 1941, was an intermediary in this purchase. Frank handed over the painting to the Mühlmann Agency but the emigration visa was never issued.

Stern-Lippmann went into hiding in Amsterdam in 1942. She was ultimately apprehended and was then deported via Westerbork transit camp to Auschwitz, where she was murdered on or around 22 May 1944. Her daughter Luise and her husband also became victims of the persecution of the Jews, as did other relatives. Her other children survived the war.



3. *Blick auf Murnau mit Kirche* by Wassily Kandinsky

3.4 Little is known about what happened to Stern-Lippmann's art collection during the war. Part of it proved to be still present after the liberation. Attempts were made to regain possession of artworks that were known to be missing. For example, declarations of the loss of possession of several works were made to the Stichting Nederlands Kunstbezit (Netherlands Art Property Foundation) (hereinafter referred to as the SNK). This resulted in 1949 in the restitution of only one work, the painting by Fantin-Latour referred to above. A number of individuals compiled overviews and made valuations of the Stern-Lippmann collection, for example for the purposes of dividing her estate in 1954. As part of this division a number of paintings that were still present after the liberation or had been returned to the estate were distributed among the different heirs.

The services of a number of different valuers, including the art dealer Bernard Houthakker, were used in regard to dividing the paintings. During the Committee's investigation a number of lists of valuations of artworks were found in his archive that relate to the Stern-Lippmann art collection. On one of these lists, dated 29 October 1950 and titled '*BILDERLISTE MIT PREISSCHAETZUNGEN*', there are 40 paintings and drawings including a '*Landschaft*' by '*Kandinsky*', stating the country as '*USA*' and an estimated value of '*[DOLLAR] 500.-*'. This list gives the country as '*USA*' and estimated values in dollars for eleven other works. The work by Kandinsky is the only one on the '*Bilderliste*' to have been crossed out by hand. All 40 paintings and drawings on the '*Bilderliste*', with the exception of three paintings including the painting by Kandinsky, are referred to on an expert's certificate issued by Houthakker on 18 September 1952 that concerned 37 paintings '*behorende tot de nalatenschap van Mevrouw M.J. Stern-Lippmann en zich bevindende in diverse percelen te Nunspeet (Gld.) en te Amsterdam in het Stedelijk Museum en in het gebouw van de Associatie Cassa*' [*belonging to the estate Mrs M.J. Stern-Lippmann and that are present in various properties in Nunspeet (Gelderland) and in the Stedelijk Museum in Amsterdam and in the Associatie Cassa building*].

Apart from the aforementioned '*Bilderliste*', there is no mention of a painting by Kandinsky on the

other lists of valuations found in Houthakker's archive. The name is also not referred to in the other documentation found after the liberation.

Paintings from the Stern-Lippmann collection were still missing after the division of Stern-Lippmann's estate in 1954. This emerges from a letter from the financial and legal advisor W.H.C. Schukking of 12 May 1955 to the SNK, which was subsequently closed down. Enclosed with this letter was a list of 28 artworks headed 'Schilderijen van wijlen Mevr. Marg. Stern-Lippmann, welke na 1945 niet meer in de boedel werden aangetroffen' ['Paintings of the late Mrs Marg. Stern-Lippmann that after 1945 were no longer found in the estate'] (hereinafter also referred to as the Schukking list). It is stated in the letter that it concerns works that belonged to Stern-Lippmann in 1940. No work by Kandinsky is mentioned on the Schukking list. Similarly no work by Kandinsky is referred to on the 1958 list of missing artworks that was sent in 1959 to the *Wiedergutmachungsämter von Berlin* (WGA), which corresponds largely with the Schukking list. The WGA file contains a statement by Schukking stating that the sums accompanying the artworks concerned were taken from insurance policies dating from the 1934-1938 period.

- 3.5 The currently claimed work was purchased by the Museum in 1951 from the art dealer Karl Alexander Legat in The Hague. The following handwritten provenance information is noted on one of the painting's inventory cards submitted by the Museum. *Légat, Den Haag (1951) f. 11.500-; 'Vroeger verzameling A. Kaufmann; door diens in Nederl. wonende dochter verkocht Légat. (opg. Légat)' ['Légat, The Hague (1951) f. 11.500-; 'Previously the collection of A. Kaufmann; whose daughter living in the Netherlands sold it to Légat. (stated by Légat)']*. It can be deduced from correspondence about the purchase in 1951 that Legat had paid NLG 10,000 for the work. It is not clear who 'A. Kaufmann' refers to. Previously, in 1949, Legat had offered the Museum another work by Kandinsky, *Kirche in Murnau*. In the end this work did not go to a Dutch museum but was acquired in 1950 by the Museum of Modern Art in New York. Before that, the work was submitted by Legat for the exhibition *Expressionisme: Van Gogh tot Picasso* [*Expressionism: Van Gogh to Picasso*], which was staged in the Stedelijk Museum in Amsterdam from July to September 1949. The currently claimed work was not on display in that exhibition.

4. The Positions of the Parties

- 4.1 The Applicants contend that the currently claimed work was sent from Germany to the Netherlands in 1939 and that Stern-Lippmann had to sell the work at the end of 1941 in order to be able to buy the painting by Fantin-Latour, which was intended to secure an emigration visa. As regards the purchase of the painting by Fantin-Latour, they refer to connections between Frank and Stern-Lippmann, who were both living in Hilversum in 1941, and to the connections between Frank and Legat. According to the Applicants' original position the name 'A. Kaufmann' in the work's provenance was invented by Frank. It was stated during the hearing on behalf of the Applicants that nobody with the name Kaufmann could be found who can be linked to this painting. According to the Applicants the fact that the currently claimed work is not mentioned on the different lists of valuations after the liberation shows that the currently claimed work did not come into the possession of the heirs after the liberation. According to the Applicants the reference to the work on the 'Bilderliste' can be explained because the compilers of this list were counting on the return of the painting. The Schukking list was drawn up on the basis of insurance documents dating from the 1934-1938 period, which according to the Applicants can explain why a work of 'entartete Kunst' [degenerate art] such as the currently claimed work is not mentioned on it.
- 4.2 The City Council has taken note of the Applicants' research as recorded in the *Collectie Stern* report and of the restitution application. The City Council defers to the Committee's opinion.

5. The Committee's Task

- 5.1 On the grounds of article 2 paragraph 2 of the Decree Establishing the Restitutions Committee, the Committee is tasked at the request of the parties 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. This opinion is a binding opinion within the meaning of article 7:900 of the Dutch Civil Code.
- 5.2 The committee advises on the basis of the yardsticks of reasonableness and fairness. This means that first of all an assessment is made of whether the requirements have been met for establishing that it is highly likely that the original owner was indeed the owner and that it is sufficiently plausible that he or she lost possession of the artwork involuntarily as a result of circumstances directly related to the Nazi regime. Advising on the basis of the yardsticks of reasonableness and fairness furthermore provides scope to take into account how the current owner acquired the object and other circumstances and to weigh up the interests of the different parties involved.
- 5.3 In its advisory role pursuant to article 2, second paragraph of the Decree Establishing the Restitutions Committee, the Committee—in accordance with article 3 of the Regulations—may in any event take account during its considerations of the circumstances in which possession of the work was lost, the degree to which the parties requesting restitution have made efforts to recover the work, as well as the timing and the circumstances of the acquisition of possession by the current owner and the

investigation conducted by the current owner before the acquisition. It may in addition take account in its considerations of the importance of the work to both parties and of public art treasures. Nationally and internationally accepted principles, such as the Washington Principles and the government's guidelines concerning the restitution of looted art, are included in the considerations in so far as they, in the Committee's opinion, are correspondingly applicable in the specific case. This broad assessment framework also does justice to the Washington Principles, according to which the restitutions policy must be aimed at achieving 'a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case'.

6. Assessment of the Dispute

- 6.1 The Applicants have asserted that they are the rightful claimants to Margareta Stern-Lippmann's estate. To this end they submitted a transcript of a certificate of inheritance executed on 1 April 2011 before M.R. Meijer, notary in Amsterdam, and a certificate of inheritance executed on 16 June 2016 before G.W. Gramser, notary in Amsterdam. It follows from these certificates that the natural persons named below are heirs of Margareta Stern-Lippmann:
- a) BB;
 - b) CC;
 - c) DD;
 - d) EE;
 - e) FF;
 - f) GG;
 - g) HH;
 - h) II;
 - i) JJ;
 - j) AA.

The aforementioned named persons a to j inclusive are Applicants in this case. It emerges from the two certificates of inheritance referred to above that the Applicants represent all those entitled to the assets of Margareta Stern-Lippmann.

- 6.2 The Committee has satisfied itself that the dispute between the Applicants and the City Council has not previously been definitively dealt with. The Committee has not found a legal procedure or a judicial ruling relating to the work. Nor has it emerged that the Applicants previously explicitly renounced their rights to the work. The Committee therefore considers the parties and their request to be admissible.
- 6.3 Given the Committee's task as referred to under 5.2, it must be highly plausible that the currently claimed work, as the Applicants contend, belonged to Stern-Lippmann and be sufficiently plausible that she lost possession of it involuntarily as a result of circumstances directly related to the Nazi regime. In the assessment the Committee is faced first of all by the question of whether the work belonged to Stern-Lippmann, as the Applicants have asserted. In this regard it is firstly important that the 1924 will refers to a 'Landschaft' by Kandinsky. The photograph album submitted by the Applicants is also important. It contains a photograph in which the work can be seen. In view of this the Committee deems it highly plausible that the work belonged to the Stern-Lippmann collection.
- 6.4 As regards the question of whether it is sufficiently plausible that Stern-Lippmann lost possession of the work involuntarily as a result of circumstances directly related to the Nazi regime, the Committee concludes that there are no known facts to show what happened to the work during the period between 1924 (the will) and 1951 (purchase by the Museum). The Applicants have referred to the photograph album, which they date to 1933/1934, and the 1935 transcript from the will that they submitted. As discussed above, it is however not possible to give a precise dating for the photographs in which the work can be seen. In view of the statement 'Verkündet am 14. Oktober 1935', on the 1935 transcript of the will, it is not possible to conclude that the work still belonged at that moment to the Stern-Lippmann collection. The Committee has addressed the question of whether, in the absence of information about what happened to the work in the 1924-1951 period, it can be deemed sufficiently plausible that Stern-Lippmann lost possession of the work involuntarily as a result of circumstances directly related to the Nazi regime. The Committee included the scenarios advanced by the Applicants in its considerations. The Committee considers that there are insufficient factual grounds to support any of these scenarios. The following is important in this regard.
- The Applicants contend that the work was transported from Germany to the Netherlands in 1939. They assert that the 'Ölbild' from the 'Großes Wohnzimmer', which is referred to in documentation concerning the shipment of Stern-Lippmann's household effects to the Netherlands in December 1939, has to have been the currently claimed work. In earlier contacts with the Museum they advanced the possibility that the work was transferred from Germany in secret. In view of the presence of a Kandinsky, 'Landschaft', on the 1950 'Bilderliste', the Committee cannot rule out the possibility that the work, in common with a number, possibly a large number, of Stern-Lippmann's other paintings, was transported in around 1939 from Germany to the Netherlands, but the significance of this list has not become sufficiently clear.

- With the exception of the 1950 'Bilderliste', the work is not mentioned on the different post-war lists of valuations of artworks from the Stern-Lippmann collection that were found during the investigation. The 'Bilderliste' refers to a 'Landschaft' by Kandinsky, stating the country as 'USA' and an estimated value of '[DOLLAR] 500.-'. This statement on the 'Bilderliste' was crossed out by hand. This was the only work on the list concerned to be treated thus. In the Committee's opinion, however, no unambiguous conclusions can be drawn from this statement and crossing out, or from the absence of a mention of the work on the other lists that were found.
- In the Committee's view an exception to this last point is the fact that the work does not appear on the Schukking list of artworks that belonged to Stern-Lippmann in 1940 but were no longer found in the household effects after 1945, nor is it on the list sent to the WGA in 1959. This makes it plausible that the work was not considered to be missing during the 1945-1959 period. The explanation given by the Applicants, namely that the work is not on the Schukking list because it was 'entartete Kunst', which according to the Applicants could not be insured, is not convincing because examples of 'entartete Kunst' are decidedly on the Schukking list, for example a painting by Munch.
- It is known that at the end of 1941 Stern-Lippmann tried to obtain an emigration visa for herself and her family. Part of this process involved putting the painting *Portrait of Miss Edith Crowe* by Fantin-Latour at the disposal of the *Dienststelle Mühlmann*. Stern-Lippmann had to buy this painting for this purpose from the firm of D'Audretsch in The Hague for NLG 40,000. Frank was an intermediary in this purchase.
- The Applicants advance the possibility that Stern-Lippmann had to sell various works from her collection, including the currently claimed work, in order to be able to buy the painting by Fantin-Latour. The painting was allegedly sold at the end of 1941 via Frank to Legat, who then supposedly held on to the painting until 1951. In the Committee's opinion there is not sufficient prima facie evidence for this course of events, as asserted by the Applicants, although it cannot be entirely ruled out that art from the collection was sold during the war. There is, however, no indication that Stern-Lippmann actually sold artworks for the purposes of purchasing the painting by Fantin-Latour.

6.5 In view of the above, the Committee is of the opinion that insufficient facts and circumstances have been established on the grounds of which it can be deduced with the required degree of plausibility that the work ceased to be in the possession of Stern-Lippmann during the Nazi regime. Basing its considerations on the yardsticks of justice and fairness, the Committee will issue an opinion that the City Council is not obliged to reconstitute the work.

BINDING OPINION

Eindhoven City Council is not obliged to reconstitute the painting *Blick auf Murnau mit Kirche* by Wassily Kandinsky to the Applicants.

This binding opinion was issued on 29 January 2018 by A. Hammerstein (Chair), J.H.W. Koster, J.H. van Kreveld, H.M. Verrijn Stuart (Vice-Chair), G.N. Verschoor and C.C. Wesselink, and signed by the Chair and the Secretary.

(A. Hammerstein, Chair)

(M.C.J. Kooij, Secretary)

2. Binding opinion regarding the dispute about restitution of the sculpture 'Moses', attributed to Alessandro Vittoria, currently in the possession of the Stichting Hannema-de Stuers Fundatie (case number RC 3.163)

Date of binding opinion: 16 April 2018

Binding opinion

regarding the dispute between

AA, of BB (Germany) in his capacity as executor of the estate of Emma Ranette Budge-Lazarus, represented by Lothar Fremy, lawyer of Berlin (Germany) (hereinafter referred to as the Applicant), and the **Stichting Hannema-de Stuers Fundatie** (also known as Museum de Fundatie, hereinafter referred to as the Museum), with its registered office in Olst-Wijhe, represented by CC, Director of the Museum),

issued by the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War in The Hague (the Restitutions Committee), hereinafter referred to as the Committee.

1. The Dispute

The Museum has been the owner of the sculpture 'Moses' attributed to Alessandro Vittoria (hereinafter referred to as the work) since 1964. The Applicant contends that the work belonged to the collection of Emma Ranette Budge-Lazarus ((hereinafter also referred to as Budge). After her death in 1937 the work ceased to be part of the estate allegedly as the result of a forced sale. On behalf of the Budge estate the Applicant claims restitution of the work on the grounds of his contention that there was involuntary loss of possession as a result of circumstances directly associated with the Nazi regime.

2. The Procedure

The parties laid the Applicant's claim to the work before the Committee for investigation and a binding opinion.

The parties declared in writing that they would submit to the Regulations for the Binding Opinion Procedure in accordance with article 2, second paragraph, and article 4, second paragraph, of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (approved by the Committee on 3 December 2007, most recently amended on 27 January 2014, hereinafter referred to as the Regulations) and would accept the Committee's opinion as binding. The Committee satisfied itself of the identity of the parties.

The Committee took note of all the documents submitted by the parties. It forwarded to the other party copies of all documents. The Committee also conducted additional independent research. As part of its investigation the Committee put questions in writing to the parties and requested information. The findings of the investigation are recorded in an overview of the facts dated 16 October 2017. The Applicant responded to it in an email dated 15 December 2017. The Museum responded in a letter dated 19 December 2017.

3. The Facts

The Committee established the facts on the grounds of the overview of the facts and the responses to it that were received. The following summary is sufficient here.

- 3.1 Emma Ranette Budge (1852-1937) was of Jewish descent and was born in Hamburg. She was married to Henry Budge, who in 1866 went to the United States, where he acted as a financial specialist in the financing of the construction of the American railways. Henry Budge became an American citizen on 12 July 1882 and on 12 October 1889 Emma also acquired American citizenship as a result of their marriage. The couple had no children. The couple returned with their wealth to Germany in 1903. They settled in a big house at Harvestehuderweg 12 in Hamburg, which became known as Budge Palace. In Hamburg the couple undertook charitable activities and, among other things, contributed to the establishment of Goethe University Frankfurt. They also built up an extensive art collection. Henry Budge died in 1928. Emma Budge died in Hamburg on 14 February 1937.

3.2 Initially Budge intended to leave her art collection to the city of Hamburg. That changed after the Nazi regime came to power in January 1933. Budge had her last wishes recorded in a will dated 5 October 1933, which was supplemented over the years by five codicils, the last of which was registered in 1936. It can be deduced from the documentation that in her will and testament Budge took into account the rise of the Nazi regime and the possible consequences. The first paragraph of her will of 5 October 1933 contains the following passage.

Gezungen sehe ich mich zu dieser Aufhebung und zur Neuordnung durch die Veränderung meiner eigenen finanziellen Verhältnisse und der allgemeinen wirtschaftlichen und auch politischen Verhältnisse in Deutschland, welche Veränderungen es mir widersinnig entscheiden lassen, eine von mir früher zu Gunsten der Stadt Hamburg angeordnete Verfügung weiter bestehen zu lassen.

Budge had provisions concerning her art collection spelled out in the sixth paragraph of the will. They include the following.

Die in meinem Hause Harvestehuderweg 12 befindlichen Sammlungen an Kunstgegenständen oder kunstgewerblichen Gegenständen gebe und vermache ich meinen Testamentsvollstreckern mit der Auflage, diese Gegenstände "sei es in geschlossenen Sammlungen oder in einzelnen Stücken" an ihnen geeignet erscheinende Museen, Gewerbemuseen oder ähnliche Institutionen in Deutschland oder in den Vereinigten Staaten von Amerika oder auch in anderen Ländern zu verteilen. Für die Auswahl derjenigen Museen, Gewerbemuseen oder sonstigen Institutionen, denen sie solche Zuwendungen machen wollen, sollen meine Testamentsvollstrecker sich des Beirates von ihnen auszuwählender, ihnen geeignet erscheinender Sachverständiger bedienen.

In a codicil dated 11 June 1934 Budge changed the paragraph about her art collection and stipulated that the executors were authorized, after consulting Albert Rothbart of New York, to donate individual items to museums or other institutions as they saw fit on the condition that the organizations concerned were prepared to exhibit the objects.

Ich hebe den Abschnitt VI meines Testaments vom 5. Oktober 1933 auf und bestimme stattdessen hinsichtlich der in meinem Hause Harvestehuderweg 12 befindlichen Sammlungen von Kunstgegenständen und kunstgewerblichen Gegenständen das Folgende. Ich beabsichtige, über diese Gegenstände oder einzelne von ihnen noch besondere Verfügungen zu treffen. Soweit ich solche Verfügungen nicht getroffen habe, sollen die Testamentsvollstrecker berechtigt sein, nach ihrem freien Ermessen und nach Beratung mit Herrn Albert Rothbart, New York, einzelne Kunst- oder kunstgewerbliche Gegenstände an Museen oder ähnliche Institutionen, zum Beispiel an das Metropolitan Museum in New York, zu verschenken, vorausgesetzt, dass diese Institutionen bereit sind die Gegenstände auszustellen.

The artworks that remained after this then had to be sold. Budge wrote as follows about how such selling had to take place.

Die dann noch übrigen Kunst- und kunstgewerblichen Gegenstände sollen meine Testamentsvollstrecker nach ihrem besten Ermessen in würdiger Weise realisieren, und hinsichtlich dieser Gegenstände nach ihrem Ermessen den Zeitpunkt der Realisierung wählen können, und auch die Art und Weise, in welcher sie zu den von ihnen gewählten Zeitpunkten und an den von ihnen zu wählenden Orten zu solcher Realisierung schreiten wollen. Die Testamentsvollstrecker sollen sich dabei sachverständlich beraten lassen, zum Beispiel von einem der Inhaber der Firma Rosenbaum in Frankfurt am Main.

...
Eine öffentliche Verwertung der Gegenstände in Hamburg soll ausgeschlossen sein.

3.3 On 14 September 1935 the Nazi regime promulgated the Nuremberg Race Laws, which provided a formal basis for the measures against Jews that the Nazis had already widely put into practice. One of the consequences of these laws was that German Jews were deprived of their civil rights.

Budge made substantial changes to her will shortly after the promulgation of the anti-Jewish legislation in the form of a fourth codicil, dated 21 November 1935. In this codicil Budge repeated that Mr Max M. Warburg, Dr Hermann Samson, Mr Max Kronheimer and Mr Ludwig Bernstein were appointed executors. In view of the measures taken shortly beforehand against German Jews (which Budge referred to later in the document as 'den heutigen Verhältnissen'), Budge stipulated that all executors had to be Jewish.

Für den Fall, dass nach Eintritt des Herrn Rudolf Samson als Testamentsvollstrecker sich die Zahl der Testamentsvollstrecker auf weniger als drei vermindern sollte, sollen die verbliebenen Testamentsvollstrecker Ersatzmänner ernennen, sodass immer drei Testamentsvollstrecker sich im Amte befinden. Notfalls bitte ich das zuständige Gericht um Ernennung so viel Ersatzmänner, dass drei Testamentsvollstrecker im Amt sind. Alle Testamentsvollstrecker sollen den jüdischen Religionsbekenntnis angehören.

In the fourth codicil she also announced the following four new provisions concerning her art collection.

Ich werde in besonderen Verfügungen Bestimmungen über Gegenstände meiner Hauseinrichtung und auch über Kunst- und Wertgegenstände treffen. Insoweit solche besonderen Verfügungen nicht vorhanden sein

werden, bleibt die Verwertung Sache meiner Testamentsvollstrecker nach Massgabe der früher darüber getroffenen Bestimmungen. Bei der Verwertung meiner Sammlungen empfehle ich ihnen, sich nicht nur des Rates der Firma Rosenbaum, jetzt nur in Amsterdam, für die Porzellansammlung zu bedienen, sondern auch des Rates des Herrn Börner in Leipzig, insbesondere wegen der Gemälde und Stiche.

She furthermore added the following about the location of any sale.

Eine Veräußerung all dieser Gegenstände innerhalb des Deutschen Reiches wird voraussichtlich nicht ratsam sein.



4. The sculpture Moses attributed to Alessandro Vittoria

3.4 Emma Budge died on 14 February 1937. Aside from a few charitable institutions that she had helped to set up, as far as we know she bequeathed thirteen Jewish beneficiaries. By the time Budge died, a number of these beneficiaries had fled to foreign countries or had made preparations to do so. It emerges from a list of the component parts of the Budge estate that securities represented by far the biggest part of the assets (over 5.4 million reichsmarks), with the art holdings a long way behind in second place (716,650 reichsmarks). Most of these securities were held in the *Schweizer Kreditbank* in Zurich, so they were beyond the reach of the German authorities.

The four Jewish executors, the banker Max Warburg, the lawyer Dr Hermann Samson and two nephews of Budge, Max Kronheimer and Ludwig Bernstein, put Budge's house up for sale immediately. On 11 December 1937 Budge Palace and two other buildings were acquired by the city of Hamburg. Despite the fact that Budge had stated in a codicil to her will in 1935 that it would probably not be prudent to sell her possessions inside Germany, her art collection went under the hammer in 1937 at Berlin auctioneers Paul Graupe, one of the most important auction houses to stage sales of Jewish assets in the nineteen-thirties. A pragmatic attitude was adopted by the Nazis because some art dealers were able, through their trading activities, to obtain foreign currencies, which the German regime badly needed. The Jewish Paul Graupe was an example. However, he also made plans to flee Germany because of his Jewish descent. Initially he was involved in organizing the Budge sale, but in September 1937, before the sale could actually take place, he fled to Paris, where he continued to trade in art.

The actual sale of Budge's art collection took place on 4-6 October and 6-7 December 1937 under the supervision of Hans W. Lange, who had 'Aryanized' the Graupe auction house. It is stated on a 'Versteigerungs-Niederschrift' of 20 October 1937 that the executors Max M. Warburg, Dr Herman Samson,

Ludwig Bernstein and Max Kronheimer issued instructions for the sale on 14 June 1937. During the sale, which attracted substantial international interest, 1,020 lots went under the hammer. The catalogue compiled on the occasion of the sale titled ‘*Die Sammlung Frau Emma Budge † Hamburg*’ describes an object under number 124 that corresponds to the currently claimed work.

124 Moses, aufrecht stehend, in weitfaltigem Gewand mit darüber hängendem, auf der rechten Schulter mit einem Knopf gehaltenen Mantel, hält mit der Linken die beiden Gesetztafeln, die er gegen die Hüfte stemmt. Die Rechte hat er vor die Brust erhoben. Das Gewand ist über der Brust geöffnet; an den Füßen trägt er Sandalen. Einzelheiten, wie die rechte Hand und der Bart, verraten das Vorbild Michelangelos. Auf mitgegossenem achteckigem Sockel. Statuette. Bronze. H. 47,5cm. Rom, 17. Jahrh. Aus dem Einflußbereich des Alessandro Algardi (1602--1654). Tafel 33.

The catalogue also contains an image. On its website the *Deutsches Zentrum Kulturgutverluste* states that the work listed as lot number 124 was purchased at the sale by ‘*Stavenhagen*’ for 340 reichsmarks. The exact identity of this buyer called ‘*Stavenhagen*’ is not known. It is not possible, based on the available documentation, to establish what happened to the proceeds of the sale. The Applicant stated that the proceeds were put into a frozen account and that the Budge beneficiaries never had access to them.

3.5 As stated above, the lion’s share of the Budge estate consisted of securities and currency, which were beyond the reach of the Nazi regime in an account with the Swiss *Kreditanstalt*. The German authorities pushed for the transfer of foreign assets to Germany. This involved exerting pressure on the beneficiaries and executors remaining in Germany by means of withdrawing passports, arrest and seizure of the personal assets of the individual beneficiaries. After *Kristallnacht* (Night of Broken Glass) the position of the beneficiaries remaining in Germany became more and more perilous. One of the beneficiaries and the spouse of another beneficiary were detained in Buchenwald concentration camp. Their release was linked to willingness to cooperate with the authorities. Furthermore the domestic assets of the beneficiaries were seized. Pressure was also exerted on the Jewish executors. The *Oberfinanzpräsident* of the *Amtsgericht Hamburg* issued instructions to have executors Kronheimer and Bernstein, who remained outside Germany, replaced by two other Jewish executors, Dr Rudolf Warburg and Dr Manfred Zadik, who were in Germany and therefore within the Nazi’s sphere of influence. In the end Zadik and Warburg were to be replaced in the autumn of 1938 by the lawyer Dr Ernst Blum of Lucerne and Gottfried Francke of Hamburg, accountant and former tax advisor to Emma Budge. Neither was Jewish. With Francke’s help in the end the Nazis were to succeed in getting two-thirds of the assets transferred from Switzerland to Germany. Allegedly none of the assets were transferred to the Budge beneficiaries. After the Second World War Gottfried Francke was to remain an executor of the Budge estate until his death in 1956. Attempts by individual Budge beneficiaries to obtain compensation from the German state or attempts to get artworks restituted got nowhere thanks in part to his efforts.

3.6 The claimed work is a cast bronze sculpture with a dark brown patina, representing ‘Moses’. The work is 47.5 cm high, dated 1525 to 1608, and attributed to Alessandro Vittoria (1525-1608). In 1964 the work was donated to the Museum by Dirk Hannema, who established the Stichting Hannema de Stuers Fundatie in 1957. On 21 January 1964 Hannema donated his entire art collection of approximately 3,200 objects to the Museum. The Museum has stated that no provenance research was conducted at the time. Hannema had acquired the work during the 1948-1952 period from his cousin Dr Charles Hubert ridder de Stuers of Brussels. It is not known how Hannema acquired the work. It is similarly not known how and when the work came into the possession of De Stuers. The work is illustrated and described in ‘*Kunst in Oude Sfeer. Oude en moderne kunst in het kasteel Weldam, Twente*’ by Dirk Hannema, published in 1952. The book states about the provenance that the sculpture, ‘... was vroeger in de verzameling Emma Budge te Hamburg (veiling Sept. 1937, Graupe Berlijn cat. No 124 met afb.) en Ch. de Stuers’ [‘... was formerly in the collection of Emma Budge of Hamburg (sale Sept. 1937, Graupe Berlin cat. No 124 with fig.) and C. de Stuers’]. In 1997 the object was valued at NLG 350,000 subject to authenticity.

4. The Positions of the Parties

- 4.1 The Applicant contends that after Budge’s death in 1937 her art collection, including the currently claimed work, went under the hammer at a forced sale. According to the Applicant the proceeds were put into a frozen account and as a result the Budge beneficiaries never had access to them. The Applicant is requesting restitution of the claimed work, and refers to various restitutions of artworks from the Budge collection in previous years in different countries.
- 4.2 On the basis of its provenance investigation of its collection under the auspices of the Museum Acquisitions project, in 2012 the Museum contacted the Applicant’s lawyer and proposed submitting the case to the Restitutions Committee. The Museum stated with regard to the work that it is a fine object for the period it was made in, but it is not crucial in the context of the overall collection.

5. The Committee’s Task

- 5.1 On the grounds of article 2 paragraph 2 of the Decree Establishing the Restitutions Committee, the Committee is tasked at the request of the parties 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. This opinion is a binding opinion within the meaning of article 7:900 of the Dutch Civil Code.
- 5.2 The committee advises on the basis of the yardsticks of reasonableness and fairness. This means that first of all an assessment is made of whether the requirements have been met for establishing that it is highly likely that the original owner was indeed the owner and that it is sufficiently plausible that he or she lost possession of the artwork involuntarily as a result of circumstances directly related to the Nazi regime. Advising on the basis of the yardsticks of reasonableness and fairness furthermore provides scope to take into account how the current owner acquired the object and other circumstances and to weigh up the interests of the different parties involved.
- 5.3 In its advisory role pursuant to article 2, second paragraph of the Decree Establishing the Restitutions Committee, the Committee—in accordance with article 3 of the Regulations—may in any event take account during its considerations of the circumstances in which possession of the work was lost, the degree to which the parties requesting restitution have made efforts to recover the work, as well as the timing and the circumstances of the acquisition of possession by the current owner and the investigation conducted by the current owner before the acquisition. It may in addition take account in its considerations of the respective importance of the work to both parties and of the public art stock. Nationally and internationally accepted principles, such as the Washington Principles and the government’s guidelines concerning the restitution of looted art, are included in the considerations in so far as they, in the Committee’s opinion, are correspondingly applicable in the specific case. This broad assessment framework also does justice to the Washington Principles, according to which the restitutions policy must be aimed at achieving ‘*a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case*’.

6. Assessment of the Dispute

- 6.1 The Applicant has asserted he represents the rightful claimants to Budge’s estate. To this end he submitted a ‘*Testamentsvollstreckerzeugnis*’ of 28 December 2007, issued by the *Amtsgericht Hamburg*, in which it is stated that he was appointed ‘*Testamentsvollstrecker*’ (executor) with regard to Budge’s estate. In the Committee’s opinion it has thus been shown sufficiently that the Applicant represents all those entitled to the assets of Emma Budge.
- 6.2 The Committee has satisfied itself that the dispute between the Applicant and the Museum has not already been definitively dealt with. The Committee has not found a legal procedure or a judicial ruling relating to the work. Nor has it emerged that the Applicant previously explicitly renounced his rights to the work. The Committee therefore considers the parties and their request to be admissible.
- 6.3 Given the Committee’s task as referred to under 5.2, it must be highly plausible that the currently claimed work, as the Applicant contends, belonged to Budge. In this regard the Committee finds as follows. As stated in 3.4, Budge owned an extensive art collection, which after her death in 1937 was sold at auction by the Graupe auction house. The catalogue compiled on the occasion of this auction titled ‘*Die Sammlung Frau Emma Budge † Hamburg*’ describes an object under number 124 with illustration that the Committee accepts, in view of the image and the description, is the currently claimed work. The Committee also takes into consideration that it emerges from information provided by the Museum that the currently claimed work is from the Budge collection and went under the hammer at auctioneers Graupe in 1937. In view of the above the Committee deems it highly plausible that the work belonged to Budge when she died in 1937.
- 6.4 The Committee finds as follows with regard to the circumstances in which Budge’s estate lost possession of the work in 1937. Initially Budge intended to leave her art collection to the city of Hamburg. She revised this intention after Adolf Hitler came to power in January 1933. In her will of 5 October 1933 Budge gave the political situation in Germany as one of the reasons for doing so. Instead she stipulated that the executors were authorized to donate individual objects to museums or other institutions as they saw fit. In June 1934 she added that thereafter the artworks remaining had to be sold, but a public sale in Hamburg was ruled out. After promulgation of the Nuremberg Race Laws on 14 September 1935, Budge stipulated in a codicil of 21 November 1935 that all her executors had to be Jewish. As regards the sale of the works, she had a comment included to the effect that selling the works in Germany was not advisable. In the Committee’s opinion these changes in the provisions in the will about Budge’s art collection cannot be considered in isolation from the rise to power of the Nazi regime. Neither can the loss of possession of the currently claimed work in the sale at Graupe in 1937 be considered as voluntary. In this connection the Committee points out that Budge, in addition to four foundations, had thirteen natural persons as beneficiaries. They were all of Jewish descent. By the time Budge died, a number of them had already fled to foreign countries or had made preparations to do so. In so doing they became obliged to pay

Reichsfluchtsteuer (reich capital flight tax), a measure introduced in 1931 in order to counteract the flight of capital that affected primarily people of Jewish descent after Hitler came to power. This measure as well as other anti-Jewish measures, including the Nuremberg Race Laws, meant that the freedom with which Budge could decide what was to happen to her art collection after her death was constrained to such an extent that it is not possible to say that she had free choice. Finally the Committee points out that Budge's art collection was sold at auction in Germany, whereas in the codicil of 21 November 1935 she had advised against that. In view of the facts and circumstances, the Committee comes to the conclusion that the loss of possession of the work by Budge's estate should be designated as involuntary, caused by circumstances directly related to the Nazi regime.

- 6.5 The Committee now comes to weighing up the interests of the parties in the restitution or retention of the work. In so doing the Committee takes into account that Hannema, the founder of the Museum, donated the work together with his entire art collection to the Museum in 1964. The Committee also takes into consideration that the Museum has stated that the work is not crucial in the context of the collection as a whole. Consequently the Museum's interest in retaining the work can be considered modest. On the other hand there is the interest of the Applicant, who is acting on behalf of the Budge estate, which lost possession of the work involuntarily as a result of circumstances directly associated with the Nazi regime. In view of this the Committee considers the interest of the Applicant in restitution of the work to have greater weight than the Museum's interest in retaining it.
- 6.6 The Committee sees no reason to link handing over the work to something in return from the Applicant. In this regard it is important that the Museum obtained the work in 1964 for nothing. There are similarly no grounds for making allowances in respect of the proceeds of the sale in 1937. The Committee agrees with the Applicant that it is plausible that Budge's beneficiaries did not have access to these proceeds.
- 6.7 On the grounds of the foregoing the Committee will advise restitution of the work to the Applicant.

BINDING OPINION

The Committee advises the Stichting Hannema-de Stuurs Fundatie to restitute the sculpture 'Moses', attributed to Alessandro Vittoria, to AA for the benefit of the estate of Emma Ranette Budge-Lazarus.

This binding opinion was issued on 16 April 2018 by A. Hammerstein (Chair), J.H.W. Koster, J.H. van Kreveld, H.M. Verrijn Stuart (Vice-Chair), G.N. Verschoor and C.C. Wesselink, and signed by the Chair and the Secretary.

(A. Hammerstein, Chair)

(M.C.J. Kooij, Secretary)

3. Binding opinion regarding the dispute about restitution of the painting *Painting with Houses* by Wassily Kandinsky, currently in the possession of Amsterdam City Council. (case number RC 3.141)

Date of binding opinion: 22 October 2018

Binding Opinion

regarding the dispute between

AA, of XX, XX

BB, of XX, XX

CC, of XX

(hereinafter referred to as the Applicants),

all represented by J. Palmer of Mondex Corporation, Toronto, Canada and assisted by G.J.T.M. van den Bergh, lawyer of Amsterdam

and

Amsterdam City Council (hereinafter referred to as the City Council),

represented by P.L. Loeb, lawyer of Amsterdam.

issued by the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War in The Hague (the Restitutions Committee), hereinafter referred to as the Committee.

1. The Dispute

The City Council has owned a painting, dating from 1909, titled *Painting with Houses* (hereinafter referred to as the work) by Wassily Kandinsky since 1940. The work is held by the Stedelijk Museum, Amsterdam (hereinafter referred to as the Museum). The Applicants assert that until 1937 the work belonged to Hedwig Lewenstein-Weijermann. Afterwards it was obtained through hereditary succession by her two children Robert Lewenstein and Wilhelmine Lewenstein. According to the Applicants they then lost possession of the work in 1940 involuntarily as a result of circumstances directly related to the Nazi regime. The Applicants have asked the City Council to restitute the work. The City Council and the Applicants (hereinafter referred to jointly as the parties) submitted the dispute to the Restitutions Committee for investigation and a binding opinion.

2. The Procedure

In a letter dated 16 December 2013 the Minister of Education, Culture and Science requested the Committee to issue an opinion to the parties under the terms of article 2 paragraph 2 of the Decree Establishing the Restitutions Committee. The Minister notified the parties of her request to the Committee to issue an opinion. Pragmatic reasons prompted the intervention of the Minister. The State of the Netherlands has not become a party in the procedure at any time.

The Applicants for restitution in the first instance were AA, BB and their mother Shirley Winifred Ozgen-Goodman. The last of these died in 2014. The Applicants' representative notified the Committee in a letter dated 1 June 2015 that he also represented CC. Upon request the City Council stated it had no objection to CC being considered as one of the Applicants.

The parties declared in writing that they would submit to the Regulations for the Binding Opinion Procedure in accordance with article 2, second paragraph, and article 4, second paragraph, of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (approved by the Committee on 3 December 2007, most recently amended on 19 September 2011, hereinafter referred to as the Regulations) and would accept the Committee's opinion as binding. The Committee satisfied itself of the identity of the parties.

The Committee took note of all the documents submitted by the parties. It forwarded to the other party copies of all documents. The Committee also conducted additional independent research. As part of its investigation the Committee put questions in writing to the parties and requested information. The results of the investigation are recorded in a draft investigation report dated 19 December 2014. The parties responded to it.

The Committee conducted additional research as a result of these responses and a second draft investigation report was adopted on 24 April 2017. The Applicants responded to it in a letter of 6 December 2017, and the City Council in a letter of 28 December 2017. The Applicants sent a further response in a letter dated 16 January 2018.

The Committee submitted written questions to the parties on 14 March 2018. The City Council responded to them in a letter dated 27 March 2018. The Applicants responded in a letter dated 28 March 2018. In a letter dated 12 April 2018 the City Council reacted to the Applicants' letter of 28 March 2018. The Committee put further questions to the Applicants in a letter of 1 June 2018, to which they responded in a letter of 5 June 2018. The Committee adopted the investigation report and the opinion on 22 October 2018.

3. The Facts

The Committee based its considerations on the following facts.

Before the war

- 3.1 Emanuel Albert Lewenstein (1870-1930, hereinafter also referred to as Emanuel Lewenstein) was director of Naaaimachinehandel Lewenstein (hereinafter also referred to as NV Lewenstein) in Amsterdam, which was founded by his father. In 1900 he married Hedwig Weijermann (1875-1937) in community of property. Besides a daughter who died at an early age, the Lewensteins had two children: Robert Gotschalk (also called Bob; 1905-1974) and Wilhelmine Helena (also called Willy; 1912-2007). Emanuel Lewenstein collected art, with a particular focus on works by modern artists. There is no complete overview of his collection, but in any event it included two paintings by Wassily Kandinsky, i.e. the currently claimed *Painting with Houses* and *The Colourful Life*. After Emanuel Lewenstein's death in 1930, his wife Hedwig and daughter Wilhelmine went to live in a rented home at 13h Bachplein in Amsterdam. In May 1934 Wilhelmine Lewenstein got married out of community of property to the Portuguese José Augusto Rodrigues da Silva Jr, after which they settled in the vicinity of Lisbon. On 11 October 1933 Robert, who had succeeded his father as director of NV Lewenstein, married a second time, in community of property, the German Irma Edith Ruth Klein (1902-1983). This marriage remained childless, as had Robert's first one. After Hedwig had a stroke, her daughter and son-in-law returned to Amsterdam at the beginning of 1937. Hedwig Weijermann died on 25 May 1937. Robert and Wilhelmine were her legal heirs. The following is stated about Hedwig's art collection in a will of hers dated 1 February 1937. *'dat de op haar overlijden in haar bezit zijnde schilderijen en etsen na haar overlijden door een door hare kinderen in onderling overleg aan te wijzen deskundige in twee, zooveel mogelijk gelijkwaardige, kavelingen moeten worden verdeeld, waarna door loting zal moeten worden uitgemaakt welke kavelingen aan ieder harer kinderen zal worden toegeewezen.'* [*The paintings and etchings in her possession at the time of her death must be divided by an expert to be designated by her children in consultation into two portions that are as much as possible of equal value, after which lots will have to be drawn to ascertain which portions will be assigned to each of her children.*]
- There are no indications that the said drawing of lots and division of the collection actually took place. On 24 January 1938 the deed of division of Hedwig's estate was executed before the notary Samuel Teixeira de Mattos. Two days later Wilhelmine Lewenstein and her husband emigrated to Mozambique.
- 3.2 Robert Lewenstein and Irma Klein moved to 13h Bachplein in Amsterdam two months after the death of his mother Hedwig. Shortly afterwards Irma's mother, Meta Hayn, moved in with them. The marriage between Robert Lewenstein and Irma Klein did not last. Robert entered into a relationship with the American Shirley Goodman (1913-2014). Robert left his wife Irma Klein in around mid-August 1938. On 13 December 1938 Isaac Coopman requested permission from the Court of Amsterdam on behalf of Irma Klein to submit a claim for a legal separation against Robert Lewenstein. A number of lawsuits were to follow. A legal separation was granted by the court on 27 June 1940, and their divorce followed on 20 March 1944. It was not until after the war, on 10 June 1947, that a notarial deed of division of the joint matrimonial property was drawn up. On 6 April 1939 Robert Lewenstein requested and was granted permission to resign as director of NV Lewenstein. He did, however, continue to receive an annual payment of NLG 3,500. Robert appointed the Jewish Benjamin Levi as administrator of his private assets and Alfred Levy, who was also Jewish, as his lawyer and local counsel. Afterwards he left for the South of France in April 1939 with Shirley Goodman. Irma Klein remained living with her mother at 13h Bachplein. The term of the rental agreement, which was in Robert Lewenstein's name, ended on 1 May 1940. On 15 May 1940, Irma Klein and her mother were registered as living at 9a¹ Beethovenstraat in Amsterdam. There are indications that Irma then put part of her household effects into storage.
- 3.3 As stated above, the divorce between Robert Lewenstein and Irma Klein involved a number of proceedings in court. Some of these proceedings took place while Robert was abroad. These proceedings related primarily to the amount of maintenance that Robert owed Irma. The documentation associated with these proceedings provides an understanding of Robert's and Irma's financial positions before and during the war. Where necessary reference is made to this documentation in the following considerations.

War

- 3.4 Robert Lewenstein was Jewish. When the German invasion of the Netherlands took place on 10 May 1940 he was in the South of France with Shirley Goodman. After the Vichy regime came to power in France, Robert and Shirley Goodman fled in June 1940 via Spain to the United States, where they went to live in New York. During the war they lived in difficult circumstances because NV Lewenstein was no longer able to make Robert's annual payments and he was not permitted to work.
- 3.5 Irma Klein was Jewish, as were her two brothers, Günther and Hans Klein, and her mother. When Germany invaded she was still living in Amsterdam with her mother. Her brothers also lived in Amsterdam. Hans Klein left Germany for the Netherlands in March 1933 after he had been dismissed as editor of a Berlin newspaper on political grounds. He became stateless after his departure from Germany. Hans Klein went into hiding immediately after the German invasion in May 1940 because he was registered with the Aliens Police as a refugee from Germany and as an editor of a pro-democracy newspaper. Hans Klein was able to flee to Switzerland in September 1942. Günther Klein was also affected by the anti-Jewish measures. In 1941 a German administrator was appointed to run his garment business. Günther Klein fled to Switzerland in 1942. His wife Eva Schuit was arrested while fleeing and was murdered in November 1942 in Auschwitz. Their two children survived the war in Belgium. Irma Klein remained in Amsterdam throughout the German occupation. In a statement included in a report by a neurologist in 1982 it was reported that initially Irma Klein *'als niet zó kwetsbaar (beschouwde), omdat zij geen typische Jodennaam had, niet een z.g. eerstegraads Jodin was en voor het overige een heel beroemde grote toneelster was. Nadien kwam het toch wel tot moeilijkheden'* [*did not consider herself to be so vulnerable because she did not have a typical Jewish name, was not a Jewess of the first degree, and was furthermore a very well-known major actress. Later there were nevertheless difficulties*]. It emerges from post-war documents that she wore a Star of David from 1942. A request made in 1942 to have her registration as a descendant of four Jewish grandparents changed because she was half-Aryan was rejected. Irma Klein was rounded up and detained by the Germans a number of times. In 1942 she attempted to escape from the Gestapo by jumping out of a window, which resulted in concussion and memory loss. Irma Klein was able to avoid deportation. According to her own statement this was because she was exempted from deportation. The aforementioned 1982 report stated that Irma Klein continued to live at 9a¹ Beethovenstraat during the occupation. Irma Klein's mother was registered as living at 123h Apollolaan from 7 June 1941. She died in Amsterdam on 19 January 1942. According to a post-war statement by Irma Klein she had a heart attack.
- Sale at Frederik Muller
- 3.6 As referred to above, Emanuel Lewenstein had a substantial art collection, including the currently claimed work by Kandinsky. He probably acquired the work in 1923 for NLG 500. In consideration 6.3 the Committee addresses the questions of who came to possess the work after Hedwig Lewenstein's death and what happened to the work thereafter. It is known that the work was put up for auction in a sale held on 8 and 9 October 1940 at the Frederik Muller auction house in Amsterdam. According to the accompanying catalogue it was a sale of *'MODERNE SCHILDERIEN AQUARELLEN, TEEKENINGEN, ETC. AFKOMSTIG VAN DE COLLECTIE VAN WIJLEN J. GOUDSTIKKER, AMSTERDAM'* en van *'DIVERSE VERZAMELINGEN EN NALATENSCHAPPEN'* [*MODERN PAINTINGS, WATERCOLOURS, DRAWINGS, ETC. FROM THE COLLECTION OF THE LATE J. GOUDSTIKKER, AMSTERDAM'* and from *'VARIOUS COLLECTIONS AND ESTATES'*]. According to the sale catalogue the first part of the sale, concerning the Goudstikker Collection, took place on 8 October 1940 and covered lot numbers 1 to 150. The second part, concerning various collections and estates, followed on 9 October 1940 and covered lot numbers 151 to 277. The catalogue gave no details about the provenance of some of the works from *'DIVERSE VERZAMELINGEN EN NALATENSCHAPPEN'* [*VARIOUS COLLECTIONS AND ESTATES'*]. There was, however, an additional designation above lot numbers 195 to 277, namely *'MODERNE EN OUDE SCHILDERIEN REMBRANDT ETSEN, TEEKENINGEN, PRENTEN, BOEKEN, ENZ. NALATENSCHAP, L....., AMSTERDAM'* [*MODERN AND OLD PAINTINGS, REMBRANDT ETCHINGS, DRAWINGS, PRINTS, BOOKS ETC. ESTATE, L....., AMSTERDAM'*]. In an annotated copy of the catalogue from the Rijksmuseum in Amsterdam the designation *'NALATENSCHAP, L.....'* [*ESTATE, L.....*] was filled in by hand as *'NALATENSCHAP, Leuvenstein'* [*ESTATE, Leuvenstein'*]. The listing of the currently claimed work by Kandinsky in the sale catalogue states, *'O. Kandinsky / [...] / 205 / Compositie. / Geteekend en gedateerd 1909. / Doek. - Hoog 97, breed 132 cent.'* [*O. Kandinsky / ... / 205 / Composition. / Signed and dated 1909. / Canvas. - Height 97, width 132 centimetres.*] After it there is a handwritten note: *'160 / Röell'*. Jonkheer D.C. Röell was director of the Museum at the time. It can be concluded from documentation handed over by the Museum that the currently claimed work was purchased at the said sale for NLG 160. Including 10% buyer's premium, the Museum acquired it for a cost of NLG 176. It is stated in a letter of 2 November 1940 from the Stedelijk Museum Acquisitions Committee to the Finance Department of Amsterdam City Council that this committee had decided to *'aankoop van een schilderij "Landschap met huizen" door W. Kandinsky, voor een bedrag van f. 176.-, op de veiling van Frederik Muller. d.d. 9 October 1940'* [*purchase a painting "Landscape with Houses" by W. Kandinsky, for a sum of NLG 176, at the Frederik Muller sale on 9 October 1940*]. The work has been in the Museum since 1940.

- 3.7 A number of artworks from the 'NALATENSCHAP, L.....' ['ESTATE, L.....'] other than the currently claimed painting were up for auction at the sale at Frederik Muller. One of them was another work by Kandinsky, namely *The Colourful Life*. This painting was loaned to the Museum by the Lewenstein family in 1933 but it was not purchased by the Museum at the sale.

Some documentation concerning this work was found during the investigation. A document dated 8 December 1938 and signed by Röell, for example, states that he had taken *The Colourful Life* into safekeeping from 'mevr. Leeuwenstein, Bachplein 13, Amsterdam' ['Mrs Leeuwenstein, 13 Bachplein, Amsterdam']. Under the typescript in this document there is handwriting that includes the note, 'afgegeven. Querido's Kunsthandel / Waalstr 104. / 5-9-40. ...' ['Delivered to Querido's Kunsthandel / 104 Waalstr. / 5-9-40....']. A Querido's art gallery business card was found with the following in handwriting on the back. '5/9 '40 / Gelieve brenger mede te geven / 1 Schilderij. / "Das Bunte Leben" / v. Kandinsky / Hoogachtend / A.M. Querido' [5/9 '40 / Please give to the bearer / 1 Painting. / "The Colourful Life" / by Kandinsky / Yours sincerely / A.M. Querido].

After the war

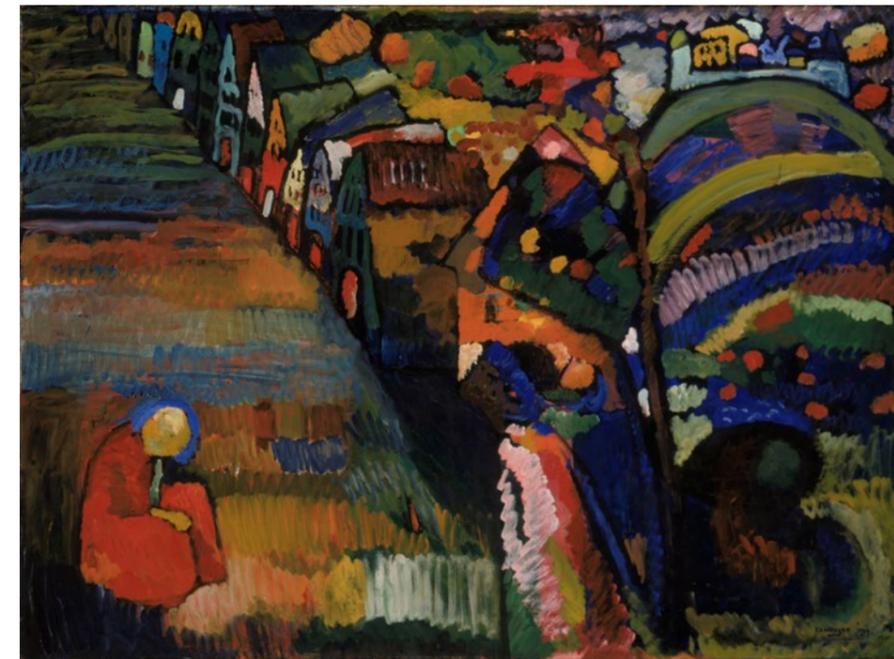
- 3.8 Wilhelmine Lewenstein, Robert Lewenstein and Irma Klein survived the war. Wilhelmine was divorced from her husband Da Silva in December 1940 but continued to live and work in Mozambique. Towards the end of the war Wilhelmine Lewenstein left Mozambique for Portugal, where in 1946 she married Eric Castillo Serra, an officer in the Portuguese army she had met in Mozambique. Wilhelmine remained childless and died on 18 October 2007 in Portugal.
- 3.9 The marriage between Robert Lewenstein and Irma Klein was dissolved during the war by a divorce decree of 20 March 1944 issued by the court. Some further legal proceedings took place after the war in connection with the finalization of the divorce and division of the community property. This division was finally recorded in a notarial deed 10 June 1947. Meanwhile Robert Lewenstein had married Shirley Goodman on 20 August 1945 in New York. It was his third marriage. The couple settled in the Netherlands at the beginning of 1946 but left for the United States again in 1950. Robert Lewenstein and Shirley Goodman had two children: AA and BB (Applicants). Robert Lewenstein died on 26 January 1974. Shirley Goodman died in 2014.
- 3.10 After the war Irma Klein continued to live at 9a' Beethovenstraat in Amsterdam. She did not remarry after her divorce from Robert Lewenstein. It is also known from documentation found that she was placed under guardianship for an extended period. According to a statement by applicant CC, after the war Irma Klein took care of a survivor of the persecution of the Jews who had returned to the Netherlands as an orphan, Gijsbert (Bob) Stoker. The applicant CC was the partner of this Bob Stoker, who she refers to as a foster child of Irma Klein. According to CC they jointly looked after Irma Klein when her health declined. Irma Klein died in 1983 in Amsterdam.
- 3.11 After the war Robert and Wilhelmine Lewenstein conducted restoration of rights legal proceedings. On 4 October 1947, for instance, they had ownership of the shares in NV Lewenstein restored to them by a decision of the Securities Registration Division of the Council for the Restoration of Rights. During the nineteen-fifties Irma Klein submitted claims to the German authorities for compensation for 'Schadens an Freiheit' and 'Schadens am Körper und Gesundheit'. No indications were found that the Lewenstein or Klein families tried via the Dutch or German recovery and restoration of rights authorities to get back any confiscated or involuntarily sold art from the Lewenstein Collection. It is known, though, that Irma Klein had further contact with the Museum after the war. In 1954 Irma Klein loaned a number of works by the artist Nanninga to the Museum for an exhibition. According to a handwritten list in the Museum's archives, Irma Klein wanted to sell a number of the exhibited works, but the Museum intended to tell her 'dat we momenteel niet kopen' ['that we are not buying at the moment']. On 17 June 1954 'Irma Klein-Lewenstein' signed a receipt for the return of three loaned paintings. Betty Lewenstein, the aunt of Robert and Wilhelmine Lewenstein, also loaned work by Nanninga to the Museum for the exhibition concerned.
- 3.12 The name of Betty Lewenstein also occurs in documentation about the other Kandinsky in Lewenstein's collection, *The Colourful Life*. In a letter of 22 March 1947 the artist César Domela asked the then museum director Willem Sandberg for the address of, among others, 'Lewenstein-Weijerman'. Sandberg replied on 1 May 1947 that, "Das bunte Leben", wat vroeger van Lewenstein-Wegeman was, is nu in bezit van S.B.S. Slijper, Dorpstraat 14, Blaricum' ["The Colourful Life", which formerly belonged to Lewenstein-Wegeman, is now in the possession of S.B.S. Slijper, 14 Dorpstraat, Blaricum]. A year later the aforementioned Betty Lewenstein wrote the following to Sandberg in a letter dated 31 May 1948.

'Uit naam van mijn in Portugal wonende nicht, Mevr. W. de Castilho Serra-Lewenstein, kom ik u het volgende vragen. Er is n.m. een Kandinsky door wijlen mijn broer, de heer E.A. Lewenstein aan Uw museum in bruikleen afgestaan. Dit schilderij behoort nu de erven Lewenstein en bovengenoemde nicht is een van de 2 erven. / De lezing, die haar gegeven werd over hetgeen er met dit schilderij gebeurd is, schijnt haar geheel onaannemelijk toe. / Daarom zoudt U haar ten eerste verplichten, mij hieromtrent even te willen inlichten.' ['On behalf of my niece, Mrs W. de Castilho Serra-Lewenstein, who lives in Portugal, I would like to ask you the following favour. There is a Kandinsky that my late brother, Mr E.A. Lewenstein,

loaned to your museum. This painting is now the property of Lewenstein's heirs and my niece is one of the 2 heirs. / The version that she was given about what happened to this painting seems to her to be completely improbable. / You would therefore do her a great favour by providing me with information in this regard.].

There is the following handwritten note at the bottom of the letter from Betty Lewenstein. 'bewaring / terug aan Kunsthandel Querido / Waalstraat 104 / 5-9-40 / "Das bunte Leben" / op order van Mevr. Lewenstein-Weijerm[an]n / Bachplein 13' ['Safekeeping / back to Querido's art gallery / 104 Waalstraat / 5-9-40 / "The Colourful Life" / on the instructions of Mrs Lewenstein-Weijerm[an]n / 13' Bachplein]. On 2 June 1948 Hans Jaffé, the acting museum director, sent Betty Lewenstein the following letter in reply.

'Naar aanleiding van Uw schrijven van 31 Mei betreffende het schilderij van Kandinsky "Das bunte Leben", dat wij voor de oorlog enige jaren in bewaring hadden, deel ik U mede, dat dit werk op verzoek van de eigenaresse, Mevrouw Lewenstein-Weyermann, op 5 September 1940 door ons werd afgeleverd aan de kunsthandel Querido, Waalstraat 104 te Amsterdam.' ['With reference to your letter of 31 May concerning the painting "The Colourful Life" by Kandinsky, which we had in our safekeeping for a few years before the war, I can inform you that at the request of the owner, Mrs Lewenstein-Weyermann, on 5 September 1940 we delivered this work to the Querido art gallery, 104 Waalstraat in Amsterdam.].



5. *Painting with Houses* by Wassily Kandinsky

- 3.13 The Museum conducted research into the provenance of works of art in the collection under the auspices of the national research project Museum Acquisitions 1940-1948 (1998-1999). The publication relating to this project states the following about the currently claimed work. 'Een punt van aandacht vormt de aankoop van een schilderij van Kandinsky op een veiling bij de firma Frederik Muller & Co. in oktober 1940. Dit schilderij maakte voor de oorlog waarschijnlijk deel uit van de collectie van een Joodse verzamelaar. Het is onbekend wie opdracht heeft gegeven tot de verkoop van het schilderij.' ['The purchase of a painting by Kandinsky at a sale at the firm of Frederik Muller & Co. in October 1940 is an area of attention. Before the war this painting was probably part of the collection of a Jewish collector. It is not known who gave instructions for the painting to be sold.].

In 1999, around the time this publication appeared, Wilhelmine Lewenstein and her then authorized agent Karel Citroen visited the Museum.

The results of the national Museum Acquisitions since 1933 follow-up project were published on the website www.musealeverwervingen.nl. On this website the Museum stated that the currently claimed painting has a potentially problematic provenance. The Museum's conclusion was, 'Het schilderij is in

1940 geveild bij Frederik Muller in Amsterdam uit de nalatenschap van een joodse verzamelaar' [*The painting was sold at auction in 1940 at Frederik Muller in Amsterdam. It came from the estate of a Jewish collector.*] This was explained as follows.
'Het schilderij is op 9 oktober 1940 door het Stedelijk Museum gekocht op de veiling van Frederik Muller & Co. in Amsterdam. ... Dit lotnummer was afkomstig uit 'Nalatenschap L., Amsterdam'. / De joodse eigenaresse had het schilderij in 1930 geërfd van haar echtgenoot, die het schilderij in 1923 had gekocht van Paul Citroen die het in commissie had gegeven aan kunsthandel J.H. de Bois, Amsterdam.'
 [*The Stedelijk Museum bought the painting on 9 October 1940 at a Frederik Muller & Co sale in Amsterdam. ... This lot number was from 'Estate L., Amsterdam'. / The Jewish owner had inherited the work in 1930 from her husband, who had purchased it in 1923 from Paul Citroen, who had placed it on commission with the J.H. de Bois art gallery in Amsterdam.....*]

4. The Positions of the Parties

- 4.1 The Applicants assert that the work, together with the rest of the art collection collected by Emanuel Lewenstein, belonged to Hedwig Lewenstein until her death on 25 May 1937. According to the Applicants it is impossible to establish with certainty whether and how the work was divided after Hedwig's death between her two heirs, her children Wilhelmine and Robert. Neither, in the Applicants' opinion, is it possible, in so far as the work may have been assigned to Robert, to establish whether and how the work was divided between Robert and Irma after the court pronounced their legal separation on 27 June 1940. According to the Applicants there are no indications that Wilhelmine, Robert or Irma cooperated in the sale of the work at Frederik Muller or that they had access to the proceeds of this sale, so therefore it has to be assumed that they lost possession of the work involuntarily as a result of circumstances directly related to the Nazi regime. It is no longer possible to establish with certainty which of the aforementioned three individuals owned the work when possession was lost, and therefore the Applicants have agreed among themselves that they will all share in the outcome of the current restitution application. Specifically, the Applicants have agreed that AA and BB will each have a 37.5% share in the outcome and CC a 25% share.
- The Applicants contend that the Museum did not act in good faith when it acquired the work during the sale at Frederik Muller on 9 October 1940. They assert that at the time of the acquisition Sandberg and Röell have to have been aware of the work's provenance and that there were sufficient reasons for them to assume that the artworks from Lewenstein's collection put into the sale had been stolen or sold under duress. The Applicants feel that since the Museum nevertheless purchased the work for a modest sum, they had acted in bad faith. The Applicants furthermore believe that during the period after the acquisition the Museum unjustly failed to give clarification about the circumstances in which the work had been acquired. Betty Lewenstein's letter in 1948 and Wilhelmine Lewenstein's visit to the Museum in 1999 should have given the Museum reason to do so.
- As far as the City Council's contended interest in the work is concerned, the Applicants take the view that according to the Museum's own publications the work is not considered to be one of the collection's masterpieces. The Applicants assert that the Museum's website also has relatively little to say about the work.
- 4.2 In the opinion of the City Council it seems plausible that after Hedwig Lewenstein's death the work was assigned to Robert Lewenstein. According to the City Council there are no indications that the work was stolen, confiscated or sold under duress during the Nazi regime. The mere fact that the work went under the hammer on 9 October 1940 is not, in the City Council's view, sufficient for assuming that there was involuntary loss of possession as a result of the Nazi regime. The City Council believes that the facts that have been established indicate voluntary sale of the work by Irma Klein, with or without the cooperation of Robert. This sale was probably the consequence of the precarious financial situation in which Robert Lewenstein and Irma Klein found themselves at the time, which resulted among other things from their marital problems and Robert Lewenstein's departure as director of NV Lewenstein in 1939. The City Council points out in this context that during the divorce proceedings before the war Robert Lewenstein's lawyer was already urging the sale of the family's art collection. The City Council furthermore draws attention to the fact that no evidence has come to light that attempts were made after the war to get the currently claimed work back through the Dutch restoration of rights and recovery authorities, and that after the war Irma Klein loaned paintings to the Museum. According to the City Council this does not indicate that Irma Klein and Robert Lewenstein took the view that possession of the work was lost involuntarily.
- The City Council disputes the Applicants' assertion that the Museum did not act in good faith when it acquired the work and during the period thereafter. The City Council points out that there are after all no indications that the work was stolen, confiscated or sold under duress and that it is not likely that further research by the City Council at the time would, could or should have resulted in a bid not being made at the auction concerned.
- The City Council argues that the claimed work is important to the Museum. It is on permanent display and in the City Council's opinion it is the essential link in the limited overview of Kandinsky's work in the Museum's collection between the impressionist-style painting *Kochel - The Bridge* dating from 1904 and the almost abstract work *Improvisation 33 (Orient I)* made in 1913 and the late abstract painting *Two Surroundings* produced in 1934.

5. The Committee's Task

- 5.1 On the grounds of article 2 paragraph 2 of the Decree Establishing the Restitutions Committee, the Committee is tasked at the request of the parties 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. This opinion is a binding opinion within the meaning of article 7:900 of the Dutch Civil Code.
- 5.2 The committee advises on the basis of the yardsticks of reasonableness and fairness. This means that first of all an assessment is made of whether the requirements have been met for establishing that it is highly likely that the original owner was indeed the owner and that it is sufficiently plausible that he or she lost possession of the artwork involuntarily as a result of circumstances directly related to the Nazi regime. Advising on the basis of the yardsticks of reasonableness and fairness furthermore provides scope to take into account how the current owner acquired the object and other circumstances and to weigh up the interests of the different parties involved.
- 5.3 In its advisory role pursuant to article 2, second paragraph of the Decree Establishing the Restitutions Committee, the Committee—in accordance with article 3 of the Regulations—may in any event take account during its considerations of the circumstances in which possession of the work was lost, the degree to which the parties requesting restitution have made efforts to recover the work, as well as the timing and the circumstances of the acquisition of possession by the current owner and the investigation conducted by the current owner before the acquisition. It may in addition take account in its considerations of the respective importance of the work to both parties and of the public art stock. Nationally and internationally accepted principles, such as the Washington Principles and the government's guidelines concerning the restitution of looted art, are included in the considerations in so far as they, in the Committee's opinion, are correspondingly applicable in the specific case. This broad assessment framework also does justice to the Washington Principles, according to which the restitutions policy must be aimed at achieving *'a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case'*.
- #### 6. Assessment of the Dispute
- 6.1 The Committee first of all checks whether there is reason to declare a party inadmissible on the grounds of one of the reasons specified in article four of the Regulations applicable to this case. The Committee has satisfied itself that the dispute between the Applicants and the City Council has not previously been definitively dealt with. The Committee has not found a legal procedure or a judicial ruling relating to the work. Nor has it emerged that the Applicants previously explicitly renounced their rights to the work. In this regard the Applicants and their request are admissible.
- 6.2 Secondly, before it begins a substantive assessment the Committee checks whether the Applicants are entitled to the estates of the individuals who they contend were the original owners of the currently claimed work.
- The Applicants assert that the work belonged to Robert Lewenstein, who at the time he obtained it was married in community of property to Irma Klein, and Wilhelmine Lewenstein. The applicants AA and BB have stated they are heirs of both Robert Lewenstein and Wilhelmine Lewenstein. In the Committee's opinion the applicants AA and BB have proved their entitlement to Robert Lewenstein's estate by submitting the legal opinion of 11 February 2016 drawn up by DD. The applicants AA and BB have proved their entitlement to Wilhelmine Lewenstein's estate, at least in so far as it concerns the currently claimed work, by submitting the legal opinion of 20 March 2018, drawn up by the law firm of Vieira de Almeida & Associados of Lisbon, Portugal.
- The applicant CC has stated she is entitled to Irma Klein's estate. In the Committee's opinion she proved this by submitting the *'Statement'* of EE, notary in Amsterdam, of 7 May 2015.
- #### Ownership
- 6.3 It follows from 5.2 that an assessment based on the yardsticks of reasonableness and fairness begins with assessing whether the requirements have been met for establishing that it is highly likely that the original owner was indeed the owner and that it is sufficiently plausible that he or she lost possession of the artwork involuntarily as a result of circumstances directly related to the Nazi regime. This means that the Committee first addresses the question of who the claimed work belonged to when the sale took place on 9 October 1940. The parties do not dispute and also the Committee assumes on the grounds of the investigation report that the work belonged to Hedwig Lewenstein-Weijermann until her death on 25 May 1937.
- 6.3.1 The parties are not in agreement about who the work was assigned to after her death. According to the City Council it seems plausible that the work was assigned to Robert Lewenstein, and consequently the work ended up in the community property of Robert Lewenstein and Irma Klein and they obtained actual possession of the work. The Applicants believe that it cannot be established with certainty who the work was assigned to. The Applicants handed over a recommendation of 21 November 2017 drawn up

by the lawyer FF at their request. Assignment of the work to Robert Lewenstein is referred to in it as a possibility. Another possibility that FF identified is that the work and the rest of the collection remained outside the scope of the deed of division of property of 24 January 1938 for taxation reasons. In their response to the draft investigation report the Applicants pointed out that the deed of 24 January 1938 contained no specific provisions concerning the art collection that Hedwig Lewenstein left, so therefore other documentary evidence needs to be studied. In this context they referred to the letter from Betty Lewenstein of 31 May 1948 to the Museum in which she wrote that the work *The Colourful Life* belonged to Lewenstein's heirs and that Wilhelmine was one of the two heirs. According to the Applicants this indicates that Hedwig Lewenstein's wish to leave her art collection to both her children was respected. In the Applicants' opinion the fact that Wilhelmine Lewenstein left for Mozambique two days after signing the deed of 24 January 1938 indicates that the drawing of lots specified in the will was never carried out. The Applicants believe that it should have been up to the Museum to clarify ambiguities about ownership of the work prior to its acquisition by the Museum in 1940. Betty Lewenstein's letter in 1948 and Wilhelmine Lewenstein's visit to the Museum in 1999 should have prompted the Museum to do this. In the Applicants' view, at the time of the sale the claimed work belonged to Wilhelmine Lewenstein, Robert Lewenstein and Irma Klein. The Applicants have agreed among themselves to divide the proceeds arising from the present restitution application according to an allocation formula irrespective of the Committee's conclusion about who the work belonged to at the time of the sale.

6.3.2 The Committee finds as follows. Hedwig Weijermann's will of 1 February 1937 contained an arrangement with regard to the paintings and etchings, namely division into two portions, which had to be assigned to her two children on the basis of drawing lots. It is not known whether this drawing of lots was ever carried out. No artworks were explicitly identified in the deed of 24 January 1938. There was, however, a reference to *'nog aanwezige roerende lichamelijke zaken'* [*'movable tangible property still present'*], elaborated as *'inboedelgoederen, sieraden en verdere roerende lichamelijke zaken'* [*'household effects, jewellery and other movable tangible property'*]. It was stated that this *'movable tangible property still present'* was valued by the broker N. Jacobson of Amsterdam. No report was found during the investigation however.

In the deed the *'movable tangible property still present'* was assigned to Robert Lewenstein. There are no indications that artworks, including the currently claimed work, were exempted from this assignment. It can be pointed out in this context that the parties to the deed declared in that same deed that the part of the estate to be divided consisted of nothing else than the possessions as specified in the deed. It was also expressly stated in the deed that a one-fifth undivided share in property in Amsterdam remained outside the scope of the division. There was no such provision with regard to artworks.

Various judicial documents, as referred to below in 6.3.3., furthermore mention the inventory of valuables, including artworks, which were still in the residence at 13h Bachplein after Robert's departure in August 1938. None of these documents state that Wilhelmine still had rights with regard to these possessions. In the Committee's opinion the assignment of the *'movable tangible property still present'* to Robert Lewenstein can be readily explained by the fact that Wilhelmine owed her mother NLG 16,250, as can be seen from the deed of 24 January 1938. It emerges from that same deed that Robert owed his mother NLG 2,000. In the deed the value of the *'movable tangible property still present'* was set by the parties to the deed at NLG 14,250, with a reference to *'het feit dat al deze nog aanwezige zaken aan den deelgenoot genoemden heer Robert Gottschalk Lewenstein worden toegedeeld waardoor deze alleen van een eventuele waardevermindering zou genieten'* [*'the fact that all this property still present is assigned to the beneficiary named Mr Robert Gottschalk Lewenstein as a result of which he alone would benefit from any increase in value'*]. In this way the claims the estate had on Robert and Wilhelmine and the ownership of the *'movable tangible property still present'* were settled through a paper transaction. This course of events was also described thus in a biography of Wilhelmine Lewenstein (*Bewegte Zeit - Bewegtes Leben. Das ungewöhnliche Leben der Wilhelmine de Castillio Serra*) that a relative started to write in 2003, in which discussion of the division of the legacy includes the statement that *'der Haushalt mit seinem wertvollen Inventar'* was offset against Wilhelmine's debt to her mother.

The fact that Wilhelmine was on the point of emigrating to Mozambique with her husband is a further reason that explains why the *'movable tangible property still present'* was assigned to Robert Lewenstein. It is less easy to explain Betty Lewenstein's letter to the Museum of 31 May 1948 referred to by the Applicants in which she wrote that *The Colourful Life* belonged to Lewenstein's heirs, namely Robert Lewenstein and Wilhelmine Lewenstein. This letter, however, does not relate to the currently claimed work but to *The Colourful Life*, which is known to have been on loan to the Museum before the war. In addition, this single pointer which could suggest that Hedwig Lewenstein's art collection remained undivided is not sufficient to set aside the indications, which in the Committee's view are stronger, that the currently claimed work was assigned to Robert Lewenstein.

The Committee believes on the grounds of the above that it should be assumed that the work was assigned to Robert Lewenstein after Hedwig Lewenstein's death. The Committee has taken note of the agreement made by the Applicants among themselves. This agreement cannot, however, affect the Committee's task of answering the question about who the work belonged to at the moment possession was lost and, following on from this, who can claim the work in 2018. Answering this question is not only necessary for establishing who the entitled party is. It is also important to assessing the loss of possession and ultimately weighing up the interests involved.

6.3.3 At the time Robert Lewenstein obtained the work he was married in community of property to Irma Klein. There are no indications that the work remained outside the community of property. The following considerations address what most probably happened to the currently claimed work between its assignment to Robert Lewenstein and its sale by auction at Frederik Muller on 9 October 1940. After Hedwig Lewenstein died, Robert Lewenstein and Irma Klein moved into her former home at 13h Bachplein in Amsterdam. Robert Lewenstein left in August 1938. Various judicial documents found during the investigation mention the valuables that were still in the residence at 13h Bachplein. On 4 May 1939, for example, Isaac Coopman wrote that Robert Lewenstein had left Irma Klein behind *'in het groote huis (vol kostbare familie-inventaris)'* [*'in the large residence (full of valuable family possessions)'*]. Robert Lewenstein's lawyer, Alfred Levy, wrote on 11 May 1939 about the *'bedoeld heerenhuis met kostbaren inboedel (schilderijen, antiquiteiten en andere kostbaarheden)'* [*'said residence with its valuables contents (paintings, antiques and other valuables)'*] and on 2 November 1939 about *'den kostbaren inventaris, herkomstig van gedaagdes ouders uit lang vervulgen financieel-goede tijden'* [*'the valuable inventory, originally owned by the respondent's parents in financially good times of long ago'*] over which Irma Klein had actual power. On 2 January 1940 Isaac Coopman wrote that Irma Klein found it immoral *'als zij de kostbare familie-eigendommen, antiek en schilderijen thans zou verkopen'* [*'if she were to sell the valuable family possessions, antiques and paintings now'*]. In the Committee's view it can be assumed on the grounds of these references that the art collection assigned to Robert Lewenstein after Hedwig Lewenstein's death remained behind at 13h Bachplein, and that Irma Klein had actual power over it after Robert Lewenstein's departure.

The term of the rental agreement for the residence at 13h Bachplein, which was still in Robert Lewenstein's name, ended on 1 May 1940. Five days after the German invasion, on 15 May 1940, Irma Klein and her mother were registered as living at 9a' Beethovenstraat in Amsterdam. There are no indications that Irma Klein no longer had actual power over the art collection after this relocation.

6.3.4 The following can be assumed on the basis of the above. In the summer of 1940 the currently claimed work was with Irma Klein, or was otherwise in storage, and she had actual power over the work. As a result of the order of the Court of Amsterdam of 27 June 1940, which became final and conclusive on 27 September 1940, the work belonged to the dissolved but not yet divided community property of Robert Lewenstein and Irma Klein. The work was sold by auction on 9 October 1940 and purchased at the sale by the Museum.

Loss of possession

6.4 Despite extensive research, it has remained unclear how exactly the work ended up in the sale, on whose instructions and in which circumstances. The fate of the proceeds of the sale is also unclear. The Applicants contend that the work was stolen and then put into the sale. They have referred to the possible involvement of the *Dienststelle Mühlmann* (Mühlmann Agency) and Alois Miedl in the sale of Lewenstein's art collection. They did not provide any evidence, however, and no indication whatsoever of the involvement of the Mühlmann Agency or Alois Miedl was found during the investigation conducted by the Committee. It is also important that, at this stage of the occupation, no anti-Jewish measures had come into force that were targeted at the confiscation of Jewish possessions, such as the later first and second Liro regulations in 1941 (VO 148/41) and 1942 (VO 58/42). Regulation VO 26/1940 of 24 June 1940 concerning the treatment of enemy assets, however, was in force before and at the time of the sale. Under this regulation the assets, including movable goods, of Dutch nationals who lived or were staying in an enemy state, also including France, had to be declared and were not at their disposal. As described above, when the German occupation started Robert Lewenstein was in France, and he fled to the United States in around June 1940. At that time Germany did not yet consider the latter country to be an enemy state. No indications were found during the investigation that the German occupying forces confiscated the currently claimed work on the grounds of this regulation, something that in view of the regulation's text was also not possible. The Committee is aware that throughout the entire occupation, including outside these regulations, possessions were seized, but it found no indication that the currently claimed work was confiscated. In the case of a confiscation it would furthermore have been an obvious step to file a declaration after the occupation, for example with the Netherlands Art Property Foundation or in the context of requests for compensation. This did not happen however.

6.4.1 The Committee found two pointers that could lead to the conclusion that Irma Klein played a part in having the currently claimed work put into the sale. Firstly the biography of Wilhelmine Lewenstein, referred to earlier, states that there was a suspicion that Irma Klein played a part in the sale of the art collection: *'Für den Rest ist ihr Bruder Bob Schlüsselfigur: Recherchen der Familie lassen vermuten, dass dessen zweite Ehefrau Irma, geb. Klein - Willy nennt sie, in Anspielung auf ihre rote Haarfarbe, nur 'das rote Aas' - etwas eigenmächtig die Bilder veräußerte, das in holländischen Museen dem Zugriff der Nazis entgangen waren.'* A second indication of Irma Klein's involvement in the sale arises from information that is known about *The Colourful Life*, as stated in 3.12. In 1948 acting museum director Jaffé wrote in September 1940 that this painting was handed over *'op verzoek van de eigenaresse, Mevrouw Lewenstein-Weyermann'* [*'at the request of the owner, Mrs Lewenstein-Weyermann'*]. The Committee assumes this refers to Irma Klein. Hedwig Lewenstein-Weyermann was, after all, already dead.

Although it is not crystal clear that the claimed work was put into the sale with cooperation from Irma Klein, the Committee has insufficient leads to conclude that her cooperation was absent. The Committee has after all established that prior to the sale the claimed work was under the actual power of Irma Klein. While Irma Klein was not entitled to put the work, which belonged to a dissolved but not yet divided community of property, up for auction without the cooperation of Robert Lewenstein, there is nothing to indicate that Robert Lewenstein did not provide this cooperation. It is also plausible that Robert Lewenstein would have provided this cooperation in view of the wish expressed by his lawyer before the occupation to proceed with selling the art collection. Furthermore, the possible absence of cooperation by Robert in the sale in respect of Irma Klein was provided for by the deed of division of 10 January 1947, as explained in 6.6 below.

6.5 When assessing the circumstances in which possession of the work was lost, the key question is whether it is sufficiently plausible that the owner lost possession of the work involuntarily as a result of circumstances directly related to the Nazi regime. It is important when answering this question that the Committee believes it is most plausible that the work was sold with the cooperation of Irma Klein and Robert Lewenstein. It has not been established, however, that their loss of possession of the work was voluntary and that the loss of possession cannot be linked to the Nazi regime. In this context the Committee first of all refers to the Ekkart Committee's third recommendation of 2001, on the grounds of which sales by private Jewish individuals in the Netherlands from 10 May 1940 onwards must be considered to be involuntary, unless the facts expressly show otherwise. This recommendation, which involves a reversal of the burden of proof and is not directly applicable to binding opinion cases, was based on a judgment of the Council for the Restoration of Rights of 1 July 1952 in the Gutmann case. In this judgment the Council concluded that, even though there had not been direct coercion by the purchasers of the artworks, the special circumstances justified claiming they were forced sales. According to the Ekkart Committee this judgment represented a clear basis for a policy principle, namely that sales of artworks by Jewish Dutch nationals from 10 May 1940 will be classified as forced sales unless there is express evidence to the contrary. The Ekkart Committee concluded as follows. *'Reeds bestaande of dreigende maatregelen van de bezetter tot inlevering van kunstvoorwerpen bij een bezettingsinstantie en het feit dat bij een vlucht uit lijfsbehoud de achtergebleven bezittingen zouden worden geconfisqueerd, vormden immers veelal de drijvende motieven om kunstbezit te gelde te maken.'* [*Existing or threatened measures by the occupying forces under which works of art had to be surrendered to an agency of the occupying forces, and the fact that flight in order to save their own lives would mean confiscation of the possessions they left behind, usually represented compelling reasons for selling art holdings.*]

6.5.1 The reasons identified by the Ekkart Committee for Jewish owners to sell their art holdings appear to explain to an extent why Irma Klein and Robert Lewenstein put the currently claimed work and the rest of the art collection up for sale. In this context reference can be made to the following:

- In the nineteen-thirties Irma Klein fled to the Netherlands from Nazi Germany, where she was no longer able to find work as an actress because of her Jewish descent. She was therefore very probably well aware of the anti-Jewish measures taken by the Nazis in Germany and could clearly imagine what she could expect in the Netherlands.
- At a certain point Irma Klein began to provide for her brother and others. She also took care of her mother, who had fled Germany and lived with her. She would have needed financial resources for this, as well as for her own living expenses. The opportunities for an exiled German Jewish woman, legally separated from her husband, to acquire sufficient income on a regular basis will have been extremely limited.
- When the sale was held at Frederik Muller, no anti-Jewish measures aimed at confiscating Jewish possessions had yet come into force. Regulation VO 26/1940 of 24 June 1940, concerning the treatment of enemy assets, was already in force however. Although there are no indications that the currently claimed work was confiscated on the grounds of this regulation, there were at the time already fears that such a measure could be expected. In this context reference can be made a statement made by Irma in a summons of 31 August 1945 that during the war she had not requested division and distribution as part of her divorce action. She allegedly refrained from doing so because there was a risk *'dat het aan gedaagde toekomstige gedeelte der gemeenschap door Duitse instanties zou worden in beslag genomen'* [*that the part of the community property allocated to the respondent would be seized by the German authorities*]. This impending measure could have been a possible reason for Irma to sell the art collection.
- As far as Robert's position is concerned, it can be pointed out that he had already left the Netherlands in 1939 and that it is difficult to consider that departure as a direct consequence of the Nazi regime. This changed after May 1940 however. Robert made the prudent decision to flee France for the United States. While there, he lived in difficult financial circumstances however. It was not possible for his monthly allowance from the NV to be paid to him and he did not have the permits needed for working. These trying financial circumstances in which Robert found himself, although he was in a safe country, cannot be considered in isolation from the Nazi regime, and could have given him reason to cooperate in the sale of the art collection.

6.5.2 In view of the circumstances described above, there is a possible link between the sale of the currently claimed work and the threat the Nazi regime represented for Irma Klein, and to a lesser extent for Robert Lewenstein. Yet during the investigation no information was found on the grounds of which it can be concluded that the aforementioned circumstances played a role for Irma Klein or Robert Lewenstein in

regard to putting the work into the sale.

It did emerge from the investigation, however, that the financial position of Robert and Irma deteriorated in the years prior to the sale. Reference can be made in this context to the decline of the assets and income of Robert Lewenstein's parents prior to their deaths and the loss of NLG 100,000 that NV Lewenstein made in the 1935-1938 period. The departure of Robert Lewenstein as director of the NV and the divorce of Robert Lewenstein and Irma Klein will have contributed to these financial reversals. This financial decline was the consequence of events that were set in motion well before the German invasion and was therefore not the result of the Nazi regime.

There are also concrete indications that there was discussion about selling the art collection before the German invasion. On 2 November 1939 Alfred Levy wrote that *'de stand van beide echtgenooten allerminst toelaat, den kostbaren inventaris, herkomstig van gedaagdes ouders uit lang vervlogen financieel-goede tijden, aan te houden, doch integendeel gebiedt, dien inventaris zoo spoedig mogelijk te gelde te maken'* [*the position of the two spouses is far from permitting the retention of the valuable inventory, originally owned by the respondent's parents in financially good times of long ago, but on the contrary calls for their inventory to be sold as quickly as possible*]. On 2 January 1940 Isaac Coopman wrote in response that Irma Klein *'het immoreel (vindt) als zij de kostbare familie-eigendommen, antiek en schilderijen thans zou verkoopen, nu voor deze goederen geen koopers (buitenlanders) op de markt zijn, en slechts afbraakprijzen voor te krijgen zijn. / Het is bovendien niet in het belang van Lewenstein en appellante als deze familie-stukken in het openbaar geëxecuteerd moeten worden, waarop dit geheele drijven dreigt uit te loopen'* [*believes it would be immoral if she were to sell the valuable family possessions, antiques and paintings now since there are currently no buyers (foreigners) for these goods on the market and they would only fetch knock-down prices. / It is furthermore not in the interests of Lewenstein and the appellant if these family possessions have to be sold in public under duress, whereupon this whole matter could get out of hand*].

6.5.3 All in all this brings the Committee to the conclusion that the sale of the currently claimed work cannot on the one hand be considered in isolation from the Nazi regime, but on the other hand has to have been caused to an extent by the deteriorating financial circumstances in which Robert Lewenstein and Irma Klein found themselves well before the German invasion, also in view of the comments of those involved during the nineteen-thirties. In this case the determining factor is therefore the weighing up of interests to be conducted by the Committee.

Consequences of the division in 1947

6.6 Given consideration 6.3.4., it has been sufficiently well established that at the time of the sale the work belonged to the dissolved but not yet divided community property in the marriage between Robert Lewenstein and Irma Klein. As regards who can claim the work now, it is important to establish to whom the work was assigned in the end. The division of the community property was recorded in a deed of *'scheiding en deling van al hetgeen behoort tot de in hun huwelijk bestaan hebbende gemeenschappelijke boedel'* [*division and distribution of what belongs to the community of property existing in their marriage*] executed on 10 June 1947 before notary August Henri Ketel. There is no explicit reference in the deed to the claimed work or any other artwork. There is, however, the following comment about the distribution of the movable tangible property belonging to the community property.

'Zij [Robert Lewenstein en Irma Klein] verklaarden daartoe vooraf: [...] dat de tot de gemeenschappelijke boedel behorende roerende lichamelijke zaken reeds door partijen zijn verdeeld, hebbende ieder het hem of haar toebedeelde ontvangen, en dat voorts diverse activa en passiva, waarvan door partijen of een van hen wordt gepretendeerd, dat zij tot de gemeenschappelijke boedel behoren, in dier voege zijn gescheiden en verdeeld, dat ieder de in zijn of haar bezit zijnde activa behoudt en de door hem of haar betaalde passiva voor zijn of haar rekening houdt, behoevende er terzake van een of ander geen verrekening plaats te hebben.' [*They [Robert Lewenstein and Irma Klein] stated to that end beforehand ... that the movable tangible property belonging to the community of property has already been distributed by the parties, each of them having received what is assigned to him or her, and that furthermore various assets and liabilities, which are claimed by one or both of the parties, that belong to the community of property, have been divided and distributed in such a manner that each of them retains assets in his or her possession and the liabilities paid by him or her are retained for his or her account and that no settlement is necessary in regard to all this.*]

On the grounds of the law applicable at the time, this division was declarative and came into effect retroactively on the day the community of property was dissolved as a result of the legal separation. In the Committee's opinion it follows from this that Irma Klein, who at the moment that the community of property was dissolved had actual possession of the currently claimed work, as a result of the retroactive division agreement in any event until 27 September 1940, the date on which the separation order became final and conclusive, became sole owner of the currently claimed work. This leads to the conclusion that only the heir of Irma Klein, the applicant CC, can claim the work.

Acquisition by the City Council

6.7 Under Dutch law it must be assumed that the City Council is now the owner of the work. The Applicants have argued that the City Council acted in bad faith when it acquired the work at a sale in 1940. They did not, however, make this plausible with facts that could underpin their argument. The mere fact that at

a sale in October 1940 the City Council purchased a work that came from a Jewish owner does not mean that this transaction did not take place in good faith.

Weighing up interests

- 6.8 The Committee now comes to weighing up the interests involved. It follows from the foregoing that the Committee will take into account the interests of the applicant CC in restitution of the artwork and the interests of the City Council in retaining the work. Upon request, the applicant CC explained her interest in restitution of the work in a letter dated 5 June 2018 as follows. *For me, as far as it matters, I think the story simply may not end with people, institutions, governments, or anyone, getting away with what they wrongfully did. This is about more than the painting itself. Returning the ownership of the painting would do justice to the memory of Irma and Robert and to those who stand near them*.

The Committee takes account of the following.

- The sale of the currently claimed work in October 1940 cannot be considered in isolation from the Nazi regime, but it was also in part the consequence of the deteriorating financial circumstances in which Robert Lewenstein and Irma Klein found themselves well before the German invasion. In the Committee's view this provides a less powerful basis for restitution than a case in which there was theft or confiscation.
- It has furthermore not emerged that Irma Klein made efforts during the period after the German occupation to request the Museum to return the currently claimed work despite the reasonable assumption that she knew or could have known the work was there. In view of the various loans, the Museum had a good relationship with the Lewenstein family and with Irma Klein before and after the war. Irma Klein's heir, the applicant CC, similarly did not make any attempts to request the return of the work and initially was not among the Applicants for restitution in this case.
- It has not emerged that the City Council did not acquire the work in 1940 in good faith. It has had the work in its possession since then. Its contention that the work has important art historical value and is an essential link in the limited overview of Kandinsky's work in the Museum's collection, has a corresponding place in that collection, and is included in the permanent display has been insufficiently contested by the Applicants and is in accordance with the Committee's own opinion.
- As regards the interests of the applicant CC, all that is known is that she is acting as Irma Klein's heir without declaring any past emotional or other intense bond with the work.

Taking all this into account, the Committee concludes that the interest of the applicant CC in restitution does not outweigh the interest of the City Council in retaining the work.

7. The above leads to the conclusion that the Committee will reject the restitution application.

BINDING OPINION

Amsterdam City Council is not obliged to return the painting *Painting with Houses* to the Applicants.

This binding opinion was issued on 22 October 2018 by A. Hammerstein (Chair), J.H.W. Koster, J.H. van Kreveld, E.H. Swaab, H.M. Verrijn Stuart (Vice-Chair), G.N. Verschoor and C.C. Wesselink, and signed by the Chair and the Secretary.

(A. Hammerstein, Chair)

(E.J.A. Idema, 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).	44
2.	Decree by the State Secretary for Education, Culture and Science of 4 July 2012, regarding an amendment of the Restitutions Committee in connection with an evaluation of the restitution policy (text valid until 1 October 2018).	50
3.	Decree by the Minister of Education, Culture and Science and the Minister for Primary and Secondary Education and Media of 20 September 2018 regarding an amendment of the Decree Establishing the Restitutions Committee in connection with the establishment of an Expertise Centre and a few technical changes.	54
4.	Decree Establishing the Restitutions Committee; text valid with effect from 2 October 2018.	60
5.	Overview of the documents on which the restitution policy is based.	63
6.	Index by case number of the Restitutions Committee's recommendations and opinions (2002 to 2018).	64

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)

Please note that this is not an official English translation of the original. In the event of divergence in the translated version, the original Dutch text of the "Besluit van de Staatssecretaris van Onderwijs, Cultuur en Wetenschap van 4 juli 2012, nr. WJZ/420483 (10207), houdende wijziging van het Besluit adviescommissie restitutieverzoeken cultuurgoederen en Tweede Wereldoorlog in verband met evaluatie van het restitutiebeleid" will prevail.



GOVERNMENT GAZETTE

No. 14780

18 July
2012

[Official publication of the Kingdom of the Netherlands since 1814.](#)

Decree of the State Secretary of Education, Culture and Science, dated 4 July 2012, no. WJZ/420483 (10207), amending 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 an evaluation of the restitution policy

The State Secretary of Education, Culture and Science,

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

Decrees as follows:

ARTICLE I

The Decree establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War is amended as follows:

A

With the full stop at the end of Article 1 (c) being replaced by a semi-colon, a new part is added reading as follows:

d. *NK collection*: collection of recovered items of cultural value which are currently in the possession of the State of the Netherlands and have been registered in the NK inventory category at the Cultural Heritage Agency.

B

Article 2 is amended as follows:

1. In the first paragraph 'and which are currently in the possession of the State of the Netherlands.' is replaced by: and which:

- a. are part of the NK collection; or
- b. belong to the other possessions of the State of the Netherlands.

2. In the fourth paragraph 'shall carry out its advisory role as referred to in the first paragraph' is replaced by 'shall advise on applications as referred to the first paragraph under a submitted to the Minister before 30 June 2015,' and a sentence is added reading as follows: Applications as referred to in Article 1 (a), submitted on or after 30 June 2015, shall be handled by the Committee in accordance with the fifth paragraph.

3. In the fifth paragraph 'shall carry out its advisory role as referred to in the second paragraph' is replaced by: 'shall advise on applications as referred to in the first paragraph, under b, and the second paragraph.

1

Government Gazette 2012 no. 14780 18 July 2012



4. A sixth paragraph is added reading as follows:

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 that the suspect provenance was known when the item of cultural value concerned was acquired.

ARTICLE II

Applications submitted under Article 2, first paragraph, of the Decree establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War, with the wording that applied before this Decree came into effect, shall be handled in accordance with that decree with the wording that applied before this Decree came into effect.

ARTICLE III

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

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

The State Secretary of Education, Culture and Science, H. Zijlstra

2

Government Gazette 2012 no. 14780 18 July 2012



EXPLANATORY NOTES

This amending decree gives effect to the letter from the Lower House of Parliament of 22 June 2012¹, in which it was announced that – in accordance with the advice of the Council for Culture – a means would be introduced to allow more differentiated handling of restitution applications. This possibility will be introduced in the first place for restitution applications relating to items of cultural value held by the State that do not belong to the NK collection. The handling of claims on NK objects will be brought within the new policy framework at a later stage, namely on 30 June 2015.

In the previous situation the same restitution policy applied to all claims on works of art held by the State, regardless of whether the claim was on an NK object or on an object from another part of the state collection. This latter category also includes, for example, works of art which, unlike the NK collection, were acquired through regular channels many years after the Second World War. The difference in provenance between the NK collection and the regular state collections justifies greater differentiation in the handling of claims. The restitution policy applying from 2001 was aimed first and foremost at the NK collection and – according to the Council for Culture – is less suitable for the settlement of claims on works of art from other parts of the state collection, as the 'NK policy' provides no scope to take the way in which a work of art was acquired into account in the outcome of a restitution case. When honouring a claim, the Restitutions Committee can only recommend the return of the work of art concerned. The question of whether an object was purchased by the State through regular channels is unimportant. Nor is there scope to consider other possible interests under the NK policy,

Unlike in the handling of claims on works of art owned by parties other than the State (municipality, province, foundation or museum foundation). In the latter cases, the Decree establishing the Restitutions Committee specifies that the Committee will advise on a claim 'in accordance with standards of reasonableness and fairness'. In these cases, the Committee thus has more discretion and can recommend other desired solutions apart from simply returning a work of art.

The present amending decree brings the handling of restitution applications for works of art held by the State that do not belong to the NK collection into line with the handling of claims on works of art in the possession of 'third parties'. To this end, the Restitutions Committee's terms of reference, as set out in Article 2 of the Establishing Decree, have been amended. The amendment to this article means in the first place that claims on works of arts held by the State, other than NK objects, are assessed in accordance with the criteria applying to non-state collections. The Committee will therefore perform its advisory role with regard to these claims in accordance with standards of reasonableness and fairness. The Restitutions Committee will thus have more scope to assess facts and circumstances and the various interests involved.

Naturally the more knowledge the possessor had or could reasonably have had at the time of the acquisition of a work of art with regard to its possible suspect provenance, the less scope there is for such weighing of interests. Possible knowledge of suspect provenance is therefore an important factor. This has been stated in the sixth paragraph of Article 2.

Although the number of claims is gradually drying up more than 10 years after the establishment of the restitution policy for the NK collection, the government has decided not to set a date yet for the termination of the claim filing period. The government endorses the Council for Culture's opinion that it would be too early to do so at present. A termination of the claim filing period can only be considered once there is international consensus on the matter, replacing the Washington Principles. The Washington Principles adopted in 1998 remain fully in force as an international standard for restitution matters. The Washington Principles were reaffirmed in 2009 at an international conference in Prague, resulting in the Terezin Declaration.

The government has nevertheless adopted the Council's recommendation to recast the policy on claims on NK objects with effect from 30 June 2015 in such a way that from that date claims on NK objects will also be handled 'in accordance with standards of reasonableness and fairness'. The Restitutions Committee can of course continue to take account of the specific provenance of these works of art. This will mean in practice that the fact that a certain object comes from the NK collection will weigh heavily. There is of course also scope, for example, to adopt a flexible position with regard to the burden of proof on the surviving relatives of persecuted population groups in terms of evidence of ownership and involuntary loss of possession. Such substantive aspects, which have also been included in the current NK policy, remain significant.

¹Parliamentary papers II 2011/12, 25 839, no. 41.



Implementation and administrative burden

The policy letter to which this amending decree gives effect has been agreed with the Restitutions Committee. The Committee has made known that it endorses the policy response. The change to its terms of reference concerning the advice on claims on the state collection is in line with the Committee's existing advisory role with regard to claims on items not held by the State. The Restitutions Committee can thus readily implement the present provisions.

The present amending decree does not change the existing procedure for the submission and handling of restitution applications. This Decree does not, therefore, increase the administrative burden for applicants.

*The State Secretary of Education, Culture and Science,
H. Zijlstra*

Please note that this is not an official English translation of the original. In the event of divergence in the translated version, the original Dutch text of the "Besluit van de Minister van Onderwijs, Cultuur en Wetenschap en de Minister voor Basis- en Voortgezet Onderwijs en Media van 20 september 2018, nr. 1381345 tot wijziging van het Besluit adviescommissie restitutieverzoeken cultuurgooederen en Tweede Wereldoorlog in verband met de oprichting van een Expertisecentrum Tweede Wereldoorlog en Restitutieverzoeken, alsmede enkele technische aanpassingen" will prevail.



GOVERNMENT GAZETTE

Official publication of the Kingdom of the Netherlands since 1814.

No. 54468

1 October

2018

Decree of the Minister of Education, Culture and Science and the Minister for Primary and Secondary Education and Media of 20 September 2018, no. 1381345 amending 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 the establishment of an Expertise Centre on the Second World War and Restitution Applications, as well as a number of technical adjustments

The Minister of Education, Culture and Science and the Minister for Primary and Secondary Education and Media,

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

In view of Section 15 (3) of the 1995 Public Records Act,

Decree as follows:

ARTICLE I

The Decree establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War is amended as follows:

A

With the full stop at the end of part d being replaced by a semi-colon, a new part is added to Article 1, reading as follows:

e. *Expertise Centre*: Expertise Centre on the Second World War and Restitution Applications of the NIOD (National Institute for War Documentation) Institute for War, Holocaust and Genocide Studies.

B

Two paragraphs are added to Article 2, reading as follows:

7. The Committee may request the Expertise Centre to initiate a factual investigation.
8. Through the intermediary of the secretary referred to in Article 5 and notwithstanding the first and second paragraphs, the Minister may, possibly?? before seeking advice from the Committee, request the Expertise Centre to initiate a factual investigation, at the joint request of the parties and with the aim of achieving a solution that is satisfactory to them.

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C

Article 3 is amended as follows:

1. In the first paragraph '7' is replaced by 'seven'.
2. In the third and fourth paragraphs of the Dutch version, 'Tenminste' is replaced by 'Ten minste'.
3. The sixth paragraph is amended to read as follows:
 6. The chairman, the deputy chairman and the other members may be reappointed once at most.

D

In Article 4, first paragraph, 'vice-chairman' is replaced by 'deputy chairman'.

E

Article 5 is amended as follows:

1. The second paragraph is deleted, with the third paragraph being renumbered as the second paragraph.
2. In the (new) second paragraph 'The secretary' is replaced by 'The secretariat'.

F

Article 6, fifth paragraph, is amended to read as follows:

5. The restrictions relevant to the public accessibility of records, referred to in Section 1, subsection c, under 1 and 2, of the 1995 Public Records Act, which the Committee or the employees of the Expertise Centre need for the execution of their tasks, referred to in Article 2, and which are filed in state archives, shall not be applicable to the Committee or the employees of the Expertise Centre.

G

Article 8 is deleted.

ARTICLE II

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

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

*The Minister of Education, Culture and Science,
I.K. van Engelshoven*

*The Minister for Primary and Secondary Education and Media,
A. Slob*

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EXPLANATORY NOTES

1. Background

On 2 July 2018 the Royal Netherlands Academy of Arts and Sciences (KNAW) and the Minister of Education, Culture and Science (hereinafter: the Minister) signed the *Covenant on the Establishment of the Expertise Centre on the Restitution of Items of Cultural Value and the Second World War at the NIOD Institute for War, Holocaust and Genocide Studies of the KNAW*. The agreements entered into by the parties in this covenant result from the letter from the Minister to the Lower House of Parliament of 4 October 2016.¹ That letter announced the establishment of an Expertise Centre in the field of war art and the Second World War, which among other things will be tasked with conducting the investigations for the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War. This Expertise Centre, based at the NIOD, came into existence with the signing of the covenant.

2. Review of implementation of the restitution policy

The responsibility for the national government policy on the restitution of war art from the Second World War rests with the Minister. Among other things the Minister adopts the policy, makes budget available for that policy, awards project subsidies and is responsible for appointing the members of the Restitutions Committee.

Before the Expertise Centre was established, there were three separate organizations which, each in a different way and from a different perspective, dealt with investigations into and advice on art stolen by the Nazis. Those were the Origins Unknown Agency, based at the National Archives, the Restitutions Committee and its support office, and the Museum Association.

2.1 The Restitutions Committee

The Restitutions Committee advises the Minister of Education, Culture and Science on claims on items of cultural value of which the owners involuntarily lost possession in the years 1933-1945 as a result of the Nazi regime. The Committee was established in 2001 by a decree of the then Minister for Culture as a result of social developments that placed the theme of 'stolen art' high on the political agenda.

According to its establishing decree, the Restitutions Committee has two tasks:

1. Advising the Minister on decisions to be taken on applications for the restitution of items of cultural value in the possession of the State of the Netherlands, including the Netherlands Art Property Collection (NK collection).
2. Issuing an opinion, at the Minister's request, on disputes concerning the restitution of items of cultural value which are not in the possession of the State of the Netherlands.

The Restitutions Committee's remit covers all items of cultural value of which the owners involuntarily lost possession in the years 1933-1945. The restitution claims relate not only to works of art, such as paintings, drawings and sculptures, but also to objects of applied art, antiques, Jewish ritual objects and other objects of cultural value. These items of cultural value may be in the possession of the Dutch State or in the possession of parties other than the State, for example a provincial or municipal government institution, a foundation or a private individual. There are different procedures for items of cultural value which are in the possession of the State and those which are not in the possession of the State. In the first case, the Restitutions Committee issues a recommendation to the Minister, while in the latter case the Restitutions Committee issues a binding opinion to the two parties involved (the current owner and the possible former owner or the latter's heirs).

2.2 Origins Unknown Agency

The Origins Unknown Agency (hereinafter: BHG) was established in 1998 by order of the then Minister for Culture. It was formed in response to the results of the pilot study on the NK collection conducted in 1997. The original intention was that BHG would cease to exist on 31 December 2004, but as a direct consequence of the high demand for information, the work has been continued until today, first at the RKD Netherlands Institute for Art History and since 2007 under the aegis of the National Archives. In addition to the research into the NK collection, BHG performed various tasks relating to stolen art, particularly public information.

¹Parliamentary papers II 2016/17, 25 839, 42.



BHG's work includes digitization and access to data and where possible identifying works of art lost in the Netherlands during the war years. The registration of missing art objects, comprising around 15,000 declaration forms and associated images from the archives of the Netherlands Art Property Foundation (SNK), formed the basis for this project.

2.3 Museum Association: Museum acquisitions from 1933

In 2009 the Museum Association asked Dutch museums to investigate the provenance history of their collections. The aim was to produce an inventory of objects whose provenance history indicated possible theft, confiscation, forced sale or other suspicious circumstances occurring from 1933 to the end of the Second World War. This investigation, *Museum Acquisitions from 1933 Onwards*, focuses exclusively on art objects and Jewish ritual items in Dutch museums and is a follow-up to the *Museum Acquisitions 1940-1948* investigation which the Museum Association had its members carry out in the years 1998-1999.

A large part of the *Museum Acquisitions from 1933 Onwards* investigation has been completed, but a number of museums are still working on it. The Museum Association provides guidelines for the investigation and support with its implementation. It is being advised by the *Committee on Museum Acquisitions from 1933 Onwards*. The findings of the museums that have now completed their investigation can be found on a specially created website (<https://www.musealeverwervingen.nl/>). Works whose provenance history between 1933 and 1945 cannot be determined and which arouse suspicions of theft or forced sale during the Nazi regime are published on this website.

3. New situation: combining and embedding knowledge and expertise

In 2015 the Minister ordered an investigation into the implementation of the restitution policy. Following the results of that investigation, the Expertise Centre was established in order to combine and embed the knowledge and expertise gained by the Restitutions Committee, BHG and the Museum Association over the past 15 years. This has created an identifiable, national contact point for applicants, current possessors and owners, museums, the press, researchers and other interested parties.

On the basis of the aforementioned covenant, the Expertise Centre will in any case carry out the following tasks for the agreed period:

1. factual investigations (a) at the request of the Restitutions Committee or (b) at the joint request of the applicant and the current possessor;
2. investigations at the request of the Minister within his policy responsibility;
3. independent, innovative scientific research into the history and current developments concerning stolen art and restitution, particularly with regard to the Second World War.
4. providing information: the Expertise Centre will provide general information for stakeholders and interested parties, references to archives, factual information on the progress of restitution procedures and assistance with research questions from third parties, such as journalists and students;
5. promoting awareness of the study of stolen art and restitution, particularly with regard to the Second World War, by means of publications, conferences and other activities, including within higher education.

Points 1 to 3:

The work of the prospective Expertise Centre includes an investigative function. This involves different types of investigations. In the first place, the factual investigations that were previously carried out by the support office of the Restitutions Committee will be carried out under the responsibility of the NIOD (see point 1). Factual investigations are important for applicants, current possessors and museums in the context of actual or potential restitution applications. However, the Expertise Centre will not only carry out factual investigations on behalf of the Restitutions Committee, but will also be able to carry them out at the joint request of an applicant and the current possessor. With this new variant envisaged in the aforementioned letter from the Minister to the Lower House of Parliament of 4 October 2016, the instructing party is not the Restitutions Committee but the Minister, who, by the provisions of the amended Article 5, third paragraph, has authorized the secretary of the Restitutions Committee to assign the factual investigation to the Expertise Centre. The secretary will thus expressly not perform that task as an official of the Restitutions Committee but as an official of the Minister. This dual function, combined in the person of the Secretary, has been adopted in order to coordinate the key points of the processes relating to the different variants of the factual investigation.

The Expertise Centre may also conduct specific or themed research at the Minister's request (see point 2). This concerns more general research under his policy responsibility rather than an investigation into a specific claim.



Finally, the Expertise Centre can conduct independent, innovative scientific research into the history and current developments concerning stolen art and restitution (see point 3). This will of course not be based on an instruction from the Restitutions Committee or the Minister.

Points 4 and 5:

In addition to the investigative function, the Expertise Centre has an information function which will be designed in a recognizable way as a separate information point and which will include particularly the activities of the current BHG and the information activities of the Museum Association.

The Expertise Centre's processes and working methods will be organized in such a way that researchers can carry out their work without any pressure from the parties involved and that no conflicts arise between information tasks with regard to potential applications on the one hand and the independent factual investigations for a restitution application on the other.

4. Access to restricted public access archive

For restitution claims an extensive investigation is conducted before the Restitutions Committee provides advice. Many of the archives which are essential for this type of factual investigation and which are held in the repository of the National Archives are subject to restricted public access. When the Restitutions Committee was established, provision was therefore made to remove the Committee from the scope of the restrictions imposed on public access to such archive documents that it requires in order to fulfil its task (see the original Article 6 of the Decree establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War). Given that in the current situation the factual investigation will no longer be performed by the Restitutions Committee (or its support office), but by the researchers of the Expertise Centre, it was also necessary to disapply the restrictions to these researchers. That is provided for in this Amendment Decree (see Article I, part F). The disapplication to researchers of the Expertise Centre concerns only the factual investigations which they conduct either by order of the Restitutions Committee or by order of the Minister of Education, Culture and Science (through the intermediary of the secretary of the Restitutions Committee), and thus expressly not the other tasks of the Expertise Centre. Although it was also the case in the original situation that the members of the Restitutions Committee did not conduct the archival research for their claims advice themselves, they must of course still be able to *inspect* specific archive documents where appropriate. The existing disapplication has therefore been maintained for the Committee.

Comments on individual articles

Article I

Part B

The new seventh paragraph of Article 2 assigns the factual investigations previously conducted by the Restitutions Committee's support office to the Expertise Centre. A discretionary provision was chosen so that in cases where it is clear that a submitted claim does not require a factual investigation, the establishing decree does not compel the Restitution Committee to issue an investigation assignment to the Expertise Centre. In all regular cases the Restitutions Committee will of course always issue an investigation assignment. The Expertise Centre's factual report is a very important – if not the most important – resource for the Restitutions Committee's advisory role. Notwithstanding the above, the Restitution Committee may judge, *inter alia* on the basis of answers to – written or oral – questions which it directs to parties after the Expertise Centre has issued its factual report, or on the basis of its own insights, that some facts differ or may differ from the content of the factual report, or that other facts have been omitted from the factual report. In other words, the Restitutions Committee remains responsible for ascertaining that the factual investigation has been conducted in a careful manner.

The new eighth paragraph includes the basis for a factual investigation at the joint request of the applicant and the current possessor. For more details, see section 3 of the general part of these explanatory notes.

Parts C and D

The amendments to the first, third and fourth paragraphs of Article 3 are purely of a linguistic nature. The amendment to Article 3, sixth paragraph, relates to the Minister's announcement in her letter to the Lower House of Parliament of 4 October 2016 concerning the limiting of reappointments of the members of the Restitutions Committee. This amendment provides that members of the Restitutions Committee can be



reappointed no more than once. The opportunity has been taken to use clear function-related terminology. In that regard Article 4, first paragraph, has also been amended.

Part E

The secretariat of the Restitutions Committee has been reorganized in connection with the transfer of the tasks and employees to the Expertise Centre. In view of the limited number of employees who will remain in the secretariat and their employment-law position with the Centre for Public Sector Labour Relations (CAOP), it is no longer necessary to assign management tasks to the secretary. The provision that the secretariat is headed by the secretary has therefore been deleted. There is no change to the provision whereby employees of the secretariat are only accountable to the Committee for their work *for the Committee*, and not to the Minister (nor to the CAOP). In addition to his work for the Committee, in the new situation the secretary also has a role to fulfil as an official of the Minister. With regard to that role (see section 3 of the general part of the explanatory notes) the secretary must of course comply with any instructions from the Minister.

Part F

On this matter see section 4 of the general part of these explanatory notes.

The archives policy, and hence also the decision-making under Section 15 (3) of the 1995 Public Records Act, falls within the portfolio of the Minister for Primary and Secondary Education and Media. This amending decree has therefore also been signed by this Minister. The signature relates solely to this part of the Decree. For the remainder the Minister of Education, Culture and Science is the responsible Minister.

Part G

Having regard to the Advisory Bodies and Committees Remuneration Act, there is no longer a requirement for a separate provision on members' remuneration in the Restitutions Committee's establishing decree. The Decree on Fixed Remuneration of the Restitutions Committee remains in force under the transitional law for the aforementioned act.

*The Minister of Education, Culture and Science,
I.K. van Engelshoven*

*The Minister for Primary and Secondary Education and Media,
A. Slob*

Please note that this is not an official English translation of the original. In the event of divergence in the translated version, the original Dutch text of the “Besluit adviescommissie restitutieverzoeken cultuurogoderen en Tweede Wereldoorlog” will prevail.

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 2 October 2018)

Decree establishing the 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, F. van der Ploeg;

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

In view of [Section 15 \(3\) of the 1995 Public Records Act](#),

Decrees as follows:

Article 1

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

- a. the Minister: the Minister of Education, Culture and Science;
- b. the Ministry: the Ministry of Education, Culture and Science;
- c. the Committee: the Committee referred to in [Article 2](#) of this Decree.
- d. NK collection: collection of recovered items of cultural value which are currently in the possession of the State of the Netherlands and have been registered in the NK inventory category at the Cultural Heritage Agency.
- e. Expertise Centre: Expertise Centre on the Second World War and Restitution Applications of the NIOD (National Institute for War Documentation) Institute for War, Holocaust and Genocide Studies.

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, at 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 advise on applications as referred to in the first paragraph, under a, submitted to the Minister before 30 June 2015, in accordance with the relevant government policy. Applications as referred to in the first paragraph, under a, submitted on or after 30 June 2015, shall be handled by the Committee in accordance with the fifth paragraph.

5. The Committee shall advise on applications as referred to in the first paragraph, under b, and the second paragraph according to standards 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 that the suspect provenance was known when the item of cultural value concerned was acquired.
7. The Committee may request the Expertise Centre to initiate a factual investigation.
8. Through the intermediary of the secretary referred to in [Article 5](#) and notwithstanding the first and second paragraphs, the Minister may, possibly before seeking advice from the Committee, request the Expertise Centre to initiate a factual investigation, at the joint request of the parties and with the aim of achieving a solution that is satisfactory to them.

Article 3

1. The Committee shall comprise no more than seven 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 the Second World War 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 accountable only to the Committee for the work performed for the Committee.

Article 6

1. If required for the performance 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 performance 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 perform 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, referred to in [Section 1, subsection c, under 1 and 2, of the 1995 Public Records Act](#), which the Committee or the employees of the Expertise Centre need for the performance of their tasks, referred to in [Article 2](#), and which are filed in state archives, shall not be applicable to the Committee or the employees of the Expertise Centre.

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.

Article 8

[Lapsed on 02-10-2018]

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 on which 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: Decree establishing the 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
of 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 Restitutions Committee in connection with an evaluation of the restitution policy.
20 September 2018	Decree regarding an amendment of the Decree Establishing the Restitutions Committee in connection with the establishment of an Expertise Centre.

Index recommendations Restitutions Committee by case number (2002 to 2018)

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 Requessens 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

* no substantive advice

RC case no.	Recommendation regarding:	Date recommendation
1.46	Kaufmann	18 December 2006
1.47	Four gilded silver chalices and a fifteenth-century silver crosier	14 May 2007
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	<i>A bronze statue 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

RC case no.	Recommendation regarding:	Date recommendation
1.96	Stern	3 May 2010
1.97	Hollander	12 October 2009
1.98	Art dealership Koch	3 June 2013
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
1.132-A	Abraham Katz - Kummerlé (A)	16 October 2017
1.132-B	Katz - Kummerlé (B)	18 December 2017
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

RC case no.	Recommendation regarding:	Date recommendation
1.152	Krasicki	20 February 2017
1.155	Jacobson-Granaat (II)	29 June 2016
1.156	Gosschalk (II)	16 October 2017
1.160	Hamburger (III)	29 June 2016
1.166	Berolzheimer	4 September 2017
1.167	A pastel drawing by Philippus Endlich	13 November 2017
4.168	Katz	15 November 2017

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 Christiaan Coeuershof (Vita Israël/Nijmegen City Council)	20 July 2015
3.140	Two paintings by Ferdinand Bol (Hamburger/municipality of Roosendaal)	13 April 2015
3.141	<i>Painting with Houses</i> by Wassily Kandinsky (Lewenstein/Amsterdam City Council)	22 October 2018
3.144	<i>Portrait of Joan Huydecoper</i> after Bartholomeus van der Helst	30 March 2015
3.153	Decision regarding eleven majolica plates	1 February 2016
3.162	<i>Blick auf Murnau mit Kirche</i> by Wassily Kandinsky (Stern-Lippmann/Eindhoven City Council)	29 January 2018
3.163	Bronze sculpture <i>Moses</i> attributed to Alessandro Vittoria (Budge/De Fundatie)	16 April 2018

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	Fig. 1	Anne Reitsma
	Fig. 2	Secretariat RC
	Fig. 3	Peter Cox, Van Abbemuseum Eindhoven
	Fig. 5	Pictoright, Amsterdam 2004

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