

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



Report 2019

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(recommendation regarding case number RC 1.164, see chapter 6)

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Foreword



1. Chair Dr A. Hammerstein

The Committee’s procedures are addressed in greater depth than usual elsewhere in this annual report. In this foreword I will simply comment that over the last few years the Committee has dealt with more and more non-NK cases. At the beginning of this century the Ekkart Committee formulated special rules for assessing NK cases. These rules were prompted by the special status of the NK collection and they remain important, also now that the Committee must advise on the basis of the yardsticks of reasonableness and fairness in all the cases submitted to it. In essence this norm is nothing other than providing a ‘fair and just solution’ taking into account all the circumstances in the case, as prescribed by the Washington Principles. The Committee does not take a formal legal approach and makes its recommendations without exception in the context of the horrors of the Holocaust.

As stated in the body of the report, the Committee had to say farewell to Gerdien Verschoor because of her appointment as director of the Camp Westerbork Memorial Centre. Her expertise and compassionate engagement made a significant contribution to the work of the Committee, which is most grateful to her. Fortunately, the new Committee Member, Saskia Cohen, brings this expertise with her. The Committee was furthermore pleased to welcome additional support in the form of Jaap Cohen as an all-round advisor.

In 2019 the Committee continued to issue advice in harmony and with great care, and very ably assisted by a small but hard-working support staff. The Committee is dependent for the content and progress of its activities on the Second World War and Restitution Applications Expertise Centre (NIOD), which carries out all the research with the greatest possible precision. Thorough research takes a great deal of time.

The Committee notes with satisfaction that internal cooperation is intensifying, albeit more slowly than it would like. Restitution in the broadest sense of the word, namely righting wrongs relating to items of cultural value that took place in a distant and a less distant past, is rightly receiving growing attention. Fortunately, the thinking about it goes beyond the question of just returning property. It is also about making good the violation of fundamental rights and the destruction of people’s own and precious culture. It is still crucial that the policy pursued in the Netherlands is in step with international standards.

Disclaimer

This English version is a translation of the original Dutch report ‘Verslag 2019’, 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 possibility of revising a binding opinion emerged in 2019. The law offers limited scope for assessment of a binding opinion by the civil courts. Even if a court concludes that an opinion cannot be upheld, a regular court does not have the scope to provide solutions, which is, however, something the Committee can do. The Committee therefore decided to change its regulations so that, if new facts come to light, an opinion can be reconsidered if otherwise an unjust result would remain in effect. This brings the procedure into line with the existing option to revise advice in Dutch National Art Collection cases.

The Committee strives to do its work in fruitful cooperation with others. On behalf of the Committee I would like to express my appreciation for all those who have helped the Committee in one way or another to do its work, which is not just focused on the interests of the parties involved but on the general interest too.

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 employees do their work independently of the Ministry of OCW.

The subject of this eighteenth annual report is the work of the Restitutions Committee and its employees in 2019.

Chapter 2 contains a brief description of the Restitutions Committee's history, its advisory tasks and its procedures. This is followed by the change to the assessment framework for Dutch National Art Collection cases in 2012 and then an initial look back at that change and its consequences. This chapter ends with a section about the evaluation of the restitution policy scheduled for 2020. Chapter 3 is about the Committee's composition and its supporting staff. Chapter 4 addresses the year under review with an account of the activities carried out, and international cooperation and developments. Chapter 5 contains a quantitative overview of the opinions and recommendations issued from 2002 to 2019, and in chapter 6 there is the anonymized text of the recommendations and opinions that the Committee issued in 2019.

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. Restitution of Nazi Looted Art in the Netherlands

2.1 History in Brief

Between 1933 and 1945 the Nazis seized, stole or purchased artworks, antiques, jewellery and other objects from private individuals and art galleries on a large scale throughout Europe. After the liberation, 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. During the period after the war a great deal of cultural material was returned to the original owners by the SNK. 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. Much of the cultural material stolen by the Nazis between 1933 and 1945 was not traced by the allies, however, because it had disappeared from view and remained hidden in a variety of ways.

Starting at the end of nineteen-nineties, renewed interest arose in the Netherlands and other countries in art treasures that had been looted during the Second World War. This interest resulted in forty-four countries signing the Washington Principles on Nazi Confiscated Art (1998). These eleven non-binding principles concerned how to deal with Nazi looted art. The Washington Principles call for finding a ‘just and fair solution’ for cases of ‘Nazi confiscated art’, preferably by means of alternative dispute settlement. The Netherlands was one of the countries that signed the Washington Principles. When the Netherlands signed, research was being done on the NK collection by the Origins Unknown Committee, also referred to as the Ekkart Committee. Under this committee’s supervision, between 1997 and 2004 the Origins Unknown Agency (BHG) investigated the provenance of all objects in the NK collection. In addition to the provenance research, in 2001, 2003 and 2004 the Ekkart Committee made recommendations to the government to adopt a generous policy for assessing claims by former owners, or the heirs of former owners, to items of cultural value in the NK collection. The government accepted most of the recommendations and decided on 16 November 2001 to establish the Restitutions Committee to advise about such claims, a form of alternative dispute settlement prescribed by the Washington Principles.

2.2 Restitutions Committee’s Tasks and Procedures

The most important reasons behind the establishment of the Restitutions Committee in 2001 were the findings of the Dutch government in 2000 that the restoration of rights after the Second World War had been, in the light of current yardsticks, formalistic, bureaucratic and unfeeling, the presence more than fifty years after the Second World War had ended of approximately 4,000 items of cultural material in the NK collection, and

the insight created by the work of the Origins Unknown Committee that restitution to the original owners or their heirs was still possible. After the restitutions by the SNK during the period immediately after the Second World War, restitution activities now started again.

Realizing that Nazi looted art can be in collections other than the NK collection, in 2001 the Dutch government did not limit the scope of the Restitutions Committee’s advisory role to the NK collection. At the request of the Minister of OCW, the Committee can also advise about cultural material in the Dutch National Art Collection that is not in the NK collection as well as items of cultural value that are in collections other than those of the Dutch State. The characteristic difference from the NK collection is that in these cases the cultural material concerned was not returned to the Dutch State by the allies but became the property of the State, or local or provincial authorities, or private individuals, through normal channels. In the case of items of cultural value that are not owned by the Dutch State, the Restitutions Committee does not advise the Minister of OCW but, on request, issues a binding opinion to the claimants and the current owner.

Summarizing, since 2001 the Restitutions Committee has therefore had three tasks:

- to advise the Minister of OCW at the Minister’s request regarding decisions about applications for the restitution of cultural material that belongs to the NK collection;
- to advise the Minister of OCW at the Minister’s request regarding decisions about applications for the restitution of cultural material that belongs to the other part of the Dutch National Art Collection;
- to issue a binding opinion to parties regarding the restitution of cultural material that does not belong to the Dutch state.

In all three tasks, the case must concern an application for the restitution of items of cultural value that the original owner lost possession of involuntarily due to circumstances directly related to the Nazi regime.

In connection with its advisory work, the Restitutions Committee can call on the Second World War and Restitution Applications Expertise Centre (NIOD) to conduct an investigation into the historical facts. In essentially all cases an investigation report from this Expertise Centre is the basis for the advice or opinion to be issued by the Committee. The Committee furthermore follows a meticulous procedure based on listening to both sides. Among other things, this means that restitution applicants and the current owner have the opportunity to respond to the results of the Expertise Centre’s research and, if desired, the Committee can arrange a hearing. 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 Expertise Centre is dependent on third parties for gathering information, such as archives in the Netherlands or other countries. For more information about the procedures the Restitutions Committee employs for 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 Framework

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 NK collection giving due regard to government policy in this respect, also referred to as the more liberal restitution policy. The most important components of this policy were made up of three sets of recommendations by the Ekkart Committee, as adopted by the government. 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). 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. At the same time, a flexible approach can be taken to the burden of proof. These recommendations by the Ekkart Committee for the Dutch government were drawn up at the time for the purposes of providing an assessment framework for the return of works of art from the NK collection. In response to the first set of recommendations, made in 2001, the Dutch government decided in that same year to declare that the more liberal restitutions policy also applied to restitution applications relating to works of art in the possession of the State that were *not* in the NK collection.

As regards applications for the restitution of cultural material that does not belong to the Dutch State, the Minister of OCW makes the Restitutions Committee available as a body to assess such applications. The more liberal restitutions policy does not apply as the assessment framework for these sorts of applications. In 2001 the Committee was instructed to conduct its analysis giving due regard to the 'yardsticks of fairness and reasonableness'. As a result, during the assessment of these claims it is possible to take into account the interests of owners, for example museums, who purchased art in good faith, not knowing it was looted art. The Restitutions Committee implemented this assessment on the basis of the yardsticks of reasonableness and fairness when formulating its opinions and prepared regulations for these types of cases. The assessment criteria applicable to applications for items of cultural value that do not belong to the Dutch State have remained unchanged since 2001.

2.4 The Change to the Assessment Framework for National Art Collection Cases in 2012

In 2012 the State Secretary for OCW decided to make a step-up-step change to the assessment criteria for applications for the restitution of cultural material from the Dutch National Art Collection, including the NK Collection.² The background to this was explained in a letter to the Lower House of the Dutch Parliament dated 22 June 2012.³ In it the State Secretary first of all noted that the more liberal restitutions policy was applicable to both NK works and the other part of the Dutch National Art Collection. According to the State Secretary, the latter category also contained objects that, unlike those in the NK collection, were acquired after the Second World War through normal channels, such as purchase in good faith at a sale. This led the State Secretary to ask the question of whether 'the difference in the way the latter category of works of art was acquired should be expressed in the restitution policy'.

In the course of answering this question, in 2012 the State Secretary sought advice from an ad hoc advisory committee of the Council for Culture (hereinafter referred to as the Council), consisting of the same members as the former Ekkart Committee. The restitution policy was changed as recommended by the Council.⁴ On the grounds of this change, claims to objects in the Dutch National Art Collection that do not belong to the NK collection that are submitted to the Minister of OCW on or after 19 July 2012 should be assessed using the 'yardsticks of reasonableness and fairness'. As a result of the policy change the Restitutions Committee has the option, in non-NK collection Dutch National Art Collection cases, to include in its considerations prior to issuing advice in a restitution case the way in which a work was acquired by the State and also to weigh up the interests of other parties who might be involved. The policy change also provides scope for recommending solutions other than the restitution of an item.

In its advice in 2012 the Council for Culture stated to the State Secretary for OCW that the more liberal restitutions policy for the NK collection 'does not need to be drawn out indefinitely.' The State Secretary decided in 2012 on the basis of this that claims to items in the NK collection that are submitted to the Minister of OCW on or after 30 June 2015 will also be evaluated according to the 'yardsticks of fairness and reasonableness'. The State Secretary made the following comment in this regard. "Needless to say, the Restitutions Committee can take the specific provenance of works of art into account during the substantive assessment of a claim. This means that considerable weight will be given to the fact that a particular item comes from the

² 'Decree issued by the State Secretary for Education, Culture and Science on 4 July 2012, no. WJZ/420483 (10207), regarding an amendment of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War in connection with evaluation of the restitution policy', 4 July 2012. *Netherlands Government Gazette*, 18 July 2012, no. 14780.

³ Letter from the State Secretary for 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, 22 June 2012. Lower House, Session Year 2011-2012, 25 839, no. 41, pp. 2-3.

⁴ Appendix 174352 to the letter from the State Secretary for 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, 22 June 2012. Lower House, session year 2011-2012, 25 839, no. 41.

NK collection. It goes without saying that there is also scope to permit a subtle approach, for example to the burden of proof for the descendants of persecuted groups in the population, when it comes to evidence of ownership and involuntary loss of possession. Substantive aspects such as these, which are also part of the current NK policy, remain important. But the degree to which these aspects are applied depends on the specific cases that are being addressed. I am willing to leave these considerations as they relate to specific cases to the Restitutions Committee.’

The State Secretary expressed the expectation that the number of claims to artworks in the NK collection will slowly but surely dry up. The State Secretary stated in 2012 that the new NK policy, which was due to come into effect on 30 June 2015, will in due course most probably only concern a few incidental claims.

2.5 An Initial Look Back at the Change in 2012 and Its Consequences

The change to the assessment criteria made by the State Secretary in 2012 related solely to applications for restitution of cultural material from the Dutch National Art Collection, including the NK collection. The first recommendations to which this change applied were issued by the Restitutions Committee in 2015. Altogether there were eight recommendations about cultural material from the Dutch National Art Collection and two recommendations about cultural material from the NK collection. In the Restitutions Committee’s opinion, a number of provisional conclusions about the consequences of the change in 2012 can be drawn from these recommendations.

It is clear that the recommendations of the Ekkart Committee still play an important part in the Restitutions Committee’s advice. This is consistent with the comment made by the State Secretary in 2012 that they ‘remain significant’. This applies, for example, to the third recommendation of 2001, which stipulated that the sale of works by private Jewish individuals in the Netherlands from 10 May 1940 have to be considered as forced sales unless there is express evidence to the contrary. This starting point also has to be applied to sales by private Jewish individuals in Germany from 1933 and in Austria from 1938. In all Dutch National Art Collection cases concerning a sale by a private Jewish individual under the Nazi regime, the Restitutions Committee considered this to have been a forced sale, in accordance with the third recommendation of the Ekkart Committee. In this context the Committee refers to the Dutch National Art Collection recommendations Berolzheimer (RC 1.166) and Herbert Gutmann (RC 1.157) and the NK recommendation Lierens (RC 1.169).

Dutch government policy was that in this regard the Restitutions Committee must recommend restitution if it concluded that the original ownership and the involuntary loss of possession of an item of cultural value had been sufficiently established. According to the changed assessment framework, after reaching this conclusion the Committee still has to weigh up the interests of the parties involved, including the way that the Dutch State acquired the cultural material. The Committee conducted this weighing up of interests in the Dutch National Art Collection recommendations Witmond (RC 1.146), Berolzheimer (RC 1.166) and Herbert Gutmann (RC 1.157). It advised restitution in all these cases.

The Committee also took all the interests involved into account in the NK recommendation Lierens (RC 1.169) before advising restitution. Although the Restitutions Committee can recommend outcomes other than restitution on the grounds of the changed assessment framework, it did not see cause to do so in the cases that were eligible.

A final provisional conclusion concerns the State Secretary’s expectation in 2012 that the number of claims to artworks in the NK collection ‘will slowly but surely dry up’. This expectation does indeed appear to have been met. At the end of 2019 the Restitutions Committee was considering only two cases concerning artworks from the NK collection. It is known from past experience that this conclusion can by definition only be provisional.

2.6 Evaluation of Restitution Policy in 2020

At the request of the Minister of OCW, in 2020 Dutch restitution policy will be evaluated by the Council for Culture. In a letter of 17 December 2019, the Minister asked the Council for Culture to set up an advisory committee to carry out the following tasks:

- Evaluating the current policy concerning Second World War looted art focusing on the legal and moral aspects.
- Advising about possible policy improvements.

The Minister requested that the committee to be set up includes in its evaluation in any event the following aspects:

- The relationship between Dutch policy and the international guidelines, the Washington Principles;
- A comparison between Dutch policy and the restitution policies in other countries, particularly those with a comparable restitution policy;
- The accessibility to and knowledge about the restitution policy, focusing on the suffering of the victims and the dialogue with their heirs;
- The use of and need for other forms of individual restoration of rights;
- The policy’s three cornerstones and whether they need further work;
- The relationship between the policy and developments in the field of inheritance and restitution.

The intention is that the Council issues advice before 1 October 2020, after which the Minister will lay a response before the Lower House.

3. The Restitutions Committee

Members of the Restitutions Committee and the Supporting Staff

The composition of the Restitutions Committee during the year under review was as follows:

Dr A. Hammerstein (Chair)
E.H. Swaab (Vice-Chair)
Dr S.G. Cohen-Willner (from 13 May 2019)
J.H.W. Koster
Dr J.H. van Kreveld
D. Oostinga
Dr G.N. Verschoor (until March 2019)
Dr C.C. Wesselink

Dr G.N. Verschoor stepped down as a committee member in March 2019 in connection with her appointment as director of the Camp Westerbork Memorial Centre. She has been replaced by Dr S.G. Cohen-Willner, who was appointed by the Minister of OCW with effect from 13 May 2019 for a three-year period.⁵ Chair Dr A. Hammerstein and Committee Member J.H.W. Koster were reappointed on 23 December 2019 for a three-year period.⁶

In 2019 the Committee appointed Dr J.F. Cohen as its permanent advisor. He is a historian, author and biographer. He was previously a researcher at the NIOD Institute for War, Holocaust and Genocide Studies. In 2015 he was awarded a doctorate for his thesis *De onontkoombare afkomst van Eli d'Oliveira. Een Portugees-Joodse familiegeschiedenis* [*The Inescapable Descent of Eli d'Oliveira, a Portuguese Jewish Family History*].

The members of the Restitutions Committee are 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.

⁵ Appointment decision, *Netherlands Government Gazette*, 21 May 2019, no. 27960.

⁶ Appointment decision, *Netherlands Government Gazette*, 13 November 2019, no. 61655.

4. A Look Back at 2019

4.1 Cases under Consideration in 2019

In 2019 the Restitutions Committee held nine meetings and organized hearings in two cases. During the year under review twenty-one cases were considered. Seven of them arose from the *Museum Acquisitions since 1933* investigation.⁷ In 2019 the Committee issued three recommendations and two binding opinions.⁸ In one binding opinion case, the Committee stopped handling it and closed the file without issuing an opinion. The Committee will advise or give an opinion about the remaining cases in 2020 or thereafter.

4.2 Meetings in 2019 About Restitution of Nazi Looted Art

In 2019 restitution of Nazi looted art was once again very much in the spotlight. 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 Restitutions Committee organized two meetings itself.

On 22 January 2019 the Netherlands Cultural Heritage Agency, in cooperation with the NIOD Institute for War, Holocaust and Genocide Studies and the Restitutions Committee, staged a meeting entitled *De restitutieprocedure WOII in de praktijk* [*The Second World War Restitution Procedure in Practice*]. This meeting focused on the consequences of the changes in the execution of the restitution policy, in particular the establishment on 1 September 2018 of the Second World War and Restitution Applications Expertise Centre (NIOD), and was intended to give an explanation of them. During this meeting Secretary Idema clarified how the different restitution procedures in the Netherlands work and the Expertise Centre described this new organization's tasks and working practices.

On 17 May 2019 the Restitutions Committee and the Expertise Centre organized an experts meeting entitled *Roof en restitutie - balans en perspectief. Een terugblik op het werk van de Restitutiecommissie en de betekenis daarvan voor het vraagstuk van koloniale cultuurgoederen*. [*Looting & Restitution - Balance and Perspective: A Look Back at the Work of the Restitutions Committee and Its Significance Regarding the Issue of Colonial Cultural Material*.] This meeting was arranged on the occasion of the departure of H.M. Verrijn Stuart as a member of the Restitutions Committee. Verrijn Stuart was a member of the Committee since its establishment in 2001 until the end of 2018. This experts meeting was divided into two parts. In the first part, entitled *De Restitutiecommissie: een balans* [*The Restitutions Committee: A Balance*], Verrijn Stuart described her experiences as a committee member. After that Professor M. Weller (University of Bonn) gave a lecture about the research project he has set up

⁷ For more information about this investigation see <http://www.musealeverwervingen.nl> and *Report 2011*, section 4.3.

⁸ The complete texts of the recommendations and binding opinions issued in 2019 are in chapter 6.

entitled *Towards 25 Years of Washington Principles on Nazi-Confiscated Art: Time for a Restatement of Restitution Rules?* This first part was concluded with a panel discussion, moderated by R.W. Polak, between Professor W.J. Veraart (VU Amsterdam), former Secretary of the Restitutions Committee and researcher E. Campfens (Leiden University) and Chair Hammerstein.

The second part of the experts meeting focussed on looted colonial art under the title *Roof en Restitutie: een mondiaal perspectief [Looting and Restitution: A Global Perspective]*. The speakers were the aforementioned Campfens and J. van Beurden (looted colonial art researcher, VU Amsterdam). This second part ended with a panel discussion, moderated by Professor F. van Vree (Director of the NIOD), between Dr H. Lidchi (National Museum of World Cultures), W. Manuhutu (Manu2U, Culture, Heritage and Diversity) and Dr K. Breemen (Expertise Centre NIOD).

Beside these two meetings, 2019 also saw various international conferences. On 18 and 19 June, for example, Prague hosted the conference *The Terezín Declaration: Ten Years After*, organized by the Documentation Centre for Property Transfers of the Cultural Assets of WW II Victims. Secretary Idema attended it.

On 15 November in Paris the French Commission pour l'indemnisation des victimes de spoliations (Commission for the Compensation of Victims of Spoliation - CIVS) staged the conference *Twenty Years of Reparation for Anti-Semitic Spoliations During the Occupation: Between Compensation and Restitution* on the occasion of its twentieth anniversary. Chair Hammerstein, Committee Members Oostinga and Van Kreveld and Secretary Idema attended this conference.

On 11 and 12 December Chair Hammerstein attended the conference *The Restitution Dialogues: A Transnational Conversation on Cultural Loss, Return and Renewal* in Tel Aviv.

4.3 International Cooperation Network of European Restitution Committees

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 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.

In 2019 the Network was chaired by the French Commission for the Compensation of Victims of Spoliation (CIVS; France). Activities in 2019 under the CIVS's supervision included publishing five newsletters containing presentations from the five committees and five case studies. The Network's working group met in Paris on 5 April 2019. Secretary Idema was present. The conference on 15 November 2019 in Paris on the occasion of the CIVS's twentieth anniversary was attended by representatives of the five committees. During it the plans for further cooperation within the Network were discussed. This conference also saw the presentation of a Guide about the Network and the publication of a report by Dr Charlotte Woodhead (University of Warwick) entitled *Implementing Recommendation 3 of the 2017 London Conference Action Plan*. The Austrian restitution committee will chair the network in 2020.

4.4 International Developments

More than twenty years after the Washington Principles, restitution is by no means over and done with. Thanks, among other things, to provenance research and digitization, new possible cases of Nazi looted art are being discovered every year. Although the Washington Principles were signed by forty-four countries, a restitution committee to enable restitution has been set up in only five of them. In countries without a restitution committee, claimants have no choice but to go to court, and in many cases that option is not available or has little chance of success. The problems caused by Nazi looted art are therefore not solved. These problems affect first and foremost family members of former owners whose artworks were stolen under the Nazi regime. They have no prospect of a fair and just solution. Current owners are also affected, however, because they have art in their possession with a suspect war provenance. These problems are not limited to a single or a few countries, which makes the international approach to Nazi looted art very important.

This annual report is not the place to describe all the international developments and events in 2019. The website of the Commission for Looted Art in Europe (www.lootedart.com) is a good source in this regard. Two developments are worth mentioning here however.

On 17 January 2019 the European Parliament adopted the resolution *Cross-border restitution claims of works of art and cultural goods looted in armed conflicts and wars* (2017/2023). On 3 December 2019 this resolution was followed by a hearing of the European Parliament's Committee on Legal Affairs (JURI).

April 2019 saw the start of the research project *Restatement of Restitution Rules* at the University of Bonn under the supervision of Professor M. Weller. This project seeks to make a comparative analysis of international practice relating to Nazi looted art. The objective is to formulate general rules on the grounds of this analysis that can be used in practice. In this project the focus is on the five countries that have a restitution committee, including the Netherlands. Publication of this project's results is expected in 2024.

5. Overview of Restitutions Committee Recommendations and Opinions

5.1 Overview from 2002 to 2019

Between January 2002, when the Restitutions Committee took up its duties, and the end of 2019, the Minister of OCW requested advice or an opinion about 182 cases. Of these, 153 related to items of cultural value from the Dutch National Art Collection; 144 were requests for advice ‘in the first instance’ and nine concerned requests for reconsideration of previously issued advice. The other 29 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 2019 the 153 Dutch National Art Collection cases brought before the Committee resulted in the issue of 143 recommendations.⁹ 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 143 recommendations issued, 68 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 143 recommendations issued concerned approximately 1,600 claimed items of cultural value.

⁹ 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 7 for an index by case number of all the opinions and recommendations issued by the Committee during the 2002-2019 period.

Dutch National Art Collection cases per year

Submitted to the RC		Recommendations issued by the RC	
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	-
2019	1	2019	3
Total	153	Total	143

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 2019 the Restitutions Committee received 29 requests for an opinion in the context of this task and issued binding opinions in a total of 18 cases,¹⁰ of which two in the year under review.¹¹ In 10 of these 18 cases the ruling was to restitute the disputed objects, the binding opinion in seven cases was that the restitution application should be rejected, in one case it was decided not to take a request under consideration, and in one case the handling of the case was stopped and the file was closed without issuing an opinion.

¹⁰ See *Report 2008*, *Report 2010*, *Report 2012*, *Report 2013*, *Report 2015*, *Report 2016*, *Report 2018* and chapter 6 of this report.
¹¹ See under chapter 6 the binding opinions RC 3.172 (drawing *Jewish Quarter in Amsterdam* by Max Liebermann) and RC 3.170 (Painting *Mountainous Landscape* by Jacob van Geel).

Binding opinion cases per year

Submitted to the RC		Binding opinions issued by the RC	
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 ¹²
2017	3	2017	-
2018	-	2018	3
2019	5	2019	2
Total	29	Total	18

5.4 Status at the End of 2019

At the end of the year under review a total of fifteen cases were being dealt with, of which six concern the Dutch National Art Collection and nine are binding opinion cases.¹³

¹² This concerns a decision and not a recommendation. See *Report 2016*, chapter 6, Decision concerning eleven majolica plates (RC 3.153).
¹³ One binding opinion case lapsed while another was closed without an opinion, and consequently there are nine to consider instead of eleven.

6. Opinions and Recommendations Issued in 2019

Below is the full text of the opinions and recommendations issued by the Restitutions Committee in 2019. The opinions and recommendations are given in chronological order. The dates given for opinions and recommendations are based on when they were finalized.¹⁴

1. Recommendation regarding Lierens
(case number RC 1.169)

In a letter dated 16 March 2017 the Minister of Education, Culture and Science (hereinafter referred to as the Minister) asked the Restitutions Committee (hereinafter referred to as the Committee) for advice about the application for the restitution of two paintings from the Netherlands Art Property Collection (hereinafter referred to as the NK collection), namely:

- NK 2584, Dirck Franchoisz Hals and Dirck van Delen, *Banquet Scene with Musicians and Shuffle Board Players in an Interior*, currently on loan to the Frans Hals Museum in Haarlem;
- NK 2711, Jan Davidsz de Heem, *Still Life with Glass, Glass Stand and Musical Instruments*, currently on loan to the Centraal Museum, Utrecht.

The restitution application was submitted to the Minister in a letter of 30 January 2017 from the authorized representative of:
AA of XX,
BB of XX,
CC of XX,
DD of XX, and
EE, of XX
(hereinafter jointly referred to as the Applicants).
The Applicants stated that they are the grandchildren or great-grandchildren of Jacob Lierens (1877-1949), who lost possession of the two paintings involuntarily as a result of circumstances directly connected with the Nazi regime. The Applicants are represented by J. Palmer and N. Parke-Taylor, both of Mondex Corporation, Canada, and assisted by G.J.T.M. van den Bergh and M. Visser, lawyers of Amsterdam. In this case the Minister had herself represented by the Netherlands Cultural Heritage Agency (RCE).

Assessment Framework

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

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

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

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

Pursuant to paragraph 6, when discharging its advisory task as referred to in the first paragraph, the Committee will give great weight to the circumstances of the acquisition by the owner and the possibility that there was knowledge about the suspect provenance at the time of the acquisition of the item of cultural value concerned.

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

¹⁴ See Appendix 7 for an index by case number of all the opinions and recommendations published by the Committee during the 2002-2019 period.

The Procedure

The Committee conducted an investigation into the facts in response to the Minister’s request for advice. The results of the investigation are recorded in an overview of the facts dated 28 May 2018. The Applicants responded to it in a letter dated 10 September 2018. The Minister stated in an email dated 11 September 2018 that she did not have any comments on the overview of the facts. The Applicants sent further responses in letters dated 18 January 2019, 23 January 2019 and 25 January 2019. They also submitted a number of new documents.

There was a hearing on 28 January 2019. G.J.T.M. van den Bergh and M. Visser, both lawyers of Amsterdam, accompanied by their colleague A. van Hoek, and J. Palmer, K. Gourdie and W. de Boer, all with Mondex Corporation, appeared on behalf of Applicants. FF, consultant with the RCE, GG, head of collections at the Frans Hals Museum, HH, director of the Centraal Museum, and II, head of collection management at the Centraal Museum, appeared on behalf of the Minister.



2. *Banquet Scene with Musicians and Shuffle Board Players in an Interior* by Dirck Franchoisz Hals and Dirck van Deelen (NK 2584)

Considerations

- 1. The Committee established the relevant facts on the grounds of the overview of facts of 28 May 2018, the responses to it that the Committee received and the proceedings of the hearing. The following summary is sufficient here.

Jacob Lierens

- 2. Jacob Lierens (hereinafter also referred to as Lierens) was born on 5 February 1877 in Amsterdam. On 22 December 1898 in Amsterdam he married Johanna Benavente (1877-1956) in community of property. The couple had four daughters, Elisabeth, Rebecca, Branca and Esther: Elisabeth died in 1930. The Lierenses lived in Villa Johanna at Amsteldijk 196 in Amsterdam. The couple owned an extensive collection of paintings and other artworks. It is stated in a file in the Central Archives for Special Criminal Jurisdiction that Lierens had a foster daughter, Sophia Emma Dribbel (1891-1978). One of her sisters, Louise Dribbel, was married to Leman Lierens, Jacob’s brother. During the nineteen-thirties another sister, Marie Dribbel, lived at Den Texstraat 32 in Amsterdam. Jonas Alexander van Bever (1878-1943) also lived at this address. According to a 1926 advertisement he was a broker who, among other things, *‘het uitvoeren van opdrachten voor de veilingen FRED. MULLER & CO’* [‘carried out commissions concerning the sales of FRED. MULLER & CO’].

- 3. Lierens was a partner in the firm L. Lierens & Co., a *‘Handel in oud en nieuw papier, lompen, metalen enz.’* [‘Dealership in new and waste paper, rags, metals etc.’] at Prinsengracht 353-355. With effect from 1 May 1940 the business was made a general partnership, with the aforementioned Sophia Dribbel as a partner. Prior to that she had been an employee of the business with power of attorney. Jacob Lierens is referred to as *‘Jac. Lierens’* several times in the Commercial Register of the Amsterdam Chamber of Commerce. Initially Lierens signed declarations about the business *‘J. Lierens’* and from the nineteen-forties *‘Jac. Lierens’*.
- 4. The Lierens family suffered increasingly as a result of the anti-Jewish measures taken by the occupying forces. On the grounds of the Removal of Jews from the Business Community Regulation (VO 48/41), on 27 March 1941 the German Michael Hüllen was appointed administrator of the family business. Hüllen became the owner on 31 March 1942. Initially Lierens continued working in the firm as an employee, but in due course he was excluded from it. Sophia Dribbel remained with the business. Lierens’s residence at Amsteldijk 196 was confiscated in March 1942 and the household effects were seized by the occupying forces. In 1943 Lierens and his wife were interned in Westerbork transit camp. They were released in August 1943 after they had surrendered jewellery worth NLG 75,000, and they then went into hiding. During the occupation Bernardus Mensing, a partner in the Frederik Muller & Co auction house, helped to keep the Lierens *‘collectie antiquiteiten’* [‘collection of antiquities’] safe. According to a 1947 statement by Mensing, he also sold goods from the Lierenses’ possessions while they were in hiding in order to provide the Lierenses with *‘een dragelijk leven te verschaffen’* [‘a bearable existence’]. On 21 May 1945 Lierens wrote a letter to Mensing thanking him for his efforts. This letter gives his address as *‘J. Lierens / Amsteldijk 196’* and is signed *‘Jac. Lierens’*.
- 5. Lierens and his wife survived the war, as did their daughter Esther and her family, who had gone into hiding, and their daughter Rebecca and her family, who had fled to New York in 1939. Their daughter Branca Roselaar-Lierens and her husband Emanuel Roselaar did not survive the war. They were murdered in Auschwitz in September 1942. After the war Lierens and his family conducted various restoration of rights legal proceedings and were awarded compensation for, among other things, the loss of household effects and jewellery. During the investigation no indications were found about whether Lierens or his family tried after the liberation to get back artworks. Lierens died on 30 May 1949 in Amsterdam. Afterwards his widow emigrated to the United States in order to live with her daughter Rebecca. In October 1949 there was a sale of artworks from the Lierens estate at Frederik Muller.
- 6. Detailed information about the two currently claimed NK works is to be found in the overview of the facts of 28 May 2018 and is referred to, in so far as necessary, in considerations 9 to 19.

Assessment of the Claim

- 7. The Applicants are descendants of Jacob Lierens. The Committee has no reason to doubt the Applicants’ status as heirs of Jacob Lierens.
- 8. The restitution application concerns two paintings that are part of the NK collection. Since the present application was submitted after 30 June 2015, the Committee must give advice about this application on the basis of the yardsticks of reasonableness and fairness. In an assessment on the basis of these yardsticks it is furthermore the case that the return of a claimed item of cultural value can only be recommended if it has been established that the right of ownership is highly likely and if there are no indications that contradict this, as expressed in the eighth recommendation of the Ekkart Committee in 2001. In the explanatory notes to this recommendation the Ekkart Committee wrote that conclusive proof of ownership and of the correctness of the course of events relating to the loss of possession described by former owners is often difficult to provide, in part because in many cases the documentary evidence was lost as a result of conditions during the war. It is necessary, also in the Committee’s opinion, when assessing the burden of proof that the benefit of the doubt should be on the side of the applicants and not on that of the State.

Ownership of NK 2584

- 9. NK 2584, *Banquet Scene with Musicians and Shuffle Board Players in an Interior* by Dirck Franchoisz Hals and Dirck van Delen is an oil painting on panel, dated 1628, measuring 92.5 by 156.5 cm. The information about this painting includes the following. NK 2584 was offered for sale on 24 May 1921 at the Frederik Muller auction house in Amsterdam. It was listed as a work by Van Delen in the sale catalogue (lot number 10, with illustration) and was sold for NLG 3,800. It is known that Lierens purchased two other paintings at this sale. NK 2584 was once again offered for sale at the Frederik Muller auction house on 14 October 1941. It is listed as a painting by Van Delen in the sale catalogue (lot number 301, with illustration). According to this catalogue the painting came from *‘II. Diverse verzamelingen en nalatenschappen’* [‘II Various collections and estates’]. D.A. Hoogendijk bought the painting at this sale for NLG 9,020 (NLG 8,200 plus 10% buyer’s premium). The painting was then sold on 20 October 1941 to the P. de Boer gallery for NLG 13,020. The De Boer gallery sold the painting in November 1941 to *‘Posse’*

(the German art historian Hans Posse, head of the Sonderauftrag Linz [Special Mission Linz]). The painting was returned from Germany to the Netherlands in 1946.

10. The De Boer gallery wrote the following about NK 2584 in a letter to the Netherlands Art Property Foundation (the SNK) of 23 May 1950. ‘45. *Gekocht veiling Fred. Muller, Octo 1941. Was eigendom van den Heer J. Lierens, die het vrijwillig in veiling gegeven had.*’ [‘45. *Bought at Fred. Muller sale, October 1941. Was the property of Mr J. Lierens, who put it into the auction voluntarily.*’]. Alongside there is a handwritten question mark, possibly added by the SNK or its successor, the Bureau for Restoration Payments and the Restoration of Property (Bureau Hergo). Frederik Muller wrote the following in a letter of 16 April 1951 in response to a request for information from Bureau Hergo of 12 April 1951. ‘*Het schilderij van D. Hals & D. v. Deelen was van wijlen de Heer Jac. Lierens en bracht F. 8200.—op.*’ [‘*The painting by D. Hals & D. v. Deelen belonged to the late Mr Jac. Lierens and the proceeds were NLG 8,200.*’] The following was subsequently noted on a transcript of the request for information to Frederik Muller of 12 April 1951. ‘*Volgens schr van Frederik Muller en Co [dd 16/4 51] was dit sch. van Jac Lierens overleden. Dientengevolge kunnen geen verdere naspeuringen worden gedaan.*’ [‘*According to letter from Frederik Muller & Co [dated 16/4 51] this painting belonged to the deceased Jac Lierens. Consequently no further inquires can be made.*’]
11. On the grounds of the above information, read in conjunction with the letter of 21 May 1945 from Lierens to the partner in Frederik Muller, Mensing, and the known fact that Jacob Lierens signed his name as ‘*J. Lierens*’, and from the nineteen-forties onwards as ‘*Jac. Lierens*’, in the Committee’s opinion it is highly likely that at the time of the sale at Frederik Muller on 14 October 1941, NK 2584 belonged to Jacob Lierens.

Ownership of NK 2711

12. NK 2711 is a still life with glass, glass stand and musical instruments by J.D. de Heem. It is painted in oil on canvas and measures 139.5 x 114.1 cm. Provenance research into NK 2711 is made more difficult because a copy of the work exists and in art historical sources its provenance is sometimes confused with that of NK 2711. The differences between the two paintings include the depiction of a book in the copy, while there is no such book in NK 2711. The previously available provenance information, such as on the Origins Unknown Agency (BHG) website, does not link NK 2711 directly to Lierens. The Applicants have referred, however, to information from which it is possible, in their opinion, to conclude that NK 2711 belonged to Lierens. Some of this information relates to paintings with a provenance similar to that of NK 2711. The relevant information is summarized below.
13. NK 2711 went under the hammer at the Frederik Muller auction house on 16 December 1919. It was included in the sale catalogue as lot number 29, with an illustration. In an annotated copy of the sale catalogue held by the University of Amsterdam there is a handwritten note - ‘8500 / (*v Bever*)’ - next to the painting’s entry. There are no personal data about ‘*v Bever*’ in the catalogue. According to the Applicants the person concerned is Jonas Alexander van Bever, referred to above under 2.
14. A number of old master paintings went under the hammer at Frederik Muller on 12 April 1921. According to the catalogue the sale was of ‘*une partie de la collection August Janssen qui se vend à la requête de la famille*’. It can be seen from handwritten notes made by Cornelis Hofstede de Groot in a copy of the sale catalogue that an eighth painting was offered in addition to the seven works listed in typescript. Hofstede de Groot described this work as follows. ‘*4a Rijk stillevan van J.D. de Heem*’ (zonder afbeelding) [‘*4a Sumptuous still life by J.D. de Heem*’ (without illustration)]. He also noted the following: ‘*ingezet f 9000 / V [?] / 10.200 Makelaar v. Bever voor Lierens*’ [‘*guide price NLG 9,000 / V [?] 10,200 Broker v. Bever for Lierens*’]. The same information is also on an index card, submitted by the Applicants, from Hofstede de Groot’s card index in the RKD. The painting was described in another annotated copy of the sale catalogue as, ‘*4a. Groot stillevan door J.D. de Heem, reeds +/- 2 jaar geleden in veiling bij F Muller & Co.*’ [‘*4a. Large still life by J.D. de Heem, in auction at F Muller & Co. approx. 2 years ago.*’] Alongside was a note, ‘*NLG 10.200 / v. Bever (voor [for] Lierens)*’.
15. The Applicants contend that this painting is NK 2711 and in this context refer, among other things, to the note that the painting had been in a sale at Frederik Muller approximately two years before. According to the Applicants, none of the paintings by De Heem sold by auction at Frederik Muller during the 1917-1920 period other than NK 2711 fits the description ‘*groot stillevan*’ [‘*large still life*’]. The Applicants furthermore refer to the painting *Lachende jongenskop* [Portrait of a Laughing Boy] by I. Luttichuijs. Like NK 2711, this painting was put into the auction at Frederik Muller on 12 April 1921. Two annotated copies of the sale catalogue in the RKD have handwritten notes alongside the work by Luttichuijs containing ‘*Mr. v Bever voor [for] Lierens*’ and ‘*v. Bever (voor [for] Lierens)*’.
16. In its provenance, the BHG states that in 1925 NK 2711 was at the P. Cassirer gallery in Berlin and in 1935 it was at the Lempertz auction house in Cologne. This provenance is not secure however.

17. During the German occupation NK 2711 was put up for auction on the first day of the sale referred to above on 14 to 17 October 1941 at the Frederik Muller auction house in Amsterdam. In the sale catalogue the work is listed as lot number and illustration 311, with the statement ‘*Tentoonstelling Kaiser Friedrich Museum Berlijn 1906*’ [‘*Exhibition the Kaiser-Friedrich-Museum in Berlin, 1906*’]. According to the catalogue the painting came from ‘*II. Diverse verzamelingen en nalatenschappen*’ [‘*II. various collections and estates*’], as did NK 2584 (lot number 301) and the aforementioned painting *Lachende jongenskop* [Portrait of a Laughing Boy] by Luttichuijs (lot number 318). The Applicants point out that the lot numbers are close together, which according to them indicates that the works came from the same collection. After Lierens’s death the Luttichuijs painting went under the hammer at Frederik Muller once again on 21 October 1949 as one of five paintings from the ‘*Collection de feu M.– Jacob Lierens à Amsterdam / Tableaux anciens et modernes*’. According to the Applicants this means that Lierens got the painting back again after the sale in 1941.
18. NK 2711 was acquired at the sale at Frederik Muller on 14 October 1941 for NLG 34,000 via an intermediary for Hans Posse on behalf of the Special Mission Linz. The D. Katz gallery in Dieren is mentioned in regard to the provenance of NK 2711 in various documents. These sources are not unambiguous. In its recommendation RC 1.90-B of 17 December 2012, the Restitutions Committee concluded that it was not sufficiently plausible that NK 2711 was the property of the Katz gallery. The painting was returned from Germany to the Netherlands in 1946.



3. *Still Life with Glass, Glass Stand and Musical Instruments* by Jan Davidsz de Heem (NK 2711)

19. The Committee now addresses the question of whether it concurs with the Applicants’ assertion that Lierens acquired NK 2711 in the sale at Frederik Muller on 12 April 1921 and that the painting ceased to be in his possession in the sale at Frederik Muller on 14 October 1941. The Committee answers this question in the affirmative taking the following into account.
- It has been established that NK 2711 went under the hammer at Frederik Muller on 16 December 1919;
 - On 12 April 1921 at Frederik Muller a painting was sold that Hofstede de Groot described as ‘*4a Rijk stillevan van J.D. de Heem*’ [*4a Sumptuous still life by J.D de Heem*]. In view of this description and the note that this painting was also sold at Frederik Muller two years before, it is plausible that NK 2711 is the work concerned;
 - This painting was purchased in the sale by ‘*Makelaar v. Bever voor Lierens*’ [*Broker v. Bever for Lierens*]. It is plausible that this refers to Jonas Alexander van Bever, who bought at least one other painting in this sale for Lierens, namely *Lachende jongenskop [Portrait of a Laughing Boy]* by Luttichuijs;
 - It has been established that this latter painting and NK 2711 were sold at auction once again at Frederik Muller on 14 October 1941, together with NK 2584, which very probably belonged to Lierens. The painting by Luttichuijs was also put into the sale of 12 April 1921 at Frederik Muller, and by the time Lierens died in 1949 it was once more in his collection.

On the grounds of the above information, looked at as a whole, in the Committee’s opinion it is highly likely that at the time of the sale at Frederik Muller on 14 October 1941, NK 2711 belonged to Jacob Lierens.

Loss of possession

20. It follows from the above that Jacob Lierens lost possession of NK 2584 and NK 2711 on 14 October 1941 as a result of their sale, and it can be assumed that this was done on his instructions and with the cooperation of Mensing. In the assessment of the nature of the loss of possession, significance is attributed to the Ekkart Committee’s third recommendation of 26 April 2001, which stipulates that a sale by a private Jewish individual in the Netherlands after 10 May 1940 must be considered to be involuntary, unless the facts expressly show otherwise. The Committee concludes that there are no indications of such facts. It is plausible that the sale of the paintings was connected to the measures taken by the occupying forces against Jewish members of the population and took place in order to save the couple’s lives. Given these measures and the threat they represented, Lierens was not able to continue running his business and he was robbed of his income and possessions. He was consequently forced to have part of his collection converted into cash. The sale at the auction in 1941 of NK 2584 and NK 2711 by Lierens must therefore be considered as involuntary.

Reasonableness and fairness

21. The Committee has an obligation to advise on the present restitution application on the basis of the yardsticks of reasonableness and fairness, and it must therefore take all the interests involved into account. These yardsticks also imply that very great weight is given to the way in which possession was lost and to the need to right wrongs committed during, and as a result of, the Nazi regime. The restitution application concerns two works returned to the Netherlands after the end of the Second World War that were taken into custody by the Dutch State with the express instruction to return them – if possible – to the rightful claimants or their heirs. As explained in 20, the Committee is convinced that Lierens lost possession of the paintings under duress resulting from the dire circumstances caused by the occupying forces. In the Committee’s opinion, giving advice about claims to works in the NK collection on the basis of the yardsticks of reasonableness and fairness does not change the underlying principle that if, as in this case, the requirements of ownership and involuntariness are met, the recommendation has to be to restitute without further weighing up of interests.
22. The Minister put forward two recommendations from the Protection Worthiness Assessment Committee (hereinafter referred to as the TCB) and asked the Committee to include the content of both recommendations in the processing of the case, taking into account the specific provenance of both paintings. The TCB considers both paintings to be worthy of protection within the meaning of the Guidelines for Deaccessioning Museum Objects and the Dutch Heritage Act. The Committee points out that it has no task associated with implementation of the Heritage Act and that, on the grounds of this act, it is the Minister who takes the decision in respect of both the recommendations from the TCB. The Committee can involve the recommendations in its assessment in the context of applying the yardsticks of reasonableness and fairness, but in this case there is no reason to do so. In view of this the Committee will recommend restitution of NK 2584 and NK 2711 to the heirs of Jacob Lierens.

23. Finally, the Committee raises the question of whether a payment obligation should be specified in regard to restitution of both paintings in connection with a consideration received when the paintings were sold at auction. In view of what is known about the dire circumstances in which Lierens and his family lived at the time of the sale in October 1941 and thereafter, and given the advanced stage of the anti-Jewish measures taken by the occupying forces, it is highly unlikely that Lierens had free control of the proceeds of the sale. On the grounds of this there is no reason to link a payment obligation to the restitution of both paintings.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to restitute NK 2584 and NK 2711 to the heirs of Jacob Lierens (1877-1949).

Adopted on 16 April 2019 by A. Hammerstein (Chair), J.H.W. Koster, J.H. van Kreveld, D. Oostinga, E.H. Swaab (Vice-Chair) and C.C. Wesselink, and signed by the Chair and the Secretary.

(A. Hammerstein, Chair)

(E.J.A. Idema, Secretary)

2.

Binding opinion regarding the dispute about restitution of the drawing *Jewish Quarter in Amsterdam*, by Max Liebermann, currently in the possession of Amsterdam City Council.
(case number RC 3.172)

Date of binding opinion: 16 April 2019

Binding opinion

regarding the dispute between

AA, of XX, in his capacity as executor of BB’s estate;
CC, of XX;
DD, of XX, in his capacity as executor of EE’s estate;
FF, of XX,
all represented by Ellen R. Werther, lawyer of New York,
GG, of XX, represented by David J. Rowland, lawyer of New York;
(hereinafter referred to as the Applicants),

and:

Amsterdam City Council (hereinafter referred to as the City Council),
represented by the director of the Amsterdam City Archives, HH.

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 drawing *Jewish Quarter in Amsterdam* by Max Liebermann (hereinafter referred to as the drawing), has been in the possession of the City Council since1964. The drawing is held by the Amsterdam City Archives. The Applicants assert that the drawing belonged to the collection of Dr Gustav Kirstein (1870-1934) and his wife Therese Clara Stein (1885-1939), and after their deaths it belonged to their daughters Gabriele Heidi Lotte Kirstein (1905-1957) and Marianne Erika Kirstein (1907-1981). According to the Applicants, possession of the entire Kirstein Collection, including the currently claimed drawing, was lost as a result of the anti-Jewish measures taken by the Nazis. The Applicants asked the City Council to restitute the drawing. 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

The parties asked the Committee in separate letters, dated 23 May 2017 from the City Council and dated 12 July 2017 from the Applicants, to issue a binding opinion under the terms of article 2 paragraph 2 of the Decree Establishing the Restitutions Committee. The Minister of Education, Culture and Science informed the Committee of her agreement to this case being handled by the Committee. 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 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 2 July 2018. The parties responded to it.



4. Jewish Quarter in Amsterdam by Max Liebermann

3. The Facts

The Committee based its considerations on the following facts.

Kirstein Family

- 3.1 Gustav Kirstein (1870-1934) was married to Therese Clara Stein (1885-1939). Both were of Jewish descent. The couple lived in Leipzig and had two daughters - Gabriele Heidi Lotte Kirstein (1905-1957) and Marianne Erika Kirstein (1907-1981). From October 1899, Gustav Kirstein and his partner Arthur Seemann ran the renowned art publisher E.A. Seemann. Kirstein was a friend and patron of many leading artists of his day, including Max Liebermann, Lovis Corinth and Max Klinger. During his lifetime Gustav Kirstein accumulated a large art collection by such artists as Max Klinger, Max Liebermann, Edouard Manet, Adolph Menzel, Lovis Corinth, Käthe Kollwitz, Georg Kolbe, Carl Spitzweg and Hans Thoma.
- 3.2 The Kirsteins were affected by anti-Jewish measures after the Nazis came to power in Germany in 1933. Gustav Kirstein was forced to step down from various positions and to leave the publishing house he established. Afterwards Gustav Kirstein continued part of the publishing business independently. Gustav Kirstein died on 14 February 1934. His widow took over the publishing business until it was put under an administrator by the Nazis in 1938. The Nazis sold the business in 1942. In the spring of 1939 Clara Kirstein was compelled to hand over her family jewellery and silver. Her two daughters had

meanwhile fled to the United States because of their persecution by the Nazis. Clara Kirstein also wanted to flee there. She had to pay a large sum in taxes in order to do so. She therefore sold part of her art collection. The day before Clara Kirstein planned to leave Germany, her passport was seized and she was summoned to report to the Gestapo. She committed suicide on 29 June 1939. Her two daughters were her heirs.

Fate of the Art Collection

- 3.3 It can be concluded from the documentation that in 1939 and thereafter the art collection built up Gustav Kirstein was sold or offered for sale. A part went under the hammer on 28 April 1939 at the C.G. Boerner auction house and gallery in Leipzig. After Clara Kirstein's death, the Jewish executor of her estate, Dr Richard Marcuse, sold a number of artworks to the Bildermuseum in Leipzig. He had another part out into storage at the Boerner auction house.

A further part of the art collection was inventoried by the Hans Klemm auction house in Leipzig. This auction house was involved in the sale of Jewish possessions. The German publicist Thomas Ahbe described this auction house's methods using Kirstein's possessions as an example.

Wie die deutschen Juden um ihren Kunstbesitz gebracht wurden, illustriert eine Aufstellung des Auswanderergutes von Klara Theres K. [Clara Therese Kirstein, RC] Darunter befindet sich auch eine "Liste der jüdischen und entarteten Kunstwerken aus dem Nachlass von Frau Claire Kirstein". Der Verfasser führt Bilder von Lovis Corinth, Max Liebermann und Otto Engel auf. Am Ende der Liste wird der Klara Theres K. bescheiden: "Die hier aufgeführten Kunstwerken sind in Deutschland unverkäuflich und deswegen wertlos".

- 3.4 On the 'Liste der jüdischen und entarteten Kunstwerken aus dem Nachlaß von Frau Claire Kirstein' (hereinafter referred to as the Klemm list) referred to by Ahbe there are several hundred works, primarily drawings and prints, with specific mentions of the artists Lovis Corinth, Otto Engel, Berthold Kirstein and Max Liebermann. In many cases there is no description of individual works, with only the number of them being listed. This is also the case with most of the works by Max Liebermann, which are only specified as a group on the Klemm list.

*Max Liebermann: Alsterbassin.Oel
Netzefflickerin.Oel
Familienkreis.Oel
Kleines Kind.Oel
9 Pastelle
Porträt Kirstein.Kreide
108 Blatt Zeichnungen
119 Blatt Graphik*

It is not clear whether the drawings on the list were actually auctioned off by Klemm because of the auction house's comment about the works concerned being unsaleable in Germany.

- 3.5. On 25 November 1941 the Nazis promulgated the eleventh regulation under the *Reichsbürgergesetz* (Reich Citizenship Act), which stipulated that all Jewish refugees who had left Germany were stripped of their citizenship and their possessions reverted to the German state. The regulation furthermore stipulated that all possessions had to be reported to the Oberfinanzpräsident Berlin-Brandenburg. In a letter dated 2 May 1942 executor Marcuse sent a detailed specification of the contents of Clara Kirstein's estate. He also stated that the artworks previously lodged with C.G. Boerner were still there. In 1943 the Oberfinanzpräsident Berlin-Brandenburg issued instructions to have the remaining artworks in Kirstein's collection sold. According to the Applicants some of the artworks then went under the hammer at Boerner. Other works are said to have been sold privately.

After the War

- 3.6 On 23 December 1958 a lawyer, Dr Boekle from Tübingen, submitted a compensation claim to the West German government on behalf of Marianne Baer-Kirstein and the heir of her late sister Gabrielle Jacobsen-Kirstein on the grounds of the Bundesrückerstattungsgesetz (BRüG, Federal Restitution Law), which came into effect in mid-1957, concerning Clara Kirstein's stolen possessions. The request for compensation related, among other things, to silverware, household effects, the publishing business and 'Kunstgegenstände'. In a previous letter dated 18 December 1958 Boekle wrote that after her death Clara Kirstein had left a 'beträchtliches Vermögen' of which 'ihre Kinder und Erben nichts erhalten haben. Das gesamte Vermögen ging also verloren'. Boekle wrote that the art collection was still present after Clara Kirstein's death, but it was not known where the individual artworks ended up afterwards.

Herr Dr. Kirstein besass eine bekannte und wertvolle Sammlung von Kunstgegenständen, u.a. Bilder von Menzel, Corinth, Liebermann, Käthe Kollwitz sowie Skulpturen von Kolbe u.a. Diese Sammlung war beim Tode von Frau Kirstein noch vorhanden. Es ist noch nicht geklärt, wohin die einzelnen Gegenstände gekommen sind. Wir sind dabei, weitere Nachforschungen anzustellen, und werden weitere Unterlagen nachreichen.

Boekle wrote the following in a letter dated 11 July 1961.

Was die Kunstgegenstände anbetrifft, so handelte es sich um eine ausserordentlich wertvolle Sammlung. Es erscheint deshalb ausgeschlossen, dass diese samt und sonders in Leipzig geblieben sind. Teilweise befanden sich darunter auch Werke der sogenannten nichtarischen Kunst. Insoweit muss angenommen werden, dass sie vernichtet worden sind. Ich habe vergeblich versucht, Nachforschungen über den Verbleib dieser Kunstgegenstände anzustellen. Bisher konnte ich vom Kläger Einzelheiten nicht erfahren.

Boekle did succeed, however, in tracking down a notebook in the possession of Gustav Kirstein's former secretary, Mrs Bungter, describing the status of the collection in January 1917.

Dagegen ist es mir gelungen, ein Verzeichnis der Sammlung Dr. Kirstein zu erhalten. Die frühere langjährige Sekretärin von Herrn Dr. Kirstein, Frau Bungter, die heute in Leipzig lebt, hat mir ein Oktavheft übersandt, das sie noch in Besitz hatte und das ein Verzeichnis der Sammlung nach dem Stand vom 10.1.1917 enthält.

According to Mrs Bungter the art collection had not changed materially since 1917. Boekle stated there was no reason for Kirstein to sell works from his collection because his financial position was sound.

Frau Bungter versicherte mir in einem Schreiben, dass sich ihrer Ansicht nach der Bestand nicht wesentlicht verändert habe. Das dürfte auch der Erfahrung entsprechen, da Herr Dr. Kirstein ja in guten finanziellen Verhältnissen lebte und keinen Grund hatte, Bestandteile seiner Sammlung zu veräußern. Eine Durchsicht des Verzeichnisses zeigt, dass es sich um ausserordentlich wertvolle und teilweise berühmte Werke handelte...

The request for compensation was ultimately rejected in 1965.

The Currently Claimed Drawing

- 3.7 *Jewish Quarter in Amsterdam* by Max Liebermann is a pencil drawing measuring 300 x 222 mm and is dated to around 1876. It depicts Rapenburgwal. The following is known about the drawing's provenance. A photograph of the drawing was found in the Netherlands Institute for Art History (RKD) with the caption, 'Max Liebermann, Judenviertel in Amsterdam, Bleistiftzeichnung, 1876'. 'Kunst und Künstler, Oct. 1913' is written by hand on the photograph. This is a reference to the magazine *Kunst und Künstler* published by Paul Cassirer in Berlin. 'Verzeichnis der Sammlung aufgenommen 10/1.17' is written on the title page of an inventory of the Kirstein Collection that Boekle referred to in his letter of 11 July 1961. As stated above this inventory was found after the war in the possession of Kirstein's secretary. Of the approximately forty Max Liebermann drawings on the list, one is described as 'Amsterdam 76'. The drawing is depicted in Erich Hancke's 1923 book 'Max Liebermann' with the title 'Amsterdamer Gracht, um 1876', and stating regarding ownership 'Besitzer: Gustav Kirstein, Leipzig'.
- 3.8 On 3 December 1964 the currently claimed drawing went under the hammer at the Math. Lempertz'sche Kunstversteigerung in Cologne. The identity of the seller is not known. It can be seen, however, from the 'Verzeichnis der Besitzer' that this seller put only one lot into the sale, i.e. the currently claimed drawing. The sale catalogue has the following entry.

*403 AMSTERDAMER GRACHT 1 200.--
Bleistiftzeichnung. 29 x 20 cm. Bezeichnet unten rechts:
Judenviertel in Amsterdam -- Unter Glas gerahmt.*

Sammlung: Dr. Gustav Kirstein, Leipzig.

*Abbildungen:
Kunst und Künstler (Berlin 1914) Jahrgang XII, Seite 11.*

Erich Hancke. Max Liebermann (Berlin 1923) Seite 277.

...

The artwork was purchased at the sale by Amsterdam City Council for DM 1,300 after the City Council had made a bid in a letter. The purchase was financed by the Van Eck Fund.

4. The Positions of the Parties

- 4.1 The Applicants contend that the currently claimed drawing was part of the art collection built up by Gustav and Clara Kirstein. Although it is not known precisely when and how Clara Kirstein or her daughters lost possession of the currently claimed drawing, according to the Applicants it can be assumed that ownership of Gustav and Clara Kirstein’s entire art collection was lost as the result of their persecution by the Nazis. The Applicants have been attempting since around 2000 to find out where this collection is and to get it back. The Applicants describe their interest in restitution as ‘restoring ownership interests’.
- 4.2 The City Council states that the provenance of the currently claimed drawing was not known to it until it was approached by the Applicants. The City Council stresses that even if involuntary loss of possession is only slightly plausible, it will gladly cooperate in restitution of the drawing or come to an arrangement to purchase the drawing again. The City Council wrote the following about the importance of the drawing to it.

Het documenteren van het Joodse leven in Amsterdam is een belangrijk thema in de collecties van het Stadsarchief. Veel locaties in de voormalige Jodenbuurt zijn door de Tweede Wereldoorlog onherkenbaar veranderd of definitief verdwenen. In het algemeen zijn kunstenaars die het Joodse leven uitbeelden van groot belang voor onze collectie. Daarbinnen is Liebermann als zeer belangrijke buitenlandse kunstenaar die Amsterdam uitbeeldt zeer waardevol. Het Stadsarchief verzamelt zijn Amsterdamse werk (grafiek en tekeningen) en bezit een klein aantal tekeningen van zijn hand waarvan dit de vroegste is (het is ook een van de vroegste in Nederland gemaakte werken van Liebermann), gemaakt tijdens een lange studiereis naar Amsterdam waar bij onder meer het August Allebé door de Jodenbuurt wandelde. De tekening ‘Jüdenviertel in Amsterdam’ waarop de Rapenburgerwal en bewoners en passanten zeer precies en gedetailleerd is vastgelegd, is de enige negentiende-eeuwse afbeelding van deze locatie in onze collectie.

[Documenting the Jewish community and its way of life in Amsterdam is an important theme in the city archives’ collections. Many locations in the former Jewish quarter changed beyond recognition or definitively disappeared as a result of the Second World War. In general, artists who depict the Jewish community and its way of life are very important to our collection. In that context Liebermann, as a major foreign artist who portrayed Amsterdam, is very valuable. The City Archives collect his Amsterdam work (prints and drawings) and own a small number of his drawings, of which this is the earliest (it is also one of the earliest of Liebermann’s works made in the Netherlands). It was drawn on a long study trip to Amsterdam during which, among other things, he strolled through the Jewish quarter with August Allebé. The drawing ‘Jewish Quarter in Amsterdam’, in which Rapenburgerwal, residents and passers-by are represented with great precision and detail, is the only nineteenth-century image of this location in our 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 in its opinion 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 opinion of the respective importance of the work to both parties and of the public art stock. Internationally and nationally accepted principles such as the Washington Principles and the government’s policy guidelines concerning the restitution of looted art are incorporated in the assessment. 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 claim that they are jointly entitled to Clara Kirstein’s assets. In the Committee’s opinion they proved this sufficiently through the inheritance-law-related documentation they submitted.
- 6.2 On the grounds of the drawing’s provenance information described in 3.7 and 3.8 and the various references in it to Kirstein and the Kirstein Collection, it is sufficiently plausible that the drawing belonged to Gustav Kirstein’s collection. In view of the reference to it in Hancke’s 1923 book, it can be assumed that in that year in any event it was still in the collection but in 1964, after its acquisition by the City Council, it no longer was. The Committee now addresses the question of whether possession of the drawing during the intervening period was lost involuntarily as a result of circumstances directly linked to the Nazi regime. Based on the facts as stated in 3.3, 3.4 and 3.5, in the Committee’s opinion it can be concluded that Kirstein’s art collection was sold or confiscated during the period starting in 1939 as a result of persecution by the Nazis. In this connection reference can also be made to the statement by the lawyer Boekle that Clara Kirstein’s entire wealth was lost after her death and that her children received none of it. The question of whether the currently claimed drawing still belonged to the Kirstein Collection in 1939 is less easy to answer. There are no indications that the drawing was sold prior to 1939. There are, on the other hand, the following indications that the drawing still belonged to the collection in 1939:
- the statement by Kirstein’s former secretary, Mrs Bungter, that the art collection had not changed materially since 1917;
 - the statement by the lawyer Boekle that there was no reason for Kirstein to sell works from his collection;
 - according to the Klemm list, in 1939 there were many works by Liebermann in Kirstein’s collection, which indicates that the collection was still largely intact at that moment.

Given these indications and bearing in mind, to quote the Washington Principles, ‘*unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era*’, in the Committee’s opinion it is sufficiently plausible that possession of the drawing was lost as a result of circumstances directly linked to the Nazi regime.

- 6.3 The City Council acquired the drawing at a sale in 1964. Given the entry in the sale catalogue, it was known at the time of the acquisition that the drawing came from the Kirstein Collection. The Committee considers it unreasonable to hold that against the City Council in its assessment, however, because nothing more was known about the drawing’s origin than that it came from the Kirstein Collection, and at the time of the acquisition there were not yet any requirements on museums relating to robust proof of origin or any obligation to conduct an investigation. Under Dutch law it has to be assumed that the City Council is currently the drawing’s owner. The City Council has pointed out the drawing’s important place in the City Archives’ collection, as described in 4.2.
- 6.4 The Committee is entitled to consider all the interests when making an assessment on the basis of the yardsticks of reasonableness and fairness. In this case considerable weight is given to the way in which possession of the work was lost. The Applicants are mostly descendants of Gustav and Clara Kirstein, who built up a sizeable art collection, including the currently claimed drawing. Its possession was lost involuntarily as a result of circumstances directly related to the Nazi regime. The Committee finds that this outweighs the interests of the City Council in retaining the drawing. This leads to the conclusion that the Committee will advise restitution of the drawing to the Applicants.
- 6.5 This brings the Committee to the question of whether additional requirements should be linked to handing over the drawing in connection with the City Council’s explicit wish for an arrangement under which it can purchase the drawing again. The Committee asks the parties to consider making such an arrangement if they want to. Another question is whether something in return from the Applicants should be linked to surrender of the drawing. It is important in this regard that the City Council purchased the work in 1964 for a sum of NLG 1,352.75 and that there are no indications that the City Council did not act in good faith at the time. The Committee takes the view that the purchase price was a relatively modest sum, and that the City Council has after all had the benefit of the drawing since 1964. In these circumstances the Committee sees no reason to link surrender of the drawing to something in return from the Applicants.

- 7 On the grounds of the foregoing the Committee will advise restitution of the work to the Applicants.

BINDING OPINION

The Committee advises the City Council of Amsterdam to restitute the drawing *Jewish Quarter in Amsterdam* by Max Liebermann to the Applicants.

This binding opinion was issued on 16 April 2019 by A. Hammerstein (Chair), J.H.W. Koster, J.H. van Kreveld, D. Oostinga, E.H. Swaab (Vice-Chair) and C.C. Wesselink, and signed by the Chair and the Secretary.

(A. Hammerstein, Chair)

(E.J.A. Idema, Secretary)

3. Recommendation regarding Herbert Gutmann
(*case number RC 1.157*)

In a letter dated 24 June 2015 the Minister of Education, Culture and Science (hereinafter referred to as the Minister) asked the Restitutions Committee (hereinafter referred to as the Committee) for advice about the application for the restitution of thirteen objects from the Dutch National Art Collection. In a letter of 21 December 2017 the Minister added a further object to her request. The restitution application concerns pieces from the Stadholder Service, a Meissen porcelain service decorated with scenes in the Netherlands and the Dutch East Indies. On 28 November 2014 the lawyer Olaf Ossmann of Winterthur, Switzerland, submitted the restitution application to the Minister on behalf of AA and BB, CC, DD, EE and FF (hereinafter referred to as the Applicants). The Applicants contend they are entitled to the estate of Herbert Gutmann (1879-1942) and they assert that he lost possession of the currently claimed objects involuntarily due to circumstances directly related to the Nazi regime. In this case the Minister is represented by the Netherlands Cultural Heritage Agency (RCE).

Assessment Framework

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

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

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

Pursuant to paragraph 6, when discharging its advisory task as referred to in the first paragraph, the Committee will give great weight to the circumstances of the acquisition by the owner and the possibility that there was knowledge about the suspect provenance at the time of the acquisition of the item of cultural value concerned.

The Procedure

The Committee conducted an investigation into the facts in response to the Minister's request for advice. The results are recorded in an overview of the facts dated 16 April 2018. The Minister responded to it in an email dated 22 October 2018. The Applicants responded in letters dated 27 June 2018, 31 October 2018 and 21 February 2019.

There was a hearing on 4 September 2019. Applicant CC, the Applicants' lawyer Olaf Ossmann and Beate Schreiber of the research agency Facts & Files in Berlin, were present on behalf of the Applicants. On behalf of the Minister the hearing was attended by GG, consultant with the RCE, HH, lawyer with the Rijksmuseum, II, director of Het Loo Palace, and JJ, head of collection and information at the Zuiderzeemuseum.

In this case Dr J.F. Cohen assisted the Committee as an advisor.

Considerations

1. The Committee established the relevant facts on the grounds of the overview of the facts of 16 April 2018, the responses to it that the Committee received and the proceedings of the hearing. The following summary is sufficient here.

Herbert Gutmann

2. Herbert Gutmann was the son of the banker Eugen Gutmann (1840-1925) and his wife Sophie Magnus. The couple had seven children. Lili, Antonie, Walter, Herbert, Kurt, Max and Fritz. In 1898 Eugen Gutmann and his family, who were originally Jewish, converted to Protestantism. The children were raised as Protestants. The family was very interested in art and culture. Eugen Gutmann built up a famous art collection and many of his children went on to develop their own collections or undertake artistic activities. Eugen Gutmann was in a senior management position in the Dresdner Bank for 48 years. His son Herbert was trained as a banking professional and enjoyed rapid promotion. He was one of the founders of the Deutsche Orientbank in 1906. In 1910 he was appointed to the top management of the Dresdner Bank. In 1913 Herbert Gutmann married Daisy von Frankenberg und Ludwigsdorf (1889-1959). The couple had three children: Luca in 1914, Fred in 1916 and Marion in 1921. Initially the family lived variously in Berlin and Potsdam. After some time they moved permanently into a home on the Jungfernsee in Potsdam. The many alterations to Gutmann's residence, Herbertshof, that were undertaken were intended in part to provide suitable accommodation for his growing art collection.

3. There was a banking crisis in Germany in 1931. The German government was obliged to support a number of banks by injecting capital. The Dresdner Bank received a capital injection of 300 million Reichsmarks (RM) and in fact was actually partially nationalized on 20 August 1931. On 24 August 1931 the Deutsche Orientbank was partially taken over by the Dresdner Bank, for which purpose the German government provided 15 million RM to pay off the debts that had been incurred. After the national government had taken the emergency measures needed to restructure the banks' capital, it implemented various personnel changes. German Chancellor Heinrich Brüning had already announced that every guarantee given by the government was subject to the requirement that every member of the board would step down if that was desirable. The German government could impose this rearrangement without too many problems because it held the majority of the shares. Directors of various banks had to leave. The press was also demanding that bank directors, including Herbert Gutmann, should resign. On 9 September 1931 he was obliged to step down from his positions at the Dresdner Bank and the Deutsche Orientbank.

In the 1932 election campaign, the Nationalsozialistische Deutsche Arbeiterpartei (NSDAP) [National Socialist German Workers' Party (Nazi Party)] used the banking crisis and the Jewish descent of some of the directors who were held to be responsible for the crisis. Herbert Gutmann was one of the targets they attacked, as can be seen from the following election poster. Gutmann is on far left.



4. Gutmann received no further salary from the Dresdner Bank after his dismissal in 1931. To begin with, though, Gutmann continued to hold approximately 50 directorships in companies in Germany and beyond. In response to the banking crisis, however, on 19 September 1931 Brüning announced an emergency order under which a limit of 20 was imposed on the number of directorships per individual inside Germany. After that the number of Gutmann's directorships dropped, and his income from such positions also fell as a result.

The Assumption of Power by the Nazis

5. It was not long after the Nazis came to power in January 1933 that the Dresdner Bank was 'Aryanized'. Jewish employees lost their jobs en masse on the grounds of the April 1933 Gesetz zur Wiederherstellung des Berufsbeamtentums. Nazi party members were brought in, including at the bank's top management level.

The Nazi takeover of power soon had consequences for Gutmann and his family. He lost many of his directorships. The loss of a substantial number of these was due to the fact that the companies concerned no longer wanted Jews in such senior positions. Similarly many businesses no longer wanted any Jewish shareholders either. In 1933 the Nazi propaganda minister Joseph Goebbels took a personal interest in the transfer of the 9% of the shares in Auskunftei W. Schimmelpfeng GmbH, worth RM 90,000, that Gutmann owned. In 2015 the Bundesamt für zentrale Dienste und offene Vermögensfragen (Federal Office for Central Services and Unresolved Property Issues, BADV) decided to pay compensation in connection with this forced share transfer. The BADV considered Goebbels's role is this regard. *'Es ist fraglich, ob sich Goebbels 1933 für die Auskunftei Schimmelpfeng interessiert hätte, wenn nicht Herbert Gutmann Teilhaber gewesen wäre.'*

6. Gutmann ran into further financial difficulties starting in 1933. At the same time as his income was decreasing, he was faced with some substantial claims by the Dresdner Bank. One of these claims arose as a consequence of Gutmann's participation in the Dresdner Bank Aktien-Syndikat von 1927. Participants in the syndicate borrowed money from the Dresdner Bank in order to buy shares in the bank. The 1931 crisis was followed by measures to strengthen the Dresdner Bank, which was as good as insolvent. This gave rise to questions of whether liabilities were connected with participation in the aforementioned syndicate. Although legal advisers answered this question in the negative in 1932, the Dresdner Bank nevertheless demanded payment of a sum (20% of the nominal value) by the participants. Gutmann paid the amount requested by the Dresdner Bank, which in his case was RM 50,000, by accepting in May 1933 a monthly cut of RM 1,000 in the transitional payment of RM 42,000 a year to be paid by the Dresdner Bank. On 8 May 1933 Herbert Gutmann had a 'Sicherungshypothek' registered as security for the claim that the Dresdner Bank had on him.
7. A second claim made by the Dresdner Bank on Gutmann arose from the activities of the Deutsche Orientbank, of which Gutmann was one of the founders. Gutmann was a director of this bank and, together with other board members, had set up a syndicate that speculated in the price of Egyptian cotton by means of futures contracts (hereinafter also referred to as the Egyptian cotton fund). The four directors of the Deutsche Orientbank, including Gutmann, were guarantors for the results under the name 'Hugo Lindemann. Cte Special, Alexandrien'. Initially the Deutsche Orientbank closed the account with effect from 27 December 1932 and wrote off the debit balance of approximately 54,097 Egyptian Pounds (EGP). After the Deutsche Orientbank had been taken over completely on 16 March 1933 by the Dresdner Bank, with retroactive effect from 31 December 1932, the Dresdner Bank decided to investigate the former write-off. In so doing it was discovered that Gutmann and the other three directors had guaranteed the account concerned. On 22 December 1933 the head office asked the Dresdner Bank branch in Alexandria to reopen the previously written-off account. On 28 December 1933 the Dresdner Bank held Herbert Gutmann personally liable for settlement of the debt, which was valued at EGP 54,097, a sum corresponding approximately to RM 760,000, and Gutmann was asked to come up with proposals for paying this debt. The other three directors were also held personally liable by the Dresdner Bank.
8. According to an overview submitted by the Applicants, Gutmann's financial situation in December 1933 was as follows. He had total debts to the Dresdner Bank of RM 430,000, consisting of RM 50,000 arising from his participation in the Dresdner Bank Aktien-Syndikat, a debit account with the Dresdner Bank amounting to RM 200,000 and the debt arising from his guarantee of the Egyptian cotton fund amounting to his share of RM 180,000. In respect of these debts there were possessions with a total value of RM 520,000. These consisted of the mortgage on Herbertshof with a value of RM 200,000 and a share portfolio with a value of RM 320,000.
9. Gutmann answered the aforementioned letter from the Dresdner Bank of 28 December 1933 on 4 January 1934. In it he stressed that he was only 25% liable for the debts of the Egyptian cotton fund, like the other partners. As regards the proposals the bank requested for paying off his debts, Gutmann pointed out that he would pay his debts with the proceeds of selling Herbertshof in the event that the value of his share portfolio did not increase enough to enable him to fulfil his obligations. According to Gutmann, agreement was reached on the basis of this and the bank was not exposed to any risk whatsoever. He furthermore wrote *'Ich kann Ihnen aus irgendwelchen anderen Vermögenswerten nichts bezahlen'*, and asked the bank to wait until he had succeeded in selling Herbertshof. He expressly requested the bank not to force him to sell Herbertshof for an unfavourable price. At some point after this Gutmann must have decided to have his art collection auctioned off. There was a reference in a Dresdner Bank memo of 20 February 1934 about the proceeds of the 'Graupe-Auktion'. Gutmann's art collection went under the hammer at the Graupe auction house on 12, 13 and 14 April 1934. The proceeds were used to pay off Gutmann's debts to the Dresdner Bank.
10. As described above, part of the debts arose from Gutmann's involvement in the Egyptian cotton fund. It can be concluded from the available documentation that Gutmann was ultimately assessed for a quarter of the total debt of EGP 54,097, in other words EGP 13,524. This sum was in Egyptian Pounds and, depending on the current exchange rate, was equivalent to approximately RM 180,000 to RM 190,000. Gutmann received permission to pay this amount in Reichsmarks. After the art collection had been sold at auction, however, the Dresdner Bank decided in June 1934 that the total debt arising from the involvement in the Egyptian cotton fund should have been valued at only a quarter of the sum of EGP 54,097. It cannot be determined from the available documents, though, whether this was subsequently settled with Gutmann.

11. The three other directors of the Dresdner Bank or Deutsche Orientbank who had also guaranteed the Egyptian cotton fund were similarly held personally liable by the Dresdner Bank. Two of them, like Gutmann, were of Jewish descent. The only former director who was not of Jewish descent, Curt Lebrecht, owed substantial debts to the Dresdner Bank and had limited possessions to offset them. Yet the Dresdner Bank did not force Lebrecht to pay anything and ultimately concluded an agreement with him in 1938 about paying off his debts. Under this agreement Lebrecht's debts were reduced and the fifty-one-year-old was given the opportunity to pay off these debts by his sixty-fifth birthday at the latest.
12. On 28 April 1934, two weeks after the sale, the Gutmann family moved into the nearby Villa Alexander. On 30 June 1934, the Night of the Long Knives, real and suspected enemies of the NSDAP throughout the whole of Germany were imprisoned or murdered. Gutmann, who was well known as a supporter of the Deutsche Demokratische Partei (German Democratic Party), was arrested by the SS and taken to the Polizeipräsidium in Potsdam. That evening he was taken back to Villa Alexander, where he and nine other detainees, including Konrad Adenauer, were watched over by fourteen SS guards. They were set free the following day. On 12 November 1936 Gutmann left Germany and travelled to Switzerland, and ultimately on to London. He found work there as a stockbroker. In 1937 his wife Daisy travelled to see friends in Potsdam a few times. In October 1937 she fled to London. His children also fled, to the United Kingdom and the United States.
13. Herbert Gutmann was forced by the Nazis to pay Reichsfluchtsteuer (Reich Capital Flight Tax) and Judenvermögensabgabe (Tax on Registered Jewish Assets). He paid RM 89,000 in Reich Capital Flight Tax. On 8 March 1939 Gutmann wrote to the Finanzamt Moabit-West stating that he had no more cash resources available and he referred the tax authorities to a previous letter of 12 December 1938, in which he made the mortgage on his country house Herbertshof available as security for payment of Tax on Registered Jewish Assets. The Herbertshof country house was sold on 6 May 1939 for RM 150,000 to the Volksbund der Deutschen im Ausland. Gutmann's remaining possessions were confiscated on 27 November 1940. On 18 March 1941 Gutmann's German nationality was taken away and his remaining possessions were declared forfeited. A document dated 26 April 1941 from the Gestapo to the Finanzamt Moabit-West in Berlin stated that the assets of Herbert Gutmann still remaining in Germany had been seized by the Potsdam Gestapo. According to the document this concerned *'ein Auswandererguthaben in Höhe von 5.589.93 RM'* and *'ein Vorzugs-Sperr-Guthaben in Höhe von 1.016,50 RM'*.
14. Herbert Gutmann became seriously ill in 1939. He had an operation, but never fully recovered. He died on 22 December 1942. His wife Daisy died in 1959.
15. Compensation and restitution claims were submitted to the German authorities after the war. The Applicants stated that no compensation was received for the currently claimed objects. Other sums were paid in compensation however. On 28 February 1956 and 13 October 1956 compensation amounts of DM 18,750 and DM 7,800 were paid in consideration of Tax on Registered Jewish Assets and Reich Capital Flight Tax. On 9 January 1958 compensation of DM 60,000 was acknowledged in regard to the loss of household effects. Compensation was also paid for loss of income. Herbertshof was restituted to Gutmann's children in 1992. More recent restitutions concern the return of the painting *Death of Count Pappenheim* by Hans Makart in 2008 by Vienna City Council and a portrait of Bismarck by Franz von Lenbach in 2010 by the German Bundestag. In that same year the British Spoliation Advisory Panel recommended that the painting *The Coronation of the Virgin* by Peter Paul Rubens in the Courtauld Gallery should not be restituted.

The Claimed Objects

16. The restitution application concerns fourteen pieces of a Meissen porcelain service which are in Het Loo Palace, the Rijksmuseum and the Zuiderzeemuseum. All objects are part of the Dutch National Art Collection and are the property of the Dutch State. The objects involved are:
 - a) a sauce boat depicting a view of Maarssen (Het Loo Palace; inventory number RL306)
 - b) a sauce boat depicting a view of Loenen (Het Loo Palace; inventory number RL307)
 - c) a plate depicting Vegtvliet House in Breukelen (Het Loo Palace; inventory number RL338);
 - d) a plate depicting East India House in Delft (Het Loo Palace; inventory number RL343);
 - e) a plate depicting a view of the Catharijnepoort in Utrecht (Het Loo Palace; inventory number KL65);
 - f) a plate depicting a view of the Lutheran church in Medemblik (Het Loo Palace; inventory number KL80);
 - g) a plate depicting the city of Leiden (Het Loo Palace; inventory number RL8857);
 - h) a plate depicting The Hague (Rijksmuseum, inventory number BK 1964-5);
 - i) a plate depicting the Denenburger Poort in Enkhuizen (Zuiderzeemuseum; inventory number 007797 a);
 - j) a plate depicting Domburg and the Blauwe Poort in Enkhuizen (Zuiderzeemuseum; inventory number 007797 b);
 - k) a plate depicting Enkhuizen (Zuiderzeemuseum; inventory number 007797 c);
 - l) a plate depicting East India House in Enkhuizen (Zuiderzeemuseum; inventory number 007797 d);
 - m) a plate depicting East India House in Hoorn (Zuiderzeemuseum; inventory number 007797 e);
 - n) a plate depicting Harderwijk (Zuiderzeemuseum; inventory number 007797 f).

The Twelve Plates

17. As stated above, Gutmann’s art collection went under the hammer at the Graupe auction house on 12, 13 and 14 April 1934. The sale catalogue listed 848 lot numbers. Lot 357 comprised 24 plates that had once been part of Stadholder William V’s Meissen service. The 24 plates were listed as a group in the sale and were not described individually.

357. Vierundzwanzig flache Teller. Bunt bemalt und über Reliefdekor vergoldet. Im Spiegel in Goldrocaillenumrahmung Ansichten von holländischen Städten, Schlössern und Landhäusern und von kolonialen Ortschaften. Auf dem passig geschweisten Rand drei ovale Kartuschen mit Blumenfüllung und als Einfassung blaue Staffierung und gezahnte Goldleiste. Meissen, um 1765. Schwertermarke mit Punkt. Vier Teller am Rand etwas bestoßen. Durchm. 24cm. Tafel 42

There is also the following description under the lot number.

Die Teller gehören zu einem angeblich für einen holländischen Statthalter angefertigtes Speiseservice, das vielleicht von dem Porzellanmaler Borrmann entworfen und bemalt wurde. ... Weitere Teile des Geschirrs jetzt in den Museen von Hamburg, Dresden, Stuttgart. Dargestellt sind u.a. auf den vorliegenden Tellern: Ansicht vom Haag, Utrecht, Leyden, Deventer, Middelburgh, Delft, Batavia in Ostindien u.a.

The illustration in the sale catalogue depicts three plates from the service. The one in the middle is the currently claimed plate depicting East India House in Hoorn in the Zuiderzee Museum with inventory number 007797e.

18. The 24 plates, which had a guide price of RM 1,500, were sold at Graupe to an unknown buyer for RM 790. The plates did not appear again until 12 October 1962 at the Fritz Nagel auction house in Stuttgart, this time as lot number 85 in a sale of objects ‘*Aus einer Schlesischen Sammlung*’. It is not known who the owner was. The broadbrush description of the lot in the Nagel catalogue resembles very closely the description of the 24 plates from the Gutmann Collection in the 1934 Graupe catalogue. The Nagel catalogue furthermore states the following about the plates.
... *Früher Sammlung Gutmann, Versteigerung Paul Graupe 1934.*

At the Nagel sale the plates were sold in six lots of four plates each (85a to 85f). The sale catalogue gives a brief description of the depictions on the plates. Twelve of the depictions described in the catalogue match the depictions on the twelve currently claimed plates. There is an illustration of RL8857 in the sale catalogue.

19. It is reasonable to assume that the 24 plates, or in any event the twelve currently claimed ones, were acquired at the 1962 sale by the A. van der Meer gallery in Amsterdam. All twelve claimed plates have this gallery as provenance. The six plates in the Zuiderzeemuseum were purchased directly from Van der Meer in 1963 for NLG 8,100. The plate in the Rijksmuseum was purchased from Van der Meer in 1964 for NLG 1,500. The Rijksmuseum’s inventory card includes the 1934 sale at Graupe from Herbert Gutmann’s collection in the provenance.
The provenance of the five plates in Het Loo Palace is not identical. Two plates, with inventory numbers RL338 and RL343, were purchased from the Bernhard Stodel gallery in Amsterdam in 1976. The provenance report prepared by Het Loo Palace refers to Fa. Nijstad Antiquairs in Lochem (1967) and Van der Meer as earlier owners.
This report describes the provenance of the plates with inventory numbers KL65 and KL80 as ‘Van der Meer’ followed by ‘collectie Buma’ [‘Buma Collection’] in Heemstede. Queen Juliana bought both plates in 1975 in order to loan them to Het Loo Palace. The two plates were acquired in 1978 and 1979 for Het Loo Palace by the Foundation ‘t Konings Loo.
The Foundation ‘t Konings Loo purchased the plate with inventory number RL8857 in 2003 for Het Loo Palace for EUR 12,500 from the Salomon Stodel gallery in Amsterdam. The provenance report prepared by Het Loo Palace gives Van der Meer as the provenance of this plate.

The Two Sauce Boats in Het Loo Palace

20. In addition to the 24 plates, at the sale of Gutmann’s art collection at Graupe in 1934 two sauce boats from the same service as the plates were put into the auction as lot number 358. These were described in the catalogue as follows.

358 Ein Paar kleine Saucières. Aus dem gleichen Service wie die vorhergehenden Teller, mit entsprechender Dekorierung. Ovaler Körper mit beiderseitigem Schnabelausguß, zwei seitlichen Henkeln und vier Volutenfüßchen (einer etwas bestoßen). Meissen, um 1756. Blaue Schwertermarke mit Punkt. H. 9cm

The two sauce boats were not sold at the auction.

21. The two currently claimed sauce boats, which have inventory numbers RL306 and RL307, were purchased by Het Loo Palace from the Bernhard Stodel gallery in Amsterdam in 1975 with support from the Rembrandt Society. In the article he wrote about the acquisition in 1975, Abraham den Blaauwen’s comments about the two sauce boats included, ‘(...) *in de verz. H.M. Gutmann, Herbertshof bij Potsdam (in 1934 te Berlijn geveild: 26 delen, waarbij twee sauskommen, vermoedelijk de twee, die nu door Het Loo zijn gekocht)*’. [... *in the collection of H.M. Gutmann, Herbertshof near Potsdam (26 pieces auctioned in 1934 in Berlin, including two sauce boats, probably the two that have now been bought by Het Loo Palace)*].

In its provenance report of 12 March 2015, Het Loo Palace concluded that both sauce boats came from Herbert Gutmann’s collection.



5. Six pieces of Meissen porcelain service

The Importance of the Objects to the State

22. According to the Minister the objects are an important example of a direct Dutch commission to the Meissen porcelain factory. The service was ordered by the governors of the Dutch East India Company (VOC) as a gift for Stadholder William V and is decorated with depictions of places of significance to the VOC, topographical scenes of the Netherlands and VOC trading posts. Originally the service comprised over 435 pieces. It is one of the earliest topographical services made in Meissen. According to the Minister the service is important to the Netherlands because of the special nature of the commission, the exceptional quality of the objects, which is unmatched within the scope of the cultural heritage of the Netherlands, the theme, the uniqueness of the objects and the historic topographical significance. According to the Minister the objects in Het Loo Palace have a specific importance because of their relationship with Stadholder William V, one of its earlier occupants. The service was his property and/or was made for his use. The service is permanently on display and, because of its historical link to William V, it will have a prominent role in the future Orange Museum that will be part of Het Loo Palace. Het Loo Palace’s goal is to purchase pieces belonging to the service. The two sauce boats are among the moulded pieces. There are five moulded pieces known to exist worldwide. The other three are in different museum collections. So far Het Loo Palace has collected 172 pieces of the service. According to the Minister the plate in the Rijksmuseum, which holds only seven objects from the service, tells a story that links art and history, namely William V’s biography. This dovetails with the museum’s mission to connect people, art and history. According to the Minister the plates in the Zuiderzeemuseum are of historical importance to the Zuiderzee region because of the depictions on them.
23. The Applicants have disputed this State’s interests in retention of the objects contended by the Minister. They point out that there is no historical evidence the directors of the VOC actually ordered the service as a gift for Stadholder William V.

Assessment of the Claim

24. The Applicants are descendants of Herbert Gutmann. The Committee has no reason to doubt the Applicants’ status as heirs of Herbert Gutmann.
- Ownership
25. In the first place the Committee is faced with the question of whether the fourteen currently claimed objects were part of Gutmann’s art collection that went under the hammer at the Graupe auction house on 12, 13 and 14 April 1934. As far as the twelve plates are concerned, it follows from the provenance discussed in considerations 17 to 19 that this question can be answered in the affirmative. The Committee finds with respect to the two sauce boats that Het Loo Palace concluded in its provenance report that both objects came from the Herbert Gutmann Collection and that no indications have been found to doubt this conclusion. The Committee therefore concludes that it is highly likely that the fourteen currently claimed objects were the property of Herbert Gutmann at the time of the Graupe sale in 1934.
- Loss of Possession
26. In April 1934 Gutmann offered his art collection, including the currently claimed objects, for sale at the Graupe auction house. It has been established that the twelve plates were sold at the sale. The two sauce boats were not sold at the sale, but it is plausible that Gutmann lost possession of them at that time. The available documentation justifies the conclusion that Gutmann felt compelled to have his art collection auctioned off so that he could pay off his debts to the Dresdner Bank. The sale can be specifically linked to the Dresdner Bank claim that arose from Gutmann’s involvement in the Egyptian cotton fund. In the assessment of the nature of Gutmann’s loss of possession, also when advising in Dutch National Art Collection cases on the basis of the yardsticks of reasonableness and fairness, significance is attributed to the Ekkart Committee’s third recommendation of 26 April 2001, which stipulates that sales of artworks by private Jewish individuals in Germany from 1933 onwards must be considered as forced sales, unless there is express evidence to the contrary. The Committee concludes that there is no such express evidence. The facts that are known about the sale of the art collection in 1934 and the circumstances in which it took place indicate that this sale was involuntary due to circumstances directly related to the Nazi regime. In this connection the Committee points out the following.
27. Gutmann, who was brought up as a Protestant after his father converted to Protestantism, was considered to be Jewish on the grounds of Nazi ideology. Gutmann was publicly pilloried by the Nazis for his role in the German banking crisis because of his Jewish descent even before 1933, as demonstrated by the 1932 NSDAP election poster. After the Nazis came to power, Gutmann was affected by measures aimed at depriving Jews of their possessions, including the forced transfer of his Schimmelpfeng shares, in which Joseph Goebbels took a personal interest. Gutmann’s sympathy for the German Democratic Party also resulted in the Nazis considering him as an enemy. During the Night of the Long Knives on 30 June 1934 Gutmann was arrested by the SS along with other suspected opponents.
28. In 1931 Gutmann was compelled to step down as a director of the Dresdner Bank shortly after it had been partially nationalized. As a result of the nationalization, the Nazis rapidly acquired a major influence on the operations of the Dresdner Bank soon after coming to power in 1933. Jewish employees were dismissed en masse while NSDAP party members were brought in, some of them in the bank’s top management. This put Gutmann, who was in debt to the bank and was furthermore labelled by the Nazis as one of the individuals who caused the banking crisis in 1931, in a vulnerable position in regard to the ‘Aryanized’ Dresdner Bank.
29. The origin of Gutmann’s debts to the Dresdner Bank pre-dates 1933. The Applicants have argued that the debts were ‘fabricated’ because there is nothing about them to be found in official documents prior to 1933. As regards the Dresdner Bank’s claim that arose from Gutmann’s involvement in the Egyptian cotton fund, the Committee concludes from the available information that at the beginning of 1934 the Dresdner Bank finally assessed Gutmann for his share of 25% of the total debt of RM 760,000, while later that year the bank took the view that this total debt should have been valued at only a quarter of RM 760,000. It has not emerged, however, that this was corrected afterwards.
30. It can furthermore be deduced from the available information that, in regard to his debts, at the end of 1933 Gutmann had sufficient possessions to pay these debts off. This is why Gutmann wrote to the Dresdner Bank on 4 January 1934 that his residence and his shares were worth more than enough to cover his debts and he asked the bank to settle his debts in this way as, according to him, had also been agreed previously. Nevertheless, the bank decided to demand immediate payment of the debt, so Gutmann felt compelled to have his art collection auctioned off. The Dresdner Bank’s decision to demand immediate settlement of the claim arising from the Egyptian cotton fund cannot be considered in isolation from the vulnerable position Gutmann found himself in under the Nazi regime and in regard to the Dresdner Bank, which was very much under the influence of that regime. The Applicants have rightly pointed out that of the four directors who had claims lodged against them by Dresdner Bank, the only person who was not of Jewish descent received a much more favourable repayment arrangement from the Dresdner Bank. This man, Curt Lebrecht, was treated substantially more generously and was granted postponement of

- payment. An arrangement was not made between him and the bank until 1938. In the end he only needed to repay a part of his total debt to the bank, and was given years in which to do it.
31. In his letter of 4 January 1934 Gutmann wrote that he was unable to pay off his debt by means of other assets. It is clear that Gutmann’s income dropped after he was forced to step down as a director of the Dresdner Bank in 1931. After the Nazis came to power in January 1933 Gutmann’s opportunities to earn an income in a normal way virtually disappeared. The bank wrote the following in a July 1933 internal note about Erich Alexander, a colleague of Gutmann’s who was also Jewish and in debt to the bank as a consequence of the Egyptian cotton fund. *‘Eine neue Stellung könne er mit Rücksicht auf seine Nichtarier-Eigenschaft in Deutschland nicht finden.’* In other words, the advent of the Nazi regime made it impossible for Gutmann, because of his Jewish descent, to compensate for his loss of income. In fact, as a result of the Nazis his income dropped even further in any event because of a drop in the number of directorships on account of his Jewish descent. In academic German publications about this subject, 30 January 1933 is therefore designated as the decisive ‘tipping point’ in Herbert Gutmann’s career.
32. On the grounds of the facts and the circumstances described above, the sale of the currently claimed objects by Gutmann in 1934 has to be considered as a forced sale in accordance with the third recommendation of the Ekkart Committee of 26 April 2001.
- Reasonableness and fairness
33. The Committee has an obligation to advise on the present restitution application on the basis of the yardsticks of reasonableness and fairness. The starting point is that Gutmann lost possession of the objects involuntarily as a result of circumstances directly connected with the Nazi regime. On the other hand, the State acquired these objects through normal channels and is consequently now the owner. In weighing up these interests, very great weight is given to the way in which possession was lost and to the need to right wrongs committed during, and as a result of, the Nazi regime. As established above, Gutmann had the currently claimed objects auctioned off involuntarily, under pressure caused by circumstances directly connected with the Nazi regime. On these grounds, the Committee’s opinion is that the Applicants’ interests in the restitution of the objects must be given greater weight than the State’s interests in retaining them. On the basis of the above the Committee similarly sees no reason to advise an outcome other than restitution.
34. Finally, the Committee raises the question of whether a payment obligation should be specified in regard to restitution of the claimed objects in connection with a consideration received when the claimed objects were sold at auction. According to the Applicants, the proceeds of the sale paid off Gutmann’s debt that arose out of his participation in the Egyptian cotton fund. In view of the fact that the Dresdner Bank calculated Gutmann’s share of this debt to be four times higher than it should have been and did not correct this error later, in the Committee’s opinion it cannot be assumed that Gutmann had free disposal of the proceeds from the sale. On these grounds there is no reason to link a payment obligation to restitution of the claimed objects.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to restitute the fourteen claimed Meissen porcelain objects to the heirs of Herbert Gutmann.

Adopted on 14 October 2019 by A. Hammerstein (Chair), S.G. Cohen Willner, J.H.W. Koster, J.H. van Kreveld, E.H. Swaab (Vice-Chair) and C.C. Wesselink, and signed by the Chair and the Secretary.

(A. Hammerstein, Chair)

(E.J.A. Idema, Secretary)

4. Recommendation regarding Dr Franz Oppenheimer
(case number RC 1.164)

In a letter dated 25 May 2016, as supplemented on 11 October 2018, the Minister of Education, Culture and Science (hereinafter referred to as the Minister) asked the Restitutions Committee (hereinafter referred to as the Committee) for advice about the application for the restitution of items of Meissen porcelain from the Dutch National Art Collection. The original restitution application was submitted to the Minister in a letter of 25 June 2015 by XX (hereinafter referred to as the Applicant) in his capacity as executor of the estate of Dr Franz Oppenheimer. The Applicant is represented by Lothar Fremy, Rechtsanwalt of Berlin, Germany. In this case the Minister is having herself represented by the Netherlands Cultural Heritage Agency.

The Procedure

The Committee conducted an investigation into the facts in response to the Minister’s request for advice. The results are recorded in an overview of the facts dated 8 April 2019. The Applicant responded to it in a letter dated 17 June 2019. The Minister responded in emails of 1 July and 18 July 2019. The Applicant responded to them in a letter of 21 August 2019. When asked, the Applicant and the Minister let it be known that they had no need for a hearing.

In this case Dr J.F. Cohen assisted the Committee as an advisor.

The Claimed Objects

As an enclosure to his letter to the Minister of 29 February 2016 the Applicant sent an Excel spreadsheet he had prepared (hereinafter also referred to as the claims schedule) listing 109 object groups, that is to say artworks consisting of several separate items. The Minister asked the Committee for advice about the application for the restitution of these object groups. In a letter of 11 October 2018 the Minister supplemented her request for advice with one object. These object groups are described in the appendix to the overview of the facts.

In an email of 1 July 2019 the Minister stated that two object groups in the claims schedule cannot be linked to an object in the Dutch National Art Collection. These are the object groups in the appendix to the overview of the facts under D 1 and D 2. The Committee may only advise the Minister in regard to objects in the Dutch National Art Collection and therefore in this case its advice does not relate to the aforementioned object groups D 1 and D 2. The object group in the claims schedule and listed in the appendix as D 3 is the same object group as listed in the appendix as A-87.

The remaining 107 Meissen porcelain object groups are listed in the appendix to this advice. All 107 object groups are part of the Dutch National Art Collection. Of these, 90 object groups are on loan to the Rijksmuseum. The other seventeen object groups are part of the Netherlands Art Property Collection (hereinafter also referred to as the NK collection) and are on loan to the Kunstmuseum Den Haag (thirteen object groups) and Museum Boijmans Van Beuningen (four object groups).

Assessment Framework

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

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

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

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

Pursuant to paragraph 6, when discharging its advisory task as referred to in the first paragraph, the Committee will give great weight to the circumstances of the acquisition by the owner and the possibility that there was knowledge about the suspect provenance at the time of the acquisition of the item of cultural value concerned.

On the grounds of this assessment framework the Committee will advise about the restitution application that was submitted to the Minister before 30 June 2015 giving due regard to government policy in this respect in so far as it relates to the seventeen object groups from the NK collection. The Committee will advise on the basis of the yardsticks of reasonableness and fairness with regard to the part of the restitution application that concerns the other 90 object groups.

Considerations

- 1. The Committee established the relevant facts on the grounds of the overview of the facts of 8 April 2019 and the responses to it that the Committee received. The following summary is sufficient here.

Dr Franz Oppenheimer

- 2. Franz Oppenheimer was born in Hamburg on 1 August 1871. On 27 March 1902 he married Margarethe Knapp, who was born in Vienna on 8 August 1878. The couple had two children, Marie Luise and Franz Karl, and lived in Berlin. Oppenheimer was a partner in the firm Emanuel Friedlaender et Comp. He also held various non-executive directorships and other posts in the coal industry.

Art collection

- 3. The Oppenheims built up an important collection of eighteenth-century Meissen porcelain, with a particular focus on chinoiserie. In 1927 Professor Ludwig Schnorr von Carolsfeld, curator of the Berliner Schlossmuseum, compiled a private catalogue of the Oppenheims’ collection. When Schnorr von Carolsfeld documented the collection it contained 240 object groups, that is to say artworks consisting of several separate items. The objects in Schnorr von Carolsfeld’s 1927 inventory were given inventory numbers beginning with the letter ‘O’ followed by a number in the series between 1 and 239. The objects themselves were marked in black ink with the serial number without the letter.
- 4. In 2000 the ceramics expert Abraham den Blaauwen (1923-2015) published his book *Meissen Porcelain in the Rijksmuseum*. He wrote the following about the Oppenheimer Collection. *‘The Oppenheimer collection had been catalogued in 1927 by Ludwig Schnorr von Carolsfeld, the director of the Schlossmuseum. The narrative part was printed as a private edition, the two volumes of illustrations as albums with photographs stuck in them. The numbers in this catalogue are marked on the pieces in black paint, the pieces acquired after 1927 are numbered in red.’* In his publication Den Blaauwen gave the Oppenheimer number and its colour by each object.
- 5. After 1927 the couple continued to acquire art and added at least 126 object groups to the collection. The object groups that were purchased after the 1927 inventory were given an inventory number beginning with the letters ‘Os’ followed by numbers in the series between 212 and 332. The objects themselves were marked in red ink with the serial number without the letters.



6. Tankard (BK-17327), lidded tureen (BK-17355), mantle clock (BK-17437) and lidded vase (BK-17376-A/B)

Flight from Germany

6. Franz Oppenheimer and his wife decided in around December 1936 to flee Germany as a result of the pressure exerted by Nazi persecution because of their Jewish descent. Before they were able to leave they were compelled to pay a substantial sum in Reichsfluchtsteuer (Reich Capital Flight Tax). This measure applied to everyone who wanted to emigrate, but in practice it affected primarily Jews. The lawyer Hans Rehmke wrote the following in a letter dated 16 May 1938 to the SS Oberabschnitt Vienna.

‘Dr. Franz Oppenheimer, früher Berlin, ist in Dezember 1936 aus dem Altreich ausgewandert und zwar sind alle im Zusammenhange mit einer Auswanderung vorzunehmenden Formalitäten, wie Zahlung der Reichsfluchtsteuer usw., von ihm ordnungsgemäss erledigt worden.’

7. Oppenheimer took some of his possessions, including part of his porcelain collection, with him to Austria. On the same day, the aforementioned Rehmke notified the Zentralstelle für Denkmalschutz that, in connection with his escape from Germany, Oppenheimer also had goods shipped from Germany that were not taken to Austria.

‘Dr. Oppenheimer hat im Jahre 1937 vorübergehend in Wien eine Wohnung begründet, wo er einen Teil seiner Porzellansammlung und kostbaren Möbel untergebracht hat, während der andere Teil ebenfalls aus Deutschland ausgeführt, aber [nicht] nach Oesterreich verbracht ist. Die in Oesterreich verbliebenen Sachen sind wegen des für Oesterreich bestehende Ausfuhrverbotes an Kunstgegenständen seinerzeit bei der Zentralstelle für Denkmalschutz angemeldet und auch sonst sind alle für eine freie Wiederausfuhr der fraglichen Objekte aus Oesterreich notwendigen Formalitäten seinerzeit von Dr. Oppenheimer erfüllt worden. Die Sachen sind seinerzeit nicht unter den österr. Denkmalschutz gebracht. Diese Stelle ist vielmehr mit der Angelegenheit nur deswegen befasst worden, um dem Dr. Oppenheimer die Wiederausfuhr ohne besondere Genehmigung zu ermöglichen.’

It can be deduced from the letter that Oppenheimer put some of his porcelain collection in his residence in Austria and that re-export was taken into account as part of the formalities. Another part of his collection was supposedly exported from Germany, but not transported to Austria.

8. Oppenheimer had a part of his collection sealed and stored at the Austrian customs. The file on Franz Oppenheimer in the Bundesdenkmalamt (Austrian Federal Monuments Office) contains various lists concerning objects possessed by Oppenheimer. One of these lists is entitled as follows.

Eingeführt durch Dr. Franz Oppenheimer und seine Ehefrau, geb. Knapp im April 1937 und im September 1937 aus dem Zollverschluss entnommen.

The items on this list (hereinafter also referred to as the customs list) include five oil paintings, six lots of silver, 10 tapestries, some furniture and a limited quantity of porcelain, including 34 figurines.

III. Porzellan:

- 1.) 2 Aschenbecher / Blattform / gold.Chinesen
2.) 2 Zuckerdosen “ “
3.) 2 Becher “ “
4.) 1 kleine Bouillon mit Untersatz “ “
5.) Chocoladetasse mit Untertasse “ “
6.) Koppchen mit Untertasse “ “
7.) 4 kleine Vasen / Drachenummuster / gez. K.H.C.
8.) 2 kleine Flacons / desgleichen /
9.) ein Chinese mit Affen
10.) 1 sitzende Pagode
11.) 34 Räucherchinesen verschiedener Grösse, d.s. sämtliche Exemplare der Sammlung
12.) Kasten Enthaltend:
1 Kleine Teekanne, 1 Wassernapf, 6 henkellose Tassen mit Unterschalen, bunte Chinoiserien, Goldfonds, dazu diverse Servicestücke aus Vermeil.
13.) Kasten enthaltend:
1 Kaffeekanne, 1 Teekanne, 1 Teedose, 1 Zuckerdose, 1 Wassernapf, 6 henkellose Tassen mit Unterschalen, bunte Chinoiserien, Wappen der Dogen Morosini von Venedig.

9. Oppenheimer registered those of his possessions that were in Austria with the Zentralstelle für Denkmalschutz. Apparently Oppenheimer made various photographs available to this body for that purpose because on 18 October 1937 Oppenheimer asked Dr Seiberl of the Zentralstelle für Denkmalschutz to return the photographs of his porcelain that he had been lent. *‘Es kommt nämlich Mitte dieser Woche ein Freund zu mir, dem ich diese Bilder gerne zeigen möchte’.*

Flight from Austria

10. German troops entered Austria on 12 March 1938 and Adolf Hitler proclaimed the Anschluss (annexation) of Austria into Germany the following day. Just before this, on 11 March 1938, Oppenheimer left his residence in Vienna, which was seized shortly thereafter by the Sicherheitsdienst (Security Service). The Oppenheimers were able to escape to the United States via Budapest and Stockholm. They were once again obliged to pay substantial sums in Reich Capital Flight Tax. Their possessions in Austria, including the artworks that were still present, were then confiscated. The Austrian Nazi authorities did not know, however, exactly what happened to a part of the Oppenheimer Collection after their departure from Vienna. On 3 June 1939 it was reported that objects from the Oppenheimers’ collection were missing from their residence. *‘Eine Liste dieser fehlende Objekte ist in der Anlage beigeschlossen. Vor allem konnte nicht ein einziger von den 34 Räucherchinesen zustande gebracht werden und auch von den vier Originalkasten mit kostbarstem Porzellanservicen sind nur zwei vorhanden....’*

The following was stated about the missing objects on 3 June 1939. *‘...es nicht ausgeschlossen erscheint, dass diese der Geheimen Staatspolizei übergeben wurden. Unwahrscheinlich ist es, dass einzelne Objekte schon vor der Machtergreifung durch Oppenheimer selbst entfernt wurden, da Oppenheimer sich vor dem Umbruch nur auf wenige Tage ins Ausland begeben und nur kleine Handgepäck mitgenommen hatte. Oppenheimer ist seither nicht mehr nach Wien gekommen.’*

11. On 10 June 1939 an employee of the Zentralstelle für Denkmalschutz wrote in a letter to the Kulturamt der Gaustadt Vienna that some of the artworks among Oppenheimer’s possessions had disappeared without trace and that people were in the dark with regard to the artworks that Oppenheimer had deposited with the customs. *‘Im Zuge der Sicherungen von Kunstwerken aus jüdischem Besitz wurde von der Zentralstelle f.Dsch. ermittelt, dass die Sammlung des Emigranten Dr. Franz Oppenheimer, Wien, III., Reiserstrasse 48, sich nicht mehr an Ort und Stelle befindet. Die Sammlung wurde ... unter denkmalbehördlichen Kontrolle (Frühjahr 1937) aus Berlin eingeführt. Sammlung Oppenheimer ist eine der bedeutendsten Sammlungen von Meisner-Porzellan der Welt. In der Wohnung befand sich dann nur ein Teil der Sammlung, die übrigen Bestände wurden in einem Lagerhaus unter Zollverschluss deponiert. Die letztgenannten Gegenstände konnten bisher nicht ermittelt werden. ... Die in der Kreisleitung III vorgefundenen Gegenstände sind ein Bruchteil der Sammlung Oppenheimer wie sie hier amtlich bekannt ist, es fehlen vor allen folgenden Gegenstände: Siehe beiliegende Liste!’*

12. Under ‘Assessment of the Claim’ the Committee will address the question of whether the currently claimed objects belonged to Oppenheimer’s art collection and, if so, when and in which circumstances he lost possession of them. It is clear that at some point the currently claimed objects became part of Fritz Mannheimer’s art collection. The point at which the collection changed hands and the way in which the objects ended up in the possession of the Dutch State is addressed in the following considerations.

Fritz Mannheimer

13. Fritz Mannheimer (1890-1939) was a German-born banker who settled in Amsterdam in 1918. Starting in 1920, Mannheimer ran his own firm, an Amsterdam branch of the prestigious bank Mendelssohn & Co of Berlin. The limited partnership was legally separated from the Berlin company. Over time Mannheimer built up a huge art collection in his home in Hobbemastraat in Amsterdam. It was described as *‘de grootste en kostbaarste particuliere verzameling in Nederland’* [*the biggest and most valuable private collection in the Netherlands*]. This collection was inventoried in a catalogue prepared by Otto von Falke and dated November 1935 – March 1936. Mannheimer opposed the Nazis from the Netherlands and provided aid to Jews who had fled Germany. Thanks to his many business contacts, Mannheimer was able to play an important role in facilitating the escape of Jews and their assets from Nazi Germany.
14. After the eruption of anti-Jewish violence on Reichskristallnacht (Night of Broken Glass) on 9 November 1938, Mendelssohn & Co in Berlin was closed down by the Nazis. The German firm was forced to withdraw from the Amsterdam business. The last major financial operation that Mannheimer was involved in during 1939 included refinancing part of the French national debt. The series of issues failed, due in part to increasing international tensions. Mannheimer was obliged to buy back the unplaced French bonds at his own expense, as a result of which in the summer of 1939 Mendelssohn soon encountered a severe liquidity crisis. On Tuesday 8 August 1939 Mannheimer left for France. Upon his arrival in Vaucresson he went for a short walk in the garden, after which he had a heart attack and died a few hours later.
15. Mendelssohn & Co stopped its operations immediately after Mannheimer’s death. After an inventory it emerged that Mendelssohn’s debts were huge - over 42 million guilders. Mannheimer’s estate was jointly and severally liable for the financial commitments that the limited partnership had entered into during his lifetime. On 28 August 1939 the court in Amsterdam ordered the liquidation of Dr Fritz Mannheimer’s estate and appointed E.J. Korthals Altes (1898-1981) as administrator. In the end the implementation of the liquidation would take nearly a quarter of a century.

Korthals Altes immediately had experts from the Rijksmuseum inventory and value the art collection in Mannheimer's residence. It emerged that a part of the goods had become the property of the British company Artistic and General Securities Ltd. in 1934. The inventory and valuation of the collection was completed in around March 1940. According to Korthals Altes, the result of the valuation was that objects with a value of approximately five million guilders proved to belong to Artistic, and in addition objects worth a further one and a half million guilders were present that Mannheimer has to have acquired after 1934.

16. German art buyers showed interest in the Mannheimer Collection shortly after the German invasion on 10 May 1940. Mendelssohn & Co asked Korthals Altes to take part in a discussion with Kajetan Mühlmann, a member of the SS who had been made responsible by Reichs Commissioner Arthur Seyss Inquart for acquiring art on behalf of the Third Reich. Korthals Altes agreed to the sale of the art collection but had a passage incorporated in the contract stating that the transaction was involuntary, to which Mühlmann had no objections. Korthals Altes received confirmation from Mühlmann *‘dat hier geen sprake was van een vrijwilligen verkoop, waarvan weigering hun vrijstond, maar van een maatregel der bezettingsautoriteiten, waarbij zij zich hadden neer te leggen op gevaar van verbeurdverklaring zonder eenige schadeloosstelling’* [‘that it was not a voluntary sale, which they were entitled to refuse, but a measure by the occupying authorities to which they had to submit or run the risk of confiscation without any compensation’].
17. After the liberation, the artworks from the Mannheimer Collection that had been taken to Germany were found in Germany and brought back to the Netherlands. After the recovery of the objects, the administrators of the insolvent estate were faced with the question of whether they would request restoration of rights in regard to the sale to Mühlmann. In the end they did not because if the art collection was restituted, the State would claim the purchase price received from the Germans.

Assessment of the Claim

18. The Applicant submitted a Testamentsvolstreckerzeugnis of 6 July 2015, issued by the Amtsgericht Berlin, in which it is stated that he was appointed Testamentsvollstrecker (executor) with regard to Dr Franz Oppenheimer's estate. On the grounds of this document the Committee has no reason to doubt the authority of the Applicant to represent Oppenheimer's estate.

Ownership

19. The Committee will first of all address the question of whether it is highly likely that the 107 currently claimed object groups had belonged to Oppenheimer. This question can be answered in the affirmative because in the inventory of his art collection compiled by Rijksmuseum staff after Mannheimer's death, the objects that had come from the Oppenheimer Collection were identified and marked as such in it. All 107 currently claimed object groups were listed in this inventory. Some of them were marked with an ‘O’, a reference to a listing in the 1927 private catalogue of the Oppenheims' collection compiled by Schnorr von Carolsfeld. Another part of the 107 object groups were marked with ‘Os’, a reference to inclusion of these items in the Oppenheimer Collection after 1927. In the Committee's opinion, on the grounds of these listings and the other available provenance information, it is highly likely that the 107 currently claimed object groups were Oppenheimer's property before they became part of the Mannheimer Collection.

Loss of possession

20. In assessing the nature of the loss of possession, it can be assumed that the 107 currently claimed object groups had belonged to Oppenheimer. When Mannheimer died in 1939, however, they had meanwhile become part of the Mannheimer Collection. It is safe to assume that the objects had not yet become part of Mannheimer's art collection at the beginning of 1936 because they do not appear in the catalogue of that collection prepared by Von Falke dated November 1935 – March 1936. Nothing has emerged about another owner between Oppenheimer's ownership and Mannheimer's ownership. The question, therefore, is when and in which circumstances ownership of the objects was transferred from Oppenheimer to Mannheimer. According to Den Blaauwen, Mannheimer purchased the Oppenheimer Collection en bloc. There is documentation available that describes the fate of the art collection, as stated in considerations 6 to 11. On the grounds of this documentation it is not possible, however, to identify everything in the currently claimed object groups with sufficient certainty. Bearing in mind this shortcoming, or as expressed in the Washington Principles, *‘unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era’*, in the Committee's opinion there are two reasonable scenarios. Oppenheimer sold the currently claimed objects to Mannheimer in the period between completion of the inventory of the Mannheimer Collection compiled by Von Falke in early 1936 and his escape to Austria in December 1936 (first scenario), or Oppenheimer did not sell the objects to Mannheimer until after he had arrived in Austria (second scenario). Since there is no decisive evidence available to support one of these two scenarios, the Committee will assess both of them.

21. If the first scenario is assumed to be correct, on the grounds of the third recommendation of the 2001 Ekkart Committee, this sale has to be considered as a forced sale, unless there is express evidence to the contrary. The Committee concludes that there is no such express evidence. Similarly, if the second scenario is assumed to be correct, in the Committee's opinion Oppenheimer's loss of possession has to be considered involuntary as a result of circumstances directly related to the Nazi regime. After all, Oppenheimer fled to Austria in December 1936 because of the Nazis, and he had to pay a large sum in Reich Capital Flight Tax. Like many other Jews, Oppenheimer and his wife fled again just before the annexation of Austria into Germany in March 1938. The possible sale by Oppenheimer of his art collection to Mannheimer during the intervening period cannot be considered in isolation from the threat to them from the Nazi regime. Bearing in mind what is known about Mannheimer, it is possible that he acquired Oppenheimer's art collection in order to support him financially. However, this possible motive does not make Oppenheimer's loss of possession any less involuntary. Conversely, the involuntary nature of the sale by Oppenheimer does not detract from Mannheimer's motives to help his fellow man.

The seventeen object groups that are part of the NK collection

22. It follows from the above that it is highly likely that Oppenheimer was the owner of the 107 currently claimed object groups and that he lost possession of these objects involuntarily due to circumstances directly related to the Nazi regime. As regards the seventeen object groups that are part of the NK collection, the Committee is obliged to advise restitution on the grounds of government policy in this respect.

The 90 object groups that belong to the other holdings of the Dutch State

23. As regards the other 90 object groups, which belong to the Dutch National Art Collection but not to the NK collection, the Committee is obliged to advise on the basis of the yardsticks of reasonableness and fairness. The Committee confirms that the Dutch State acquired ownership of these 90 object groups in the same way as ownership of the seventeen object groups that are part of the NK collection, namely through recovery. It is not clear why these 90 object groups were not incorporated in the NK collection. According to the yardsticks of reasonableness and fairness, however, the fact that these object groups belong or do not belong to the NK collection should not be decisive. What is decisive, though, is the fact that after the end of the Second World War these 90 object groups were also among the recovered items that were returned to the Netherlands and were taken into the custody of the Dutch State with the express instruction to reconstitute them, if possible, to the rightful claimants or their heirs. Given that the application for restitution of these 90 object groups was submitted to the Minister before 30 June 2015, and that this application would be eligible for granting if the objects formally belonged to the NK collection, based on the yardsticks of reasonableness and fairness there is no reason to come to a different conclusion. This conclusion also applies if it has to be assumed that the case is about art objects that are important to the Dutch State and to the museums in which the objects concerned are to be found. The Committee will therefore advise the Minister to reconstitute these other 90 object groups too.
24. Finally, the Committee raises the question of whether a payment obligation should be specified in regard to restitution of the 107 object groups in connection with a consideration received when the objects were sold. In view of what is known about the dire circumstances in which Oppenheimer and his family lived, and their flight from Nazi Germany and later on from Nazi Austria, it is highly unlikely that Oppenheimer had free control of the proceeds of the sale. On the grounds of this there is no reason to link a payment obligation to the restitution of the objects.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to reconstitute 107 object groups as listed in the appendix to this advice to the heirs of Dr Franz Oppenheimer.

Adopted on 14 October 2019 by A. Hammerstein (Chair), S.G. Cohen-Willner, J.H.W. Koster, J.H. van Kreveld, D. Oostinga, E.H. Swaab (Vice-Chair) and C.C. Wesselink, and signed by the Chair and the Secretary.

(A. Hammerstein, Chair)

(E.J.A. Idema, Secretary)

ANNEX recommendation regarding Dr Franz Oppenheimer - RC 1.164				
Appendix	Location	Inventory no.	NK no.	Object
A-1	Rijksmuseum Amsterdam	BK-17476		Pagoda
A-2	Rijksmuseum Amsterdam	BK-17320		Tankard
A-3	Rijksmuseum Amsterdam	BK-17321		Tankard
A-4	Rijksmuseum Amsterdam	BK 17334-A/B		Two vases
A-5	Rijksmuseum Amsterdam	BK-17322		Tankard
A-6	Rijksmuseum Amsterdam	BK-17323		Coffeepot
A-7	Rijksmuseum Amsterdam	BK-17324		Slop bowl
A-8	Rijksmuseum Amsterdam	BK-17325		Teacaddy
A-9	Rijksmuseum Amsterdam	BK-17326-A/B		Cup and saucer
A-10	Rijksmuseum Amsterdam	BK-17327		Tankard
A-11	Rijksmuseum Amsterdam	BK-17328-A/B		Cup and saucer
A-12	Rijksmuseum Amsterdam	BK-17331		Coffeepot
A-13	Rijksmuseum Amsterdam	BK-17335		Teapot
A-14	Rijksmuseum Amsterdam	BK-1968-116		Plate
A-15	Rijksmuseum Amsterdam	BK-17338-A/B		Pair of goblets
A-16	Rijksmuseum Amsterdam	BK-17343		Plate
A-17	Rijksmuseum Amsterdam	BK-17344		Plate
A-18	Rijksmuseum Amsterdam	BK-17346-A/B		Cup and saucer
A-19	Rijksmuseum Amsterdam	BK-17347		Goblet
A-20	Rijksmuseum Amsterdam	BK-17349		Tankard
A-21	Rijksmuseum Amsterdam	BK-17350		Vase
A-22	Rijksmuseum Amsterdam	BK-17369		Vase
A-23	Rijksmuseum Amsterdam	BK-17378		Cup
A-24	Rijksmuseum Amsterdam	BK-17352-A/B		Cup and saucer
A-25	Rijksmuseum Amsterdam	BK-17353-A/B		Dressing case
A-26	Rijksmuseum Amsterdam	BK-17362		Milk jug
A-26	Rijksmuseum Amsterdam	BK-17363		Slop bowl
A-26	Rijksmuseum Amsterdam	BK-17364		Teacaddy
A-27	Rijksmuseum Amsterdam	BK-17403		Cane handle
A-28	Rijksmuseum Amsterdam	BK-17389		Coffeepot
A-29	Rijksmuseum Amsterdam	BK-17390-A/B		Lidded cream jar and saucer
A-30	Rijksmuseum Amsterdam	BK-17406		Goblet
A-31	Rijksmuseum Amsterdam	BK-17435		Teapot
A-32	Rijksmuseum Amsterdam	BK-17423-A/B		Chocolate cup and saucer
A-33	Rijksmuseum Amsterdam	BK-17437		Mantle clock
A-34	Rijksmuseum Amsterdam	BK-17411		Sugar bowl
A-35	Rijksmuseum Amsterdam	BK-17412		Sugar bowl
A-36	Rijksmuseum Amsterdam	BK-17432		Coffeepot
A-37	Rijksmuseum Amsterdam	BK-17433		Slop bowl
A-38	Rijksmuseum Amsterdam	BK-17407		Lidded beaker
A-39	Rijksmuseum Amsterdam	BK-17424-A/B		Chocolate cup and saucer
A-40	Rijksmuseum Amsterdam	BK-17425-A/B		Chocolate cup and saucer
A-41	Rijksmuseum Amsterdam	BK-17426-A/B		Cup and saucer
A-42	Rijksmuseum Amsterdam	BK-17427-A/B		Cup and saucer
A-43	Rijksmuseum Amsterdam	BK-17440-A/B		Two lidded vases
A-44	Rijksmuseum Amsterdam	BK-17449		Lidded vase
A-45	Rijksmuseum Amsterdam	BK-17393-A/D		Two chocolate cups and saucers
A-46	Rijksmuseum Amsterdam	BK-17391-A/B		Lidded tureen
A-47	Rijksmuseum Amsterdam	BK-17441-A/B		Tureen and stand
A-48	Rijksmuseum Amsterdam	BK-17442-A/D		Two tureens and stands

ANNEX recommendation regarding Dr Franz Oppenheimer - RC 1.164				
Appendix	Location	Inventory no.	NK no.	Object
A-49	Rijksmuseum Amsterdam	BK-17454-A/D		Chocolate set
A-50	Rijksmuseum Amsterdam	BK-17446		Plate
A-51	Rijksmuseum Amsterdam	BK-17382-A/B		Spouted cup and cooling saucer
A-52	Rijksmuseum Amsterdam	BK-17434		Slop bowl
A-53	Rijksmuseum Amsterdam	BK-17421-A/R		Eighteen-piece coffee and tea set
A-54	Rijksmuseum Amsterdam	BK-17345		Soup plate
A-55	Rijksmuseum Amsterdam	BK-17368		Plate
A-56	Rijksmuseum Amsterdam	BK-17419		Tankard
A-57	Rijksmuseum Amsterdam	BK-17404		Cane handle
A-58	Rijksmuseum Amsterdam	BK-17355		Lidded tureen
A-59	Rijksmuseum Amsterdam	BK-17429-A/B		Cup and saucer
A-60	Rijksmuseum Amsterdam	BK-17394-A/B		Two vases
A-61	Rijksmuseum Amsterdam	BK-17365-A/B		Two dishes
A-62	Rijksmuseum Amsterdam	BK-17445-A/B		Two dishes
A-63	Rijksmuseum Amsterdam	BK-17462		Slop bowl
A-64	Rijksmuseum Amsterdam	BK-17460		Lidded jug
A-65	Rijksmuseum Amsterdam	BK-17333		Lidded teapot
A-66	Rijksmuseum Amsterdam	BK-17388		Milk jug
A-67	Rijksmuseum Amsterdam	BK-17459		Vase
A-68	Rijksmuseum Amsterdam	BK-17408		Scent bottle
A-69	Rijksmuseum Amsterdam	BK-17376-A/B		Lidded vase
A-70	Rijksmuseum Amsterdam	BK-17431-A/B		Two chocolate cups
A-71	Rijksmuseum Amsterdam	BK-17356		Lidded box
A-72	Rijksmuseum Amsterdam	BK-17428-A/D		2 pair of cups and saucers
A-73	Rijksmuseum Amsterdam	BK-17477		Pagoda
A-74	Rijksmuseum Amsterdam	BK-17409		Scent bottle
A-75	Rijksmuseum Amsterdam	BK-17413		Sugar bowl
A-76	Rijksmuseum Amsterdam	BK-17361		Tankard
A-77	Rijksmuseum Amsterdam	BK-17416		Sugar bowl
A-78	Rijksmuseum Amsterdam	BK-17479		Pagoda
A-79	Rijksmuseum Amsterdam	BK-17461-A/B		Cup and saucer
A-80	Rijksmuseum Amsterdam	BK-17383-A/B		Cup and saucer
A-81	Rijksmuseum Amsterdam	BK-17384-A/B		Two vases
A-82	Rijksmuseum Amsterdam	BK-17379		Lidded teacaddy
A-83	Rijksmuseum Amsterdam	BK-17332		Lidded teacaddy
A-84	Rijksmuseum Amsterdam	BK-17387		Lidded teapot
A-85	Rijksmuseum Amsterdam	BK-17348		Cup
A-86	Rijksmuseum Amsterdam	BK-17354-A/B		Lidded tureen and dish
A-87	Rijksmuseum Amsterdam	BK-17395-A/B		Two vases
A-88	Rijksmuseum Amsterdam	BK-17417		Lidded teacaddy
A-89	Rijksmuseum Amsterdam	BK-17381-A/B		Cup and saucer
A-90	Rijksmuseum Amsterdam	BK-17380		Lidded tureen
B-1	Kunstmuseum Den Haag		NK 3018-A-B	Coffeepot with lid
B-2	Kunstmuseum Den Haag		NK 3011-B1-2	Vase and cover
B-3	Kunstmuseum Den Haag		NK 3016-A-B	Milk jug on saucer
B-4	Kunstmuseum Den Haag		NK 3013	Cup
B-5	Kunstmuseum Den Haag		NK 3021	Tankard
B-6	Kunstmuseum Den Haag		NK 3008-A-D	Four cups
B-7	Kunstmuseum Den Haag		NK 3024	Cup and saucer
B-8	Kunstmuseum Den Haag		NK 3014	Bowl with cover on saucer

ANNEX recommendation regarding Dr Franz Oppenheimer - RC 1.164				
Appendix	Location	Inventory no.	NK no.	Object
B-9	Kunstmuseum Den Haag		NK 3022-A-B	Table bell on plate
B-10	Kunstmuseum Den Haag		NK 3019	Chocolate cup and saucer
B-11	Kunstmuseum Den Haag		NK 3011-A1-2	Sugar bowl and cover
B-12	Kunstmuseum Den Haag		NK 3015	Bowl
B-13	Kunstmuseum Den Haag		NK 3012-A-B	Cup and saucer
C-1	Boijmans van Beuningen	B 9 a-b (KN&V)	NK 2953-A-B	Coffeepot
C-2	Boijmans van Beuningen	B 8 a-b (KN&V)	NK 2952-A-B	Teacaddy
C-3	Boijmans van Beuningen	B 7 a-b (KN&V)	NK 2951	Bowl and saucer
C-4	Boijmans van Beuningen	B 6 (KN&V)	NK 2950	Vase

5. Binding opinion regarding the dispute about restitution of the painting *Mountainous Landscape* by Jacob van Geel, currently in the possession of Rotterdam City Council
(case number RC 3.170)

Date of binding opinion: 11 November 2019

Binding Opinion

regarding the dispute between

AA, of XX, also on behalf of;
BB, of XX;
CC, of XX;
DD, of XX;
(hereinafter referred to as the Applicants)
and:
Rotterdam City Council (hereinafter referred to as the City Council),
represented by Executive & Administration Support - Legal Services (BCO-JD),

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

Since 1975 the City Council has been the owner of the painting *Mountainous Landscape* by Jacob van Geel (hereinafter referred to as the painting). The painting in the collection of Museum Boijmans van Beuningen (hereinafter referred to as the Museum). The Applicants contend that the painting was in any event the property of Joseph Henri Gosschalk (1875-1952, hereinafter also referred to as Gosschalk) between September 1943 and September 1944. During this period Gosschalk was interned in Westerbork transit camp and lost possession of the painting involuntarily as a result of circumstances directly connected with the Nazi regime. The Applicants state that they are the only rightful claimants to Gosschalk's estate and claim restitution of the painting. 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

The parties asked the Committee in separate letters, dated 16 May 2017 from the City Council and dated 12 July 2017 from the Applicants, to issue a binding opinion under the terms of article 2 paragraph 2 of the Decree Establishing the Restitutions Committee. The Minister of Education, Culture and Science informed the Committee of her agreement to this case being handled by the Committee. 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 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, as 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 had additional independent research conducted. 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 4 March 2019. The Applicants responded to it in a letter of 8 April 2019 and an email of 17 June 2019, and the City Council in a letter of 24 April 2019. In a letter of 1 July 2019 the Committee gave the parties the opportunity to respond to an explanation of the overview of the facts. In a letter of 7 October 2019 the Committee gave the parties the opportunity to respond to written questions that the Committee asked Dr R.E.O. Ekkart and his answers to these questions, and to newly found information.

In this case Dr J.F. Cohen assisted the Committee as an advisor.

3. The Facts

The Committee based its considerations on the following facts.

Gosschalk

- 3.1 Joseph Henri Gosschalk (hereinafter referred to as Gosschalk) was born in Zwolle on 12 May 1875 to the merchant Henri J. Gosschalk and Seline (Sellie) Polak. He had four younger sisters: Elise Josephine (1876-1961), Margaretha Christina (1877-1953), Betsie Martha (1878-1932) and Martha (1880-1960). The family was of Jewish descent. Gosschalk was registered as living at Obrechtstraat 227 in The Hague from 1913. From 7 August 1945 he was registered as living at Wassenaarse Slag 1B in Wassenaar. Gosschalk did not marry and had no children. He had two foster daughters: Jeanne Marcelle Courboulay and Gerardina Clasina Hijst.
- 3.2 Gosschalk worked in the art world in various capacities. For example he was an artist, and from around 1912 he worked as a professional painter and draughtsman. His work was regularly on view in solo and group exhibitions in the Netherlands. A number of Dutch museums have work by Gosschalk in their collections. Gosschalk was an ardent collector of old and modern art. There is no catalogue or other comprehensive overview of Gosschalk’s collection, but it can be deduced from scattered sources that he owned many dozens of paintings, drawings and objets d’art. Gosschalk was not just a collector. He also dealt in art. On 24 February 1933 Gosschalk registered the establishment of the ‘Bureau voor Grafische Kunst’ [‘Graphic Art Bureau’] with effect from 1 March 1933 at Chamber of Commerce and Industry in The Hague. The business was located at Obrechtstraat 227 in The Hague, which was also Gosschalk’s home address, and it concentrated on *‘Bemiddeling bij opdrachten, uitgave, koop en verkoop van werken van beeldende, speciaal grafische, kunst, en hetzelfde voor eigen rekening. / (Commissiehandel en handel voor zijn rekening)’* [‘Mediation with regard to commissions for, publications about, purchase and sale of works of fine art, especially graphic art, also for the proprietor’s own account. / (Commission trading and trading on his own behalf)’]. Gosschalk was the sole owner of the business. On 29 November 1940 he notified the Chamber of Commerce and Industry that the business had been wound up with effect from March 1940.



7. Mountainous Landscape by Jacob van Geel

The German Invasion

- 3.3 Little is known about Gosschalk’s life during the early years of the occupation. In the autumn of 1942 Gosschalk tried to get an exemption from deportation on the grounds of his foster parenthood of *‘twee personen van zuiver niet-joodschen bloede, beide katholiek gedoopt’* [‘two people of pure non-Jewish blood, both baptized Catholics’]. Between December 1942 and February 1943 a number of people who Gosschalk knew made statements stressing the importance of his work as conservator and restorer for the purposes

of obtaining permission for him to remain in the Netherlands. Later on Gosschalk and his sister Elise were part of the group of Jews who were interned from the end of 1942 in Barneveld, which was referred to as the Barneveld group. This group comprised people with an important position in society and influential contacts, who were exempted from transportation to camps. Gosschalk and his sister arrived in Barneveld in February 1943. It can be concluded from Gosschalk’s post-war correspondence in the files of the Netherlands Art Property Foundation [Stichting Nederlands Kunstbezit, SNK] that he had goods, including paintings, sent to Barneveld.

On 29 September 1943 the German Ordnungspolizei took the Barneveld group to Westerbork transit camp. This was accompanied by looting and confiscations and, for instance, the furniture store was stripped. The possessions of the Barneveld group were not safe in Westerbork either. After the war Gosschalk wrote to the SNK that the Germans stole old paintings and valuable antique furniture from him in Barneveld or later in Westerbork.

In due course the Barneveld group was taken to Theresienstadt concentration camp, where most group members survived the war. On 3 May 1945 the Nazis handed over control of the camp to the Red Cross and on 8 May Red Army troops arrived. Gosschalk survived the war and returned to the Netherlands. After the war Gosschalk settled in Wassenaar. He died at the age of 77 on 6 October 1952 in The Hague.

Fate of the Art Collection

- 3.4 There is no known comprehensive overview of the contents of Gosschalk’s collection at the start of the occupation or of the changes to this collection during the occupation. It can be deduced from the documents consulted that during the war Gosschalk bought and sold various artworks. According to post-war communications from Gosschalk to the SNK, he lost the lion’s share of his art collection during the occupation. He described four ways in which this happened in a letter to the SNK dated 1 November 1945. *In Febr 1943 werd ik als Jood naar Barneveld en later n. de kampen Westerbork en Theresienstadt gebracht. Ik woonde toen in Den Haag Obrechtstraat 227. Vooraf had ik o.m. uit mijn collectie, 1e. een aantal oude schilderijen aan Lippmann Rosenthal’s Bank moeten inzenden, 2e. Een aantal in kisten verpakt op advies van het Dept. V. B.Z. met ander waardevol antiek meubilair naar Barneveld laten volgen, dat mij te Barneveld, of later te Westerbork door de Duitsers ontfroefd is, 3e. door tijdgebrek een aantal in mijn woning Obrechtstraat 227 achtergelaten, waar het na eenige maanden weggehaald is. / 4e. werd ik te Parijs voor een waardevol schilderij: “Kruisiging” op paneel uit de school van D. Bouts opgelicht, welk paneel, naar ik vernam, door uw relaties in Duitsland opgedoken werd.’* [‘Being Jewish I was taken to Barneveld in February 1943 and later to the camps of Westerbork and Theresienstadt. At that time I was living in The Hague at Obrechtstraat 227. Beforehand I had, firstly, been obliged to send a number of old paintings to Lippmann Rosenthal’s Bank and secondly I had packed other valuable antique furniture in a number of crates, as recommended by the Dept. V. B.Z, which were to follow me to Barneveld, which was stolen from me in Barneveld, or later in Westerbork, by the Germans, thirdly, because of a lack of time, I left a number behind in my home at Obrechtstraat 227, from where there were taken away after a few months, and fourthly in Paris a valuable painting - “Crucifixion” on a panel by the school of D. Bouts - was stolen from me, which I assume was unearthed by your contacts in Germany.’]

Gosschalk stated in his letter that it was difficult to give particulars about the missing works. *‘Daar de Duitsers mijn koffers met papieren ook achtergehouden hebben bezit ik geen aantekeningen meer om een lijst te kunnen geven met nauwkeurige omschrijving. Herkennen kan ik de stukken wel’.* [‘The Germans kept hold of my cases containing papers so I no longer have any notes for making a list of accurate descriptions. I am able to recognize the objects, however.’]

- 3.5 In a letter to the SNK dated 5 July 1946 Gosschalk once again stated that it was difficult for him to report detailed information. *‘Zooals ik u al vroeger mededeelde ben ik het grootste deel van mijn kunstbezit kwijt geworden in de bezettingstijd en heb ik de moeilijkheid dat ook alle gegevens verdwenen zijn en mijn geheugen mij deerlijk in den steek laat. Waar u in Uw formulieren allerlei gegevens vraagt was het mij niet mogelijk die in te vullen. Hoogstens kan ik van enkele stukken die mij invallen een vage beschrijving geven. [...] Mijn vertrek uit Den Haag liet mij al te weinig tijd om aantekeningen te maken, zelfs niet om te onthouden of schilderijen enz. naar “Bewaarders”, naar Barneveld (waar ze ook verdwenen), naar Lippmann gingen of in mijn huis achterbleven en daar later weggehaald werden.’* [‘As I notified you previously, I lost the lion’s share of my art holdings during the occupation and I have difficulties because all my information has disappeared and my memory lets me down badly. It was not possible for me to answer questions in your forms requesting all sorts of data. The most I can do is give vague descriptions of a few objects that come to mind.... My departure from The Hague gave me too little time to make notes, and not even to remember whether paintings etc. went to “Custodians”, to Barneveld (where they also disappeared), to Lippmann or whether they remained in my home, from where they were later taken away.’]

No indications were found during the Committee’s investigation that Gosschalk contacted the post-war recovery and restoration of rights authorities about the currently claimed painting and/or made efforts after the war to regain possession of the painting.

3.6 In the end one painting, by an artist from the school of Rogier van der Weijden, was restituted by the SNK to Gosschalk in 1948. In 2002 and 2017 a further four paintings from the Netherlands Art Property Collection were restituted to Gosschalk’s heirs after the Restitutions Committee had issued recommendations to that effect.

The Currently Claimed Painting

3.7 The claimed painting was among the works of the art historian Cornelis Hofstede de Groot (1863-1930) that were put up for auction in a sale in June 1931 at the Venduhuis der Notarissen in The Hague. It can be concluded from notes in different copies of the accompanying sale catalogue that Gosschalk purchased the painting at that sale for NLG 90.

3.8 After that, the painting became the property of Vitale Bloch (1900-1975). Bloch was an art historian, art dealer and art collector of Russian-Jewish descent. During the occupation Bloch provided support to the activities of Erhard Göpel, an art buyer for the planned Führer Museum in Linz, who offered him protection in exchange. Bloch became a naturalized Dutch citizen after the war. In his naturalization file there are various post-war letters with comments that are favourable to Bloch from people from cultural circles, including Karel Gerard Boon (1909-1996) referred to below. These letters state, among other things, that Bloch was anti-German, that he had acted to save his own lives during the war, that he had helped or even saved various other people, and that works that he advised Göpel about or sold to him were not by major artists from the Dutch School. Bloch and Gosschalk knew each other. They belonged to the network of art lovers in The Hague with interest in the works of Dutch Old Masters. Bloch lodged with Hendrik Schuurin, who knew Gosschalk well, and who wrote a favourable statement about him during the war with regard to attempts to protect Gosschalk from anti-Jewish measures. After the liberation of Theresienstadt concentration camp, Gosschalk wrote a postcard to his foster daughter Gerardina Hijst in which he referred to Bloch.

‘In Westerbork was ik nog goed en heb daar mijn beste tekeningen achtergelaten en in handen gesteld van de badmeester (op zijn naam kan ik juist niet komen) die ze in veiligheid zou brengen, ook aan Hans van de Waal verzocht er voor te zorgen, deze zal dus inlichtingen kunnen geven, zijn adres Dientje, kun je wel van Dr. Knuttel of van Dr. Bloch krijgen. De badmeester was bevriend met Dr. Friedländer, waar men zijn adres ook kan krijgen, aan Dr. Fr. kan dit gevraagd worden door Bloch.’
[‘In Westerbork I was still alright and I left my best drawings behind and gave them to the shower block supervisor (I can’t recall his name at the moment) who was going to put them in a safe place. I also asked Hans van de Waal to watch out for them. So he’ll be able to give you information. You can get his address, Dientje, from Dr Knuttel or Dr Bloch. The shower block supervisor was friends with Dr Friedländer, who can also be asked for his address. Bloch can ask Dr Fr. for it.]

3.9 The following is known about Bloch’s acquisition of the currently claimed painting. In the RKD – Nederlands Instituut voor Kunstgeschiedenis [Netherlands Institute for Art History] there are a number of photograph cards of the currently claimed painting. Under the illustration on one photograph card there is a typewritten note ‘*Verz. C. Hofstede de Groot*’ [‘*C. Hofstede de Groot collection*’] and below that there is a handwritten note added by an RKD employee ‘*Vitale Bloch, Den Haag [The Hague]1940*’. On the back of second photograph card of the painting there is an RKD label bearing a handwritten note ‘*Coll. H.d.G. / Vitale Bloch, den Haag [The Hague], 1940*.’ On a third photograph card there is a reference to the year 1945 in regard to Bloch. None of the photograph cards mentions Gosschalk as owner.

3.10 The Committee asked Dr R.E.O. Ekkart, former RKD director, about the significance of these photograph cards. According to Ekkart the first one dates from the nineteen-thirties, so before the name Vitale Bloch and the year 1940 were added. Ekkart thinks that the note ‘*Vitale Bloch, den Haag [The Hague] 1940*’ has to be considered, in accordance with RKD working practices, as an indication of the painting’s whereabouts in 1940. The year 1940 may be when it was acquired by Bloch, but it may also be the case that he acquired it before 1940. In Ekkart’s view the year 1945 on the third photograph card is not inconsistent with the 1940 mentioned on the first two. Ekkart believes that the three photograph cards give powerful indications that are not negligible that Bloch was the owner of the currently claimed painting in both 1940 and 1945. Ekkart concludes, given the direct contact between Bloch and the RKD and the RKD’s standard working practices, that it is improbable that Bloch would have been recorded as owner if he only had the painting for safekeeping or on consignment.

3.11 In a letter dated 21 February 1955 Bloch wrote about ‘*een lijstje met photo’s van schilderijen tekeningen uit mijn particuliere collectie (werken, die ik reeds sinds 15 tot 20 jaren bezit)*’ [‘*a list of photographs of paintings and drawings from my private collection (works that I have already owned for 15 to 20 years)*’]. The first painting on this list is:
‘Jacob Geel (getekend en gedateerd)
Landschap, vroeger in de verzameling Hofstede de Groot;’.
[‘Jacob Geel (signed and dated)
Landscape, previously in the Hofstede de Groot Collection;’]

3.12 Bloch’s acquisition of the currently claimed painting is also referred to in two letters dating from the nineteen-seventies, after Bloch’s death and the bequeathal of the currently claimed painting by Bloch to Rotterdam City Council. The first letter was written by Boon, who was referred to in 3.8. Boon was an art historian and was an SNK employee after the war. Boon was friends with both Gosschalk and Bloch. In 1975, for instance, Boon together with other friends, including the then director of Museum Boijmans Van Beuningen, Johan Conrad Ebbinge Wubben (1915-2014), had a death notice about Bloch published in the daily newspaper the *NRC*. Boon wrote to Ebbinge Wubben on 30 January 1978. Prompted by the catalogue accompanying an exhibition of the Bloch bequest in the Museum, Boon wrote the following about Gosschalk, Bloch and the currently claimed painting.

‘.... Je inleiding is een goed en mooi geschreven stuk, zoals we dat van je gewoon zijn. Je hebt ook zeer terecht op de nauwe band met Sturla gewezen. Ik heb een ding gemist n.l. Vitale’s verbondenheid met het Maandblad van Beeldende Kunst dat zoveel voor hem betekend heeft in de naoorlogse jaren. Ze ontstond door de nauwe band die hij met Cornelis Veth had en in die tijd heeft hij zich “bijna” een Hollander gevoeld. Hij leefde toen ook veel meer mee met wat er in Holland gebeurde dan in de jaren na ’60. Zo kon hij ook aankopen doen als het schilderijtje van Van Geel dat Jos Gosschalk, de tekenaar en Haagse bohemien, uit de veiling Hofstede de Groot verworven had. “Gos” wou er nooit afstand van doen maar Vitale lukte het om dit juweeltje los te peuten. Aan veel van Vitale’s aankopen zitten trouwens dergelijke geschiedenissen vast.’
[‘.... Your introduction is a good and well-written piece, as we have become accustomed to from you. You very rightly pointed out the close ties with Sturla. I did miss one thing, however, namely Vitale’s connection with the monthly magazine “Maandblad van Beeldende Kunst” which meant so much to him in the years after the war. This developed through the good relationship he had with Cornelis Veth and at that time he felt “almost” a Dutchman. He was also much more in tune with what was happening in Holland then than during the period after 1960. For example, he could also make purchases such as the little painting by Van Geel that Jos Gosschalk, the draughtsman and The Hague Bohemian, had acquired at the Hofstede de Groot auction. “Gos” would never have parted with it, but Vitale nevertheless managed to prise this little gem from him. Indeed, many of Vitale’s purchases had histories like this.]

The second letter that describes Bloch’s acquisition of the claimed painting was written on 29 November 1979 by Carlos van Hasselt (1929-2009), the then director of the Fondation Custodia, to EE of Museum Boijmans van Beuningen. In it, Van Hasselt referred to an exhibition of the Bloch bequest in the Institut Néerlandais in Paris in the autumn of 1979. He stated the following about the claimed painting, which was on show in that exhibition.

‘....De Boon’s waren juist hier en vertelden mij dat het schilderijtje van Van Geel gekocht werd op de veiling Hofstede de Groot in 1931 door de Haagse kunstschilder Jozef Gosschalk van wie Vitale Bloch het c. 1942-1943 lospeuterde toen Gosschalk naar ik meen al in Westerbork zat. Hij is kort na de oorlog overleden.’
[‘....The Boons were here recently and told me that the little painting by Van Geel was bought at the Hofstede de Groot auction in 1931 by the painter Jozef Gosschalk of The Hague, from whom Vitale Bloch managed to prise it in about 1942-43 when Gosschalk, as I recall, was already in Westerbork. He died shortly after the war.]

3.13 After the War Bloch loaned the currently claimed painting to the Gemeentemuseum in The Hague for a few years. Bloch died on 21 September 1975. In his will he bequeathed nineteen paintings, including the currently claimed one, and sixteen drawings to Rotterdam City Council, to be placed in Museum Boijmans Van Beuningen. The City Council decided to accept the bequest in March 1978. Since then the painting has been in the Museum.

4. The Positions of the Parties

4.1 The Applicants are heirs of Gosschalk, who was their great uncle. They contend that through their inquiries and restitution applications, including the present one, they are trying to continue with their great uncle’s earlier unsuccessful restitution applications. According to the Applicants, the currently claimed painting was in any event Gosschalk’s property between September 1943 and September 1944, which was when Gosschalk was interned in Westerbork transit camp. They furthermore assert that during this period the painting came into the hands of Vitale Bloch. In the Applicant’s view, the comment in Boon’s letter of 30 January 1978 that Gosschalk ‘er geen afstand van wilde doen’ [‘did not want to part with it’], taken in conjunction with his vulnerable position as a Jew interned in Westerbork, makes it highly probable that Gosschalk lost possession of the painting involuntarily. The Applicants assert that Boon’s letter suggests that Gosschalk was particularly attached to this painting, which means that the case is also of great emotional importance to the Applicants as Gosschalk’s heirs.

4.2 The City Council contends that it acquired the painting in good faith as part of the 1975 Bloch bequest. This bequest comprised three works that Bloch considered to be the most important pieces in his collection. The painting’s provenance was not investigated before the bequest was accepted. The currently claimed painting plays a major role in the seventeenth-century Dutch landscape section of the Museum’s collection. The City Council describes Van Geel as ‘een zeldzame meester’ [‘a precious painter’] by whom only around thirty paintings are known. The Museum is very attached to the painting, which is an integral part of the Bloch bequest. The Museum decided not to place the painting on the website www.musealeverwervingen.nl but to contact Gosschalk’s heirs directly, which resulted in this joint request for a binding opinion from the Committee.

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 in its opinion 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 opinion of the respective importance of the work to both parties and of the public art stock. Internationally and nationally accepted principles such as the Washington Principles and the government’s policy guidelines concerning the restitution of looted art are incorporated in the assessment.
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 proved they are jointly entitled to Gosschalk’s estate by submitting a notarial instrument dated 5 June 2018 drawn up by notary M.J. Meijer of Amsterdam.
- 6.2 It has been established on the grounds of the facts described in 3.7, 3.9 and 3.11 that Gosschalk acquired the currently claimed painting in 1931 at the sale of the Hofstede de Groot estate. It is also clear that at some point afterwards the painting came into the Bloch’s hands. An important aspect of the assessment of the dispute is whether Gosschalk lost possession of the painting involuntarily as a result of circumstances directly related to the Nazi regime.

In answering this question, the Committee first of all finds that some of the available information about Bloch’s acquisition of the painting indicates that Bloch got possession of the painting in 1940, or possibly earlier. The committee refers to the three photograph cards of the painting in the RKD as described in 3.9 and to Bloch’s letter as discussed in 3.11. This dating of the acquisition by Bloch is not consistent, however, with that of Van Hasselt, who in his letter to EE of 29 November 1979 wrote that Bloch supposedly ‘losgepeuterd’ [‘prised’] the painting from Gosschalk in ‘c. 1942-1943 toen Gosschalk naar ik meen al in Westerbork zat.’ [‘around 1942-1943.... when Gosschalk, as I recall, was already in Westerbork.’]

There is no logical way to reconcile these different datings of the acquisition by Bloch. Basing its considerations on the yardsticks of reasonableness and fairness, the Committee finds as follows. In his letter Van Hasselt describes in his own words what Boon had told him shortly beforehand about events that allegedly took place some 36 to 37 years before that and that also Boon only learned from hearsay. In view of this, the letter in question cannot be considered as a reliable source. Furthermore, the period that Van Hasselt referred in (1942-1943) does not correspond with the period during which Gosschalk was actually interned in Westerbork, which was between September 1943 and September 1944. This also gives rise to doubts about the correctness of what Van Hasselt wrote. Compared with the letter, in the Committee’s view the RKD photograph cards are a much more credible source because they date from the period during which Bloch acquired the painting. Two of the photograph cards link Bloch to the work in 1940. This is also consistent with Bloch’s own dating of the painting’s acquisition in his letter of 21 February 1955. According to former RKD director Ekkart, the three photograph cards give powerful indications that are not negligible that Bloch was the owner of the currently claimed painting in both 1940 and 1945. Ekkart believes it is also possible that Bloch acquired it even before 1940. The Committee gives considerable weight to this expert opinion.

If follows from this that it is most likely that Bloch acquired the painting from Gosschalk in 1940, or possibly earlier. Although this leaves open the possibility that Gosschalk lost possession of the painting after the German invasion on 10 May 1940, this one possibility, in the absence of information that makes it plausible, is not sufficient to conclude that Gosschalk lost possession of the painting involuntarily as a

result of circumstances directly related to the Nazi regime. The term ‘lospeuteren’ [‘prise’] used by both Boon and Van Hasselt is not of itself an indication that the loss of possession was linked to the Nazi regime.

7. 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 Gosschalk lost possession of the currently claimed painting as a result of circumstances directly related to the Nazi regime. Basing its considerations on the yardsticks of justice and fairness, the Committee will issue a binding opinion that the City Council is not obliged to restitute the painting.

BINDING OPINION

Rotterdam City Council is not obliged to hand over the painting *Mountainous Landscape* by Jacob van Geel to the Applicants.

This binding opinion was issued on 11 November 2019 by A. Hammerstein (Chair), S.G. Cohen-Willner, J.H.W. Koster, J.H. van Kreveld, D. Oostinga, E.H. Swaab (Vice-Chair) 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).	60
2.	Decree by the State Secretary for Education, Culture and Science of 4 July 2012, regarding an amendment of the Decree Establishing the Restitutions Committee in connection with an evaluation of the restitution policy (text valid until 1 October 2018).	66
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.	70
4.	Decree Establishing the Restitutions Committee; text valid with effect from 2 October 2018.	76
5.	Overview of the documents from which the policy framework of the Restitutions Committee arises.	79
6.	Regulations for opinion procedure under article 2, paragraph 2 and article 4, paragraph 2 of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (text valid with effect from 28 January 2019).	80
7.	Index by case number of the Restitutions Committee’s recommendations and opinions (2002 to 2019).	85

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 cultuurgoeederen 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.

1

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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*

2

Government Gazette 2018 no. 54468 1 October 2018



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 cultuurgooederen 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:

- the Minister: the Minister of Education, Culture and Science;
- the Ministry: the Ministry of Education, Culture and Science;
- the Committee: the Committee referred to in [Article 2](#) of this Decree.
- 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.
- 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

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

- 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.
- 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.
- The Committee may request the Expertise Centre to initiate a factual investigation.
- 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

- The Committee shall comprise no more than seven members, including the chairman and the deputy chairman.
- Both the chairman and the deputy chairman shall be qualified lawyers (meester in de rechten).
- 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.
- 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.
- 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.
- The chairman, the deputy chairman and the other members may be reappointed once at most.

Article 4

- 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.
- 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

- 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.
- 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.

Please note this is an unauthorised translation of the original Dutch text “Reglement inzake adviesprocedure in het kader van artikel 2, tweede lid, en artikel 4, tweede lid, Besluit adviescommissie restitutieverzoeken cultuurgoeederen en Tweede Wereldoorlog”. In case of divergence in the translated version, the original Dutch text prevails.

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

Definition

Article 1

The terms used in these regulations are defined as follows:

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

Task

Article 2

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

Article 3

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

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

- f. the significance of the work to the owner;
- g. the significance of the work to public art collections.

Admissibility

Article 4

1. The Committee can declare an application inadmissible if:
 - a. it concerns a dispute regarding which one of the parties has already instituted proceedings before a court, or
 - b. this is a dispute on the substance of which a court has already given a decision, or
 - c. the applicant has previously explicitly relinquished his or her rights to the work at issue, or
 - d. it emerges that the applicant does not represent all those entitled to the assets of the supposed original owner of the work.
2. The Committee declares an application to be inadmissible if the Committee has already issued a binding opinion about the dispute, unless both parties request a new binding opinion on the grounds of new facts or circumstances that justify a new assessment of the dispute.

The Hearing of Disputes

Article 5

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

Article 6

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

Article 7

1. Should the Committee decide that it will itself have further investigation conducted by the Expertise Centre, it will instruct the Expertise Centre to prepare an overview of the facts.
2. The Committee sends the overview of the facts to the parties. The parties may respond to it in writing within a period of six weeks.
3. Should the Committee decide to hear witnesses or experts or have an investigation conducted by one or more experts it designates, it will then suffice for the Committee to send the report concerned to the parties, to which they may respond within a period of two weeks.
4. The Committee may extend the periods.

Article 8

1. Should the Committee decide that a hearing is to take place, it sets the place, day and time and informs the parties accordingly.
2. The Committee may allow the parties to bring witnesses or experts and have them heard. The names and addresses of such persons are to be given to the Committee at least two weeks before the hearing.
3. In regard to the planned hearing, the parties may send documents to the Committee up to four weeks beforehand at the latest.

Article 9

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

Article 10

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

Opinion

Article 11

Among other things the Committee may recommend that:

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

Article 12

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

Article 13

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

Confidentiality, objection and exemption

Article 14

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

Article 15

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

Publication

Article 16

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

Liability

Article 17

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

Reversal

Article 18

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

Unforeseen

Article 19
The Committee decides in all cases not provided for in these regulations on the basis of the yardsticks of reasonableness and fairness.

Transitional and final provisions

- Article 20
1. These regulations will be published on the Committee’s website.
 2. The regulations will take effect as soon as they have been published.
 3. The regulations as sent to the parties will apply to any cases being considered at the time the regulations take effect.

Article 21
These regulations were adopted at the Committee meeting on 3 December 2007 and amended at the meetings on 12 January 2009, 19 September 2011, 27 January 2014, 12 November 2018 and 28 January 2019.

Index recommendations Restitutions Committee by case number (2002 to 2019)

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 Battem	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	<i>Tapestry 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
1.157	Herbert Gutmann	14 October 2019
1.160	Hamburger (III)	29 June 2016
1.164	Dr Franz Oppenheimer	14 October 2019
1.166	Berolzheimer	4 September 2017
1.167	A pastel drawing by Philippus Endlich	13 November 2017
4.168	Katz	15 November 2017
1.169	Lierens	16 April 2019

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 (Sommel/Groninger Museum)	25 April 2013
3.127	<i>Stag Hunt in the Dunes</i> by Gerrit Claesz. Bleker (Sommel/Municipality of Haarlem)	25 April 2013
3.128	<i>Christ and the Samaritan Woman at the Well</i> by B. Strozzi (Sommel/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 (Sommel/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 Moses attributed to Alessandro Vittoria (Budge/De Fundatie)	16 April 2018
3.170	Painting <i>Mountainous Landscape</i> by Jacob van Geel (Gosschalk/Rotterdam City Council)	11 November 2019
3.172	Drawing <i>Jewish Quarter in Amsterdam</i> by Max Liebermann (Kirstein/Amsterdam City Council)	16 April 2019

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