

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



Report 2015

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Cover illustration:
Ice boat *Sperwer* (RC 1.146).

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Foreword



1. Chairman of the Restitutions Committee,
W.J.M. Davids

The Restitutions Committee was established by the State Secretary for Education, Culture and Science (OCW) by a decree of 16 November 2001. Over fourteen years have passed since then, and this decree has certainly not gone undisputed. It has been amended a couple of times and it has repeatedly given rise to questions from members of the Standing Committee for Education, Culture and Science of the Dutch Lower House. The last amendment, brought about by a decree by the State Secretary of 4 July 2012, no. WJZ/420483 (10207), has had more implications than what is sometimes referred to as a technical change.

Firstly, with effect from 19 July 2012 that amending decree brought the handling of restitution applications concerning items of cultural value held by the State but not belonging to the NK collection into line with the handling of claims to items in the possession of third parties, including provincial and local authorities, foundations and private individuals. There are reasonable grounds for doing this. In both cases the acquisition by the current owner took place in circumstances that were not connected with the looting of art by the Nazis. Taking an uniform approach means that restitution applications are assessed on the basis of the yardsticks of reasonableness and fairness. This was discussed in depth in the 2012 Annual Report.

Items of cultural value that do belong to the NK collection have a different acquisition history. This is a consequence of the shipping of these works by the allied army to the Dutch State with the instruction to ensure as far as possible that they were returned to the original owners or their families. The year under review was particularly important to the handling of that category of applications. On the grounds of a second amendment to the Decree Establishing the Restitutions Committee pursuant to the decree of 4 July 2012, with effect from 30 June 2015 these applications are also assessed on the basis of the yardsticks of reasonableness and fairness. In any event the formal upshot is that prior to 30 June 2015 the assessment framework issued to the Restitutions Committee to 'give due regard to government policy in this respect' lapsed for these cases too.

The reports of the Ekkart Committee were the primary source for this government policy. The question then arises as to whether those reports could have been stored in the archives on 30 June 2015. The Committee has not done so. There is no disputing the huge role played in the foundations of the policy, which was given substance in parliamentary

Disclaimer

This English version is a translation of the original Dutch report 'Verslag 2015', in case of possible differences in translation we refer you to the Dutch report.

Frequently used abbreviations:

BHG	Origins Unknown Agency
Hergo	Office for Reparation payments and Restoration of Property
JHM	Jewish Historical Museum
NBI	Netherlands Property Administration Institute
NK collection	Netherlands Art Property Collection
OCW	Education, Culture and Science
RCE	Cultural Heritage Agency
RKD	Netherlands Institute for Art History
SNK	Netherlands Art Property Foundation

debates, by the Washington Principles and their elaboration by the Ekkart Committee. These starting points continue to have value for the Committee. No recommendations or opinions have yet been issued in which this aspect has been specifically addressed, so it is not possible to anticipate here what the consequences of this change will be.

Future restitution policy is discussed in section 3.7 of this annual report. In the letter from the Minister of OCW referred to in it, she comments that she is considering what form the organization and the policy regarding the restitution of Nazi-looted art should best take. The Committee considers it as its task to champion continued consistency with the internationally respected principles that were accepted around the recent turn of the century. There is no indication that the sensitive field of the Committee's work will ever be undisputed.

Willibrord Davids
Chairman

1. Introduction

Since 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 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 Committee's advisory activities are not confined to works of art such as paintings, drawings and sculptures. It also makes recommendations about decorative art and antiques, Jewish ritual items and other culturally valuable objects, for example the traditional ice boat pictured on the cover of this annual report.

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 fourteenth annual report is the work of the Restitutions Committee and its research bureau in 2015.² Three points deserve particular attention. Firstly the framework for assessing applications for restitution of items from the Netherlands Art Property Collection - known as the NK collection - was changed with effect from 30 June 2015. Secondly, at the request of the Minister of OCW, during the year under review there were in-depth discussions with the Ministry to explore, following up on the Minister's initiative, future possible changes in the substance of restitution policy. Finally the Committee appointed a new Secretary in 2015. These points are reviewed in more detail below.

Chapter 2 contains a description of the Restitutions Committee's tasks, followed by a review of its history, Dutch restitution policy, recent changes in that policy, and the difference between Dutch National Art Collection cases and binding opinion cases. Chapter 3 addresses the year under review and includes an introduction to the Committee's members and employees as well as a description of the activities carried out. Chapter 3 also makes mention of the Missing Art (*Vermiste Kunst*) Project, on which colleagues from the Origins Unknown Agency worked during the year under review. A quantitative overview of the opinions and recommendations issued from 2002 to 2015 is presented in chapter 4. Finally, in chapter 5 there is the text, with personal data removed, of all the opinions and recommendations that the Committee issued in 2015.

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 the State Secretary for OCW by a decree of 4 July 2012. Appendix 1 contains the 2001 Decree Establishing the Restitutions Committee and the associated explanatory notes. The entire amended text of the Decree Establishing the Restitutions Committee, which came into effect on 19 July 2012, can be found in appendix 2. See section 2.4 of *Report 2012* for more information about the amendment of the Decree Establishing the Restitutions Committee.

² Previous annual reports can be consulted in digital form on the website <http://www.restitutiecommissie.nl/jaarverslagen.html> (Dutch version) or <http://www.restitutiecommissie.nl/en/publications.html> (English version). Please contact the secretariat (the address can be found at the end of this report) to request printed copies of the annual report.

2. The Restitutions Committee and Dutch Restitution Policy

2.1 Restitutions Committee's tasks

The Restitutions Committee's primary task is to issue advice to the Minister of OCW about claims to items of cultural value in the Dutch National Art Collection, in other words the collections in the possession of the Dutch State.³ Not all the items of cultural value whose possession was lost by the former owner as a consequence of the Nazi regime ended up in the Dutch National Art Collection. Some can be held by provinces, local authorities, foundations or private individuals. This is why the government gave the Restitutions Committee a second task, which is to issue opinions about restitution issues to which the Dutch State is *not* a party.⁴ Such cases therefore involve items of cultural value in the possession of owners other than the Dutch State. It can be seen from the figures in Chapter 4, though, that the vast majority of the cases handled so far relate to the primary task. Both tasks are discussed in greater detail below.

2.2 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 end of the Second World War the allies tracked down many of these items of cultural value, particularly in Germany, after which they were brought back to their country of origin. This recovery of items of cultural value 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/legal successors; a process described as restitution.

The post-war organization in the Netherlands that conducted recovery and restitution activities was the Netherlands Art Property Foundation (SNK), which was founded in 1945. It operated under the supervision of the Netherlands Property Administration Institute.⁵ During the years immediately after the war many objects found their way back to the Netherlands, thanks in part to the efforts of the SNK. The returned artworks were put on display in 1949 and 1950 at three 'claim exhibitions'. This gave private collectors an opportunity to retrieve their lost items. The SNK also actively went in search of the original owners of returned artworks. According to the internal guideline that the SNK used to assess applications for restitution, the burden of proving forced loss of possession



2. Claim exhibition, Rijksmuseum, Amsterdam, 20 April – 9 June 1950

was on the former owner. The return of possessions was furthermore only possible upon handing over any money received as a result of selling them during the war and paying the recovery costs and the costs incurred by the SNK while administering the artworks.

In 1950 the SNK's tasks were taken over by the Office for Reparation Payments and Restoration of Property (Bureau Hergo). In compliance with the regulations that were in force at that time, in July 1951 the opportunity to submit a restitution application ended, and Bureau Hergo was also closed down during the nineteen-fifties. Some of the recovered artworks that had not been restituted for one reason or another were auctioned off during the nineteen-fifties at public sales. The artworks that remained were brought together in the Netherlands Art Property Collection (NK collection), as part of the Dutch National Art Collection.⁶

³ Decree Establishing the Restitutions Committee, 16 November 2001, article 2, paragraph 1. Appendix 1.

⁴ Decree Establishing the Restitutions Committee, 16 November 2001, article 2, paragraph 2. For more information see the explanatory notes to this Decree Establishing the Restitutions Committee. Appendix 1.

⁵ For a comprehensive overview see Eelke Muller and Helen Schretlen, *Betwist Bezit. De Stichting Nederlands Kunstbezit en de teruggave van roofoorkunst na 1945* (Disputed Ownership. The SNK and the Restitution of Looted Art after 1945), Waanders Uitgevers, 2002.

⁶ These days the NK collection contains about 3,800 items, which include paintings, drawings, prints, ceramics, silver, furniture, tapestries, carpets and other special objects. The Netherlands Cultural Heritage Agency (RCE) manages the collection. Some objects are in museums and government institutions in the Netherlands and abroad, while others are in the RCE repository.

During the decades that followed, the subject of Nazi-looted art received relatively little attention. It appeared that the file on ‘art restitution’ had been closed once and for all. This changed in the nineteen-eighties, when the debate was brought back to life by, among other things, the discovery of lost, apparently looted, art in Mauerbach, Austria. The realization gradually grew in various countries, including the Netherlands, that there was still an ‘heirless art collection’ containing artworks recovered after the war that had not been restituted.

The ‘looted art’ theme started to climb up the political agenda at the end of the nineteen-nineties. This resulted in 1998 in the adoption of the Washington Conference Principles on Nazi-Confiscated Art, which were endorsed by 44 countries. They related to ‘a consensus on non-binding principles to assist in resolving issues relating to Nazi-confiscated art’.⁷ By endorsing the Washington Principles, the Netherlands made a declaration of intent with regard to research into and registration of looted art, and also agreed with the recommendation to find just solutions for disputes about Nazi-looted art outside the standard judicial process.⁸

2.3 Dutch restitution policy since 1997

In line with the developments described above, in 1997 the Dutch government established the Origins Unknown Agency (BHG) and in 2001 the Restitutions Committee. Between 1997 and 2004 the BHG investigated the provenance of all the items in the NK collection, numbering over four thousand, under the supervision of the Origins Unknown Committee, also known as the Ekkart Committee.⁹ During that same period the Dutch government gave notice of a more liberal restitutions policy. This policy was based on three sets of recommendations by the Ekkart Committee. These were the *Interim Recommendations Concerning Private Art Ownership* (2001), the *Recommendations Concerning Restitution of Art Dealers’ Artworks* (January 2003) and the *Final Recommendations* (December 2004).¹⁰

The Ekkart Committee’s recommendations provided the Restitutions Committee with a number of generous criteria for assessing claims to Nazi-looted art. Although the recommendations were drawn up exclusively for assessing applications for the restitution of items from the NK collection, the government decided – in response to the first set of recommendations – to declare the more liberal restitutions policy applicable to other objects in the Dutch National Art Collection. As a result there was the same restitution policy for all claims to objects held by the Dutch State, irrespective of whether it was a claim to an item in the NK collection or a claim to an object in another part of the Dutch National Art Collection.

⁷ See <http://www.state.gov/p/eur/rt/hlcst/122038.htm>.

⁸ Washington Principles, principle 8.

⁹ The Origins Unknown Committee was chaired by Professor R.E.O. Ekkart.

¹⁰ The said sets of recommendations can be consulted via the Restitutions Committee’s website.

2.4 Policy change in 2012

In 2012 the State Secretary for OCW decided to change Dutch restitution policy. The background to this was explained in a letter to the Lower House dated 22 June 2012.¹¹ 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 contains 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 whether ‘the difference in the way the latter category of works of art was acquired should be expressed in the restitution policy’.¹²

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.¹³

The restitution policy was changed as recommended by the Council. On the grounds of this change, from 19 July 2012 claims to objects in the Dutch National Art Collection that do not belong to the NK collection should be assessed using the ‘yardsticks of reasonableness and fairness’. This makes the assessment framework for such items the same as that for objects that belong to collections other than the Dutch State’s (see section 2.7).¹⁴ 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.¹⁵

¹¹ 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.

¹² Letter from the State Secretary for OCW to the Lower House with regard to Second World War Assets, 22 June 2012, p. 3.

¹³ Professor R.E.O. Ekkart (Chairman), H. d’Ancona, J.C.E. Belinfante and R.M. Naftaniel.

¹⁴ ‘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. Appendix 2.

¹⁵ Letter from the State Secretary for OCW to the Lower House with regard to Second World War Assets, 22 June 2012, pp. 3 and 4.

2.5 Amended Decree Establishing the Restitutions Committee

In 2012 the Council for Culture's advice resulted in an amendment to the Decree Establishing the Restitutions Committee. On the grounds of article 2 paragraph 1 of this amendment the Restitutions Committee, at the request of the Minister, is tasked with advising the Minister about applications for the restitution of items of cultural value that are:

- a. part of the NK collection or
- b. among the other holdings of the Dutch State.¹⁶

Pursuant to article 2, paragraph 4 of the Decree Establishing the Restitutions Committee, the Restitutions Committee advises with regard to restitution applications referred to under a on the grounds of

- the applicable government policy if the application was submitted before 30 June 2015;¹⁷
- the yardsticks of reasonableness and fairness if the application was submitted on or after 30 June 2015.¹⁸

The Committee advises about restitution applications referred to under b on the basis of the 'yardsticks of reasonableness and fairness'.¹⁹

Pursuant to article 2, paragraph 6 of the Decree Establishing the Restitutions Committee, when advising in Dutch National Art Collection cases the Committee gives 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.²⁰

2.6 Change of the restitution policy for items in the NK collection

The Decree Establishing the Restitutions Committee that came into effect on 19 July 2012 anticipated a change in the restitution policy on 30 June 2015. 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'.²¹ The State Secretary decided in 2012 on the basis of this statement that with effect from 30 June 2015 claims to items in the NK collection will also be evaluated according to the 'yardsticks of reasonableness and fairness'. This decree has been incorporated in article 2, paragraph 4 of the Amended Decree Establishing the Restitutions Committee.²²

As a result of this, since 30 June 2015 there has been one policy for all works of art held by the Dutch State, whether they are in the NK collection or another State collection.

¹⁶ 2012 Decree Establishing the Restitutions Committee, article 2, paragraph 1. Appendix 2.

¹⁷ See appendix 3 for an overview of the documents on which the restitution policy is based. For a detailed description see *Report 2002*, *Report 2005* and *Report 2012*.

¹⁸ 2012 Decree Establishing the Restitutions Committee, article 2, paragraph 4. Appendix 2.

¹⁹ 2012 Decree Establishing the Restitutions Committee, article 2, paragraph 5. Appendix 2.

²⁰ 2012 Decree Establishing the Restitutions Committee, article 2, paragraph 6. Appendix 2.

²¹ Letter from the State Secretary for OCW to the Lower House with regard to Second World War Assets, 22 June 2012, p. 5.

²² 2012 Decree Establishing the Restitutions Committee, article 2, paragraph 4. Appendix 2.

However, 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 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.'²³

During the year under review one request for advice was received concerning a work in the NK collection that has to be assessed in accordance with the new overall policy.

2.7 Restitutions Committee: Binding opinion cases

On the grounds of article 2, paragraph 2 of the Decree Establishing the Restitutions Committee, the Committee is also tasked at the request of the Minister with issuing an opinion about disputes relating to the return of items of cultural value between the original owner who, as a result of circumstances directly linked to the Nazi regime, involuntarily lost possession, or his or her heirs, and the current owner, not being the Dutch State.²⁴ It follows from article 2, paragraph 3 of the Decree Establishing the Restitutions Committee that the Minister only makes such a request if the original owner or the original owner's heirs and the current owner have jointly asked the Minister to do so.²⁵

Summarizing, this second task is about alternative resolution of disputes concerning Nazi-looted art. The parties are the heirs or the legal successors of the original owner of an item of cultural value on the one hand, and the current owner of the item of cultural value concerned on the other. This current owner is *not* the Dutch State but, for instance, a provincial or local authority, a foundation or a private individual. In accordance with the Decree Establishing the Restitutions Committee, the Committee is guided by the 'yardsticks of reasonableness and fairness' when giving opinions about these cases.²⁶

The Committee drew up regulations describing the procedure for such cases based on article 4, paragraph 2 of the Decree Establishing the Restitutions Committee.²⁷ These regulations stipulate that the Committee discharges the aforementioned task of giving an opinion by means of 'issuing a binding opinion within the meaning of article 7:900 of

²³ Letter from the State Secretary for OCW to the Lower House with regard to Second World War Assets, 22 June 2012, pp. 5 and 6.

²⁴ 2012 Decree Establishing the Restitutions Committee, article 2, paragraph 2. Appendix 2.

²⁵ 2012 Decree Establishing the Restitutions Committee, article 2, paragraph 3. Appendix 2.

²⁶ 2012 Decree Establishing the Restitutions Committee, article 2, paragraph 5. Appendix 2.

²⁷ Article 4, paragraph 2 of the Decree Establishing the Restitutions Committee states, 'The Committee is entitled to establish regulations concerning further working practices.' Appendix 2.

the Dutch Civil Code (contract of settlement) or by promoting a settlement between the parties'.²⁸ The regulations also give an overview of the considerations that the Committee may include in its opinions in these cases and the possible solutions it may recommend.²⁹

The procedure that the Committee uses in binding opinion cases is of a flexible nature and can be adapted to the particulars of the case. Usually the procedure consists of an investigation phase, during which the relevant facts are investigated, and an opinion forming phase, when the Committee issues an opinion, based on investigation of the facts, that is binding on the parties. See the Committee's website for a comprehensive description of the procedure.

2.8 Closing date

In 2012 the Council for Culture gave advice regarding whether and, if so, within what timeframe and how the restitution policy of the Netherlands can be terminated. At the time the State Secretary for OCW commented as follows.

'According to the Council it is still too early to determine a closing date for the restitution policy. As yet there is barely any discussion in international restitution circles about closing dates and opinions are even expressed on a regular basis that there cannot be a closing date. [...] The Council takes the view that a time limit for claims cannot be determined until international consensus about it has developed. I endorse the Council's advice. Indeed, the Washington Principles, which were adopted in 1998, are still applicable in full as the international standard for restitution issues. As recently as 2009 the Washington Principles were reconfirmed during an international conference in Prague, resulting in the Terezin Declaration. In view of the international dimension of the restitution question, I agree with the Council that termination of the possibility of submitting claims cannot be considered until there is international consensus about it that replaces the Washington Principles'.³⁰

²⁸ '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.' Appendix 4.

²⁹ Ibid.

³⁰ Letter from the State Secretary for OCW to the Lower House with regard to Second World War Assets, 22 June 2012, p. 5.

3. A look back at 2015

3.1 Restitutions Committee members

During the year under review the Restitutions Committee comprised the following members:

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

In a decree dated 30 October 2013, the Minister of OCW reappointed all members as members of the Restitutions Committee for a three-year period. This period runs from 23 December 2013 to 23 December 2016.³¹

3.2 Death of former committee member D.H.M. Peeperkorn

D.H.M. Peeperkorn died on 27 November 2015. He was a member of the Restitutions Committee from 1 January 2010 to 31 December 2012.

David Peeperkorn studied law at the University of Amsterdam. He worked as a lawyer for many years and then became a justice and vice-president of the Amsterdam Court of Appeal. His specialism was copyright law, which he practised at national and international levels. He was a true booklover and his specialty inspired him to study the legal aspects of creating artworks. He explored the origins of copyright law in a study about the philosopher Jean-Jacques Rousseau and his publisher Marc-Michel Rey. He also published on the legal problems associated with Multatuli's *Max Havelaar*.

In Restitutions Committee meetings David Peeperkorn showed himself to be a cautious lawyer, who gave great importance to restoration of the rights of those who had been robbed of works of art during the war. He also wanted to investigate and reason that importance to the limit. We recall his precision in argumentation and his understanding of the need for justice.

³¹ *Netherlands Government Gazette*, 7 November 2013, no. 31001.

3.3 Restitutions Committee employees

On 1 March 2015 the lawyer and art historian R.A.M. Nachbahr joined the Restitutions Committee organization, initially as Acting Secretary. He became Secretary with effect from 1 October 2015. Nachbahr manages the Committee's secretariat and is the focal point for cases. He took over as Secretary from E. Campfens, who had been Secretary since 2002 and accepted a post at Leiden University with effect from 1 October 2015. Evelien Campfens's extensive knowledge and wide experience enabled her to make an immediate valuable contribution to the work of the Restitutions Committee.

On 1 January 2015 lawyer and historian E.J.A. Idema succeeded O.M. van Vessem as legal assistant and on 1 May 2015 J.M. Mooren took over from A.J. Kool as art historical researcher. The other members of the team are A. Marck (Deputy Secretary/researcher/spokeswoman), A.W.G. Brandse (office manager), I. El Achkar (management assistant), A.M. Jolles-van Loo (archivist), F.M. Kunert (researcher) and E. Muller (researcher). M. van Kooten worked for the organization as a freelance.

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



3. Members and employees of the Restitutions Committee

3.4 Activities in 2015

In 2015 the Minister of OCW submitted six new requests for advice concerning the Dutch National Art Collection. Four new cases were also brought before the Committee relating to objects from other collections. During the year under review twenty cases were considered. Seven of them arose from the *Museum Acquisitions since 1933* investigation.³²

In 2015 the Restitutions Committee held ten meetings and organized four hearings concerning cases under consideration. The Committee issued seven recommendations and three binding opinions.³³ The recommendations, which included two cases in which revised advice had been requested, concerned items from the Dutch National Art Collection. In one case the advice was to grant the claim in full, in five cases to reject in full, and in one case to grant in part and reject in part.³⁴ All three binding opinions issued in 2015 were that the claim should be granted in full.

The year under review was also marked by extensive legal, historical and art historical research into the Dutch National Art Collection claims and binding opinion cases that are currently still being examined. This involved consulting archives in the Netherlands as well as in other European countries and the United States. During this activity it was possible to make increasingly extensive use of digitized archive collections.

3.5 Symposiums, presentations and study days

In 2015 the restitution of Nazi-looted art continued to be very topical in the Netherlands and beyond. Committee members and employees therefore gave lectures, presided over workshops, attended national and international symposiums and maintained contacts with committees, institutions, researchers and students at home and abroad. The most important activities are summarized below in chronological order.

- *7 January*: Campfens attended the symposium *Reconciliation and Restitution* in the Allard Pierson Museum in Amsterdam;
- *15 January*: Campfens and Marck chaired a workshop about Dutch restitution policy for art history and law students at Leiden University;
- *28 January*: Campfens gave a lecture at the symposium *Museum Acquisitions since 1933* held by the Netherlands Museums Association in the Dordrechts Museum. Chairman Davids, committee member Herrmann and employees Idema, Kunert and Muller also attended this symposium;
- *4 March*: the Chairman gave a lecture to the Sassenheim/Lisse Probus Club ;
- *20 March*: Campfens delivered a guest lecture at the Ministry of OCW for students at Sotheby's Institute of Art;

³² For more information about this investigation see <http://www.musealeverwervingen.nl> and *Report 2011*, section 4.3.

³³ The complete texts of the recommendations issued in 2015 are in chapter 5.

³⁴ Recommended to grant: RC 1.146 (Witmond). Recommended to reject: RC 1.148 (Juda Heijman de Vries), RC 1.139 (Stettiner), RC 4.142 (De Haan revised recommendation), RC 1.145 (Mogrobi II) and RC 1.143 (Bachstitz III). Recommendation to grant in part and reject in part: RC 4.138 (Bachstitz revised recommendation).

- *31 March*: Marck was a guest on an edition of RTL's Late Night television programme in response to publication of the results of the Dutch Royal Collections Provenance Investigation;
- *23 April*: Campfens gave a presentation about Dutch restitution policy in Weimar during the semi-annual meeting of the German *Arbeitskreis Provenienzforschung*. The meeting was attended by Nachbahr;
- *3 May*: Marck attended the annual conference of the German Museums Association, entitled *Die Biografie der Objekte. Provenienzforschung weiter denken*, in Essen on the day that Nazi-looted art was the key topic;
- *9 June*: during a meeting about looted art for members of the Amsterdam branch of the Student Association for International Relations (SIB) Marck gave an overview of Nazi looting practices and described a case that had been dealt with. Kunert attended the meeting;
- *29 September*: Jolles, Mooren and Nachbahr attended a meeting of provenance researchers in the Rijksmuseum in Amsterdam;
- *1 October*: Marck and Mooren gave a guest lecture for art history students at the Free University Amsterdam about research into Nazi-looted art;
- *14 October*: Kunert attended the NIOD symposium *Strijd om gerechtigheid, Joodse verzekeringstegoeden en de Tweede Wereldoorlog* (Struggle for justice; Jewish insurance assets and the Second World War) at the University of Amsterdam ;
- *15 October*: the Chairman and Marck presented the work of the Restitutions Committee to former presidents of courts of justice in the Netherlands;
- *21 and 22 October*: Kunert and Idema attended the international conference *Plundered - but by Whom?* in Prague;
- *2 November*: Nachbahr attended the ICOM symposium *Protection of Cultural Heritage* in the Waterline Museum in Bunnik;
- *9 November*: the Chairman was present at the remembrance of *Kristallnacht* (Night of Broken Glass) in the Great Synagogue in Amsterdam;
- *23 November*: Marck presented the work of the Restitutions Committee to the pupils of a secondary school in Gouda;
- *30 November*: an interview with Chairman Davids entitled *Kunstschat zoekt erfgenaam* (Art treasure seeks heir) was published in the daily newspaper *Reformatorisch Dagblad*;
- *30 November*: Nachbahr gave a guest lecture to students of the Reinwardt Academie. The subjects discussed included the Dutch Heritage Act and restitution policy.

3.6 The *Vermiste Kunst* (Missing Art) Project of the Origins Unknown Agency (BHG)

The BHG launched a new project in the year under review.³⁵ It concerns accessing and digitizing archival information about works of art that were lost in the Netherlands during the war and are still missing. The post-war registrations of missing art objects, consisting of about 15,000 declaration forms and the associated images, form the basis for this project. This documentation is in the files of the Netherlands Art Property

³⁵ See section 2.3 of this annual report.

Foundation. BHG employees are scanning these declaration forms and images. The information obtained will be accessible in a database that will be available in due course on a revamped version of the website www.herkomstgezocht.nl.

Where possible the BHG is trying to identify the missing artworks in public collections. A number of missing art objects have already been traced since the project started.

It is expected that the Missing Art Project will lead to an increase in the number of restitution applications in the near future, and therefore to a higher workload for the Committee and its research bureau.

3.7 Future restitution policy

On 30 November 2015, during consultations about legislation with the Standing Committee for Education, Culture and Science of the Dutch Lower House, the Minister of OCW gave an undertaking to provide more information at the end of 2016 about the intended future policy on the restitution of Nazi-looted art. The Minister stated at the time that the Restitutions Committee was still a subject of great interest among 'descendants, academics and lawyers'. She continued as follows.

'We are finding that the cases are becoming more complex and are shifting from the restitution of items from the NK collection to acquisitions by museums and private parties. When it was first formulated, the policy was thought of as temporary. I think the time is now ripe to look back at the organization and its policy, and to consider what form it should best take for the future. I shall inform the House about this in due course. We are currently examining what we can learn from the past and what these lessons tell us about the future of the organization. I shall report to the House about this by the end of next year at the latest.'³⁶

³⁶ 'Conceptverslag Wetgevingsoverleg Begroting OCW 2016, onderdeel Cultuur'. Stenographic report 2015D46728, published on 1 December 2015.

4. Overview of Restitutions Committee recommendations and opinions

4.1 Overview from 2002 to 2015

Between January 2002, when the Restitutions Committee took up its duties, and the end of 2015, the Minister of OCW requested advice about 161 cases. Of these, 143 related to items of cultural value from the Dutch National Art Collection; 136 were requests for advice ‘in the first instance’ and seven concerned requests for revised advice (see below). The other 18 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 4.2 relate to the 136 cases concerning the Dutch National Art Collection. The revised recommendation cases are addressed in section 4.3, and cases involving works not in the Dutch National Art Collection are discussed in section 4.4.

4.2 Dutch National Art Collection cases

By the end of 2015 the 136³⁷ Dutch National Art Collection cases brought before the Committee resulted in the issue of advice in 121 of them.³⁸ A few of the cases that had been submitted were withdrawn before advice could be issued, and on occasion some cases were combined with a restitution application submitted later. Furthermore, in two cases the Committee considered itself not to be competent to advise.

Of the 121 recommendations issued, 62 were fully in the applicants’ favour, 42 were to reject the claim in full and 17 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 121 recommendations issued concerned approximately 1,530 claimed items of cultural value.

Dutch National Art Collection cases per year

<i>Submitted to the RC</i>		<i>Recommendations issued by the RC</i>	
2002	12	2002	5
2003	4	2003	7
2004	9	2004	2
2005	16	2005	7
2006	15	2006	12
2007	35	2007	16
2008	12	2008	15
2009	10	2009	16
2010	3	2010	9
2011	-	2011	13
2012	5	2012	7
2013	2	2013	5
2014	7	2014	2
2015	6	2015	5
Total	136	Total	121

4.3 Revised recommendations

Up to the end of 2015 the Committee issued revised recommendations in seven cases about objects in the Dutch National Art Collection. These concerned cases in which the Committee had advised previously and restitution applications had been rejected wholly or in part. In one case, on the grounds of new facts becoming known, it was recommended that one item concerned should be restituted after all.³⁹

Revised recommendations per year

<i>Submitted to the RC</i>		<i>Recommendations issued by the RC</i>	
2010	3	2010	1
2011	2	2011	-
2012	-	2012	2
2013	1	2013	2
2014	1	2014	-
2015	-	2015	2
Total	7	Total	7

³⁷ See section 4.3 for the revised recommendation cases.

³⁸ 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 5 for an index by case number of all the opinions and recommendations issued by the Committee during the 2002-2015 period.

³⁹ See the renewed recommendation RC 4.138 (Bachstitz) in chapter 5.

4.4 Cases concerning works not in the Dutch National Art Collection

As explained, when it was established the Restitutions Committee was assigned a second task in addition to assessing claims to works in the Dutch National Art Collection.

This involves investigating and evaluating disputes about items of cultural value from collections other than the Dutch National Art Collection. The Committee discharges this task by giving a binding opinion within the meaning of article 7:900 of the Dutch Civil Code (contract of settlement).

By the end of 2015 the Restitutions Committee had dealt with 18 requests for an opinion in the context of this task. The Committee issued binding opinions in a total of nine cases in 2008, 2010, 2012 and 2013,⁴⁰ and a further three in the year under review.⁴¹ In eight of these twelve cases the recommendation was to restitute the disputed objects, while the binding opinion in the other four cases was that the restitution application should be rejected.

Binding opinions per year

<i>Submitted to the RC</i>		<i>Opinions issued by the RC</i>	
2006	2	2006	-
2007	1	2007	-
2008	1	2008	3
2009	-	2009	-
2010	-	2010	1
2011	5	2011	-
2012	1	2012	1
2013	2	2013	4
2014	2	2014	-
2015	4	2015	3
Total	18	Total	12

4.5 Status at the end of 2015

At the end of the year under review a further ten Dutch National Art Collection cases were still being dealt with. There are no requests for revised recommendation before the Committee, but six binding opinion cases are still under consideration.

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

⁴⁰ See *Report 2008, Report 2010, Report 2012 and Report 2013*.

⁴¹ See the binding opinions RC 3.144 (*Portrait of Joan Huydecoper*, anonymous, after Bartholomeus van der Helst), RC 3.140 (*Portrait of Pieter Bouwens and Portrait of Adriana van der Nutt* by Ferdinand Bol) and RC 3.135 (*The Riddle of Nijmegen* by Christiaan Coeuershof) in chapter 5.

5. Opinions and recommendations issued in 2015

Below is the full text of the opinions and recommendations issued by the Restitutions Committee in 2015. The opinions and recommendations are given in chronological order. The dates given for opinions and recommendations are based on when they were finalized.⁴²

1. Recommendation regarding Stettiner (case number RC 1.139)

In a letter dated 9 October 2013 the Minister of Education, Culture and Science (hereinafter referred to as the Minister) asked the Restitutions Committee (hereinafter referred to as the Committee) for advice about the application for restitution dated 11 September 2013 from AA, BB, CC, DD, EE and FF (hereinafter referred to as the applicants) as being entitled to the estates of Alphonse Stettiner, Oscar Stettiner and Adele de Jong-Stettiner (hereinafter referred to as Adele Stettiner). The application concerns a painting by Salomon Koninck (1609-1656), *Old Man with Beard*, which is part of the Netherlands Art Property Collection (hereinafter referred to as the NK collection) under inventory number NK 2694. It is currently in the repository of the Netherlands Cultural Heritage Agency.

The procedure

Originally Nancy Parke-Taylor, and later (from February 2014) James Palmer, both with Mondex Corporation, Toronto, Canada, acted as representative of the applicants in the restitution application. Powers of attorney from five of the six applicants authorizing this representation were submitted. No power of attorney from BB was submitted, despite repeated requests by the Committee to that effect. The Committee therefore has had to assume that Parke-Taylor and Palmer are not authorized to represent BB and that the application was made on behalf of the other five applicants and not by BB.

The Committee investigated the facts as a result of the request for advice. It recorded the results of its investigation in a draft investigatory report dated 22 July 2014, which was sent to the applicants and the Minister for comment with letters dated 23 July 2014. The applicants responded to the draft investigatory report in a letter dated 23 September 2014. The Minister stated in a letter dated 31 July 2014 that she did not wish to bring any additional information to the Committee's attention.

Previously the heirs of Katz requested the return of NK 2694 as part of an application for the restitution of 189 artworks. On 17 December 2012 the Committee advised the Minister to reject that restitution application for 188 artworks (RC 1.90 B), including NK 2694. The Minister followed that recommendation.

Considerations

1. The applicants state they are heirs of Alphonse Stettiner, Oscar Stettiner and Adele Stettiner (hereinafter also referred to, jointly with the Stettiner gallery or otherwise, as Stettiner). In order to prove this they submitted inheritance-law-related documents on the grounds of which the Committee sees no reason to doubt the position of the applicants as being entitled to the Stettiner estates.
2. The applicants contend that at the time of the events in 1939/1940 to be described below, the painting *Old Man with Beard* (hereinafter also referred to as NK 2694) was owned by Alphonse, Oscar and Adele Stettiner or the gallery Stettiner et Cie. in Paris (a company set up in 1924 and dissolved in 1951 under French law, in which Alphonse, Oscar and Adele Stettiner were the shareholders). They consider private property of Oscar to be the most probable. They furthermore assert that the painting was lent or given on consignment by the owner to the gallery Firma D. Katz (hereinafter referred to as Katz) in Dieren for an exhibition from 8 July to 15 September 1939 inclusive, after which it was not returned by Katz to the owner in Paris but - without the knowledge or cooperation of Stettiner - was sold by Katz on or around 5 August 1940 to Alois Miedl, a German art dealer established in the Netherlands, who shortly before had taken over the Amsterdam gallery J. Goudstikker N.V. (hereinafter referred to as Goudstikker/Miedl) and that shortly thereafter Miedl sold the painting on to H. Hoffmann, who bought art on behalf of Hitler, for the Führer Museum planned in Linz. The applicants claim that possession of the painting was lost in August 1940 and that this loss was involuntary as a result of circumstances directly related to the Nazi regime.



4. *Old man with beard* by Salomon Koninck

Overview of the facts

3. Alphonse, Oscar and Adele Stettiner, born in 1876, 1878 and 1880 respectively, were the children of Henri Jules Stettiner and his wife Gertrude Davis. They were of Jewish descent. Oscar and Alphonse had British nationality, and Adele had French nationality. At the end of the nineteenth century and beginning of the twentieth century Henri Stettiner was an antiques dealer in Paris and had an established reputation. After Henri retired the business was continued by the children. They were partners in Stettiner et Cie., which operated and was well known internationally.
4. Originally - until 1935 - the company was headed by Alphonse, and then by Oscar from 1935. The Second World War started 3 September 1939. The Stettiner family closed the gallery in Avenue Matignon in Paris on 20 November 1939. Oscar moved to his home in the Dordogne. In view of their Jewish descent and the British nationality of Alphonse and Oscar, they must have been fearful of persecution in the circumstances that existed then, and that is also what happened. The gallery's trading stock and the personal possessions of Alphonse, Oscar and Adele were seized in the context of the aryanization of the business. The gallery's trading stock was auctioned off on a number of days during the February - May 1943 period. In 1943 Oscar was arrested and imprisoned in La Grande Caserne Denis, which had been used as a prison for British citizens since 1940. Alphonse, Oscar and Adele survived the war. Their deaths were in 1966 (Alphonse), 1948 (Oscar) and 1963 (Adele).
5. In the Archives de la Seconde Guerre Mondiale in the Archives Nationales in Paris there is a file about the management of the Stettiner gallery during the occupation by an administrator appointed by the Commissariat général aux questions juives, the body responsible for implementing the anti-Jewish policy of Vichy France. During investigation of the file, the Committee found an inventory of the Stettiner gallery's trading stock as of 20 May 1940. The painting by Koninck and the name Katz are not referred to on the list or elsewhere in the file. The explanation the applicants give for this is that when the list was drawn up, the painting was in Katz's hands and so it was not included in the inventory.

⁴² See appendix 5 for an index by case number of all the opinions and recommendations published by the Committee during the 2002-2015 period.

6. Stettiner got the gallery's business premises in Avenue Matignon back after the war, but it was found that the firm's trading stock and records and various personal belongings that were in the property had been stolen by the Germans or destroyed. In 1945 and 1946 Oscar Stettiner submitted claims in France relating to objects stolen from him and/or the Stettiner gallery. In the context of the present restitution investigation the Committee carried out research in the files of the restitution authorities in France. No reference was found in files relating to Stettiner to the painting by Koninck or to Katz. The applicants state that they have not found any proof that the painting was reported as missing after the war by Stettiner. As a possible explanation for this they argue that the painting was simply overlooked because it was no longer present in Paris when Stettiner was robbed of his possessions in Paris.

NK 2694

7. After the war the painting *Old Man with Beard* was returned from Germany to the Netherlands because during the German occupation it was sold in September 1940 by Goudstikker/Miedl to H. Hoffmann, who bought art on behalf of Hitler, for the Führer Museum planned in Linz.
8. Source research reveals that the painting is listed in the catalogue of a sale of the collection of Moritz Freiherr von Königswarter, Vienna, at the Eduard Schulte gallery in Berlin on 20 November 1906. In an annotated copy of the sale catalogue at the Netherlands Institute for Art History (RKD) there is a handwritten note next to the painting '14.100-/Kleinberger'. This might refer to the sum that the painting was sold for at the auction and to the F. Kleinberger Galleries in New York as purchaser (active in Paris 1848-1973 and New York 1913-1973). No certainty was obtained about the provenance of the painting between the sale in 1906 and the Katz exhibition in 1939.
9. Between 8 July and 15 September 1939 inclusive Katz in Dieren staged an exhibition of some hundred paintings (*Tentoonstelling van belangrijke 17e eeuwse Hollandsche schilderijen* [exhibition of important seventeenth-century Dutch paintings]), including the present one. Katz wrote the following in the foreword of the exhibition catalogue. *'Het is met groot genoegen, dat ondergeteekende bij deze den catalogus aanbiedt van een honderdtal schilderijen van oude Meesters in haar bezit. Door het tentoonstellen van deze keuze uit haar zich steeds méér uitbreidende verzameling van hare werken, bedoelt zij mede het aankweken ten onzent van de waardering onzer Oude Schilderkunst in steeds breeder kring. Zij streeft er meer en meer naar, zooveel mogelijk het beste aan te koop, wat op dit gebied, in Binnen- en Buitenland te vinden is. Bij het samenstellen dezer Tentoonstelling heeft ondergeteekende haar best gedaan om de prima kwaliteit van haar bezit, duidelijk aan den dag te doen treden'* [It is with great pleasure that the undersigned offers this catalogue of some one hundred old master paintings that are in the gallery's possession. The gallery's intention in exhibiting this selection from the ever growing collection of its works is to contribute to fostering greater appreciation of our old paintings in progressively larger circles in our country. The gallery is striving more and more to buy the best possible of what can be found here and abroad in this field. The undersigned has made the greatest possible effort when selecting works for this exhibition to display, for all to see, the fine quality of the gallery's possessions]. This text suggests that at the time of the exhibition Katz was the owner of the exhibited works (*'haar bezit', 'hare werken'* [in the gallery's possession', 'its works']). The catalogue of the 1939 exhibition gives the following provenance information about the present painting (number 49, exhibited under the name *Old Man with Gloves*).

'Vroeg. coll.: *Verzameling, Rusland.* [Former coll.: Collection, Russia.]
Stettiner, Parijs'. [Stettiner, Paris.]

The Committee has not been able to establish which collection '*Collection, Russia*' refers to or during which period the painting belonged to it (before or after the sale at the Eduard Schulte gallery in Berlin in 1906). While studying the back of the work the Committee found three Russian wax seals. The Committee sent a request for information about these seals to a heraldic artist and Russia expert. This person stated that all three seals are Russian. One of them might be a state seal/export seal and one of the other two seals could be an indication of a family called Oguievsky. The Committee found no further information about a Russian link in the provenance.

10. The Committee has not been able to find any documentation containing further details in relation to the painting about the '*Vroeg. coll. [...] / Stettiner, Parijs'* referred to in the catalogue. The applicants have stated with regard to the owner '*Stettiner, Parijs'* that '*regardless of which "Stettiner, Paris" the 1939 Katz catalogue referred to, it could only be the family of our dealers in Paris'*. The Committee has established that a number of variants of the name Stettiner as owner are also mentioned in other documents investigated by the Committee - inventory card 5212 of the Goudstikker business records (*'Stettiner, Paris'*) and documentation of the Stichting Nederlands Kunstbezit (Netherlands Art Property Foundation SNK) (*'Coll. Stettiner, Paris'*) - but these references all seem to lead back to the listing in the 1939 Katz catalogue and give no additional information about the owner concerned. The Committee has also not been able to establish when and from whom '*Stettiner, Paris'* acquired the painting *Old Man with Beard*. It has furthermore not been established when the painting ceased to be in the possession of '*Stettiner, Paris'*.

11. The applicants contend with regard to the painting's provenance that between September 1939 (end of the Katz exhibition) and August 1940 (sale by Katz to Goudstikker/Miedl) NK 2694 was probably left in the safe hands of Katz because according to the applicants Katz maintained a special relationship with the German authorities. The applicants consider it plausible that Katz sold the painting to Goudstikker/Miedl in August 1940 in order to avoid its confiscation by the Germans as enemy property (of Stettiner) under the terms of Regulation VO 26/1940. The applicants think it improbable that Katz was able to transfer the proceeds to Stettiner. They have told the Committee that they have no documentation relating to '*the business relationship between the Stettiners or Stettiner et Cie and the Katz dealership'*. The Committee did not find any information about this during its investigation either.
12. Katz sold the painting to Goudstikker/Miedl in August 1940. The sale was part of a large transaction in which Katz sold over 500 paintings to Goudstikker/Miedl. According to inventory card 5212, which comes from the wartime Goudstikker business records and which is kept at the RKD, Goudstikker/Miedl sold the painting in September 1940 to '*Reichskanzlei / Berlin / f 30.000,- / 20/9 '40'*. The sale is confirmed by documents that the Committee found during its investigation in the Dutch National Archive and the Bundesarchiv Koblenz.

Assessment of the claim

13. The Ekkart Committee's eighth recommendation (2001) states as a condition for restitution that the right of ownership to the claimed object is proved with a high degree of probability, and that there are no indications to the contrary. This recommendation applies to the right of ownership of a private individual or an art gallery (Ekkart Committee 2003). In the assessment of the present claim consideration must therefore be given to whether the right of ownership of Stettiner and/or the Stettiner gallery with regard to the claimed artwork NK 2694 is very plausible and whether there are indications to the contrary. In this regard the ability to date the right of ownership at the moment that is important to the restitution application, namely the moment of the sale by Katz to Goudstikker/Miedl (on or around 2 August 1940), is also important. The question of whether there was involuntary loss of possession of NK 2694 can only be addressed if it is highly probable that Stettiner was the owner of the painting during the relevant period.
14. The applicants contend that Stettiner and not Katz was the owner of NK 2694 during the exhibition in Dieren in 1939 and also in August 1940 (at the time of the sale to Goudstikker/Miedl). They base this contention primarily on the painting's listing in the exhibition catalogue, with '**Vroeg. coll.:** *Verzameling Rusland. / Stettiner, Parijs'* [Former coll.: Collection, Russia. / Stettiner, Paris] as provenance. In this regard the applicants assert that use of the word '**Vroeg. [Former]**' has no significance. Katz is said to have attributed the ownership of artworks to itself in catalogues on other occasions by adding the word 'former' in the description of a collection to which an artwork belonged. In this context the applicants refer to another work of art referred to in the catalogue concerned. The Committee takes the view that the listing in the catalogue is nothing more than an indication that during some period prior to 15 September 1939 the painting was the property of '*Stettiner, Parijs'*. It remains unknown, however, when this period started and ended.
15. In the Committee's opinion the applicants have moreover not been able to make their assertion that Stettiner lent NK 2694 to Katz or gave it to Katz on consignment sufficiently plausible. It may well be the case, as contended by the applicants, that Katz regularly accepted artworks for sale on consignment (as the Committee judged in its recommendation RC 1.90 B) and that the Stettiner gallery regularly gave paintings to other galleries on consignment, but there is no evidence that this also happened in the case of NK 2694. In this regard the applicants remarked, '*We do not have documentation showing that the painting was on loan or on consignment to the Katz dealership when exhibited in 1939.'*
16. The conclusion is that the right of ownership of Alphonse, Oscar and Adele Stettiner and/or the gallery Stettiner et Cie with regard to NK 2694 is not highly probable. In view of this conclusion the Committee has not addressed the question of whether, as the applicants contend, the Stettiner family or gallery lost possession of the painting involuntarily in August 1940 as a result of circumstances directly connected with the Nazi regime.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to reject applicants' claim to NK 2694.

Adopted at the meeting of 2 February 2015 by W.J.M. Davids (Chairman), J.T.M. Bank, R. Herrmann, P.J.N. van Os, E.J. van Straaten and I.C. van der Vlies (Vice-Chair), and signed by the Chairman.

(W.J.M. Davids, Chairman)

2. Recommendation regarding Juda Heijman de Vries (case number RC 1.148)

In a letter dated 20 June 2014 the Minister of Education, Culture and Science (hereinafter referred to as the Minister) asked the Restitutions Committee (hereinafter referred to as the Committee) for advice about the application from AA (hereinafter referred to as the Applicant), residing in BB, of 13 March 2014 for restitution of the painting *Tavern Full of People*, artist unknown (hereinafter referred to as the painting). The painting is among the possessions of the Dutch State, but not of the Netherlands Art Property Collection (hereinafter referred to as the NK collection), and it is in the Netherlands Open Air Museum in Arnhem (hereinafter also referred to as the NOM).

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 possessions of the Dutch State.

Pursuant to paragraph 5, the Committee advises with regard to applications as referred to in paragraph 1, under b, and in paragraph 2 on the basis of the yardsticks of reasonableness and fairness.

The procedure

In a letter dated 20 June 2014 the Minister asked the Committee for advice about the application of 13 April 2014 from the Applicant for restitution of the painting.

In response to the Minister's request for advice, the Committee conducted an investigation into the facts. The results of the investigation are recorded in a draft overview of the facts dated 6 October 2014. The Applicant and the Minister were given the opportunity to respond to this overview of the facts. The Applicant responded in an e-mail dated 20 November 2014. The Minister responded in a letter dated 4 December 2014.

There was a hearing about the case on 8 December 2014. The Applicant was there in person, assisted by CC. The Minister was represented by DD, policy assistant, and EE, Dutch National Art Collection consultant. On behalf of the NOM the hearing was attended by FF, NOM Collections and Administration Sector Manager. The Applicant sent further responses in e-mails dated 14 December 2014, 20 January 2015 and 7 February 2015. The Minister sent a further response in a letter dated 23 January 2015.

Considerations

1. The relevant facts have been described in the overview of the facts of 6 October 2014. The following summary is sufficient here. The Applicant is the only child of Juda Heijman de Vries (1900-1943) and his wife Jansje (Jenny) Callo (1912-2013). Juda Heijman de Vries lived at Van Riebeeckstraat 5 in Haarlem, he was a tailor and he had a workshop in Zijlweg in Haarlem. During the war Juda Heijman de Vries went into hiding in Wilsonsplein in Haarlem. While he was in hiding he was betrayed and deported, initially to Westerbork and then to Sobibor, where he was murdered on 21 May 1943.
2. The Applicant's restitution application was prompted by the results of the provenance investigation under the auspices of the Dutch Museums Association (hereinafter referred to as the Museums Association) into museum collections in connection with looting, confiscation or forced sale during the 1933-1945 period. The results of this investigation have been available since 29 October 2013 on the website www.musealeverwervingen.nl, where the following is stated about the painting.

Conclusion

It is not known who the painting belonged to before it was put under the management of the Netherlands Property Administration Institute.

Notes

The painting may have been among enemy assets that were seized after the war. In 1947 the Netherlands Property Administration Institute, Office for Movable Property of Enemies and Traitors, Winterswijk representation, transferred various paintings to the Netherlands Art Property Foundation. The correspondence about this transfer contains references to two paintings whose titles contained the words "Tavern" and "Peasant Tavern". One of these two titles may refer to this work. There is the following writing on the back of the frame: "Van Ostade" in black ink "Haarlem, Walt..., Wil...plein 7" in blue chalk. "Fleij" or "Heij" in red chalk. This may refer to the address Wilsonsplein 7 in Haarlem. Investigation has revealed that Juda Heijman de Vries (12 September 1900 - 12 May 1943, Sobibor), a Jewish tailor, was in hiding at this address. There are no further indications that Heijman de Vries had possessed this painting.'

3. As a result of an article about this in the newspaper *De Telegraaf* of 30 October 2013, which among other things discussed the painting, the Applicant contacted the NOM. It can be deduced from the available correspondence that initially the NOM promised to restitute the painting to him, but it reneged on this undertaking because the painting is among the possessions of the Dutch State. The Applicant then turned to the Minister and requested restitution of the painting.

4. Two valuation reports dated 20 December 2013, prepared by GG on the instructions of the NOM, describe the painting as follows:
'Unsigned, possibly by a follower of Adriaan van Ostade (1610-1685), oil on linen, 71.5 x 59 cm. Age of painting 1675-1725. Depicting rustic figures in an interior, five seated and nine standing people, some playing music and some smoking. The interior contains jugs, furniture and small braziers, some of them on shelves high up on the wall. Condition of the canvas: considerable craquelure, paint has been lost in a number of small areas, and there is considerable damage in the form of scratches. The stretcher shows signs of woodworm (not active). The name van Ostade is written in black ink on the stretcher. Haarlem, JJ, Wilsonsplein 7 is written in blue chalk on the stretcher. The stretcher also contains fragments of old newspapers bearing text in French.'

5. The Committee requested the Applicant to complete a questionnaire. The Applicant wrote the following in response to the question about any recollections he might have of the artwork.
'I was born in 8/1938 and was 3 or 4 at the time. No recollection. My late mother, who spoke rarely if ever about the war, did tell me that all their possessions had been stolen. She also talked about a painting and she did not know what had happened to it.'

The Applicant wrote the following in answer to the question about the circumstances in which the artwork was lost.

'No knowledge whatsoever (I was 3 or 4 years old), I had gone into hiding (on my own) with farmers in Vijfhuizen. My father (a famous footballer in Haarlem) was betrayed by the police (they received 25 guilders for each Jew).'

6. The following emerged from the Committee's investigation into the painting's provenance. The painting came from the seized enemy property of the German HH. During the occupation he was appointed Verwalter (administrator) of the 'Jewish' N.V. Heijman's Industrie en Handelonderneming in Groenlo. HH fled to Germany when it had become clear that Germany was going to lose the war. When HH departed he was said to have left behind various private possessions, including paintings, with the firm of Heijmans. After the liberation, Jacob Meijer Heijman(s) is said to have looked after HH's goods for about two years. The formal administrator of HH's possessions was II, a bailiff. In February 1947 the Dutch Property Administration Institute in Winterswijk (hereinafter referred to as the NBI) removed II from his position, after which all the possessions (gold and silver objects, paintings) were handed over to the NBI. On 9 July 1947 an employee of the Dutch Art Property Foundation (hereinafter referred to as the SNK), F.W. van der Haagen, visited the NBI in Winterswijk. During this visit 21 items and artworks, including the painting, were transferred from the NBI to the SNK. Then, on 12 August 1947, the painting was handed over by Van der Haagen on behalf of the SNK to the NOM. In view of the fact that this painting originated from HH's assets, and that there was an outstanding claim on them from 'a certain Heijman of Winterswijk', the NOM paid the NBI 120 guilders for the painting. The painting has been in the NOM since 1947.

Assessment of the claim

7. The Applicant has stated he is the only heir of Juda Heijman de Vries. In this regard the Committee has taken note of the documents submitted by the Applicant and on the grounds of these documents, among other things, the Committee sees no reason to doubt the Applicant's status as heir of Juda Heijman de Vries.
8. In view of the facts described above and the assessment framework, the Committee considers first of all the question of whether it is highly likely that the painting was among the possessions of Juda Heijman de Vries. If this is not the case, the basis of the Applicant's claim lapses and the Committee does not continue with further substantive assessment of the application.
9. Before the Committee addresses the question of whether it is highly likely that the painting was among the possessions of Juda Heijman de Vries, however, in the context of careful provision of advice, it will address the Applicant's comments about the sources referred to in the overview of the facts. For example, in his response of 20 November 2014 to the overview of the facts of 6 October 2014, the Applicant points out that the investigation report is based largely on statements from, and records describing actions by, people with (summarizing in the Committee's words) dubious motives, for instance because they were German or were Nazi sympathizers during the war or had a certain interest in the painting. The Committee stresses that the goal of the investigation is to unearth as much as possible that may be relevant to the Committee's advice. From the point of view of completeness of the investigation, it would be wrong not to include certain findings in the overview of the facts just because these findings can be traced back to individuals with questionable reputations. In view of the subject of the investigation, it is

furthermore not possible to prevent such findings from surfacing. However, the statements and facts that the Applicant has cast doubt on are not important with regard to answering the question of whether it is highly likely that the painting was among the possessions of Juda Heijman de Vries.

10. In line with the Museum Association's report, the Committee's investigation has shown that the only indication that the painting was supposedly the property of Juda Heijman de Vries comes from the notes on the back of the painting. This therefore concerns "Haarlem, Walt..., Wil...plein 7" written in blue chalk and 'Fleij' or 'Heij' written in red chalk. The latter text allegedly refers to Juda Heijman de Vries. Yet the Committee cannot ignore the fact that, as the Applicant himself has stated, Heijman was his father's second first name. According to statements made by the Applicant, his father was not known by the name Heijman in everyday life. Similarly in written sources, for example two publications of the FC Haarlem football club submitted by the Applicant, the Applicant's father is referred to as Juda de Vries. In view of this, according to the Committee it is not obvious that the note 'Heij' indicates Juda Heijman de Vries. The Committee can likewise not ignore the finding from the investigation that the provenance information suggests that the painting formerly belonged to HH, *Verwalter* (administrator) of the firm of Heijmans during the war. It therefore appears to be more likely that note refers to Heijmans in Groenlo and that this note was made in connection with the administration of HH's possessions by the company N.V. Heijmans and Jacob Meijer Heijmans between 1945 and 1947.
11. As regards the note 'Haarlem. Walt...., Wil...plein 7', the Committee finds as follows. The Committee considers it to be almost certain that this refers to the address Wilsonsplein 7 in Haarlem. In Haarlem there are and were no other squares with names containing the letters 'Wil'. The description of the painting in the valuation reports dated 20 December 2013 also assumes this, albeit with a minor slip of the pen. It also emerged from the investigation that Juda Heijman de Vries went into hiding in Wilsonsplein in Haarlem. It is possible that he was at Wilsonsplein 7, but this was not established by the investigation.

In addition the Committee draws attention to results from researching objective and indisputable sources such as many advertisements, including those in the newspapers the *Algemeen Handelsblad* and the *Haarlemse Courant* in the years after 1940. The advertising concerns paintings for sale with such descriptions as 'by old masters' and 'from the Romantic School', as recorded in the investigation report. It has emerged from this research that during the occupation and thereafter Wilsonsplein 7 was the address of an art gallery established with the name *De Torenvalk*. This art gallery was run as a one-man business by JJ, whose private address was the same. Quite apart from the fact that number 7 has not been established as Juda Heijman de Vries's safe house, the Committee considers it plausible that the note 'Haarlem. Walt...., Wil...plein 7' refers to the aforementioned JJ. It should be pointed out that there are two number sevens in Wilsonsplein. If it is presumed that the safe house was at one of these number sevens, the Committee considers it unlikely that Juda Heijman de Vries would write this address, or have it written, on the back of the painting since this address - being a place of hiding - had by definition to remain secret. Furthermore the note 'Walt....' would remain unexplained. These factors mean that further research into the history of and people in Wilsonsplein 7 can be dispensed with.
12. The foregoing leads to the conclusion that it is not highly likely that the painting was the property of Juda Heijman de Vries. As stated above, the basis of the Applicant's claim lapses herewith. In view of this the Committee can therefore not concur with the Applicant with regard to his position, as expressed for example in his response of 20 November 2014 and during the hearing of 8 December 2014 that, since this case is about looted art and the Minister has stated that no importance is attached to possession of the painting, there can be no objections to advising the Minister to restitute the painting to the Applicant. The Committee cannot recommend restitution of the painting to the Applicant on the basis of the yardsticks of reasonableness and fairness if it is not highly likely that the painting was the property of Juda Heijman de Vries.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to reject the application from A. de Vries for restitution of the painting *Tavern Full of People*.

Adopted at the meeting of 2 February 2015 by W.J.M. Davids (Chairman), J.T.M. Bank, R. Herrmann, E.J. van Straaten, I.C. van der Vlies (Vice-Chair), and signed by the Chairman.

(W.J.M. Davids, Chairman)

3. Binding opinion regarding the dispute about the return of the painting *Portrait of Joan Huydecoper*, anonymous, after Bartholomeus van der Helst, currently in the possession of Amsterdam City Council (case number: RC 3.144)

Date of binding opinion: 30 March 2015

Binding opinion
in the dispute between

BB,
Amersfoort
(hereinafter referred to as the Applicant),

and

Amsterdam City Council,
represented in this matter by M.H.M. Kanters, Director of the Social Development Department
(hereinafter also referred to as the City Council),

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

1. The dispute

The City Council stated that the painting *Portrait of Joan Huydecoper* (hereinafter referred to as the work), anonymous, after Bartholomeus van der Helst, has been the City Council's property since 1955 and is part of the collection of the Amsterdam Museum (hereinafter referred to as the Museum). The Applicant stated that until February 1941 the work had been part of the collection of her father, AA (hereinafter also referred to as AA). The Applicant stated that she is the only person entitled to the estate of AA and is claiming restitution of the work on the grounds she asserts of involuntary loss of possession as a result of circumstances directly connected with the Nazi regime. As a result of mediation by the Committee the parties submitted a joint request to the Minister of Education, Culture and Science (hereinafter also referred to as the Minister) in order to lay the Applicant's claim before the Committee for a binding opinion.

2. The procedure

The Minister requested the Committee to issue an opinion to the parties under the terms of article 2 paragraph 2 of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War of 16 November 2001, as amended by an Order of the State Secretary for Education, Culture and Science of 4 July 2012 (hereinafter referred to as the Decree Establishing the Restitutions Committee). Pragmatic reasons prompted the intervention of the Minister, and the State of the Netherlands was not 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 City Council submitted a decision of March 2014 in which W.P. Spies, Director of the Museum, is authorized to act in the procedure as point of contact for the Committee and to provide it with information. The Applicant submitted a certificate of inheritance dated 25 January 2001 showing that she is the only heir of her father, AA, who died on 10 January 2001.

The Committee took note of all the documents submitted by the parties and also conducted additional independent research. The findings of the research carried out by both the parties and the Committee have been recorded in a draft overview of the facts, which was sent to the parties for comments accompanied by letters dated 9 December 2014. The Applicant responded in a letter dated 14 January 2015. The City Council responded in a letter dated 20 January 2015.

Together with a letter dated 11 February 2015 the Applicant submitted a certificate of inheritance dated 23 July 1996 concerning the estate of her mother CC. The City Council submitted a further response in a letter dated 20 February 2015 and received on 2 March 2015. The Applicant responded to this in a letter dated 19 March 2015.

The parties have let it be known that they have no need for a hearing. In this case there has been no hearing because the Committee also saw no reason for one.

3. The facts

In this procedure the Committee based its considerations on the following facts.

3.1 AA was born on XX. He was of Jewish descent and had the German nationality. Until the beginning of 1938 he lived and worked in Berlin, where he possessed an art collection. As a consequence of the anti-Jewish legislation he and his wife left for the Netherlands at the beginning of 1938 and they became stateless in 1939. The couple settled in EE during the war and were active in the resistance. At the end of 1943 it became necessary for AA to go into hiding, and during this period his daughter (the Applicant) was born. AA was arrested and detained at the end of October 1944. He survived the war, as did his wife and daughter.

3.2 A number of items in AA's art collection were sold during the occupation. These included sales in the 1941-1942 period to the art gallery Kunsthandel voorheen J. Goudstikker N.V., Amsterdam, managed by the German Alois Miedl (hereinafter also referred to as Goudstikker-Miedl).

The work was sold by 'AA / EE' to Goudstikker-Miedl on 11 February 1941. This can be deduced from the limited company's accounting records in the files of the Netherlands Property Administration Institute (hereinafter referred to as the NBI) and the Netherlands Institute for Art History (hereinafter referred to as the RKD). This transaction is listed in Goudstikker-Miedl's purchase and sales ledgers, and an invoice was also found in the files. The selling price was NLG 2,500. The art gallery also paid commission of NLG 125 to 'DD' of Amsterdam. After its purchase by Goudstikker-Miedl, the work was offered to a number of potential buyers in Germany, but in all probability it remained unsold.

3.3 The NBI administered the assets of Miedl and Goudstikker-Miedl after the liberation. Many objects belonging to Goudstikker-Miedl's trading stock were found in the gallery's business premises at 458 and 468 Herengracht in Amsterdam. Some of them were sold in the context of the enterprise's liquidation. The work was one of these objects and on 15 April 1947 it was sold at the auction house of Frederik Muller & Cie. in Amsterdam. It fetched NLG 160. The identity of the purchaser cannot be established with certainty.

The City Council bought the work on 19 October 1955 for NLG 5,200 from the Joseph M. Morpurgo gallery in Amsterdam.

3.4 Between 2009 and 2013 the Museum researched the provenance of its own collection as part of the national investigation project *Museum Acquisitions since 1933*. During this research it was established that the work had a problematic provenance. The results of the national project were published on the website www.musealeverwervingen.nl, which was launched on 29 October 2013.

On the website the Museum concludes that, *'the painting probably belonged to the collection of a Jewish collector who felt the need to sell a few of his paintings under pressure from the circumstances during the war'*.

The Museum provides the following information.
'The painting's former owner fled from Berlin to the Netherlands in 1938. He was forced to go into hiding in 1943. At the beginning of the nineteen-forties it was necessary for him to sell paintings from his collection in order to have money to live on. A few of these works were sold through the Jacques Goudstikker art gallery, which at that time was being run by the German Alois Miedl. The heirs of the Jewish collector have been contacted.'

3.5 Another matter deserves mention here. On YY the Committee advised the then State Secretary for Education, Culture and Science about an application from the Applicant for restitution of two paintings in the Netherlands Art Property Collection (NK collection) in the custody of the State of the Netherlands. In this earlier case the Committee advised restitution of both artworks to *'the heirs of AA'*. In this case the Committee considered that it was *'satisfactorily proved'* that AA had been the owner of the claimed works at the beginning of the occupation of the Netherlands. The Committee found that under Dutch government policy the sale of the two works had to be designated as involuntary as a result of circumstances directly connected with the Nazi regime.

4. The Applicant's point of view

4.1 The Applicant stated that her father was a passionate art collector. She has no recollections of the work since she was not born until after the loss of possession.

The Applicant declared the following about the circumstances in which ownership of the work was lost.
'The sale of the painting by Bartholomeus van der Helst in February 1941 comes into the "forced sale" category in accordance with recommendation 4 concerning the restitution of artworks' from the Final Report of the Origins Unknown Supervisory Committee (December 2004, Appendix 7): "... sale of artworks by private Jewish individuals in the Netherlands from 10 May 1940 onwards ..." In my father's case this compulsion was obvious because he was not able to practise a profession and so he was only able to pay for the living expenses of himself and my mother using his own resources. It can therefore also not be



5. Portrait of Joan Huydecoper, anonymous, after Bartholomeus van der Helst

assumed that my father really had the free disposal of the proceeds of the sale. Based on what he had experienced in Germany between 1933 and 1938, he was able to have an idea of what was awaiting Jews in the Netherlands. It is plausible that he not only needed resources to live on but also for his own safety, all the more so because my parents were stateless. The seriousness of the financial situation from 1943 onwards emerges from the fact that my mother received financial support of unknown magnitude via the resistance for a period of time.'

4.2 As regards the level of effort made to recover the work after the war, the Applicant stated that her father undertook various activities at different moments after the war related to the return of his own artworks, but that she was not aware of any specific action concerning the work. According to the Applicant no compensation was received after the war for the loss of the work.

4.3 The Applicant described the importance of the work to her as follows.
'The special significance that my parents attached to their collection of paintings, tapestries and other artworks emerges from the attempts my father made to track them down and retrieve them shortly after the war, and again between 1961 and 1963. It was a disappointment to him that he achieved no results whatsoever. I consider the restitutions policies that were developed in the Netherlands and Germany shortly after his death and the actual return of a few paintings that resulted from them as posthumous compensation in respect of the sense of justice for the wrong done to my father in Germany and after 1940 in the Netherlands. My personal involvement is being driven by a sense of responsibility regarding my parents' former possessions which is the reflection of a very drastic period in their lives. I am furthermore instinctively following in my father's footsteps by adhering to his aesthetic choice of this Van der Helst portrait. Finally, restitution contributes to maintaining our own children's memory of their grandparents and their awareness of their life history.'

5. The City Council's point of view

5.1 The City Council stated the following about the provenance research conducted prior to acquisition in 1955.
'The investigation carried out in regard to the acquisition primarily concerned historical and art-historical aspects: who is depicted and who painted it. The provenance was investigated prior to the publication of the catalogue of paintings in 1975 and it was noted that the painting was in the Goudstikker gallery in around 1943.'

5.2 As regards the importance of the work to the legal owner and/or custodian, the City Council reported that the work is currently in the Museum's repository. It has been loaned for an exhibition a few times over the last few decades. The subject of the portrait, Joan Huydecoper (1599-1661), was one of the most important Amsterdam burgomasters. Among other things he was one of the initiators of the construction of the town hall in Dam Square. Within the City Council's collection the work has 'a high ensemble value'. There are two other works in the collection that have a direct relationship with the work, namely a group portrait of the governors of the Crossbowmen's Civic Guard painted by Bartholomeus van der Helst in 1656, part of Amsterdam City Council's collection of militia paintings (the work is a copy of the portrait of Huydecoper on the far right of the group portrait), and a portrait attributed to Wybrand Hendriks painted in around 1790 of a descendant of Joan Huydecoper (the work is depicted on the wall behind the subject of the portrait).

6. The Committee's task

- 6.1 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.
- 6.2 With regard to applications relating to items of cultural value in the NK collection that are submitted to the Minister before 30 June 2015, on the grounds of the relevant national policy if there is compliance with the requirement that the original owner lost possession involuntarily due to circumstances directly related to the Nazi regime, the Committee recommends restitution of the item of cultural value concerned. The interests of the current holder or owner are not taken into account in this assessment. This rule is completely justifiable with regard to artworks in the NK collection because generally speaking these objects were returned to the Netherlands after the Second World War and taken into the custody of the State of the Netherlands with the express instruction to reconstitute them – if possible – to the rightful claimants or their heirs.
- 6.3 There is a different assessment framework for items of cultural value that are not part of the NK collection. In these cases the Committee advises on the basis of the yardsticks of reasonableness and fairness (article 2, fifth paragraph of the Decree Establishing the Restitutions Committee). The justification for this difference in assessment framework lies in the difference between the provenance of items of cultural value in the NK collection on the one hand and other items of cultural value on the other. The latter category also contains, for example, artworks that - unlike those in the NK collection - were not acquired by the current owner until many years after the Second World War and were purchased through normal channels and in good faith. Advising on the basis of the yardsticks of reasonableness and fairness then provides scope to take these and other circumstances into account and to weigh up the interests of the different parties involved.
- In its advisory role pursuant to article 2, second paragraph of the Decree Establishing the Restitutions Committee, the Committee - in accordance with article 3 of the Regulations - may in any event take account during its considerations of the circumstances in which possession of the work was lost, the degree to which the parties requesting restitution have made efforts to recover the work, as well as the timing and the circumstances of the acquisition of possession by the current owner and the investigation conducted by the current owner before the acquisition. It may in addition take account in its considerations of the importance of the work to both parties and of public art treasures. Nationally and internationally accepted principles, such as the Washington Principles and the government's guidelines concerning the restitution of looted art, may be included in the considerations in so far as they, in the Committee's opinion, are correspondingly applicable in the specific case.
- This broad assessment framework also does justice to the Washington Principles, according to which the restitutions policy must be aimed at achieving 'a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case'.

7. Assessment of the dispute

- 7.1 The Committee has satisfied itself that the dispute between the Applicant and the City Council has not previously been definitively dealt with. The Committee has not found a legal procedure or a judicial ruling relating to the work. Neither has the Applicant previously renounced her rights to the painting. The Committee therefore considers the parties and their request to be admissible.
- 7.2 The Applicant has asserted she is the only heir of AA. The Committee has taken note of the notarial certificates of inheritance that are in the Committee's investigation file. It emerges from the notarial certificate of inheritance dated 25 January 2001 concerning the estate of AA and the notarial certificate of inheritance dated 23 July 1996 concerning the estate of CC, the Applicant's mother, who was married to AA in community of property, that the Applicant is the only person entitled to the estates of AA and his wife, who predeceased him.

- 7.3 The Committee's opinion about the ownership issue is as follows. The investigation was not able to provide a clear answer to the question about how and when the work came into AA's possession, but it was established that he sold the work on 11 February 1941 for NLG 2,500 to Goudstikker-Miedl. This transaction is after all listed in this gallery's purchase and sales ledgers, and an invoice was also found in the files. In the Committee's view the listing 'AA / EE' in this administrative information provides sufficient grounds for the opinion that it is highly likely that AA was the work's owner when the work was sold on 11 February 1941.
- 7.4 As regards the nature of the loss of possession, the Committee finds that it has to be designated as involuntary. Here the Committee refers in the first instance to the Ekkart Committee's third recommendation of 26 April 2001, which was adopted by the government, which stipulates that sales of artworks by private Jewish individuals in the Netherlands from 10 May 1940 onwards must be considered to be involuntary, unless the facts expressly show otherwise. The Committee finds that this recommendation is correspondingly applicable in the present case. In forming its opinion the Committee also takes account of what the Applicant stated about this, as described under 4.1. The Committee agrees with the Applicant that it is plausible that, as a stateless resident of Jewish descent, AA was unable to practise his profession during the years of the occupation and found it necessary to sell the work to obtain money to live on and in the interests of his safety. The fact that he and his wife participated in the resistance also plays a role.
- 7.5 Under Dutch law it must be assumed that the City Council is now the owner of the work. The City Council acquired the painting in 1955. The Committee has no indication whatsoever that the City Council acted negligently during the acquisition.
- 7.6 The Committee now comes to weighing up the interests of the parties in the restitution or retention of the work. In this case, on the basis of the yardsticks of reasonableness and fairness, the City Council's right of ownership carries insufficient weight to decide the dispute in favour of the City Council. Here the Committee takes into account, since the City Council is a public authority, that the Washington Principles apply correspondingly. As regards the contended 'high ensemble value', while it is important that the work links the 1656 Bartholomeus van der Helst group portrait to the portrait dating from around 1790 and attributed to Wybrand Hendriks and is therefore a linking work, it is nevertheless a copy of the portrait of Joan Huydecoper in the 1656 Van der Helst group portrait, the creator of the work is unknown, and it is currently in the Museum's repository. When looked at in the light of the above, the Committee finds that the interests stated by the City Council do not weigh heavily enough to stand in the way of restitution. Set against this interest of the City Council, there is the emotional and moral value attached to restitution of the work contended by the Applicant. In this regard the Applicant has stated that her actions are being driven by a sense of responsibility regarding her parents' former possessions and that restitution of the work contributes to maintaining her own children's memory of their grandparents and awareness of their life history. In this regard it is also important that the Applicant is a first-degree relative of the original owner, who lost possession of the work in an involuntary manner. Bearing this in mind, the Committee perceives that the interest of the Applicant in restitution of the work has greater weight than the interest of the City Council in retaining it.
- 7.7 This brings the Committee to the question of whether something in return from the Applicant should be linked to the surrender of the work. It is important in this regard that the City Council purchased the work in 1955 for a sum of NLG 5,200 and that there are no indications that the City Council did not act in good faith at the time. The Committee takes the view, however, that this is a relatively modest sum, and that the City Council has after all had the benefit of the work since 1955. This is not affected by the fact that the work has mainly been in the repository because this has been the choice of the Museum. In these circumstances the Committee sees no reason to link surrender of the work to something in return from the Applicant.
- 7.8 The Committee gives the following binding opinion on the grounds of the foregoing.

BINDING OPINION

The Committee advises Amsterdam City Council to reconstitute the painting *Portrait of Joan Huydecoper*, anonymous, after Bartholomeus van der Helst, to BB.

This binding opinion was issued on 30 March 2015 by W.J.M. Davids (Chairman), J.T.M. Bank, P.J.N. van Os, E.J. van Straaten, H.M. Verrijn Stuart, R. Herrmann and I.C. van der Vlies (Vice-Chair) and signed by the Chairman and the Acting Secretary.

(W.J.M. Davids, Chairman)

(R.A.M. Nachbahr, Acting Secretary)

4. **Binding opinion concerning the dispute over restitution of the paintings *Portrait of Pieter Bouwens* and *Portrait of Anna Maria van Nutt*, by Ferdinand Bol, currently in the possession of the Dutch municipality of Roosendaal (case number: RC 3.140)**

Date of binding opinion: 13 April 2015

Binding opinion
in the dispute between:

AA,
in BB,
represented by James Palmer, Mondex Corporation, Toronto, Canada
(hereinafter referred to as: the applicant),

and:

the municipality of Roosendaal,
represented by CC, team leader of the Municipal Archive and Museum
(hereinafter referred to as: the municipality),

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 municipality states that the paintings *Portrait of Pieter Bouwens* and *Portrait of Anna Maria van Nutt* by Ferdinand Bol (hereinafter referred to as: the works) have been the property of the municipality since 31 August 1949 and reside at the Tongerlohuys Museum (hereinafter referred to as: the Museum). The applicant states that until 1941 the works were part of the collection of her father, Gustaaf Hamburger (hereinafter referred to as: Hamburger). The applicant states that she is the sole beneficiary to the Hamburger estate and that she is entitled to restitution of the works on the grounds of the alleged involuntary nature of the loss of possession due to circumstances directly connected with the Nazi regime. Through the Committee's intervention the parties submitted a joint request to the Minister for Education, Culture and Science (hereinafter referred to as: the minister) to refer the applicant's claim to the Committee for a binding opinion.

2. The procedure

The Minister requested that the Committee advise the parties under the terms of Article 2, paragraph 2 of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for items of Cultural Value and the Second World War of the State Secretary for Education, Culture and Science of 16 November 2001, as amended by the Decree of the State Secretary for Education, Culture and Science of 4 July 2012 (hereinafter referred to as: the Decree Establishing the Restitutions Committee). The intervention of the minister was for practical reasons only and at no time was the State a party in the procedure.

The parties declared in writing that they submit to the 'Regulations concerning the opinion procedure under the terms of Article 2, paragraphs 2 and 4, of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for items of Cultural Value and the Second World War' (determined by the Committee on 3 December 2007, as last amended on 19 September 2011, hereinafter referred to as: the Regulations) and will accept the Committee's recommendation to be binding. The Committee has verified the identities of the parties. The municipality submitted a resolution (undated) authorising CC, team leader of the Roosendaal Municipal Archive and Museum, to act as liaison for the Committee and to provide it with information in this procedure.

In connection with the application the applicant submitted various documents pertaining to her status as beneficiary to the estate.

The Committee took note of all the documents provided by the parties, and sent copies of the documents provided by the parties and of documents sent by itself to the other party. In addition the Committee conducted further independent research, putting written questions to the parties and requesting information from them. The findings of this research were set out in a Preliminary Research Report, which was enclosed with letters sent to the parties for comment on 23 September 2014. The applicant responded in person in an email dated 20 October 2014, and through her authorised representative in a letter dated 21 October 2014. The municipality responded in a letter dated 30 October 2014.

A hearing of the case took place on 1 December 2014. The municipality was represented by CC, DD, curator at the Museum, and EE, legal adviser. The applicant was absent with apologies.



6. *Portrait of Pieter Bouwens* by Ferdinand Bol

A report of the hearing was sent to the parties, who then responded. The Committee sent a revised Preliminary Research Report dated 9 March 2015 to the parties with letters dated 17 March 2015. The Committee finalised the research report at a meeting on 13 April 2015.

3. The facts

In the procedure the Committee proceeded from the following facts:

- 3.1 The Jewish banker Gustaaf Hamburger (1887-1977) was born on 29 October 1887 in the Dutch city of Utrecht. He married Clara Bertha Gerzon (1900-2007). They had two children: Peter Lionel Hamburger, born on 21 July 1921, and the applicant, AA, born on FF. From 1919, the year in which they were married, they were registered as residing at Herengracht 551 in Amsterdam. On 17 April 1925 the family moved to the village of Laren. At the time of the German invasion of the Netherlands Hamburger was living at GG. Hamburger was a collector of art, including paintings and porcelain. Interested parties could view his collection free of charge at his home.
- 3.2 In 1920 Hamburger founded the bank Hamburger & Co's Bankierskantoor N.V. (hereinafter referred to as: the bank) in Amsterdam, along with his brother Albert Hamburger and A.E.D. von Saher. Albert and Gustaaf Hamburger dealt with the day-to-day running of the bank. In addition to his executive role at the bank Albert Hamburger was also a formal director of N.V. tot Uitoefening van den Kunsthandel (hereinafter referred to as: the art dealership) in Amsterdam, established in 1927 by David Hamburger, Abraham Hamburger and Izaak Hamburger, all three residing in Paris. In practice the business was run by Herman Hamburger, an uncle of Albert and Gustaaf's, who also ran an art dealership with relatives in Paris under the name of Hamburger Frères. At various times both the bank and the art dealership had their registered offices at Herengracht 551 and Herengracht 579 in Amsterdam.
- 3.3 It can be deduced from auction catalogues of Frederik Muller & Cie that the works which are the subject of this claim were auctioned by this auction house in 1923 and subsequently in 1938.
- 3.4 After the German invasion Hamburger fled to New York with his family. Many of his possessions stayed behind in the Netherlands. His home in Laren and its contents were seized by the German Wehrmacht until the liberation of the Netherlands on 5 May 1945. Almost all the furniture that was in the home is thought to have been stolen. Albert Hamburger likely managed to remove objects from his brother's home and bring them to safety.

A *Verwalter* (administrator/liquidator) was appointed for the bank and the art dealership, who proceeded to sell the dealership's artworks in order to pay off money owed by the dealership to the bank. First a considerable number of artworks were acquired by *Dienststelle Mühlmann* (the Mühlmann agency), while many artworks were also sent to Viennese auction house Dorotheum to be sold. However, these did not include the works that are the subject of this claim, which were auctioned at auction house S.J. Mak van Waay in Amsterdam between 6 and 9 April 1943.

- 3.5 At this auction the works were acquired by C.H.J. Veldkamp, director of a sugar factory in the Dutch city of Roosendaal, who is thought to have accumulated a large art collection during the 1930s. Although most probably not a member of the Dutch Nazi party NSB, Veldkamp did openly and actively support the Nazi regime during the occupation. Around the time Roosendaal was liberated, at the end of October 1944, Veldkamp is thought to have fled to Germany, after which an administrator was appointed to manage his assets.

Although Veldkamp died on 31 August 1945 he was tried posthumously under the special criminal proceedings against collaborators. Following his conviction in 1946 his surviving relatives made plans to auction or sell (parts of) the art collection, including the works which are the subject of this claim. This resulted in part of the art collection, including the works which are the subject of this claim, being acquired on 31 August 1949 by the municipality of Roosendaal and Nispen, the legal predecessor of the municipality of Roosendaal. The local antiquities circle 'De Ghulden Roos' played an important role in the purchase. The municipality was advised in the purchase by H.E. van Gelder, a member of the Advisory Committee of the Netherlands Art Property Foundation (Stichting Nederlands Kunstbezit; hereinafter referred to as: SNK). The works currently reside at the Museum.

- 3.6 In the autumn of 1945 Hamburger reported to SNK the involuntary loss of part of his art collection, including the two works which are the subject of this claim. Gustaaf Hamburger died in Geneva, Switzerland, on 23 May 1977. Following his death his relatives, including the applicant, continued Hamburger's efforts to obtain compensation for the assets lost during the war. In this context settlements were, for example, reached with the German State in the early 1980s. The applicant also made – successful – applications to the Dutch State for restitution of art looted during the war. In this context the Committee refers to its advices issued on 4 March 2013 (RC 1.137) and 9 December 2013 (RC 1.130).



7. Portrait of Anna Maria van Nutt by Ferdinand Bol

4. Positions of the parties

- 4.1 The applicant maintains that she is the sole heir of Gustaaf Hamburger, her father, who lost possession of the works involuntarily. In 2012 a researcher employed by the applicant's authorised representative discovered that the works are mentioned in a book on Ferdinand Bol by Albert Blankert, and that they are in the Museum. The applicant maintains that the works are part of her father's private property.

- 4.2 The municipality maintains that it acquired the works in 1949 from the Veldkamp heirs. While the municipality was aware at the time of Veldkamp's pro-German leanings, he was also known to have already been a keen art collector before the war. The municipality sought advice on the purchase from an expert, Van Gelder, who valued the works. Neither he nor anyone else apprised the municipality at the time of the sale that Hamburger had reported the loss of the works to SNK after the war.

When the municipality adopted a new stance on the management of its art collection in 2004 the works were brought to auction at the firm Glerum. The works failed to fetch the reserve price and were held over. Following questions from the municipal council the responsible municipal executive decided not to put the works up for auction again but to keep them. According to the municipality there was at that time, too, no awareness that the works might have belonged to a Jewish owner; this realisation only came when the applicant submitted her claim.

Finally, the municipality pointed out that it had incurred costs in connection with purchasing, looking after and restoring the works.

5. The Committee's task

- 5.1 Pursuant to Article 2, paragraph 2, of the Decree Establishing the Restitutions Committee, the Committee is tasked with issuing an opinion at the parties' request in disputes regarding the restitution of items of cultural value between the (heirs of the) original owner who involuntarily lost possession as a result of circumstances directly connected with the Nazi regime and the current possessor, not being the Dutch State. This opinion is a binding opinion in the sense of Article 7:900 of the Dutch Civil Code.

- 5.2 With regard to applications involving objects of cultural value from the NK collection submitted to the minister before 30 June 2015, the relevant government policy stipulates that the Committee recommends restitution of the object in question where the requirement is met that the original owner lost possession involuntarily as a result of circumstances directly connected with the Nazi regime. The interests of the current holder or possessor are not taken into account in this assessment. This rule is completely equitable where artworks from the NK collection are concerned given that these are generally artworks brought back to the Netherlands after the end of the Second World War and granted in custody to the Dutch State with the express instruction to return them – if possible – to their rightful owners or heirs thereof.

- 5.3 Objects of cultural value which do not belong to the NK collection are subject to a different assessment framework. In these cases the Committee issues its advice according to standards of reasonableness and fairness (Article 2, paragraph 5 of the Decree Establishing the Restitutions Committee). This difference in the assessment frameworks is justified by the difference in the provenance of objects of cultural value from the NK collection on the one hand and the provenance of other cultural objects on the other. The latter category includes for example cultural objects which, in contrast to cultural objects from the NK collection, were acquired by the current possessor only many years after the Second World War, by regular means and in good faith. In such cases issuing an opinion according to standards of reasonableness and fairness allows scope for taking these and other circumstances into account and weighing the various interests of those involved.

In issuing its opinion under the terms of Article 2, paragraph 2 of the Decree Establishing the Restitutions Committee, the Committee can in accordance with Article 3 of the Regulations in any case include in its considerations the circumstances under which ownership of the work was lost, the degree to which the party requesting restitution has made an effort to track down the work, as well as the timing and circumstances of the acquisition of ownership by the current possessor and the provenance research conducted by them prior to the acquisition. In addition the importance of the work to each party and to the public art collection, respectively, can be taken into consideration. Internationally and nationally accepted principles, such as the Washington Principles or government guidelines for the restitution of looted art, can be taken into consideration insofar as the Committee deems them applicable to the specific case. This broad assessment framework also does justice to the Washington Principles, according to which restitution policy should be aimed at achieving 'a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case.'

6. Assessment of the dispute

- 6.1 The Committee ascertained that no final settlement had been reached in the dispute between the applicant and the municipality, having found no evidence of legal proceedings or a court ruling in connection with the works. Nor has the applicant previously expressly waived her rights to the works. The Committee therefore deems the application by the parties to be admissible.

- 6.2 The applicant maintained that she is the sole heir of Gustaaf Hamburger. She submitted the following

documents to support this:

1. A document drawn up in Geneva on 12 February 1980 and stamped by the General Consulate of the Federal Republic of Germany, signed by AA and consul Johann Wenzl, containing a declaration under oath in which the applicant is named as her father's sole heir;
2. A certificate of inheritance, executed before René Tcheraz, civil-law notary in Geneva, dated 17 October 1977, regarding the estate of Gustaaf Hamburger, in which AA is named as her father's sole heir (the applicant's surname is stated here as HH);
3. A document, dated 5 January 1981, concerning a compensation procedure with the *Directorate for Financial Administration of Federal Properties* in Berlin, regarding the assets of Gustaaf Hamburger, in which the applicant is identified as the sole heir ('Alleinerbin').

In addition as part of an earlier request for advice in relation to Hamburger (RC 1.130) the Committee was made aware of a certificate of inheritance, executed on 19 August 2013 before M.R. Meijer, civil-law notary in Amsterdam, in which it is stated that Gustaaf Hamburger left the applicant as his sole heir.

These documents constitute evidence that the applicant is the sole beneficiary to the estate of Gustaaf Hamburger.

- 6.3 The Committee considered the question as to whether it is highly plausible that Gustaaf Hamburger was in fact the owner of the works at the time of the alleged involuntary loss of ownership. It has been established that the works were auctioned at the Amsterdam auction house Frederik Muller & Cie on 7 December 1938. The SNK claim form completed by Hamburger on 31 October 1945 states under 'Provenance':

'Auction Fred. Muller 6-7 Dec. 1938 (Knoops) / originally Galerie Grand Duc de Oldenburg'.

Attached to the form is a cutting from the auction catalogue which accompanied the aforementioned auction describing the two works, as well as a page from the auction catalogue showing pictures of the works.

It has equally been established that the works were sold during the war at the auction held at Mak van Waay between 6 and 9 April 1943. The works were put up for auction by H. Bok, an employee of the bank who also performed activities for the art dealership during the occupation.

Given the above the Committee believes it can be assumed that the works were purchased by Hamburger at the 1938 auction and that the works were put up for auction on his behalf by H. Bok at the Mak van Waay auction in 1943.

The Committee considered the possibility that the works were not part of Hamburger's private property but were instead assets belonging to the art dealership or the bank. For example the Mak van Waay purchase and sale registers state that the two paintings were put up for auction by 'H. Bok', with the additional note: *'N.V. tot Uitoeffening van den Kunsthandel'*. Conversely a list attached to a letter dated 19 September 1945 from R.G. Somers, acting director of the bank, to SNK includes two objects which in the Committee's opinion can be identified as the works which are the subject of this claim. The list in question, *'List B'*, is headed *'Art objects sold to Dutch parties by N.V. tot Uitoeffening van den Kunsthandel or Hamburger & Co's Bankierskantoor N.V.'*

In spite of these references the Committee assumes that it is highly plausible that the works were part of Hamburger's private property at the time of their auction by Mak van Waay.

Firstly important to this is that Hamburger stated on the aforementioned SNK claim form that the works were originally in his ownership. It can be deduced from correspondence between Hamburger and Somers on the one hand and SNK on the other, as described on pp. 24-26 of the Research Report finalised on 13 April 2015, that Hamburger only completed this form, as well as other claim forms, after he (Hamburger) had at the request of SNK director A.B. de Vries examined more closely whether the works belonged to his private property, the assets of the art dealership or the property of Herman Hamburger.

Secondly important to this is that it can be derived from documents found that Hamburger did not only have works of art in his home in Laren, but that it is also likely that items belonging to him were housed at the art dealership and the bank. These probably also included items removed from his home during the occupation for safekeeping. In this context the Committee refers to the letter sent to Hamburger by art dealer Evert Douwes on 8 August 1945 on behalf of the Ministry of Education, Arts and Sciences, in which he wrote to Hamburger that his brother, Albert, had had the opportunity to remove many objects from Hamburger's home during the occupation and take them to the art dealership's premises.

In light of the above the Committee arrives at the opinion that it is highly plausible that the works belonged to the private property of Gustaaf Hamburger at the time of the alleged involuntary loss of ownership.

- 6.4 As far as the nature of the loss of ownership is concerned the Committee believes that this should be considered to have been involuntary. At the time of the auction by Mak van Waay Hamburger was in New York. As an employee of the bank the person who put the works up for auction, H. Bok, was involved in the liquidation of the property of the Hamburger family by order of the German *Verwalter*. The Committee found no evidence whatsoever that Hamburger himself was in any way involved in the decision to put the works up for auction by Mak van Waay. Furthermore Hamburger stated on the SNK form he completed that a 'forced sale' was involved. Under these circumstances the Committee believes the loss of ownership should be deemed to have been involuntary and the result of circumstances directly connected with the Nazi regime.

- 6.5 Under Dutch law it must be assumed that the municipality is the current owner of the works. The municipality purchased the works in 1949 from the Veldkamp estate.

Although the municipality was aware of Veldkamp's political orientation, it was not known where or when he had acquired these works. Nor was the municipality aware of the fact that Hamburger had reported the loss of the works to SNK after the war. The Committee has no indication that the municipality acted without due care in making this purchase.

- 6.6 Now the Committee must proceed with weighing the interests of the parties in the event of restitution or retention of the works. The municipality has argued that the works are permanently on display at the Museum and are among the star items in the collection there. In addition the works play a part in an annual educational programme for schoolchildren about the 17th century. The municipality tried to have the works auctioned in 2004, but they remained unsold. The Committee notes that, in light of the renewed interest in Nazi-looted art since the late 1990s and given the provenance information available about the works at the time of this auction in 2004, the municipality could have decided to conduct further research into the provenance of the works.

In the Committee's opinion it can be concluded from the fact that the municipality tried to sell the works in 2004 that the municipality has a limited interest in retaining the works. This interest of the municipality must be weighed against the interest of the applicant in the event of restitution of the works. The applicant is the daughter of the original owner, who lost ownership of the works involuntarily. Directly after the war Hamburger reported the involuntary loss of ownership of the works that are the subject of this claim to SNK and following his death the applicant undertook to track down works from his art collection. In light of this the Committee considers the interest of the applicant in the event of restitution of the works to outweigh the interest of the municipality in the event of retention of the works.

- 6.7 The Committee considered the question of whether the surrender of the works should be subject to compensation from the applicant. The municipality purchased the works in 1949 out of the Veldkamp collection. The collection was originally valued at NLG 60,000, with the two works accounting for NLG 5,000 of this. The asking price for the entire collection was eventually lowered to NLG 35,000, with the provision that the Veldkamp heirs were to be allowed to take NLG 10,000 worth of objects out of the collection. The remaining objects were acquired by the municipality for a sum of NLG 25,200. It is not known what the share of the two works was in this amount, but the sale value was in no case higher than NLG 5,000 and most likely lower. Furthermore the municipality has maintained that it incurred costs in connection with looking after and restoring the works. It can be deduced from documents submitted by the municipality that restoration work at an estimated cost of around NLG 2,000 was performed in 1967.

Although it proved impossible to determine the precise purchase price of the works, the Committee believes that a relatively small sum was concerned. The same applies to the restoration costs quoted by the municipality. These amounts paid by the municipality are balanced by the fact that the municipality has had the enjoyment of these works since 1949. Under these circumstances the Committee sees no reason for making surrender of the works subject to compensation from the applicant.

- 6.8 The municipality also stated that it wished to obtain clarity on what happened to the proceeds of the auction of the works by Mak van Waay. On this subject the Committee notes that indications emerged from the research that the proceeds from the works were received, but that it is not sufficiently clear that these proceeds were made freely available to Hamburger, so that for this reason alone there is no cause for the proceeds from the works to be taken into account in this binding opinion.

- 6.9 As regards the settlements between the Hamburger heirs and the German State the Committee considers that these related to confiscated goods and as such in all probability not to the two works that are the subject of this claim. These settlements therefore have no bearing on the content of this binding opinion.

- 6.10 Based on the above the Committee advises the restitution of the works to the applicant. The Committee sees the exceptional circumstances of this case with regard to the original ownership, as set out by the Committee in point 6.3, as reason to make restitution of the works conditional upon the applicant indemnifying the municipality against potential, as yet unknown claims which claimants may make in regard to the assets of the bank and the art dealership. The parties have let it be known that they have no objections to such indemnification.

BINDING OPINION

The Committee advises the municipality of Roosendaal to proceed with restitution of the paintings *Portrait of Pieter Bouwens* and *Portrait of Anna Maria van Nutt*, by Ferdinand Bol, to AA, subject to AA indemnifying the municipality of Roosendaal against potential, as yet unknown claims to the two paintings which may be made by claimants to the assets of Hamburger & Co's Bankierskantoor N.V. and N.V. tot Uitoeffening van den Kunsthandel.

This binding opinion was issued on 13 April 2015 by W.J.M. Davids (Chairman), J.Th.M. Bank, R. Herrmann, P.J.N. van Os, E.J. van Straaten, H.M. Verrijn Stuart, and I.C. van der Vlies (Vice-Chair), and signed by the Chairman and the Acting Secretary.

(W.J.M. Davids, Chairman)

(R.A.M. Nachbahr, Acting Secretary)

5. Revised recommendation regarding De Haan (case number RC 4.142)

In a letter of 27 January 2014 the Minister of Education, Culture and Science (hereinafter referred to as the Minister) requested the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (hereinafter referred to as the Committee) for revised advice about a previously rejected application for restitution from AA (hereinafter referred to as the Applicant) concerning the following fourteen paintings from the Netherlands Art Property Collection (hereinafter referred to as the NK collection):

NK 1537 – B.G. Cuypp, *Card Players*
NK 1557 – H.M. Sorgh, *Hearing, Personified by a Couple Singing*
NK 1559 – H.M. Sorgh, *Taste, Personified by a Couple Eating*
NK 1597 – Ph. Wouwerman, *Landscape with Two Men on Horseback*
NK 1667 – Follower of L. Cranach, *Madonna and Child*
NK 1704 – Ph. Wouwerman, *Italianate River Landscape with a Hunting Party*
NK 1760 – W. Verschuur the Elder, *A Horse Fair*
NK 1914 – Circle of S.J. van Ruysdael, *River View with Fishing Boats*
NK 2245 – S.J. van Ruysdael, *Winter Landscape with Skaters near a Town*
NK 2264 – A. Bloemaert, *The Triumph of Neptune*
NK 2824 – Master of 1518, *The Adoration of the Magi*
NK 2835 – J.G.C. Coclers, *Still Life with Flowers in a Vase*
NK 2866 – Studio of A. van Utrecht, *Still Life with Game*
NK 2882 – In the style of A. van der Neer, *Village on a River*

In a decision of 3 November 2011 the then State Secretary for Education, Culture and Science rejected the earlier application for restitution of the paintings referred to above in accordance with the Committee's advice of 13 October 2011 (RC 1.106).

The procedure

In a letter dated 23 December 2013 the Applicant requested the Minister to ask the Committee for revised advice with regard to her previously rejected restitution application. In response to this request, in a letter dated 27 January 2014 the Minister asked the Committee to issue revised advice. In a letter dated 13 February 2014 the Committee explained the steps in the procedure to the Applicant and gave her the opportunity to send additional information. The Applicant provided further underpinning for her request in letters dated 11 March 2014 and 29 May 2014.

In response to the request for revised advice, the Committee announced in a letter to the Applicant dated 10 September 2014 that it would conduct further research. The results of this research were recorded in a draft supplementary investigation report dated 9 October 2014. In a letter of the same date the Committee gave the Applicant the opportunity to respond to it. In a letter dated 10 November 2014 the Applicant gave a response and asked the Committee to carry out more research. In a letter of 9 December 2014 the Committee stated that it saw no reason to do so.

There was a hearing on 19 January 2015. BB, CC, DD, G.J.T.M. van den Bergh - a lawyer from Amsterdam - and M. Visser attended the hearing on behalf of the Applicant. BB submitted a summary of the argument on behalf of the Applicant. Minutes of this hearing were sent to the Applicant. On 17 March 2015 M. Visser notified the Committee's Secretariat by telephone on behalf of the Applicant that there would be no response to the minutes.

The Committee has furthermore taken note of the letters from the Applicant to the Minister of 15 March 2014, 6 August 2014, 11 November 2014, 22 December 2014 and 22 January 2015, and of the letters from the Minister to the Applicant of 13 November 2014 and 5 February 2015.

Considerations

1. If a decision has been taken in regard to a request for advice about restituting works of art from the NK collection or other parts of the Dutch National Art Collection, in principle the handling of the application has definitively terminated. The restitution policy does not provide for the option to 'repeat' the handling of a case, or to lodge an appeal so to speak. However, in 2010 the Committee did create the option, in consultation with the Ministry of Education, Culture and Science, to submit 'requests for revised advice'. The intent of this procedure is limited. In the case of revised advice, there is no assessment of facts that were already known and are submitted once again to support different arguments, but there is evaluation of new facts that are relevant to the outcome of the advice. In addition, account is taken of the possibility of serious errors of a procedural nature, in particular in regard to the principle of hearing both sides. Summarizing, when handling a request for revised advice, the Committee assesses a case on the basis of two criteria, which are:
(a) new facts that, had they been known at the time the earlier advice was formulated, would have led to a different conclusion, and/or

(b) errors during the earlier procedure that resulted in harm to the applicants' fundamental interests.

2. The Applicant is the only heir of her uncle Simon de Haan (1901-1943; hereinafter referred to as De Haan). Summarizing, the basis of the Committee's advice of 13 October 2011 to reject the application (RC 1.106; hereinafter referred to as the earlier advice) was that it had not become highly likely that the fourteen paintings claimed by the Applicant had been De Haan's property, as the Applicant had asserted. In this regard the Committee took the view that De Haan had to be deemed an art dealer and the Applicant's claim therefore had to be assessed in accordance with the art trade guidelines. In so doing the Committee took into account that there were no clear indications of private ownership. In a consideration that was not necessary for the outcome of the case, the Committee also concluded that insufficient information existed to assume that the sale of the paintings had been involuntary.
3. The Applicant's request was explained in her letters of 23 December 2013, 11 March 2014 and 29 May 2014 and during the hearing. The Applicant enclosed the following documents with her request:
 - a. an overview of purchases made by De Haan during sales at the Mak van Waay auction house during the 1934-1940 period;
 - b. the *Abgangliste* (exit list) of Scheveningen prison;
 - c. a printout from the Netherlands Institute of Military History about Brigadier General J.L.H.A. Antoni;
 - d. a part of a 1951 letter from Antoni;
 - e. a background check card from The Hague City Police;
 - f. a written statement from EE (NIOD Institute for War, Holocaust and Genocide Studies) dated 19 May 2010;
 - g. a part of the RC advice concerning Katz (RC 1.90B);
 - h. a document with the address of Eduard Hollander;
 - i. an article from the newspaper *Het Vaderland* dated 30 January 1937;
 - j. a printout from the website www.herkomstgezocht.nl about NK 2569;
 - k. a part of Goudstikker-Miedl's purchase and sales ledgers (NBI 861);
 - l. a part of Goudstikker-Miedl's stockbook (NBI 867);
 - m. a part of the *Gefangenenbuch* (prisoner register) of Scheveningen prison
 - n. a letter from H.F.J. Weijers to the SNK (Netherlands Art Property Foundation) of 4 October 1945;
 - o. transcripts of two SNK declaration forms dated 8 November 1945 filled in by H.F.J. Weijers.
4. The Applicant asserts that there are both new facts, as referred to in criterion (a), and errors as referred to in criterion (b). The Committee finds that what the Applicant has submitted relates to the procedure followed in general, to the conclusion in the earlier advice that it had not become highly likely that the fourteen paintings claimed by the Applicant had been De Haan's property, and to the conclusion in the earlier advice that insufficient information existed to assume that the sale of the paintings had been involuntary. The Committee will first of all address the Applicant's complaints with regard to the procedure in general and her assertions that could affect the conclusion that it had not become highly likely that the fourteen paintings claimed by the Applicant had been De Haan's property.

The procedure in general

5. The Applicant argues that the discussion that took place on 7 March 2011 between her, her husband and her legal adviser on the one hand and a Committee delegation on the other hand was a very unpleasant experience for her because she got the impression that the Committee's opinion had already been formed. Also according to the Applicant it was improper that this discussion was not minuted.
On the basis of the first draft investigation report in case RC 1.106, which was adopted on 31 January 2011, in its meeting on that day the Committee had to note that more concrete evidence was needed than what had been shown to be available at that time. It was clear to the Committee that the Applicant was in a position to conduct her own investigation. The Committee decided to invite the Applicant for a discussion with the Chairman, Secretary and a Committee researcher in order to put concrete questions to the Applicant that specifically addressed the ownership of the claimed paintings. This discussion was also intended to safeguard the Applicant from being surprised should her request be rejected.
The Applicant accepted that invitation and was accompanied during the discussion on 7 March 2011 by her husband, BB, and her lawyer, R.W. Polak from the firm De Brauw Blackstone Westbroek.
The Chairman explained the goals of the discussion and stated that it was not a formal hearing and that it would not be formally minuted. After the discussion the Applicant gave substantive responses to questions relevant in this case in letters of 4 April 2011, 6 April 2011 and 26 August 2011. In her letter of 6 April 2011 the Applicant withdrew her claim with regard to nine artworks on the grounds that 'it has become clear to me that the chance of positive advice for nine of the 23 works is not very great'. The Applicant did not request a hearing in any of the aforementioned responses or in any other way.
Her letter of 4 April 2011 begins as follows. 'I would like take advantage of the opportunity you offered me in your letter of 7 February to make some comments concerning the investigation report about De Haan. I shall furthermore address the points that your Committee raised during the discussion on 7 March last.'
It thus emerges that the Applicant clearly understood the objectives of the discussion. Neither the Applicant, her husband nor her lawyer stated during the discussion or in the aforementioned written responses or in any other way that she was not given every opportunity to say what she wanted to say.

There are no indications of a shortcoming, let alone intimidation, in the discussion of 7 March 2011. It is regrettable the Applicant has feelings of dissatisfaction and disappointment about the way her original application was handled, but they do not justify the conclusion that there was an error within the meaning of criterion (b). The fact that the discussion was not minuted does not justify this conclusion either because it was not a formal hearing and the Committee took account of the Applicant's letters about the issues that arose during the discussion.

6. In so far as the Applicant argues that there is unjustly no summary in either the revised version of the draft report of 11 July 2011 or in the final investigation report of 11 September 2011 whereas there is in the draft investigation report of 31 January 2011, this cannot be considered as an error as referred to in criterion (b). It is after all up to the Committee to include a summary in the investigation report or not. It is furthermore not clear that the Applicant's interests were harmed by not including a summary in the investigation report since she could have examined its complete contents.

Ownership

7. The Applicant argues that in its preparation of the earlier advice the Committee unjustly did not respond to her letter of 26 August 2011. The Applicant wrote this letter in response to the revised version of the draft report issued in case RC 1.106 sent to the Applicant by the Committee on 11 July 2011 for her information. In her letter the Applicant pointed out, among other things, the use of the expression 'the de Haan Collection' in the 'List of paintings supplied by Mr Miedl to the Goudstikker gallery'. According to the Applicant, by not devoting any attention to the content of her letter the Committee drew the unjust conclusion that it is not highly likely that the fourteen claimed paintings had been the property of De Haan.

The said letter of 26 August 2011 was appended to the final adopted investigation report of 19 September 2011, which was sent to the State Secretary together with the earlier advice adopted by the Committee. It furthermore emerges from the statement on page 2 of the earlier advice that the Committee had taken note of the said letter of 26 August 2011. The fact that the Committee did not respond explicitly to this letter in the earlier advice cannot be considered as an error within the meaning of criterion (b). The fact that the Committee's assessment of the sources found and submitted by the Applicant during the investigation was different from the Applicant's assessment can similarly not be designated as such as an error.

8. The Applicant furthermore argues that it has been proved conclusively that De Haan was the owner of two paintings (NK 1667 and NK 2264) and that he bought them from H.F.J. Weijers. According to the Applicant the Committee unjustly gave weight to the post-war statements made by Weijers, an interested party, and on the grounds of these statements unjustly concluded that De Haan did not purchase the paintings concerned for himself.

Weijers's statement was addressed in consideration 8 of the earlier advice. What the Applicant's complaint comes down to is that she cannot agree with the Committee's assessment of this statement, namely that De Haan bought the two paintings concerned on the instructions of Alois Miedl. However, this cannot be considered as an error as referred to in criterion (b).

Neither can this be considered as new facts within the meaning of criterion (a).

9. The Applicant argues that in the earlier advice the Committee unjustly considered that De Haan worked in the art trade as an expert and intermediary, and on the grounds of this unjustly concluded that her application had to be assessed according to the standards for the art trade. The Applicant refers in this context to new facts. She points out, for example, that it has been established that De Haan did not have a gallery, was not registered at a Chamber of Commerce and was not a member of the Association of Fine Art Dealers in the Netherlands. She also points out that information from discussions with those closest to De Haan and information from her mother - De Haan's sister - demonstrates that De Haan owned art as a private individual. She moreover points out that it has emerged from research into sales at the Mak van Waay auction house that during the nineteen-thirties De Haan purchased at these auctions twelve times. According to the Applicant the items bought were exclusively purchases that can be considered as typically intended for private use. Among other things there were a desk, a carpet, crockery and silver. According to the Applicant it emerges from these purchases that De Haan bought artworks for private use.

The Committee assesses these new facts furnished by the Applicant as follows.

The factors put forward by the Applicant, namely that De Haan had no gallery, in 1940 was not registered with a Chamber of Commerce and was not a member of the Association of Fine Art Dealers in the Netherlands, are not mentioned in the investigation report and in the earlier advice. The committee explained in considerations 3 and 4 of the earlier advice why it regarded De Haan as an art dealer. Here the Committee gave weight to the fact that until 1934 De Haan had been registered in the Commercial Register of the Chamber of Commerce as managing director of an art gallery and to statements from individuals involved that De Haan also acted as an art purchaser/intermediary. The new facts that the Applicant has now brought forward do not lead to a conclusion that is different from the one the Committee adopted.

In so far as the Applicant refers to information from discussions with those closest to De Haan and information from her mother, the Committee notes that previously the Applicant referred, among other things, to her letter of 26 August 2011. The Committee was familiar with this letter when the earlier advice was adopted. Section 3.7 of the investigation report also refers to the Applicant's statement that

according to De Haan family members, including the Applicant's mother, De Haan owned paintings privately. To this extent there are therefore no new facts.

The facts put forward about De Haan's purchases at the Mak van Waay sales are new. It can be seen from the overview submitted by the Applicant that this relates to twelve purchases. These acquisitions concern everyday objects with prices between 5 and 50 guilders, a painting for 11 guilders, a grisaille for 6 guilders, a panel for 16 guilders and a Ferahan carpet for 280 guilders. Even if one assumes, like the Applicant, that these are private purchases, this does not support her conclusion that De Haan also bought the fourteen claimed paintings for himself and in his private capacity. This therefore does not concern new facts as referred to in criterion (a).

10. According to the Applicant, in the earlier advice the Committee unjustly disregarded the conclusion of the Origins Unknown Agency (hereinafter referred to as the BHG) with regard to NK 1704, which was that Miedl probably bought this painting from De Haan in a private capacity. According to the Applicant the Committee also disregarded her assertion that this direct sale to Miedl in his private capacity is the explanation for why the sales by De Haan were written in pencil in the Goudstikker-Miedl stock book and also for the existence of various lists with supposed commission since this commission ended up in Miedl's personal possession.

The Applicant put forward this last contention in her letter of 26 August 2011. As taken into consideration previously, the Committee took note of this letter during the preparation of the earlier advice. The Committee was also familiar with the BHG's conclusion quoted by the Applicant with regard to NK 1704, since this conclusion is mentioned on page 21 of the investigation report of 19 September 2011. Reference to the name De Haan in the BHG database is mentioned in considerations 6 and 13 of the earlier advice. It is stated in consideration 8 that documents described in the investigation report show that there was 10% commission linked to the purchase of different paintings from or through De Haan. These paintings probably included six of the fourteen paintings being claimed. The fact that in the earlier advice the Committee made a different assessment of the mention in the BHG database and did not explicitly address the possible course of events advanced by the Applicant in her letter of 26 August 2011 cannot be designated as an error within the meaning of criterion (b).

Neither can this be considered as new facts within the meaning of criterion (a).

11. During the hearing it was also argued on behalf of the Applicant that on the grounds of the Elte report referred to in section 4.2 of the investigation report, it cannot be concluded that commission was paid in respect of all claimed paintings, that the Goudstikker-Miedl stock book was sufficient in the Hollander case (RC 1.97) for advice to grant a claim, and that in the Mautner case (RC 1.89-A) ownership was accepted on the grounds of the reference in the Linz database.

In these complaints the Applicant is challenging the Committee's interpretation of documents that emerged during the investigation. Such asserted incorrectness of an interpretation adopted by the Committee cannot be considered as an error as referred to in criterion (b). In this regard the Committee points out, no doubt superfluously, that the facts in the cases of Hollander (RC 1.97) and Mautner (RC 1.89-A) referred to by the Applicant are not comparable to those in De Haan (RC 1.106).

Neither can this be considered as new facts within the meaning of criterion (a).

Interim conclusion

12. It follows from what was considered previously that what the Applicant has argued, in so far as discussed, does not lead to the conclusion that during the preparation of the earlier advice there were errors within the meaning of criterion (b), or that there are new facts as referred to in criterion (a) that are relevant to the conclusion from the earlier advice that it had not become highly likely that the fourteen paintings claimed by the Applicant had been De Haan's property. Besides this conclusion, in the earlier advice the Committee also concluded that insufficient indications existed to assume that the sale of the paintings in the summer of 1940 had been compulsory or involuntary. As stated in consideration 11 of the earlier advice, this concerned a conclusion that was not necessary for the outcome of the case. Even without this conclusion and considerations 11 and 12 leading up to it, the opinion that it had not become highly likely that the fourteen paintings claimed by the Applicant had been De Haan's property must by itself result in advice to the State Secretary to reject the application.

In view of this there is no reason to test further arguments that the Applicant has put forward against the aforementioned criteria (a) and (b) and it is sufficient to state the reasons that the further arguments that the Applicant has put forward are not relevant to the earlier advice with regard to ownership.

Other assertions

13. In point 5 of her letter of 23 December 2013 the Applicant argues that the Committee unjustly conducted no further research into the course of events relating to De Haan's arrest in the summer of 1940. In this regard the Applicant refers to the results of the additional research she carried out, which produced the following new facts. De Haan's trial took place in Utrecht, where he was also being held. As regards Scheveningen prison, he arrived on 6 December 1940 and left on 17 February 1941. His prisoner number was 309. The Applicant points out the similarity with the account given by Brigadier General Jean Antoni (prisoner number 307), which makes the date of De Haan's arrest - 2 August 1940 - even more certain. The Applicant also contests the Committee's opinion in consideration 12 of the earlier advice that even if De Haan's arrest were to have been the result of betrayal, there can be no link to the sale of the paintings.

It is not possible to regard the contended connection between De Haan's arrest and the sale of the paintings as being relevant to the conclusion in the earlier advice with respect to his ownership of them. Also the said link did not emerge from the supplementary investigation conducted by the Committee, the results of which are recorded in the draft supplementary investigation report dated 9 October 2014.

14. The Applicant is also opposed to the descriptions in consideration 11 of the earlier advice of the sale of the paintings as 'normal business transactions' and the prices paid for paintings as 'in line with market conditions'. In this consideration the Committee also allegedly unjustly made no distinction between the sale of the claimed paintings and the transaction between Miedl and the D. Katz gallery in the same period.
As explained previously, consideration 11 of the earlier advice related to the involuntary nature of the loss of possession. The argument used by the Applicant against this consideration is therefore not relevant to the conclusion in the earlier advice with regard to ownership.
15. According to the Applicant the Committee uses arguments on an arbitrary basis. By way of illustration she refers to the advice in the case of Weijers II (RC 4.118), in which the Committee reasoned in consideration 11 that while the situation for Weijers and his family was difficult, he was not persecuted, imprisoned or sent to a camp. In view of this, according to the Applicant the fact that De Haan was imprisoned and then murdered in Auschwitz has to be an argument for granting her claim, but this argument was unjustly not discussed in the earlier advice.
The Committee points out that the consideration concerned in the case of Weijers in RC 4.118 related to the question of whether Weijers's loss of possession could be designated as involuntary as a result of circumstances directly related to the Nazi regime. Apart from the fact that the two cases are not comparable, this argument is not relevant to the conclusion in the earlier advice with regard to the ownership of the claimed works.
16. The Applicant argues that during the preparation of the earlier advice the Committee unjustly devoted no attention to the relationship between E. Hollander and De Haan. It emerged from the Applicant's own research that Hollander and De Haan knew each other well, that they lived at the same address and that Hollander acted as De Haan's defence lawyer during the trial in 1937 referred to in the investigation report. According to the Applicant, by not conducting supplementary research into the relationship between Hollander and De Haan the Committee did not give consideration to the real possibility that two works sold by Hollander to Miedl were De Haan's property and were kept by Hollander for De Haan in view of the predicament De Haan found himself in during the summer of 1940. The Applicant sent the Committee a number of documents as underpinning for this contention.
The Committee finds that the Applicant's argument does not relate to the claimed works but to two works sold by Hollander to Miedl. This line of reasoning is therefore not relevant to the conclusion in the earlier advice with regard to the ownership of the claimed works.
17. In view of the considerations given above, the Committee will advise the Minister not to reconsider the decision regarding RC 1.106.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to let the rejection of the Applicant's application to restitute fourteen paintings, which the Committee advised on 13 November 2011 under number RC 1.106, stand.

Adopted on 18 April 2015 by W.J.M. Davids (Chairman), J.T.M. Bank, R. Herrmann, E.J. van Straaten and H.M. Verrijn Stuart, and signed by the Chairman and the Acting Secretary.

(W.J.M. Davids, Chairman)

(R.A.M. Nachbahr, Acting Secretary)

6. Recommendation regarding Witmond (case number RC 1.146)

In a letter dated 3 June 2014 the Minister of Education, Culture and Science (hereinafter referred to as the Minister) requested the Restitutions Committee (hereinafter referred to as the Committee) for advice about the application from AA, BB, CC, DD and EE (hereinafter referred to as the Applicants) of 23 April 2014 for restitution of the ice boat *Sperwer* (hereinafter referred to as the ice boat). The ice boat is among the possessions of the Dutch State, but not of the Netherlands Art Property Collection (hereinafter referred to as the NK collection), and it is in the Zuiderzee Museum in Enkhuizen (hereinafter also referred to as the Museum).

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 possessions 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 the Committee will give great weight when discharging its advisory task 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

In a letter dated 3 June 2014 the Minister asked the Committee for advice about the application from the Applicants of 23 April 2014 for restitution of the ice boat.

In response to the Minister's request for advice, the Committee conducted an investigation into the facts. The results of the investigation are recorded in a draft overview of the facts dated 27 November 2014. The Applicants and the Minister were given the opportunity to respond to this overview of the facts. The Applicants responded in a letter of 8 January 2015. The Minister responded in a letter dated 23 January 2015.

There was a hearing about the case on 13 April 2015. On behalf of the Applicants the hearing was attended by AA, BB, DD, FF and GG, adviser. On behalf of the Minister the hearing was attended by HH, policy assistant, and II, Dutch National Art Collection consultant. On behalf of the Museum the hearing was attended by JJ, curator, and KK, executive secretary. The Committee was represented by its Chairman, W.J.M. Davids, and Committee Member J.T.M. Bank.

Considerations

1. The Committee has established the relevant facts on the grounds of the draft overview of facts of 27 November 2014 and the responses to it that the Committee received. The following summary is sufficient here. The Applicants have argued that their great uncle Andries Witmond (1893-1943; hereinafter also referred to as Witmond), who was of Jewish descent, lost possession of the ice boat during the occupation as the result of theft. The Applicants are among the heirs of Witmond and his wife Berendje Wolf (1897-1943). The couple were married in community of property and had two children, Philip Benjamin (1924-1943) and Benjamin Philip (1928-1943). Witmond ran a drapery business in Monnickendam, which he had taken over from his father Philip Witmond (1858-1923).
The last known address of the Witmond family was Muiderstraat 4a-III in Amsterdam. The family was taken away to Westerbork on 27 May 1943 and murdered in Sobibor on 4 June 1943. Other members of the Witmond family were also victims of the persecution of the Jews.
2. The background to the restitution application was the Museum's investigation into the provenance of its own collection under the auspices of the Netherlands Museums Association in connection with looting, confiscation or forced sale during the period starting in 1933. On the grounds of the investigation conducted by the Museum, Rudi Ekkart, Chairman of the Museum Acquisitions since 1933 Committee, pointed out the ice boat's suspect provenance to the Museum. In response to this the Museum curator, JJ, did additional research into the ice boat. The results of this research were recorded in the report *Herkomst Helder: verwerving van de ijstjotter 'Sperwer'* ('Clear Provenance: Acquisition Of The Ice Boat *Sperwer*') of 7 March 2013. In his report JJ concluded as follows.

'The Zuiderzee Museum purchased the ice boat Sperwer in 1951 in good faith. At the time the object's provenance was not investigated. According to Vereniging Oud Monnickendam (Monnickendam Conservation Association) Andries Witmond's brother Moos and one of his sisters and/or their descendants are thought to be the rightful owners of the ice boat Sperwer after the Nazis murdered Andries Witmond and his family in Sobibor extermination camp in 1943.'

The Zuiderzee Museum did not buy the object from the official owner but from the person who had obtained the ice boat in an unlawful way.

After the letter of 2 December 1998 from museum consultant Jan Sparreboom, the management of the Zuiderzee Museum probably took no further action to trace the family of Andries Witmond, as advised in the letter.

As and when descendants are found, the museum can discuss the future of the boat with these lawful owners.’

3. The results of the national museum investigation have been available on the museum acquisitions website www.musealeverwervingen.nl since October 2013. The information provided by the Museum about the ice boat includes the following.

‘- Provenance

Before 1908 <> 1943 (?) / Andries Witmond (collection), Monnickendam / Museum inventory

1943 (?) <> 1951-09-27 / Water sports centre, K. / Museum inventory

1951-09-27 <> present day / Purchased by the museum from the water sports centre / Museum inventory.

- Conclusion / Before the Second World War the ice boat belonged to the Jewish businessman Andries Witmond.

- Notes / The Witmond family had a draper’s in Middendam in Monnickendam. The Sperwer was stored in the warehouse across the road from the Witmond family’s shop. Andries Witmond was murdered in Sobibor in 1943. According to the then alderman, in 1943 the ice boat was stolen from the warehouse and taken to De Zeilhoek, the water sports centre in K.. The owner of the water sports centre sold the ice boat to the Zuiderzee Museum in 1951 for 300 guilders. On 14 April 1997 a wooden trunk containing a set of two cotton sails belonging to the ice boat Sperwer came into the possession of the Zuiderzee Museum.

The museum has traced the rightful claimants and is in contact with them.’

4. During the course of its investigation the Committee found indications which confirm that Witmond was the owner of the ice boat at the time of the German occupation and that he lost possession as a result of theft. For example the documentation about Witmond in the archives of the Netherlands Property Administration Institute (hereinafter referred to as the NBI) contains a ‘STAAT VAN BEZITTINGEN VAN DEN HEER A. WITMOND te MONNICKENDAM’, a schedule of Witmond’s possessions drawn up after the war. On this schedule there is the following reference to an ‘ice boat’.

‘There was an ice boat with full rigging at the property of Mr G. Karmelk at N.Z. Burgwal 30 in Monnickendam. It was sold by LL, a member of the NSB (Dutch National Socialist Movement), of Monnickendam to another NSB member, MM from K.’

The NBI archives also contain two letters written in 1947 by L. Grunwald, Witmond’s administrator, to the NBI in which he described his attempts to get back Witmond’s ‘ice boat ... pinched by NSB member LL’.

The Committee has found indications that the aforementioned LL then sold the ice boat to the NSB member MM from K., operator of De Zeilhoek marina. A June 1945 inventory of his assets includes ‘In the attic: [...] 1 ice boat/ [ff] 50.—’.

On 24 April 1947 E. IJlst, the administrator of MM’s assets, wrote the following in a note to a financial overview. ‘The possessions include an ice boat without sails that MM bought from LL of Monnikendam (during the occupation).’

5. The Museum acquired the ice boat in 1951 from NN, son of the aforementioned MM. After the then director of the Museum, S.J. Bouma, had been made aware of the existence of the ice boat, he wrote to the Minister of Education, Arts and Sciences on 6 September 1951 asking for authorization to purchase the ice boat for 300 guilders. After the requested authorization was granted the Museum bought it. Since then the ice boat has been in the Museum as part of the Dutch National Art Collection. On 14 April 1997 NN donated to the Museum a wooden trunk containing a set of two cotton sails belonging to the ice boat.
6. Since the end of the nineteen-fifties members of Witmond’s family and third parties have repeatedly asked the Museum about the ice boat’s provenance. The Committee refers to section 3.3 of the draft overview of the facts for an overview and the contents of the correspondence concerned.
7. The Applicants pointed out that the ice boat was owned by their great-grandfather Philip Witmond. In this regard they referred to a photograph in the magazine De Prins dated January 1908 with the caption, ‘The fastest ice boat in Monnikendam sailing on the Gouwzee (the Sperwer of Mr Witmond)’. According to the Applicants this refers to Philip Witmond.

The Applicants requested the Minister to reconstitute the ice boat ‘so that justice is done to history’. At the same time the Applicants stated that they were aware of ‘the value of the ice boat to the Zuiderzee Museum’s collection’.

8. The Minister pointed out that the ice boat is very important to the Zuiderzee Museum because it is a pleasure craft. An ice boat was used for recreation on ice on the Zuiderzee, in the same vein as skates and sledges pushed by people or drawn by horses. There are only a few ice boats in museum collections. This ice boat fits better than any other into the Zuiderzee Museum’s collection because it was used on the Gouwzee/Zuiderzee. According to the Minister, as a consequence of this the ice boat is also very important to the Dutch National Art Collection and the cultural heritage of the Netherlands. The ice boat was in the Museum between its acquisition in 1951 and the renovation of the Museum in 1997. Since the renovation the ice boat has been in the Hoogwoud repository. The Zuiderzee Museum is planning to develop an exhibition about recreation on ice with the ice boat at its centre.

Assessment of the claim

9. In a letter dated 8 January 2015 the Applicants stated that their application also relates to the wooden trunk containing a set of two cotton sails that was donated to the Museum by NN on 14 April 1997. In a letter dated 23 January 2015 the Minister agreed that the Committee’s advice also relates to this donation.
10. The Applicants have stated that they are heirs of Witmond. The Committee has taken note of the certificates of inheritance submitted by the Applicants and on the grounds of these certificates the Committee sees no reason to doubt the Applicants’ status as heirs of Witmond.
11. The Committee finds, on the basis of the information provided by the Applicants and the Minister as well as the results of the investigation the Committee has conducted, that it is highly likely that Witmond was the owner of the ice boat at the time of the asserted involuntary loss of possession. In this regard the Committee refers to the facts given under 2, 3 and 4. The Committee furthermore finds that this loss of possession must be designated as involuntary. Several statements included in the draft overview of the facts give grounds for believing there was theft, which by definition makes the loss of possession involuntary. The precise date of this theft cannot be established with certainty, but it probably took place in 1943 or 1944. By then Witmond had very probably had to leave Monnickendam as a result of the German occupation and had probably already been murdered in Sobibor. In the Committee’s view the theft of the ice boat during this period from the possession of the Jewish Witmond committed by a member of the NSB can be attributed to circumstances directly related to the Nazi regime.
12. The Committee advises about this application according to the yardsticks of reasonableness and fairness and it therefore now weighs up the interests concerned. The Committee takes account of the following. Witmond was the Applicants’ great uncle. Although not all those entitled to Witmond’s estate are known at this moment, the application nevertheless concerns the restitution to members of the Witmond family of an item of cultural value that was in the possession of the Witmond family in any event between 1908, and very probably earlier, and the moment of the theft. In addition the heirs of Witmond, with assistance from third parties, made several attempts after the war to broach the loss of possession with the Museum. The Committee finds on these grounds that the interest of the Applicants has great weight with regard to restitution. Although the Minister stated that the ice boat is of special importance to the Zuiderzee Museum’s collection and to the Dutch National Art Collection, in view of the considerations discussed above, the Applicants’ interest in the return of the ice boat must be given greater weight than the interest of the Dutch State in retaining the ice boat for the Dutch National Art Collection.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to reconstitute the ice boat *Sperwer* with all accessories such as the two cotton sails to those who are entitled to the estates of the married couple Andries Witmond and Berendje Witmond-Wolf, who according to the Social Organizations Foundation for Compensation Matters (JOKOS) file concerned both died in Sobibor on 4 June 1943.

Adopted at the meeting on 18 May 2015 by W.J.M. Davids (Chairman), J.T.M. Bank, R. Herrmann, P.J.N. van Os, E.J. van Straaten, H.M. Verrijn Stuart and I.C. van der Vlies (Vice-Chair) and signed by the Chairman and the Acting Secretary.

(W.J.M. Davids, Chairman)

(R.A.M. Nachbahr, Acting Secretary)

7. **Binding opinion regarding the dispute about the return of the painting *The Riddle of Nijmegen* by Christiaan Coeuershof, currently in the possession of Nijmegen City Council**
(*case number: RC 3.135*)

Date of binding opinion: 20 July 2015

Binding opinion
in the dispute between:

AA, living in L.,
BB, living in H.,
CC, living in A.,
DD, living in S.,
and EE, with its registered office in Amsterdam,
represented by D.J. Rowland, lawyer in New York, United States,
(hereinafter referred to as the Applicants),
and:

Nijmegen City Council,
represented by FF, Head of the Legal Affairs Section of Nijmegen City Council's Management Support
Department
(hereinafter also referred to as the City Council),

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

1. The dispute

The City Council has owned the painting *The Riddle of Nijmegen* (hereinafter referred to as the work) by
Christiaan Coeuershof since 1971. The work is held by Stichting Museum Het Valkhof-Kam in Nijmegen
(hereinafter also referred to as the Museum). The Applicants contend that the painting was part of the
collection of the Jewish pharmacist Emanuel Vita Israël (1873-1940, hereinafter also referred to as Vita
Israël) of Amsterdam and after his death it was the property of his beneficiaries until 5 November 1940. The
Applicants state that they are the rightful claimants to the estate of Vita Israël and they claim restitution
of the artwork on the grounds of their contention that there was involuntary loss of possession as a result of
circumstances directly associated with the Nazi regime. The parties submitted a joint request to the then State
Secretary for Education, Culture and Science (hereinafter also referred to as the State Secretary) in order to
submit the Applicants' claim to the Committee for a binding opinion.

2. The procedure

In a letter of 16 July 2012 the State Secretary requested the Committee to issue an opinion to the parties under
the auspices of article 2 paragraph 2 of the Decree Establishing the Advisory Committee on the Assessment
of Restitution Applications for Items of Cultural Value and the Second World War of 16 November 2001, as
amended by an Order of the State Secretary for Education, Culture and Science of 4 July 2012 (hereinafter
referred to as the Decree Establishing the Restitutions Committee). Pragmatic reasons prompted the
intervention of the State Secretary, and the State of the Netherlands was not 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 19 September
2011, hereinafter referred to as the Regulations) and would accept the Committee's opinion as binding. The
Committee satisfied itself of the identity of the parties.

The Committee took note of all the documents submitted by the parties. It forwarded to the other party copies
of the documents submitted by the parties and the documents it sent. 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 a draft investigation report dated
31 July 2014. The Applicants responded to it in a letter dated 11 September 2014. The Applicants submitted a
further response in a letter of 26 February 2015.

The case was heard on 9 March 2015. CC, BB and their authorized representative D.J. Rowland were present
on behalf of the Applicants. FF was present on behalf of the City Council. GG, the Museum's Curator of Old
Master Paintings, was also present.

After the hearing the Applicants sent additional information upon request. The Committee also conducted
additional research, the results of which—together with the minutes of the hearing—were sent to the
parties with a letter dated 21 May 2015. The Applicants responded in a letter of 26 May 2015. Together
with a letter of 2 June 2015 the Committee sent the parties the inheritance-law-related documents it had
requested. The Applicants responded in an e-mail of 6 June 2015.

The Committee gave its final approval to the investigation report in its meeting of 20 July 2015.

3. The facts

In this procedure the Committee based its considerations on the following facts.

3.1 Emanuel Vita Israël, the son of a diamond dealer, was born on 21 February 1873. From 1896 Vita Israël
ran a pharmacy at Muiderstraat 14 in Amsterdam. Vita Israël married Leonore Fanny Frederika Jacobs
(1873-1943, hereinafter also referred to as Leonore Jacobs) in 1902 after making a prenuptial agreement.
The couple had two sons. In 1938 the older son, Joost Vita Israël (1903-1944) married Catharine
Magdalena Frederika Borghmans (1904-1998, hereinafter also referred to as Catharine Borghmans) in
community of property. They had two daughters, CC (born in 1939, one of the Applicants) and Jacqueline
Charlotte (1940-1973). In 1934 the younger son, Gerrardus Vita Israël (1905-1943) married Esther van
Gelder (1899-1943) in community of property. This couple had no children.
Vita Israël committed suicide on 15 May 1940, shortly after the German invasion. The only members of
his family to survive the war were Catharine Borghmans, who was not of Jewish descent, and both her
daughters. Leonore Jacobs was interned in Westerbork transit camp on 19 May 1943. This was followed
on 1 June 1943 by deportation to Sobibor, where she was murdered on or around 4 June 1943. Joost
Vita Israël was interned in Westerbork transit camp during a period in the spring and summer of 1943
and died from meningitis in Amsterdam on 13 February 1944. Gerrardus Vita Israël and his wife Esther
van Gelder were interned in Westerbork transit camp on 26 May 1943. On 8 June 1943 the couple were
deported to Sobibor, where they were murdered on or around 11 June 1943.

3.2 Vita Israël was a passionate art lover and had a collection of paintings and antiquities, to which he gave
members of the public access in period rooms in his home above the pharmacy. He also had a collection of
Judaica, items from which he lent for exhibitions staged by the Genootschap voor de Joodsche Wetenschap
in Nederland (society for Jewish scholarship in the Netherlands). Vita Israël played an important part in
the Portuguese-Jewish Congregation. He was one of the founders of the Jewish Historical Museum (JHM),
which opened in 1932 and to which he lent various items from his collection.

In a will drawn up on 30 June 1939 before S. Teixeira de Mattos, at the time a notary in Amsterdam,
Vita Israël revoked all previous wills made by him. In the will concerned he bequeathed a life interest
in one third of his estate to his wife and he appointed his two sons as his only beneficiaries. As regards
his collection of antiquities, Vita Israël stipulated that it had to be auctioned off within six months of his
death, as follows. *'Finally the testator declared to his beneficiaries, to the usufructuary and to the executor
or executrix, or the person in the capacity thereof, of his last will that he imposes the express obligation to
sell at public auction the antiquities belonging to his estate within six months after his death.'*

There is no comparable provision in his previous wills.

3.3 After Vita Israël's death on 15 May 1940, on 10 June 1940 the dealer J.A. van Bever prepared a private
valuation report of the movable goods belonging to his estate. Among other things this report provides an
overview of the antiquities among Vita Israël's possessions. The currently claimed work, *The Riddle of
Nijmegen* by Coeuershof, is in all probability the item described as an *'antique painting by an UNKNOWN
MASTER: Noblemen and pages / [f.] 40.-'* in the *'Room with stone floor'*. The work, like various other
works referred to in the valuation report as being in the *'Room with stone floor'*, can be recognized in a
photograph in the Amsterdam City Archives of an interior.

In accordance with the aforementioned testamentary provision, Vita Israël's antiquities, with a few
exceptions, were sold at auction within six months of his death. Between 5 and 7 November 1940 445 lots
from this collection went under the hammer at auctioneers Frederik Muller & Co. One of the objects in the
sale was the currently claimed work. The aforementioned photograph of the interior of Vita Israël's home
was printed in the sale catalogue. The artwork concerned is recognizable. It is not known who bought the
work. It was sold and the proceeds were probably NLG 180.

3.4 An article by the journalist HH in the *NRC Handelsblad* newspaper on 4 July 2008 (hereinafter referred
to as the NRC article) addressed, among other things, the fate of the Vita Israël collection. The following
was stated about the proceeds of the auction.

*'In November 1940, shortly after his suicide, the "Collection of the late E. Vita Israël", comprising 440
lots, was sold at auction in Amsterdam. At the end of the nineteen-thirties the Dutch art trade was in the
 doldrums, but immediately after the start of the German occupation there was substantial demand from
Germany for Dutch Old Master paintings. So the trade flourished and prices rose. At the beginning of
the war the possessions of the Jews had not yet been seized. The proceeds of the auction, which were not
disappointing, went to the family and ultimately ended up with the non-Jewish daughter-in-law, who—
together with her two small daughters—survived the war. "CC told me in the past that when she was
young the family could live well on them," says BB now.'*

3.5 Nijmegen City Council purchased the work in January 1971 from II of Z. for NLG 3,000. II bought the work during the 1942-1943 period from JJ in L, who in turn had purchased it in 1942 from the antiques dealer H.J. van der Kamp in Zwolle. It is not known from whom and when this last person acquired the work.

3.6 No indications were found that the Vita Israël family made efforts after the war to regain possession of the artworks sold at auction at Frederik Muller & Co. in November 1940, or to obtain compensation for the loss of their possession. In so far as it has been possible to check, no objects were registered as missing by the family or its representatives with the Netherlands Art Property Foundation (SNK). There is no management file relating to the Vita Israël family in the SNK archive.

However, in 2001 and 2007 items from two Dutch museums, the aforementioned JHM and the Gemeentemuseum Den Haag (GMDH) were handed over to the Vita Israël family. The transfer by the JHM concerned items that Vita Israël had loaned this museum before the war. CC had approached the JHM about them in 1998 and, after archival research by the JHM, fifteen objects were handed over to the Vita Israël family in 2001. The objects were bought back in 2002.

The handover by the GMDH concerned three artworks that this museum had purchased at the sale of the Vita Israël collection at auctioneers Frederik Muller & Co. in November 1940. In 1998 The Hague City Council instructed the municipal archivist to investigate the development of the collection during the Second World War and restitution after it. CC contacted the City Council after publication of the investigation's findings. In response the City Council launched an investigation whose findings were summarized in the publication *EINDRAPPORTAGE. Herkomst & Restitutie. 22-12-2000 (FINAL REPORT. Provenance & Restitution. 22-12-2000)* by D. Brongers and M. van Houten-de Kom. Using this publication as a reference, on 30 January 2007 the GMDH wrote to the Lead Councillor for Culture of The Hague City Council asking for permission to retribute three artworks. This letter contained the following statements. *'According to the report Herkomst & Restitutie by D. Brongers published in 2000 it cannot be proved that this concerns a forced sale (see pp. 2021), but for ethical reasons the Gemeentemuseum has no objections to the return of these three items (...)'.*

4. The positions of the parties

4.1 The Applicants have argued that the sale of the work at auction in November 1940 cannot be considered a normal sale. They point out that this auction would not have taken place if Vita Israël had not committed suicide. According to them this suicide was a direct consequence of the German invasion. In this context they submitted documentation showing that a large number of Jews in the Netherlands committed suicide soon after the German invasion. According to the Applicants it is probable that Vita Israël feared being murdered by the Nazis and therefore he killed himself.

The Applicants do not know what happened to the proceeds of the auction at Frederik Muller & Co. According to them it is unlikely that the beneficiaries of Vita Israël had free disposal of them in view of the anti-Jewish measures taken by German occupying forces. The Applicants dispute that BB said the words reported in the NRC article, which are given in the form of a quotation at the end of section 3.4 above. In a letter dated 17 March 2015 BB declared to the Committee that he had received a part of the article prior to publication and immediately afterwards told HH over the telephone in no uncertain terms that this passage was completely wrong. When it emerged after publication that the remarks attributed to him that he had contested were still in the article, he protested about this part of the article in a letter dated 22 July 2008 to the NRC's editor. In addition the lawyer G.J.T.M. van den Bergh sent a letter dated 23 July 2008 on behalf of Muggenthaler Research and Vita Israël's heirs of similar import to the editors for publication in the NRC. The newspaper refused to publish this letter to the editors. Copies of both letters were submitted to the Committee.

According to the Applicants there can be no objection about the fact that Vita Israël's heirs made no attempts immediately after the war to get his art collection back. They point out that only three members of the Vita Israël family survived the war.

4.2 After it received the Applicants' request for return of the work, the City Council decided to submit the case to the Committee for investigation and a binding opinion so that the Committee can determine whether the requirements for restitution are met. The City Council stated that it has confidence in the Committee's judgment in this matter. The work has been in the City Council's possession since 1971. The work's importance to the City Council is that it belongs to a collection of various painted and numerous printed versions of the theme 'The Riddle of Nijmegen', of which the best known version has hung in Nijmegen town hall for centuries. The work now being claimed is one of the least important versions with regard to both its condition and art historical value. The work has virtually always been in the Museum's repository.

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 to issue 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.



8. *The Riddle of Nijmegen* by Christiaan Coeuershof

5.2 With regard to applications relating to items of cultural value in the NK collection that are submitted to the Minister before 30 June 2015, on the grounds of the relevant national policy if there is compliance with the requirement that the original owner lost possession involuntarily due to circumstances directly related to the Nazi regime, the Committee recommends restitution of the item of cultural value concerned. The interests of the current holder or owner are not taken into account in this assessment. This rule is completely justifiable with regard to artworks in the NK collection because generally speaking these objects were returned to the Netherlands after the Second World War and taken into the custody of the State of the Netherlands with the express instruction to retribute them – if possible – to the rightful claimants or their heirs.

5.3 There is a different assessment framework for items of cultural value that are not part of the NK collection. In these cases the Committee advises on the basis of the yardsticks of reasonableness and fairness (article 2, fifth paragraph of the Decree Establishing the Restitutions Committee). The justification for this difference in assessment framework lies in the difference between the provenance of items of cultural value in the NK collection on the one hand and other items of cultural value on the other. The latter category also contains, for example, artworks that—unlike those in the NK collection—were not acquired by the current owner until many years after the Second World War and were purchased through normal channels and in good faith. Advising on the basis of the yardsticks of reasonableness and fairness then provides scope to take these and other circumstances into account and to weigh up the interests of the different parties involved.

In its advisory role pursuant to article 2, second paragraph of the Decree Establishing the Restitutions Committee, the Committee—in accordance with article 3 of the Regulations—may in any event take account during its considerations of the circumstances in which possession of the work was lost, the degree to which the parties requesting restitution have made efforts to recover the work, as well as the timing and the circumstances of the acquisition of possession by the current owner and the investigation conducted by the current owner before the acquisition. It can in addition take account in its considerations of the importance of the work to both parties and of public art treasures. Nationally and internationally accepted principles, such as the Washington Principles and the government's guidelines concerning the restitution of looted art, may be included in the considerations in so far as they, in the Committee's opinion, are correspondingly applicable in the specific case.

This broad assessment framework also does justice to the Washington Principles, according to which the restitutions policy must be aimed at achieving *'a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case'*.

6. Assessment of the dispute

- 6.1 The Committee has satisfied itself that the dispute between the Applicants and the City Council has not previously been definitively dealt with. The Committee has not found a legal procedure or a judicial ruling relating to the work. Nor have the Applicants previously renounced their rights to the work. The Committee therefore considers the parties and their request to be admissible.
- 6.2 The Applicants have asserted that they are the rightful claimants to Vita Israël's estate. In this context they submitted a number of inheritance-law-related documents, including a certificate of inheritance drawn up on 14 October 2013 by A.C.W. van Limburg Stirum, notary in Hilversum, and a certificate of inheritance dated 1 October 2014 drawn up by G.W. Gramser, notary in Amsterdam. Looked at together it follows from these certificates that the natural persons and legal entities referred to below are entitled to all goods, property and rights originating from or belonging to Emanuel Vita Israël and/or Eleonore Frederika Jacobs:
- a) CC, living in A., a 1200/3200ths share;
 - b) AA, living in L., a 600/3200ths share;
 - c) BB, living in H., a 600/3200ths share;
 - d) DD, living in S., a 200/3200ths share;
 - e) KK, living in A., a 300/3200ths share;
 - f) LL, living in A., a 240/3200ths share;
 - g) the association MM, with its registered office in A., a 12/3200ths share;
 - h) the foundation NN, with its registered office in A., a 9/3200ths share;
 - i) the foundation EE, with its registered office in A., a 9/3200ths share;
 - j) the foundation OO, with its registered office in X., a 6/3200ths share;
 - k) the foundation PP, with its registered office in B., a 6/3200ths share;
 - l) the association QQ, with its registered office in A., a 6/3200ths share;
 - m) the foundation RR, with its registered office in A., a 6/3200ths share;
 - n) the association SS, with its registered office in L., a 3/3200ths share;
 - o) the foundation TT, with its registered office in A., a 3/3200ths share.

The natural persons and legal entities referred to above under e, f, g, h, j, k, l, m, n and o have each separately declared that they are aware that they are entitled to part of all goods, property and rights originating from or belonging to Emanuel Vita Israël and/or Eleonore Frederika Jacobs. Each of them has also separately declared that they want to transfer their share of the entitlement to any possible rights in this case (RC 3.135) to the other heirs and that they want to relinquish any possible rights in this case (RC 3.135).

The remaining natural persons and legal entities under a, b, c, d and i are the Applicants in this case.

- 6.3 In the committee's opinion it can be concluded from the facts referred to in consideration 3.3 that the currently claimed work belonged to the Vita Israël collection.
- 6.4 The Committee needs to answer the question of whether in this case the loss of possession can be designated as involuntary, caused by circumstances directly related to the Nazi regime. A complicating factor in this case is that the loss of possession took place through the auction at Frederik Muller & Co. At that time Vita Israël's sons were the owners of the work. However, the auction was a direct result of the inclusion by Vita Israël in 1939 of the provision in his will quoted in consideration 3.2 and his suicide on 15 May 1940. Taken together, these circumstances must play a role in answering the present question. In the Committee's opinion the loss of possession in November 1940 cannot be considered in isolation from these circumstances and therefore the testamentary provision and the suicide also play a part in answering the question of whether there was involuntary loss of possession caused by circumstances directly related to the Nazi regime.
- In answering this question the Committee first of all points out that, according to the Ekkart Committee's third recommendation of 26 April 2001 as adopted by the government, sales of artworks by private Jewish individuals in the Netherlands from 10 May 1940 onwards must be considered to be involuntary, unless the facts expressly show otherwise. Although this recommendation is not directly applicable in this binding opinion case, it follows from it that a strong suspicion exists in this case that the loss of possession was involuntary. After all it concerns private Jewish individuals who had the work sold at auction after 10 May 1940.
- This suspicion of involuntary loss of possession is confirmed by the course of events that resulted in the currently claimed work being put up for auction. As described in consideration 3.2, in 1939 Vita Israël had a provision included in his will that his collection of antiquities had to be auctioned off within six months of his death. Although it is not known why he had this provision included, it did emerge from the Committee's investigation that there was no comparable provision in his earlier 1931 will. Vita Israël took his own life on 15 May 1940, shortly after the German invasion on 10 May 1940. The Applicants have pointed out the large number of suicides among Jewish Dutch nationals immediately after the German invasion. Like the Applicants, the Committee assumes that Vita Israël's suicide was prompted by the German invasion. One of the consequences of Vita Israël's death was that, pursuant to the testamentary provision, the work had to be put up for auction within six months. This is what happened. This course of events has to be attributed to the Nazi regime. In view of the facts and circumstances, the Committee

comes to the conclusion that the loss of possession of the work by Vita Israël's sons should be designated as involuntary, caused by circumstances directly related to the Nazi regime.

- 6.5 The Committee now comes to weighing up the interests of the parties in the restitution or retention of the work. Given the City Council's position with regard to the importance of the work, as described in consideration 4.2, little weight is given to the City Council's interest. Set against this slight interest of the City Council is the interest of the Applicants in the work's restitution. The Applicants are the heirs of a Jewish Dutch national who committed suicide immediately after the German invasion, as a result of which the work ceased to be in the family's possession. In view of this the Committee considers the interest of the Applicants in restitution of the work to have greater weight than the City Council's interest in retaining it.
- 6.6 This brings the Committee to the question whether something in return from the Applicants should be linked to surrender of the work. It is important in this regard that the City Council purchased the work in 1971 for a sum of NLG 3,000 and that there are no indications that the City Council did not act in good faith at the time. The City Council also incurred costs for restoration of the work, albeit that the amount involved is not known. 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 work since 1971. This is not affected by the fact that the work has mainly been in the repository because this has been the choice of the Museum. In these circumstances the Committee sees no reason to link surrender of the work to something in return from the Applicants.
- 6.7 In view of the NRC article and the comments made about it by the Applicants, together with other reasons, the Committee did research into the proceeds of the auction. The outcome of this research is that it cannot be established with certainty what happened to the proceeds of the auction and therefore whether or not these proceeds ended up at the free disposal of Vita Israël's surviving relatives. Hence the Committee sees no reason to make allowances in this binding opinion for the proceeds of auctioning off the work.
- 6.8 On the grounds of the foregoing the Committee will advise restitution of the work to the Applicants.

BINDING OPINION

The Committee advises Nijmegen City Council to restitute the painting *The Riddle of Nijmegen* by Christiaan Coeuershof to the Applicants.

This binding opinion was issued on 20 July 2015 by W.J.M. Davids (Chairman), J.T.M. Bank, R. Herrmann, P.J.N. van Os, E.J. van Straaten, H.M. Verrijn Stuart and I.C. van der Vlies (Vice-Chair) and signed by the Chairman and the Acting Secretary.

(W.J.M. Davids, Chairman)

(R.A.M. Nachbahr, Acting Secretary)

8. Recommendation regarding Mogrobi II (case number RC 1.145)

In an undated letter received on 2 June 2014 the Minister of Education, Culture and Science (hereinafter referred to as the Minister) asked the Restitutions Committee (hereinafter referred to as the Committee) for advice about the restitution application from AA, also on behalf of his sisters BB, CC and DD, (hereinafter referred to as the Applicants) of 16 March 2014. This restitution application concerns a brass trinket box, an ivory polyptych and a bronze discoid candlestick (hereinafter referred to as the items). The items are among the possessions of the Dutch State, but not of the Netherlands Art Property Collection (hereinafter referred to as the NK collection), and are in Rijksmuseum Twenthe in Enschede (hereinafter also referred to as the Museum).

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 possessions 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

In response to the Minister's request for advice, the Committee conducted an investigation into the facts. The results of the investigation are recorded in a draft overview of the facts dated 1 December 2014. The Applicants and the Minister were given the opportunity to respond to this overview of the facts. The Applicants responded in an e-mail dated 28 December 2014. The Minister responded in a letter dated 5 February 2015.

Considerations

1. The Committee has established the relevant facts on the grounds of the draft overview of facts of 1 December 2014 and the responses to it that the Committee received. The following summary is sufficient here.
2. The Applicants are the grandchildren of Mozes Mogrobi (1898-1944; hereinafter also referred to as Mogrobi) and his widow Zilia Mogrobi-Jacobi (1897-1971).
Mogrobi was born in Alexandria, Egypt, on 10 February 1898. He was of Jewish descent. In 1921 in the Netherlands he married Zilia Jacobi, who had Dutch nationality and was also of Jewish descent. It emerged from the investigation that at the time of the wedding Mogrobi was stateless. The Mogrobis had two children, Alfred Mogrobi (1921-1944) and Sonja Mogrobi (1923-1987). From 1 May 1921 Mogrobi was the sole owner of an art and antiques gallery in Amsterdam called Kunsthandel Mozes Mogrobi (hereinafter referred to as the gallery). From 1933 the gallery's premises were at Spiegelgracht 11, which was also the Mogrobi family's home address.
3. After the German invasion Mogrobi and his family were affected by the anti-Jewish measures of the occupying forces. On the basis of Regulation VO 6/1941 promulgated by the occupying forces, all people 'of full or partial Jewish blood' were obliged to register with the mayor of their local authority within one month. Mogrobi and his family registered. On 18 February 1941 they completed the registration form in which they stated they were of the Portuguese-Jewish denomination and had four 'Jewish grandparents within the meaning of article 2 of the regulation'.
It emerged from the investigation that between the end of July 1942 and the end of May 1943 Mogrobi tried to change his registration and that of his family from 'Volljuden' (full Jews). A request to that end had to be submitted to the *Generalkommissariat für Verwaltung und Justiz* (General Commissariat for Administration and Justice). An initial request was submitted on behalf of Mogrobi in a letter dated 30 July 1942 by the Amsterdam lawyer H.E. Tenkink, but it was rejected. Thereafter Mogrobi sent a new letter himself to the *Abteilung innere Verwaltung* (Department for Administration of the Interior) on 24 September 1942. On 22 April 1943 he also summoned the Portuguese-Jewish Congregation in Amsterdam to appear in the District Court of Amsterdam because this congregation had allegedly wrongly registered him and his family as members. On 6 May 1943 the court decided in Mogrobi's favour. As described in section 2.3 of the draft overview of the facts, Mogrobi tried in all kinds of ways to demonstrate that the registration of him and his family as 'full Jews' was wrong, but on 18 May 1943 he received notification from the head of the State Population Register Inspectorate that his 'request for de-jewification' had once

again been rejected.

4. On 8 April 1944 at the police station in Leidscheplein in Amsterdam Mogrobi reported the theft of 'men's and women's clothing and shoes ... with a combined value of approximately 5,000 guilders' from the warehouse of his fellow antiques dealer Jacob Aalderink. The report designates Mogrobi as an antiques dealer with Turkish nationality.
Meanwhile the occupying authorities had become interested in the gallery. On 6 March 1944 Omnia Treuhandgesellschaft mbH (hereinafter referred to as Omnia) received instructions from the *Wirtschaftsprüfstelle* (Companies Inspectorate) to act as *Liquidationstreuhand* (liquidators) of Mogrobi's business. On 27 March 1944 Omnia received the *Bestallungsurkunde* (certificate of appointment), after which the liquidation was initiated. There was a sale of the gallery's goods on 25 July 1944 at the Mak van Waay auction house.
5. According to the post-war statement by Zilia Mogrobi, when the gallery was seized Mogrobi and his wife had gone into hiding in Sloterdijk. On 6 July 1944 they were apprehended by the *Sicherheitsdienst* (Security Service) and taken to the police station in Admiraal de Ruyterweg close to Sloterdijk. It emerges from the post-war statement by Zilia Mogrobi that on 12 July she and her husband were taken to Westerbork, from where they were deported to Auschwitz on 3 September 1944. Before the end of the month Mogrobi was murdered in Auschwitz. He was 46 years old. His son Alfred Mogrobi suffered the same fate in Buchenwald concentration camp on 1 December 1944. On 26 October 1944 Zilia Mogrobi was taken to the German labour camp Liebau, where she was liberated on 9 May 1945. The couple's daughter, Sonja Mogrobi, survived the war.
6. After Zilia Mogrobi returned to the Netherlands on 13 June 1945 she continued her husband's business. She submitted a number of compensation claims in order to receive some recompense for the goods lost during the Second World War. These claims primarily concerned the goods that were lost during the auction at Mak van Waay on 25 July 1944 but not the items currently being claimed. The gallery was liquidated with effect from 1 October 1956.
7. The following can be stated about the role of the Museum. The Museum was founded as a result of an initiative by the Twente textiles magnate Jan Bernard van Heek, who wanted his painting collection to be housed in a new national museum in Enschede. After his death in 1923 this initiative was continued by members of his family, including his half-brother Jan Herman van Heek (1873-1957, hereinafter referred to as Van Heek). The Museum was opened in 1930 and Van Heek was appointed its director. He remained in this post until 1956.
The Museum was closed during the occupation, but Van Heek bought artworks for the Museum during this period. Van Heek also purchased the currently claimed items from the Mogrobi gallery during the occupation. This can be deduced from accounts submitted by the Museum. They show that Van Heek bought the brass trinket box on 1 February 1941 for 350 guilders. He purchased the ivory polyptych and discoid candlestick from the gallery in March 1942. Van Heek paid 2,250 guilders for the polyptych and 50 guilders for the brass candlestick. The total sum of 2,300 guilders also emerges from a receipt issued by the Mogrobi gallery and received on 27 March 1942.
Van Heek became involved in the resistance during the war. He collected money from industrialists in Enschede for Jews in hiding.
8. Finally it should be pointed out that the recommendation issued earlier by the Committee on 12 February 2007 as a result of a restitution application from the Applicants also concerned the gallery (RC 1.37; hereinafter also referred to as the earlier recommendation). This earlier recommendation was to reconstitute twelve works from the NK collection to the heirs of Mozes Mogrobi and Zilia Mogrobi-Jacobi and to reject the claim to one NK work. The circumstances in which the transactions were made in that case differ from those in the present case in a number of respects.

Assessment of the claim

9. The Applicants have stated that they are heirs of Mozes Mogrobi and Zilia Mogrobi-Jacobi. The Committee has taken note of the certificates of inheritance and on the grounds of these certificates the Committee sees no reason to doubt the Applicants' status as heirs of Mozes Mogrobi and Zilia Mogrobi-Jacobi.
10. In the Committee's opinion, on the grounds of the accounts and other documents submitted by the Museum, as referred to in consideration 7, it is highly likely that the currently claimed items were the property of the gallery at the time of the loss of possession.
11. This subsequently brings the Committee to the question of whether the sale of the items in February 1941 and March 1942 by the gallery to Van Heek for the benefit of the Museum can be considered as involuntary as a result of circumstances directly related to the Nazi regime. It is emphasized that these were transactions made by a gallery. When addressing the question of whether sales by a Jewish gallery have to be considered as involuntary, there is a complicating factor, as pointed out by the Ekkart Committee in the introduction to the Recommendations Concerning Restitution of Art Dealers' Artworks (2003) as follows: 'The art trade's objective is to sell trading stock, so a significant fraction of transactions, even by Jewish art dealers, in principle constituted normal sales.' In accordance with Recommendation 6

of the recommendations referred to above, the Committee will now check whether, contrary to this basic principle, there are indications that it is highly likely that the transactions in February 1941 and March 1942 were involuntary. In so doing the Committee will take into consideration the earlier recommendation in RC 1.37.

12. In this connection the Committee considers the following to be important.
- (a) The purchaser of the currently claimed items was a Dutch museum director who later became involved in the resistance during the war. The earlier recommendation concerned German buyers, primarily German museums.
 - (b) The dates on which the currently claimed items were sold were 1 February 1941 and a day in March 1942. The sales involved in the earlier recommendation took place in 1942 and in 1943.
 - (c) Although it is not known precisely when Mogrobi and his family went into hiding and his gallery was placed under seal, it is highly probable that it was not before March 1942. The Committee deduces this from the fact that the appointment of Omnia as liquidators was not until March 1944 and that on 8 April 1944 Mogrobi still felt free to go to a police station in Amsterdam to report a theft.
 - (d) The report in 1944 designates Mogrobi as an antiques dealer with Turkish nationality. Turkey was neutral until February 1945 and Jews from neutral countries enjoyed a certain degree of protection for a longer period. The information about this report was not known at the time of the earlier recommendation.
 - (e) As described in consideration 3, from the end of July 1942 Mogrobi made attempts to have his registration and that of his family as 'full Jews' revoked. This information was not known at the time of the earlier recommendation either.
- In view of the circumstances referred to above, which differ from those relating to the earlier recommendation, the Committee is of the opinion that there are insufficient indications to consider the sales of the items currently being claimed as involuntary. Furthermore no indications have been found that make it highly likely that the sales of the items currently being claimed have to be considered as involuntary. This leads to the conclusion that the restitution application should be rejected.

Conclusion

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

Adopted at the meeting on 20 July 2015 by W.J.M. Davids (Chairman), R. Herrmann, P.J.N. van Os, E.J. van Straaten, H.M. Verrijn Stuart and I.C. van der Vlies (Vice-Chair) and signed by the Chairman and the Acting Secretary.

(W.J.M. Davids, Chairman)

(R.A.M. Nachbahr, Acting Secretary)

9. Revised recommendation regarding Bachstitz (case number RC 4.138)

In letters of 11 January 2013 and 7 May 2014 the Minister of Education, Culture and Science (hereinafter referred to as the Minister) asked the Restitutions Committee (hereinafter referred to as the Committee) for revised advice about a previously partially rejected application for restitution from AA and BB (hereinafter referred to as the Applicants). The Minister made a decision about this previous application for restitution on 28 October 2009. In accordance with the Committee's recommendation in this case of 14 September 2009 (RC 1.78; hereinafter also referred to as the earlier recommendation), the Minister rejected the application in so far as it related to 24 NK works and granted restitution of NK 1892. The request for revised advice concerns the following thirteen works of art in the Netherlands Art Property Collection (hereinafter referred to as the NK collection): NK 620, NK 631, NK 636a-b, NK 864a-b, NK 1552, NK 1553, NK 1627, NK 1787, NK 2436, NK 2484, NK 2581, NK 2707a-b and NK 2904.

The procedure

In a letter dated 21 November 2012 the Applicants requested the Minister to ask the Committee for revised advice with regard to their previously rejected restitution application in regard to NK 2436. In a letter dated 24 November 2012 the Applicants made a similar request of the Minister concerning NK 1787. In response to these requests, in a letter dated 11 January 2013 the Minister asked the Committee to issue revised advice about NK 1787 and NK 2436. In a letter dated 25 November 2013 the Applicants requested the Minister to ask the Committee for revised advice with regard to their previously rejected restitution application concerning NK 620, NK 631, NK 636a-b, NK 864a-b, NK 1552, NK 1553, NK 1627, NK 2484, NK 2581, NK 2707a-b and NK 2904. In a letter dated 7 May 2014 the Minister asked the Committee to issue revised advice in this regard. The Applicants provided further underpinning for their request for revised advice in letters of 13 August 2013, 16 August 2013, 2 December 2013 and 10 June 2014.

In addition to their request for revised advice, the Applicants requested the Minister to retribute a gold bracelet and a gold Serapis head. These items are registered as NK 865. In a letter of 13 March 2014 the Minister asked the Committee for advice about this request for restitution. This case is registered at the Committee as RC 1.143. The Committee has dealt with RC 1.143 and RC 4.138 jointly, but separate recommendation is being issued in each case. In so far as necessary this recommendation refers to the recommendation with regard to case RC 1.143.

The Committee conducted an investigation into the facts in case RC 4.138 in response to the Minister's request for advice. This investigation was combined with the investigation relating to case RC 1.143. The results of the investigation are recorded in a draft overview of the facts dated 8 September 2014. The Applicants responded to it in letters of 29 and 30 March 2015. The Applicants sent additional documents with a letter of 19 May 2015. There was a hearing on 15 June 2015 at the Committee's offices in The Hague. The hearing was attended on behalf of the Applicants by Dr H. Kahmann, a lawyer from Berlin, CC and DD, both sons of Applicant BB, and E. Dolev and Dr R.K. Krul, investigators. Minutes of the hearing were sent to the Applicants. The Applicants consequently sent further documents with a letter of 19 June 2015 and an e-mail of 8 July 2015.



9. Gem depicting Bacchus and Ariadne (NK 2904)

Considerations

1. If a decision has been taken in regard to a request for advice about restituting works of art from the NK collection or other parts of the Dutch National Art Collection, in principle the handling of the application has definitively terminated. The restitution policy does not provide for the option to 'repeat' the handling of a case, or to lodge an appeal so to speak. However, in 2010 the Committee did create the option, in consultation with the Ministry of Education, Culture and Science, to submit 'requests for revised advice'. The intent of this procedure is limited. In the case of revised advice, there is no assessment of facts that were already known and are submitted once again to support different arguments, but there is evaluation of new facts that are relevant to the outcome of the advice. In addition, account is taken of the possibility of serious errors of a procedural nature, in particular in regard to the principle of hearing both sides. Summarizing, when handling a request for revised advice, the Committee assesses a case on the basis of two criteria, which are:
 - (a) new facts that, had they been known at the time the earlier recommendation was formulated, would have led to a different conclusion, and/or
 - (b) errors during the earlier procedure that resulted in harm to the applicants' fundamental interests.
2. The Committee makes the following comment before it addresses the new facts and procedural errors that have been raised. In their documents the Applicants refer on several occasions to and invoke general consideration c) in the Committee's recommendation of 12 February 2007 in case RC 1.37 (Mogrobi). This consideration is as follows.

'The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.'

In recommendation RC 1.49 (Stodel II) of 7 April 2008, however, the Committee reconsidered the applicability of this general consideration in art trade cases. At that time the Committee's conclusion was as follows.

'In line with the recommendations with regard to art dealing and the explanation thereof, the Committee has come to the conclusion that consideration c should only apply to the ownership of art by private parties. (...)

The earlier recommendation dates from after the recommendation concerning case RC 1.49. The Committee will therefore take no further account of the Applicants' argument that in the earlier recommendation the Committee unjustly did not apply the aforementioned consideration c). The Committee will similarly take no further account of the Applicants' plea that the aforementioned general consideration c) also applies to new facts.

Procedural errors (criterion b)

3. According to the Applicants, the Committee's draft investigation report in case RC 1.78 of 12 January 2009 unjustly contains no opinion of the Committee about the qualification of the facts summarized in the report and no answer to the question of whether the requirements for restitution have been met. The Applicants contend that as a result of this they were not in a position to respond satisfactorily to the draft investigation report and possibly conduct an investigation themselves. They furthermore argue that this report was unjustly designated as a 'draft' because a final investigation report was never submitted to them for comments. The Applicants assert that this also resulted in them not having an opportunity to put forward all their arguments.

The procedure to be followed was explained to the Applicants in a letter of 22 May 2007. The letter contains a statement that the investigation phase would be concluded with a 'draft report' to which the Applicants would be able to respond, and after which advice to the Minister would follow. The procedure was also implemented in this way. The Applicants responded to the draft investigation report in a letter of 1 April 2009. The Committee takes the view that the procedure was made sufficiently clear to the Applicants in the letter of 22 May 2007. It is difficult to see why they were not able to put forward all their arguments.

The Applicants' complaint that the draft investigation report of 12 January 2009 did not contain any opinion of the Committee about the qualification of the facts summarized in the report is in fact a complaint about the Committee's way of working. This way of working involves publishing the content of the recommendation at the same time as the Minister's decision about the restitution application. This way of working was also implemented in the earlier recommendation. In this regard there was therefore no error as referred to in criterion (b). Furthermore, contrary to the Applicants' contention, there is no written or unwritten legal principle with which this way of working conflicts.

In their letter of 25 November 2013 the Applicants also argue that they had no opportunities to dispute the earlier recommendation. According to the Applicants this is contrary to article 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms. The Committee comments in this regard that the Applicants were and are free to go to the civil court if they cannot reconcile themselves with the Minister's decision about their restitution application.
4. The Applicants argue that in the earlier recommendation the Committee did not give reasons why they took the view that the purchase prices paid to Bachstitz were supposedly in line with the market. The

Applicants dispute this view. According to the Applicants there was also no underpinning in the earlier recommendation for why the first sentence of the Ekkart Committee's sixth recommendation for the art trade was deemed by the Committee to be not applicable.

These complaints concern an, in the Applicants' view, unsound reasoning in the earlier recommendation. That cannot be considered as an error within the meaning of criterion (b).

5. In addition the Applicants argue that it is incomprehensible why Wigman is referred to as a 'collector' in consideration 14 of the earlier recommendation and why 1941 is given as the year that NK 1787 was sold to him. According to the Applicants this cannot be deduced from the draft investigation report.

The Committee confirms that in the English translation of the earlier recommendation, consideration 14 erroneously refers to Wigman as a 'collector' and gives 1941 as the year that NK 1787 was sold to him by Bachstitz. These additions ('collector' and 1941) are not in the Dutch version of the earlier recommendation, which prevails. That cannot be considered as an error within the meaning of criterion (b).
6. According to the Applicants the Committee did not conduct sufficient research during its preparation of the earlier recommendation. For example, conducting research in the *Bundesarchiv* in Koblenz was improperly omitted. In the Applicants' opinion the 2004 book by Birgit Schwarz, which discusses Hans Posse, was also incorrectly not included in the investigation.

With regard to these complaints the Committee points out that it is up to the Committee to decide how much research is needed to arrive at responsible advice. The Applicants do not specify which information the Committee did not have as a result of the asserted incomplete investigation. In consideration 10 et seq. of this recommendation the Committee will address the Applicants' references to information about the purchases by Posse and his – alleged – habit of haggling over the selling prices when buying art.
7. The foregoing leads to the conclusion that the arguments put forward by the Applicants do not give grounds for the opinion that there are errors within the meaning of criterion (b).

New facts (criterion a)

8. The Applicants have underpinned their application with new facts. New facts have also been unearthed by the Committee's own research, the results of which are recorded in the draft overview of the facts of 8 September 2014. The new facts are discussed below. The discussion is conducted under the following four headings:
 - sales to Hans Posse (except NK 2904);
 - sale of NK 2904;
 - sale of NK 1787;
 - sale of NK 2436.

Sales to Hans Posse (except NK 2904);

9. The relevant considerations in the earlier recommendation are as follows.

(consideration 16)

'(...) a) The works NK 620, NK 631, NK 636a-b, NK 864a-b, NK 1552, NK 1553, NK 1627, NK 1798, NK 2484, NK 2581 en NK 2707a-b were sold to Posse for the Führermuseum in Linz in the period from August to 10 December 1940.

(...)

The following sums were paid: a sum of NLG 6,000 for NK 620, together with another statue; a sum of NLG 4,750 for NK 631; a sum of NLG 8,000 for NK 636a-b; a sum of NLG 24,000 for NK 864a-b, together with two other gold objects; a sum of NLG 50,000 for NK 1552; a sum of NLG 50,000 for NK 1553; a sum of NLG 30,000 for NK 1627; a sum of NLG 5,400 for NK 1798; a sum of NLG 10,000 for NK 2484; a sum of NLG 12,000 for NK 2581 and a sum of NLG 45,000 for NK 2707a-b.'

(consideration 17)

'The following applies to the sold objects in categories a and b.

While allowing for the fact that, as a result of the pressures of war, Bachstitz effected transactions with representatives of the Nazis and could therefore count on a certain degree of protection, the Committee is of the opinion that these sales were not involuntary. In cases concerning the art trade, the Committee considers the sole fact that the purchasing party was part of the Nazi regime insufficient to conclude involuntariness, especially if these were transactions for which prices appear to have been paid that were in line with the market and, moreover, no evidence has been found of direct threats or sale under duress. Bachstitz' statement (see consideration 7) that 'zoals dat met iedereen het geval was, [hij] af en toe [moest] bukken voor de pressie' [like everyone, [he] had to bend to pressure every once in a while] refers not so much to a direct threat to Bachstitz himself as to the difficult circumstances during the occupation for art dealers in general.

The Committee also points out that the majority of sales to Posse and Hofer took place in 1940, the first months of the German occupation of the Netherlands (...). Due to his connections in the art world in the early years of the war, Bachstitz was evidently able to operate freely on the market and do business. No evidence was found of coercion towards his person or his family at that stage.'

10. The Applicants refer to new facts with regard to the sales by Bachstitz to Posse. In the first place there is information concerning the way in which these sales took place. Part of this information comes from correspondence between Bachstitz and Posse.

The following emerges from the newly available information. The selling prices that Bachstitz requested from Posse for the works NK 636a-b, NK 864a-b and NK 2484 have become known. The purchase prices ultimately paid by Posse for these works were already known when the earlier recommendation was adopted. For example, Bachstitz asked for a sum of NLG 12,000 for NK 636a-b, whereas the purchase price finally paid was NLG 8,000. Bachstitz proposed a sum of NLG 16,000 for NK 2484, whereas the purchase price paid in the end was NLG 10,000. Bachstitz asked NLG 20,000 for NK 864a-b. This work was ultimately sold for NLG 24,000, together with two gold objects (registered under NK 865 and claimed by the Applicants in case RC 1.143), for which Bachstitz requested NLG 3,500 and NLG 4,500. It has now also become known that this transaction took place in May 1941, whereas it had been assumed in the earlier recommendation that the date of the transaction was before 10 December 1940.

At the time of the earlier recommendation it was known that NK 620 was sold together with another statue for NLG 6,000. It emerges from the new information that the asking price for the work NK 620 on its own was NLG 3,750, while the final purchase price was NLG 3,000.

11. The prices asked by Bachstitz for a number of other works are not known, but there is other information. For example on 5 September 1940 Posse wrote the following to Bachstitz about NK 1627, which had been offered to him. *'Ich bin bereit, ihn zu erwerben, wenn Sie mir noch etwas in der Preisforderung entgegenkommen (30.000 fl.)'* Bachstitz accepted this offer.

As regards NK 1552 and NK 1553, which were already known to have been purchased by Posse for NLG 50,000, on 18 November 1940 Posse wrote to Bachstitz that he wanted them *'wenn sie nicht mehr als 50.000 fl. kosten'*. Bachstitz accepted this offer too.

It was already known that the purchase price of NK 2707a-b was NLG 45,000. There is also new information about this sale. On 15 October 1940 Posse wrote to Bachstitz that he wanted to buy the work *'wenn es nicht mehr als 45.000 Gulden kostet'*. Bachstitz replied on 19 October 1940 as follows. *'Obwohl in diesem Falle keinerlei Nutzen bleibt, nehme ich Ihre Offerte an und erlaube mir wunschgemäß anliegend die Rechnung zu übersenden.'*

A new fact that has become known about the sale of NK 631 is that this transaction took place in September 1941, whereas it had been assumed in the earlier recommendation that the date of the transaction was before 10 December 1940.

12. In addition to information about the sales to Posse, the Applicants also refer to a report by Dr Birgit Schwarz of 21 July 2013. The report contains information about Posse and the way he went about his work of acquiring art for the *Sonderauftrag Linz*. According to the Applicants it emerges from this report that Posse occupied a special position in the Dutch art market because he was buying art on behalf of Hitler. This put him in a position to haggle over the prices that Bachstitz asked.

The Applicants have furthermore compared the sales by Bachstitz to Posse with a number of sales to Posse by other (non-Jewish) art dealers and art sellers, namely D.A. Hoogendijk & Co, P. de Boer, Paardenkooper, N. Beets, Lanz and an unknown vendor. According to the Applicants this comparison shows that Posse was able to obtain greater price reductions from Bachstitz than from the vendors referred to above, who the Applicants assert were not Jewish.

13. The Committee finds as follows with regard to these alleged new facts. The information referred to under 10 and 11 about the circumstances of the sales and the information referred to under 12 about Posse and his purchases from other art dealers relate to facts that were not known when the earlier recommendation was adopted. The question, however, is whether these new facts, had they been known, would have resulted in the conclusion that there were indications that it was highly likely that there was selling under duress.

It emerges from the information about the circumstances of the sales that in the case of four of the works now being claimed, as well as with regard to NK 865, which is the subject of case RC 1.143, there was a difference between Bachstitz's asking price and the purchase price ultimately paid by Posse. The biggest difference between asking price and purchase price was in the sale of NK 2484, where Posse succeeded in obtaining a reduction of 37.5% in the asking price. The smallest difference concerned the sales of NK 864a-b and NK 865, where Posse was able to negotiate a reduction in the asking price of 14.28%. It moreover emerges from the new information that Bachstitz agreed to Posse's offers for three NK works and that Bachstitz, as he said himself, made no profit on the sale of NK 2707.

In the Committee's opinion, however, this new information does not contain any indications that the sales concerned took place under duress. In this connection the Committee points out that a difference between the asking price and the purchase price is normal in the art trade. The differences observed in this case, in one instance as much as 37.5% of the asking price, are not of such a magnitude that they alone give reason for being able to consider these sales as not having been voluntary. Similarly the fact that Bachstitz made no profit on the sale of NK 2707 is not sufficient for assuming that the sale was therefore involuntary.

Even when seen in the light of the new information about the sales to Posse by other art dealers and the information about Posse's working methods, the new information does not lead to a conclusion that is different from that in the earlier recommendation. As regards the sales to Posse by other art dealers, it emerges from the information supplied by the Applicants that, among other things, there were often no

negotiations about the asking price associated with these sales, or there were modest price reductions, with a maximum of ten percent in one case. In so far as it could be concluded from this that Posse was able to get relatively greater reductions on the asking prices proposed by Bachstitz, this does mean that the sales by Bachstitz took place under duress. The new information gives insufficient indication for this.

As far as the information about Posse's working methods are concerned, as referred to in the Schwarz report, the Committee takes the view that what is described in that report is too far removed from the sales that are now at stake.

14. In their letter of 10 June 2014 the Applicants also referred to the registration of a bronze cupid on www.lostart.de since March 2014 as a new fact. According to the Applicants the circumstances relating to the sale of this statue by Bachstitz in October 1941 are identical to the circumstances concerning the sales to Posse that are now under discussion. In the Applicants' opinion the aforementioned registration is an indication that the bronze cupid was sold involuntarily, which in their opinion is also significant in regard to the sales currently at issue.

However, this registration cannot be designated as a new fact within the meaning of criterion (a). No implications with regard to the sale of other artworks by the same vendor can be associated with solely the registration of a particular work of art on www.lostart.de.

15. The mere circumstance that the sale of NK 864a-b took place in May 1941 and that of NK 631 in September 1941, whereas in the earlier recommendation it had been assumed that the sales took place before December 1940, does not lead to the conclusion that they were involuntary sales. In this regard the Committee also refers to consideration 10 of the recommendation concerning case RC 1.143.

16. It follows from the foregoing that what the Applicants have argued and what has emerged from the Committee's own investigation does not give reason to revise the recommendation with regard to case RC 1.78 in so far as it relates to the Applicants' claim on NK 620, NK 631, NK 636a-b, NK 864a-b, NK 1552, NK 1553, NK 1627, NK 2484, NK 2581 and NK 2707a-b.

NK 2904

17. New information has become known about the sale of NK 2904 (a carnelian cameo) to Posse on 21 June 1941. Among other things a letter from Bachstitz to Posse of 26 May 1941 is important. In it he writes as follows.

'Für Ihre freundliche Auftrage danke ich Ihnen bestens. Das sogenannte Stirnband - wahrscheinlich Spiralarmband - gehört, ebenso wie die Karneol-Gemme, meiner Privatsammlung an. Die Gemme erwarb ich 1920 für Hfl. 6000.-, das Stirnband 1930 für Hfl. 18.000.- / Da die Stücke Teile meiner Privatsammlung sind, wiederstrebt es mir in Anbetracht Ihres sich gesetzten Ziele Ihren event. Erwerb als Geschäft anzusehen. Gerne überlasse ich Ihnen das eine oder andere Stück für meinen Einkaufspreis.'

It emerges from a letter of 21 June 1941 from Posse to the head of the Reichskanzlei in Berlin, Dr Lammers, that Posse did indeed acquire NK 2904 (referred to as *'Karneol-Gemme'*) for NLG 6,000.

According to the Applicants it follows from the letter of 26 May 1941 that NK 2904 belonged to Bachstitz's private collection, so their claim to this work should be assessed in accordance with the standards for privately owned art.

18. Bachstitz's statement in the aforementioned letter of 26 May 1941 that NK 2904 belonged to his private collection was not known when the earlier recommendation was adopted and in this regard is a new fact. In order to answer the question of whether this fact would have resulted in a different conclusion had it been known when the earlier recommendation was adopted, the Ekkart Committee's third recommendation for the art trade is of prime importance. This recommendation is as follows. *'If there are sufficient indications that a work of art did not belong to an art dealer's trading stock but to his private collection, applications for restitution will be addressed in accordance with the standards for privately owned art.'*

It is stated in the notes to this recommendation that *'clear indications that is was private property instead of hard evidence are deemed to be sufficient'*.

The Committee is of the opinion that Bachstitz's statement in the letter of 26 May 1941 is a clear indication that NK 2904 did not belong to the gallery's trading stock but to Bachstitz's private collection. The consequence of this is that the restitution application, in so far as it relates to NK 2904, must be dealt with in accordance with the standards for privately owned art.

19. In the case of privately owned art, the reversal of the burden of proof, as expressed in the third recommendation of the Ekkart Committee (2001), applies. *'The committee recommends that the sale of works of art by private Jewish individuals in the Netherlands on or after 10 May 1940 should be considered as forced sales unless there is express evidence to the contrary (...)'*

In the absence of express evidence to the contrary, the sale of NK 2904 to Posse must be designated as involuntary.

20. The Committee then raises the question of whether a payment obligation should be specified in regard to restitution of NK 2904 in connection with the consideration received when the work of art was sold. Under the present restitution policy, repayment is only addressed if and in so far as the former vendor or his heirs actually had free control of the proceeds of the sale, with the former vendor or his heirs being given the benefit of the doubt if this cannot be ascertained

The correspondence between Bachstitz and Posse shows that Bachstitz received NLG 6,000 for the artwork. It also emerges from the same correspondence that Bachstitz sold it so he could pay for his sick son to stay in a sanatorium in Switzerland. This was why he asked Posse to pay in Swiss Francs. Although Posse passed this request on to Dr Lammers, head of the *Reichskanzlei*, in the end payment was made in guilders.

It is known that Bachstitz's son was seriously ill with tuberculosis, and for that reason was probably admitted to a sanatorium in the Engadin, Switzerland, in June 1941. He died in 1943. In the committee's opinion Bachstitz's choice to have his son stay in Switzerland, a country that was not occupied by the Nazis, cannot be seen in isolation from the threat to his son in areas occupied by the Nazis. The committee considers it plausible that Bachstitz used the proceeds of selling NK 2904 to pay for his son to stay in Switzerland. In these circumstances the Committee's opinion is that there can be no question of repayment of the proceeds of the sale.

21. The foregoing leads to the conclusion that the Committee will advise the Minister to reconstitute NK 2904 to the heirs of Kurt Walter Bachstitz.

NK 1787

22. The Committee's conclusion with regard to NK 1787 in consideration 14 in the earlier recommendation was as follows.
'The Committee finds that the Bachstitz Gallery either sold or consigned three works to Dutch buyers – who were, as far as is known, not collaborators. In the absence of proof to the contrary, the Committee deems it plausible that these were everyday transactions and that there was no question of duress. (...)
- With respect to NK 1787, the Committee considers it plausible that the Bachstitz Gallery sold the work to a Dutchman (Wigman), who sold it to Posse in 1944.'
23. In the first place the Applicants referred to a statement by W.A. Hofer of 5 June 1945.
'Kurt Walter Bachstitz, dem man in Den Haag sein Geschäft (Kunsthandlung, international) beschlagnahmt hatte, 1943, besorgte ich trotz größter Schwierigkeiten mit Erlaubnis von Göring Ausreise aus Deutschland (Juni 1944, & Einreise in die Schweiz. (...)

According to the Applicants this statement proves that Bachstitz's gallery was confiscated in 1943. The Applicants take the view that sales after this confiscation cannot be considered as voluntary.

The Committee did not know of this statement when the earlier recommendation was adopted. In this regard this statement is therefore a new fact within the meaning of criterion (a). However, the Committee notes that this statement is not supported by any other document or statement made by a witness. In the Committee's investigation, for example, no indications were found in the Chamber of Commerce's register of companies file on the Bachstitz Gallery that the company was registered in the context of Regulation 189/40 as a partially or wholly Jewish enterprise, or that a *Verwalter* (administrator) or *Treuhänder* (trustee) was appointed by the Germans to take charge of it. Similarly no indications were found in the archive of the *Abteilung Feindvermögen* (Enemy Assets Department) of the *Reichskommissariat in den besetzten Niederländischen Gebieten* (Reichs Commissariat for the Occupied Dutch Territories), which is in the National Archive, that the Bachstitz Gallery was put under German control during the occupation.

In view of this the Committee finds that the sole statement of Hofer, as referred to above, is insufficient to make it plausible that the gallery was confiscated in 1943.

24. The Committee's investigation into the sale of NK 1787 has unearthed a number of new facts. For example, correspondence was found between Dr E. Göpel and Dr R. Oertel, both working for the *Sonderauftrag Linz*, about the purchase of the work. Among other things, it emerges from these letters that the asking price for the work was NLG 75,000. Other documents that were found include a bill for the work from J.G. Wigman to the *Sonderauftrag Linz* for NLG 70,000 and a letter of 5 May 1944 in which Wigman confirms receipt of this sum. A list of acquisitions in the Netherlands by the *Sonderauftrag Linz* during the last years of the occupation includes the following.
'Übertrag
70.000.-- 8.5 J.G. Wigman-Haag 1 florentin. Rahmen 15.Jhdt'

New information about Wigman has also become known, as described in the draft overview of the facts. Originally he was a furniture maker, but in May 1940 he became a branch manager with the art dealership Firma D. Katz in The Hague. He lived in the art dealership's branch at Lange Voorhout 35 in The Hague. It can be deduced from a letter from Göpel of 20 October 1942 that after the departure of Nathan and Benjamin Katz the premises were at the disposal of Posse for packaging and storing paintings for the *Sonderauftrag Linz*. Copies of various bills confirm this interpretation. Several bills in Wigman's name for paintings and silver items that were supposedly delivered to the *Sonderauftrag Linz* in 1944

were also found. All these bills and receipts were signed by Wigman and no other names were referred to on the documents.

25. The Committee has asked itself the question of whether the aforementioned new facts, had they been known at the time the earlier recommendation was adopted, would have led to a different conclusion. The Committee answers this question in the negative. When the earlier recommendation was adopted, the Committee had deemed it plausible that the Bachstitz Gallery sold NK 1787 to Wigman, who sold it on to Posse in 1944. Clearly this last step cannot be correct because Posse died in 1942. What was meant, as has now also emerged from the new information, is that the work was sold to the *Sonderauftrag Linz*. In the Committee's opinion, also on the grounds of the new facts it is not plausible, as contended by the Applicants, that Bachstitz sold the work directly to the *Sonderauftrag Linz*. The bill for the work with the name of Wigman on it and the letter of 5 May 1944, in which Wigman confirms receipt of the purchase price, indicate a sale of the work by Wigman to the *Sonderauftrag Linz*. The Committee therefore confirms its conclusion in the earlier recommendation.

NK 436

26. The Committee's conclusion with regard to NK 2436 in consideration 15 in the earlier recommendation was as follows.
'During the occupation, the Bachstitz Gallery sold four works to German museums. In the light of the purchase prices paid for them, it is again reasonable to assume that these were also normal transactions with clients. Nor is there any evidence that Bachstitz was pressurised. In connection with this, the Committee refers to Bachstitz' statement quoted in consideration 7, namely that he sold work to "musea-directeuren, met wie hij lang vóór de oorlog zaken had gedaan" [...museum directors, with whom he had done business long before the war.] (...)
'During the occupation, NK 2436 was sold for an unknown sum to K. Martin, director of the Kunsthalle in Mühlhausen.'
27. In so far as the Applicants referred to the statement by Hofer of 5 June 1945 as a new fact, it is sufficient for the Committee to refer to its conclusion about this statement in consideration 23 of this recommendation.
28. The Applicants submitted, as a new fact, a bill of 18 February 1943 on the Bachstitz Gallery's letterhead from the *Generallandesarchiv* (State Archive) in Karlsruhe. It can be deduced from this bill that Bachstitz sold NK 2436 to Dr Kurt Martin on 18 February 1943 for NLG 45,000. Correspondence between Bachstitz and Martin about the sale of NK 2436 was also found. Furthermore a letter from Bachstitz to Posse was found in which it can be deduced that at the end of 1940 Bachstitz offered the painting to Posse for NLG 35,000.
The Applicants moreover referred to the book by Tessa Friederike Rosenbrock, *Kurt Martin und das Musée des Beaux-Arts de Strasbourg. Museums- und Ausstellungspolitik im 'Dritten Reich' und in der unmittelbaren Nachkriegszeit*. The book appeared in 2012 and it contains a great deal of information about Martin. The Committee's investigation also found information about Martin from index cards compiled by the Americans after the war.
29. The facts referred to in consideration 28 above were not known when the earlier recommendation was adopted. The Committee answers as follows the question of whether these facts, had they been known at that time, would have resulted in a different conclusion about the sale of NK 2436.
The selling price of NK 2436 that has now become known (NLG 45,000) does not in itself indicate that this sale was involuntary. The circumstance that Bachstitz very probably offered Posse the work at the end of 1940 for a sum of NLG 35,000 does not change this. Contrary to the Applicants' assertion, it cannot be concluded on the grounds of the asking price in 1940 that the sale in 1943 for a sum of NLG 45,000 was involuntary.
On the basis of the new information about Martin, the Applicants have contended that he was supposedly 'someone like Göpel'. In the Committee's opinion, however, this information does not provide sufficient basis for this contention, leaving aside the conclusions that should arise from it. The Committee notes in this connection that the correspondence about the sale of NK 2436 between Bachstitz and Martin that has now become known contains no indications that this sale took place under duress.
30. As regards the date of the sale of NK 2436 that has now become known, 18 February 1943, the Applicants have referred to the similarity to the sale of NK 1892. The Committee also notes that the date of this sale is close to that of NK 1892 on 10 June 1943. As pointed out in consideration 18 of the earlier recommendation, circumstances became more and more perilous for Bachstitz in the run-up to his arrest in July 1943. According to this same consideration, however, at that time the Committee did not deem just the generally threatening situation for Bachstitz to be important. It also attached importance to the fact that the sale of NK 1892 took place after the declaration of Bachstitz as a *Volljude* (full Jew) one month before and that the buyer was Göpel, who in 1943 had arranged for Bachstitz to be exempt from wearing a Star of David. In the Committee's opinion these differences mean that the sale of NK 1892 cannot be compared with that of NK 2436 in view of the Ekkart Committee's recommendations for the art trade. These recommendations are after all based on the assumption 'that the art trade's objective

is to sell trading stock, so a significant fraction of transactions, even by Jewish art dealers, in principle constituted ordinary sales'. There is only reason to depart from this assumption if there are indications that it is highly likely that there was selling under duress. The generally threatening situation for Bachstitz personally and also the circumstance that the sale of NK 2436 took place in February 1943 are not sufficient for this.

31. In so far as the Applicants referred to the registration on www.lostart.de of a number of other artworks that were sold by Bachstitz to Martin, the Committee concludes that this registration cannot be designated as a new fact within the meaning of criterion (a). No implications with regard to the sale of other artworks by the same vendor can be associated with solely the registration of a particular work of art on www.lostart.de, even if they were sold to the same buyer.
32. The foregoing leads to the conclusion that the Committee will advise the Minister to let the rejection of the claim to NK 2436 stand.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to:

- let the rejection of the applicant's application for the restitution of NK 620, NK 631, NK 636a-b, NK 864a b, NK 1552, NK 1553, NK 1627, NK 1787, NK 2436, NK 2484, NK 2581 and NK 2707a-b, in regard to which the Committee gave advice on 14 September 2009 under number RC 1.78, stand.
- restitute NK 2904 to the heirs of Kurt Walter Bachstitz.

Adopted on 1 December 2015 by W.J.M. Davids (Chairman), R. Herrmann, P.J.N. van Os, E.J. van Straaten, H.M. Verrijn Stuart and I.C. van der Vlies (Vice-Chair) and signed by the Chairman and the Secretary.

(W.J.M. Davids, Chairman)

(R.A.M. Nachbahr, Secretary)

10. Recommendation regarding Bachstitz III

(case number RC 1.143)

In a letter dated 13 March 2014 the Minister of Education, Culture and Science (hereinafter referred to as the Minister) asked the Restitutions Committee (hereinafter referred to as the Committee) for advice about the application for restitution of 27 November 2013 from AA and BB (hereinafter referred to as the Applicants). They are acting as heirs of their grandfather Kurt Walter Bachstitz (hereinafter referred to as Bachstitz) and are represented in this procedure by Dr H. Kahmann, a lawyer from Berlin. The application concerns a gold bracelet and a gold Serapis head. Both objects are part of the Netherlands Art Property Collection (hereinafter referred to as the NK collection) under registration number 865 and are currently in the Dutch National Museum of Antiquities, Leiden.

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 possessions of the Dutch State.

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

The procedure

Previously, on 14 September 2009, the Committee issued advice to the Minister about an application from the Applicants for the restitution of 25 objects in the NK collection. That recommendation (RC 1.78) was to reject the restitution application in so far as it related to 24 artworks and to restitute NK 1892, *Roman Capriccio* by P. Cappelli. On 28 October 2009 the Minister made a decision about the restitution application in accordance with recommendation RC 1.78.

The Applicants requested the Minister to revise this decision in so far as it related to thirteen NK works. In letters of 11 January 2013 and 7 May 2014 the Minister asked the Committee for revised advice. This case is registered at the Committee as RC 4.138.

The Committee has dealt with RC 1.143 and RC 4.138 jointly, but separate recommendation is being issued in each case. In so far as necessary this recommendation refers to the recommendation with regard to case RC 4.138.

The Committee conducted an investigation into the facts in case RC 1.143 in response to the Minister's request. This investigation was combined with the investigation relating to case RC 4.138. The results of the investigation are recorded in a draft overview of the facts dated 8 September 2014. The Applicants responded to it in letters of 29 and 30 March 2015.

There was a hearing on 15 June 2015 at the Committee's offices in The Hague. On behalf of the Applicants the hearing was attended by Dr Kahmann, CC and DD, both sons of the applicant BB, and E. Dolev and Dr R.K. Krul, investigators. Minutes of the hearing were sent to the Applicants. The Applicants sent further documents with a letter of 19 June 2015 and an e-mail of 8 July 2015.

Considerations

1. The request for advice from the Minister of 13 March 2014 states that the application concerns a gold object with number NK 865 and a gold object with number Prec 162. It emerged from the Committee's investigation that both objects were recovered together and were then listed together as number 162 on the 'precious items list' of the Netherlands Art Property Foundation (SNK). They were subsequently jointly given the NK number 865. In this recommendation NK 865 therefore refers to both of the claimed works.
2. The Applicants are requesting the return of the claimed works in their capacity as heirs of their grandfather Kurt Walter Bachstitz (1882-1949), who according to the Applicants lost the artworks involuntarily as a result of circumstances directly related to the Nazi regime. In this context the Committee took note of a few inheritance-law-related documents, on the grounds of which the Committee sees no reason to doubt the Applicants' status.
3. As regards the relevant facts, the Committee refers first of all to considerations 2 to 9 inclusive of recommendation RC 1.78. The following can be added here with regard to the claimed works.
The claimed works were sold by the Bachstitz Gallery in May 1941 to Dr Hans Posse on behalf of the *Sonderauftrag Linz*. In a letter of 28 April 1941 Posse wrote to Martin Bormann about the currently

claimed objects as well as two gold snake bracelets (NK 864a-b; subject of RC 1.78 and RC 4.138). It emerges from this letter that the asking price of the gold bracelet (NK 865) was NLG 4,500. The asking price of the gold Serapis head (NK 865) was NLG 3,500 and the asking price of the NK 864ab was NLG 20,000. On 6 May Posse wrote to Bormann confirming that the purchase of the objects (NK 864a-b and NK 865) had taken place, *'und zwar zu den reduzierten Preis von hfl. 24.000'*. This sum is also referred to in a bill from Bachstitz concerning the sales of the objects.

4. After the war Bachstitz's wife, Mrs Bachstitz-Hofer, made a declaration to the SNK about the sale of works of art to Germans, including NK 865. The objects are described in a letter of 2 July 1945 from Mrs Bachstitz-Hofer to Dr J.G. van Gelder of the SNK. The internal declaration form filled in by the SNK for the gold Serapis head states that the object was originally in the possession of *'Bachstitz, 's-Gravenhage'* and as a result of a voluntary sale it came into the possession van *'Dr. H. Posse'*.
On 3 January 1950 SNK Director J. Jolles asked the Bachstitz Gallery for information about twenty artworks, about which he stated as follows.
'You have registered most of the objects, apart from those listed under 1, 8, and 14 and 15. In respect of these latter I have reason to believe that these objects were in your possession or were sold by you. Would you be so kind as to tell me whether [all] these objects were your property before the German occupation and, if not, when and from whom you bought them.'

The letter also refers to two gold objects, which are very probably the currently claimed works. Mrs Bachstitz-Hofer replied on 11 January 1950, informing the SNK that the artworks listed in their letter were *'all from our collection where they had been since 1920, 1931 and 1937 respectively [...]*.
On 30 January 1950 Jolles asked for more detailed information about the artworks referred to in the letter of 3 January 1950 and asked the art gallery to state whether the sale of the works had been voluntary or had taken place under duress. On 6 February 1950 Mrs Bachstitz-Hofer responded as follows with regard to the nature of the sales.
'In reply to your letter of 30 January last, I can inform you that during the enemy occupation my husband had to sell the works of art listed - like the sales registered at the time - under undue influence.'

Assessment of the claim

5. On the grounds of the facts referred to in considerations 3 and 4, the Committee considers it highly likely that the currently claimed artworks (NK 865) were the property of the Bachstitz Gallery during the occupation.
6. The Applicants argue it is plausible that Bachstitz lost his shares in the Bachstitz Gallery at some point, which from an economic point of view resulted in the loss of the works of art that were in the possession of gallery. According to the Applicants it is plausible that when Bachstitz stepped down as supervisory director of the Bachstitz Gallery (17 February 1941) in order to save his art gallery, he had to transfer his shares to his non-Jewish wife.
The Committee points out the following with regard to this contention. The identities of the shareholders in the gallery did not emerge from the Committee's investigation, but it is probable that Bachstitz himself had a substantial interest in the business. As regards the assertion that Bachstitz had to transfer his shares to his wife at some point, however, the Committee found no indications of this. Furthermore, even assuming that Bachstitz did transfer his shares to his wife, it makes no difference to the assessment of the restitution application.
7. It has been established that the claimed works were not stolen or confiscated. They were sold by the Bachstitz Gallery to Posse in May 1941. As regards the question of whether this sale should be designated as involuntary, the Committee has to answer on the basis of the Ekkart Committee's sixth recommendation for the art trade. This recommendation is as follows.
'In all cases in which after the war the party involved, his heirs or his immediate representative appointed by him or his heirs filled in the qualification "involuntary sale" on a declaration form and there are no indications that contradict this qualification, such a qualification should be accepted. In all cases in which such a declaration form is missing, indications that make it highly probable that coerced sale took place serve as the point of departure for the restitution policy.'
Indications of involuntary sale in any event include the threat of reprisal and the promise of the provision of passports or safe conduct as part of the transaction. Involuntary sales are also taken to mean sales by Verwalter or other managers not appointed by the owner from the stocks under their management in so far as the original owners or their heirs have not fully benefited from the transaction and explicitly waived their rights after the war.'
8. The Applicants assert that in this case the first sentence of recommendation 6 above is applicable. According to them the rationale behind this sentence is that the original owner's assessment is decisive. According to them the statements made by Bachstitz and his wife after the war suggest that at the time they perceived the sale of the claimed works as involuntary.
First the Committee states that after the war Bachstitz did not state on a declaration form that the sale of the claimed works was involuntary. Strictly speaking the first sentence of the aforementioned recommendation 6 is therefore not applicable in this case. The Committee notes that as early as 2 and 18 July 1945 Mrs Bachstitz-Hofer reported to the SNK the sale of art by the gallery to Germans, which



10. A gold Serapis head
(object F 1953/4.2, NK 865)



11. A gold bracelet
(object F 1953/3.6, NK 865)

was therefore before the announcement on 24 July 1945 of the declaration obligation. It is plausible that for this reason she was not able to make use of the SNK declaration forms on which, among other things, a declaration of involuntary sale could be made. Nevertheless the Committee sees no reason for the broader interpretation of the first sentence of the aforementioned recommendation 6 that the Applicants apparently have in mind. In the first place it is important in this context, contrary to the Applicants' contention, that in his letter of 21 July 1945 SNK employee Van Gelder did not tell Mrs Bachstitz-Hofer that, in the Applicants' words, *'the formal requirements of the SNK have been met'*. It is furthermore important that the statement by Mrs Bachstitz-Hofer referred to by the Applicants is dated 6 February 1950, in other words more than four and a half years after she had reported to the SNK in July 1945 that the gallery had made sales to Germans. During this period Bachstitz and his wife did not ask the SNK for restitution of the claimed works, which they did do, for example, in regard to three works that Hermann Göring had appropriated (see consideration 9 of recommendation RC 1.78). The statement in the letter of 6 February 1950 was in response to the explicit question from the SNK in the letter of 30 January 1950 as to whether the sale of the claimed works, among other items, was voluntary or took place under duress. Given these circumstances, Mrs Bachstitz-Hofer's statement in her letter to the SNK of 6 February 1950 that her husband had had to sell the claimed works *'under undue influence'* cannot be equated with a declaration after the war on an SNK declaration form that there had been an involuntary sale.

Similarly the statement by Bachstitz himself, as quoted in consideration 7 of recommendation RC 1.78, cannot be equated with such a declaration.

9. In keeping with government policy in this regard, the Committee will check whether there are indications that make it highly likely there was a sale under duress. In this connection the Applicants have argued that Bachstitz sold the claimed works to Posse because he was afraid of the consequences of any refusal to do so. The Applicants point out that it was known that Posse purchased art on behalf of Adolf Hitler. According to the Applicants, Posse was able, in view of his position, to haggle over the asking prices to such an extent that it is no longer possible to talk about voluntary sales.
The Committee notes that the Applicants also put forward these arguments in case RC 4.138 with regard to the works claimed in that case. The Committee was able to discuss these arguments comprehensively in considerations 10 to 13 inclusive of the recommendation about case RC 4.138 and it came to the conclusion that no indications can be found in these arguments for a sale under duress. The Committee sees no reason to come to a different conclusion in this case (RC 1.143) with regard to the sale of NK 865.
10. The Applicants argue that the circumstances in which Bachstitz did business right from the beginning of the German occupation - or in any event after the issue of Regulation 48/1941 on 12 March 1941 - were such that it is no longer possible to talk about voluntary sales. The Applicants refer to consideration 18 of the recommendation concerning case RC 1.78, in which the Committee concluded that restitution of NK 1892 was advisable. According to the Applicants the circumstances in which Bachstitz sold NK 1892 already existed at the beginning of the occupation.
The Committee cannot concur with this. The Committee found indications of duress in regard to the sale of NK 1892. These are described in consideration 18 of the recommendation concerning case RC 1.78, but they only relate to the circumstances of that sale. For example the Committee considered the declaration

that Bachstitz was a *Volljude* (full Jew) to be important. The sale of NK 1892 took place shortly afterwards. The circumstances in which NK 1892 was sold on 10 June 1943 also differ from those in which the currently claimed works were sold in May 1941. In so far as the Applicants refer to the persecution of the Jews in the Netherlands in general, the Committee points out that the Ekkart Committee's recommendations for the art trade are based on the assumption *'that the art trade's objective is to sell trading stock, so a significant fraction of transactions, even by Jewish art dealers, in principle constituted ordinary sales'*.

11. In consideration 17 of the recommendation concerning case RC 1.78 the Committee concluded, among other things, with regard to the sale of NK 864a-b that no indications had been found that this sale was under duress. Since the sale of the currently claimed works took place in the same circumstances, the Committee finds, also in view of what has been considered above and the recommendation concerning case RC 4.138, that there is no reason to come to a different conclusion with regard to the currently claimed works.
12. The Applicants have furthermore argued that, if the Minister rejects their claim, this would lead to the result that *'they would be held liable for German war reparations'*. Leaving aside the fact that this line of reasoning is based on the incorrect assumption that the claimed works were seized on the grounds of Decree E 133, government policy in this regard does not provide for the possibility of taking this into account. This line of reasoning can therefore not result in a different recommendation.
13. The upshot of the foregoing is that the Committee will advise rejection of the Applicants' claim.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to reject the Applicants' claim to NK 865.

Adopted on 1 December 2015 by W.J.M. Davids (Chairman), R. Herrmann, P.J.N. van Os, E.J. van Straaten, H.M. Verrijn Stuart and I.C. van der Vlies (Vice-Chair) and signed by the Chairman and the Secretary.

(W.J.M. Davids, Chairman)

(R.A.M. Nachbahr, Secretary)

Appendices

1. Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War, 16 November 2001 (text valid until 18 July 2012).	72
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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)

Unofficial English translation

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

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

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

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

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

Herewith decrees as follows:

Article 1

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

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

Article 2

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

Unofficial English translation

Article 3

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

Article 4

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

Article 5

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

Article 6

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

Article 7

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

Unofficial English translation

Article 8

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

Article 9

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

Article 10

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

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

Article 11

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

Article 12

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

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

The State Secretary for Education, Culture and Science,

F. van der Ploeg

Policy framework of the Restitutions Committee

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

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

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

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

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

Definition

Article 1

The terms used in these regulations are defined as follows:

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

Task

Article 2

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

Article 3

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

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

Admissibility

Article 4

The Committee can declare an application inadmissible if:

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

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

The hearing of disputes

Article 5

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

Article 6

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

Article 7

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

Article 8

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

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

Article 9

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

Article 10

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

Opinion

Article 11

Among other things the Committee may recommend that:

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

Article 12

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

Article 13

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

Confidentiality, objection and exemption

Article 14

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

Article 15

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

Publication

Article 16

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

Liability

Article 17

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

Reversal

Article 18

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

Unforeseen

Article 19

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

Transitional and final provisions

Article 20

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

Article 21

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

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

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

* no substantive advice

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

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

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 Christiaen Coeuershof (Vita Israël/Nijmegen City Council)	20 July 2015
3.140	Two paintings by Ferdinand Bol (Hamburger/Municipality of Roosendaal)	13 April 2015
3.144	<i>Portrait of Joan Huydecoper</i> after Bartholomeus van der Helst	30 March 2015

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