

“The Own History,”
Provenance Research in German Art
Museums Compared with the
Situation in Other Countries
Hamburg (Germany)
(February 20–22, 2002)

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The Washington Declaration of December 3, 1998, encouraged museums to look into their acquisitions of the last seventy years in order to find out whether they still hold art objects stolen, looted, or confiscated during the Nazi period.¹ This call for provenance research was confirmed by the Council of Europe on November 4, 1999, and by the Vilnius Forum on October 6, 2000.² In addition, national legislators and drafters of national codes of conduct and behavior accepted the new policy. Austria, for example, passed already in December 1998 federal legislation on the return of art objects of Austrian federal museums and collections.³ France established a committee for the indemnification of victims of spoliations conducted as a result of antisemitic legislation in force during the German occupation of France.⁴ Several museums, professional associations and governments published declarations or guidelines for the provenance research with respect to doubtful acquisitions and for the restitution of looted art objects.⁵ Since 1999 museums in many countries have engaged in provenance research and already returned several art objects looted or confiscated during the Nazi Era. Apart from the well-known restitution cases of Seattle, Chicago, and Raleigh, N.C., the Coordination Agency for Lost Cultural Objects in Magdeburg (Germany) just published a collection of twenty essays (with English summaries) about restitutions of art objects to their owners.⁶ In short, the Washington Principles work.

There is hardly any German federal legislation especially concerning cultural property. The general principles of private law as codified in the German Civil Code (BGB) apply. For any further administrative or legislative directions the

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International Journal of Cultural Property, Vol 11, No. 2, 2002, pp. 342–345

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states have jurisdiction. In December 1999 the federal government of Germany, the Länder, and the leading associations of local communities issued a declaration “on the search and the return of cultural objects confiscated by Nazi persecution, especially of objects of Jewish owners.”⁷ This declaration refers to the Washington conference and the principles of December 3, 1998, and states that the authorities making this declaration will exert their influence on public institutions and museums in order to return confiscated objects to their owners. Therefore, all archives are obliged to foster any provenance research, to install internet information, and to encourage cooperation between museums and similar cultural institutions.

Having launched the Magdeburg database and having introduced it to the museums and the interested public, the museums started their cooperation and held their first specialized meeting on provenance research in December 2001 in Cologne (Germany).⁸ The Hamburg Conference of February 2002, ably organized by Uwe M. Schneede and Ute Haug of the Kunsthalle Hamburg, was a meeting for continuing this kind of information, cooperation, and research into the own history of museums, archives, and libraries. The conference was attended by museum curators mainly from museums in Germany. But also Austria, Belgium, Denmark, the Netherlands, Poland, Switzerland, the U.K. and the United States were represented. Before art historians told about their achievements and repercussions of provenance research, Patrick O’Keefe (Paris) gave a survey of “European Developments in the Return of Nazi Looted Cultural Heritage,” and attorney at law Peter Raue (Berlin) described the difficulties in applying normal rules of civil law to very unusual situations of looting and confiscation backed by German authorities during the Nazi Era.

The following discussions clearly demonstrated four trends: (1) provenance research will continue and intensify, as Anja Heuss, one of the leading provenance researchers in Germany, put it; (2) this research will be coordinated by groups of museum people exclusively engaged for such a task; (3) all archives and documentations may be inspected by such researchers; and (4) assistance of the provenance research will be given by the Koordinierungsstelle für Kulturgutverluste (Coordinating Agency for Lost Cultural Objects) located in Magdeburg and headed by Michael M. Franz, who told about the achievements, the web site, and the documentation of this agency.⁹

The Hamburg conference was terminated by a speech given by Jan Philipp Reemtsma, the director of the Hamburg Institute of Social Research. He asked why it took almost fifty years after the end of World War II before the issue of Nazi looted property attracted any serious attention. The answer is rather simple and not very comforting: nobody wanted to know anything about the Nazi terror and Nazi crimes. Therefore, nobody tried to look for sources, files, and other evidence. This could have been done. There is no excuse whatsoever for the fact that only in recent years has the entire history of the Nazi regime become known.

Reemtsma correctly reproached, “You should know your own history!” There will be other meetings of the Hamburg style and ample opportunity to live up to this demand. The papers given at the conferences in Cologne and Hamburg will be published.

NOTES

1. Washington Conference Principles on Nazi-confiscated Art, 8 *International Journal of Cultural Property* 342 (1999), with conference report by Andrea F.G. Raschèr, *id.* at 338.

2. Resolution 1205 (1999) on looted Jewish cultural property, 9 *International Journal of Cultural Property* 199 (2000). Vilnius Forum Declaration, 10 *International Journal of Cultural Property* 132 (2000), with conference report by Patrick J. O’Keefe, *id.* at 127.

3. Bundesgesetz Nr. 181 of December 4, 1998, über die Rückgabe von Kunstgegenständen aus den Österreichischen Bundesmuseen und Sammlungen, *Bundesgesetzblatt für die Republik Österreich* 1998, part I, p. 2045; English translation in Norman Palmer, *Museums and the Holocaust* (Institute of Art and Law, Leicester 2000) 178. Acting on this legislation, Austria returned 250 art objects to the Vienna Rothschild family in March 1999; see 8 *International Journal of Cultural Property* 587 (1999).

4. Décret no. 99-778 du 10 septembre 1999 instituant une commission pour l’indemnisation des victimes de spoliations intervenues du fait des législations antisémites en vigueur pendant l’occupation. English version in Palmer, *supra* note 3, at 182.

5. Declaration of December 1998 of Swiss art museums with regard to cultural objects that were looted during National Socialist rule and World War II and governed the press release of August 28, 1998; see 8 *International Journal of Cultural Property* 348 (1999); *cp.* also the Constitution and Terms of Reference of the British Spoliation Advisory Panel on Art Looted in the Nazi Era, 10 *International Journal of Cultural Property* 145 (2001); 8 *id.* at 591 (1999). American Association of Museums Guidelines Concerning the Unlawful Appropriation of Objects during the Nazi Era, 9 *International Journal of Cultural Property* 151 (2000); ICOM Recommendations of January 10, 1999, concerning the Return of Works of Art Belonging to Jewish Owners, at <<http://www.icom.org>>. *Cp.* for Switzerland the press release of January 26, 1999, 8 *International Journal of Cultural Property* 579 (1999), and for Germany the declaration of December 14, 1999, of the federal government, the Länder, and communal organizations, *Handreichung vom Februar 2001* 29 (2d ed., Berlin 2001) and 9 *International Journal of Cultural Property* 206 (2000).

6. The Seattle Art Museum returned to the Rosenbergs Matisse’s painting *Odalisque*, 10 *International Journal of Cultural Property* 154 (2001). The Gutmann family settled their case against the Chicago collector, Daniel Searle, with regard to Degas’ *Landscape with Smokestacks*. *Cp.* also H. J. Trienens, *Landscape with Smokestacks: The Case of the Allegedly Plundered Degas* (Evanston, Ill., 2000), and 8 *International Journal of Cultural Property* 347 (1999). The North Carolina Museum of Art in Raleigh, N.C., returned Lucas Cranach the Elder’s *Madonna and Child* and subsequently bought it from the owners deprived of their art treasure in Vienna, 10 *International Journal of Cultural Property* 146 (2001). Koordinierungsstelle für Kulturgutverluste Magdeburg ed., *Beiträge öffentlicher Einrichtungen der Bundesrepublik Deutschland zum Umgang mit Kulturgütern aus ehemaligem jüdischen Besitz* (Magdeburg 2001). *Cp.* also on the return of the de Kirstein collection, 10 *International Journal of Cultural Property* 150 (2001). The Magdeburg web site is <<http://www.lostart.de>>.

7. Handreichung vom Februar 2001 zur Umsetzung der Erklärung der Bundesregierung der Länder und der kommunalen Spitzenverbände zur Auffindung und zur Rückgabe NS-verfol-gungsbedingt entzogenen Kulturgutes, insbesondere aus jüdischem Besitz vom Dezember 1999 (2d ed. Berlin 2001).

8. Museen im Zwielicht. Ankaufspolitik 1933–1945 [Museums in Twilight. Acquisition Policy 1933–1945], Cologne, December 11–12, 2001.

9. Anja Heuss, *Kunst- und Kulturgutraub. Eine vergleichende Studie zur Besatzungspolitik der National-sozialisten in Frankreich und der Sowjetunion*, Winter, Heidelberg 1999; *Ester Tisa Francini/Anja Heuss/Georg Kreis*, *Fluchtgut–Raubgut. Der Transfer von Kulturgütern in und über die Schweiz 1933–1945 und die Frage der Restitution* (Chronos, Zürich 2001). See web site, *supra* note 6.