

Spoils of War

Special Edition

International Conference

**"Database assisted documentation of lost cultural assets -
Requirements, tendencies and forms of co-operation"**

Magdeburg, November 28-30 2001

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Editorial Note:

The contributions in this Newsletter deal with all kinds of aspects on looted art. Due to the historical and political sensibility of this topic, and irrespective of our gratitude towards all authors, we allow ourselves to emphasise the fact that all contributions reflect exclusively the authors' personal opinion.

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Spoils of War

Editorial

For the first time in the history of the Newsletter "Spoils of War", it presents a special edition with some conference contributions from the international Conference "Database assisted documentation of lost cultural assets – Requirements, tendencies and forms of co-operations", held on invitation of the Koordinierungsstelle für Kulturgutverluste from November 28 to 30, 2001 in Magdeburg, Germany.

As for the background of this Conference, it can be said that the variety of art data banks for the research of missing cultural objects due to the Nationalsozialismus and World War II have led to manifold experiences in technical, textual, and legal respect. Therefore, the Conference had the aim to get an overview of the character of the various data bank projects and provide the possibility of the discussion of the above-mentioned aspects, experiences, future developments and forms of co-operation.

In the course of the Conference, also a meeting of the Editorial Board of this Newsletter took place. As one consequence of this meeting, the Editorial Board has changed: Since its start some years ago, it has been expanded now towards France and Great Britain. With regard to the general aim of the Newsletter - to provide an information platform on international expert level - it is a pleasure and an honor to welcome those both states at the Editorial Board with this special issue the first time.

Ms Leistra, a long-time member of the Editorial Board since the start of this Newsletter, has left the Editorial Board. Beyond any doubt, Spoils of War would not have been that internationally successful as it is today without Ms Leistra. Her unique efforts, numerous activities, impressive engagement and never-fading encouragement towards this Newsletter through the years made it to the nationally and internationally forum as it is known today. Therefore, and again for the first time in the history of Spoils of War, this special issue is dedicated to Ms Leistra.

This issue has been made possible only through the continuous help and strong assistance of Ms Janner and Ms Sommermeyer at the Koordinierungsstelle für Kulturgutverluste in Magdeburg. Without them, it would not have been realized neither in the form as it is available now nor in time.

As before, this special issue will be available also on the official website of the Koordinierungsstelle für Kulturgutverluste at www.lostart.de and, in its Russian

translation, on the website of the Russian Editorial Board part, the All Russia State Library for Foreign Literature, at <http://spoils.libfl.ru>.

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The Conference and the glasshouse

Information on the international Conference

?Database assisted documentation of lost cultural assets – Requirements, tendencies and forms of co-operation?*

1. On this special edition

This special issue of "Spoils of War" deals with a selection of contributions held occasionally on the international Conference "Database assisted documentation of lost cultural assets – Requirements, tendencies and forms of co-operation" in autumn 2001 in Magdeburg, Germany.

All speakers of the Conference and their topics will be presented in the following survey "Conference Program" in chronological order according to the course of the meeting to give the reader a more detailed impression of the event. After some selected contributions (I.-III.), the Final Declaration (IV.) closes this Part A. of the Newsletter.

2. On the Conference

Not only due to latest but also with regard to the possible and thinkable upcoming technical and legal developments within the international field of Internet databases, the Conference on database assisted documentation of lost cultural assets was held from November 28 to 30, 2001 in Magdeburg.

During these days, experts from several European States such as Belgium, France, Great Britain, the Netherlands, Austria, Russia, the Czech Republic, and Germany as well as from the U.S.A. met in the capital of Sachsen-Anhalt. For the Koordinierungsstelle für Kulturgutverluste as the inviting office, it was a pleasure and an honor to welcome these national and international guests in Magdeburg, especially because of - as far as it seems - the first time that such a meeting was dealing on international expert level with such a specific topic.

Thereby, the various participants represented not only public and private, but also national and international databases documenting the loss and discovery of cultural assets affected by World War II and the Nationalsozialismus. The Conference has been enriched by contributions of German specialists of art law, experts of information processing, and specialists of provenance research. The meeting has been attended by several guests such as representatives from the Beauftragter der Bundesregierung für Angelegenheiten der Kultur und der Medien, the Kulturstiftung der Länder, etc.

The Conference provided the possibility to present individual databases and Internet projects on looted art. Furthermore, numerous aspects of these databases have been discussed especially with regard to their aim of international transparency in this field.

These presentations and discussions were very helpful to enlighten the consequences of a very dark chapter in history with the means of new technologies in order to realize a small piece of late justice.

The conference itself would not have been possible without the support of numerous persons; only two of them shall be mentioned here: Firstly, the former Minister for Cultural Affairs Dr. Gerd Harms as the one who - together with his Ministry of Cultural Affairs in Sachsen-Anhalt - supported the different activities of the Koordinierungsstelle - as, for example, the launch of the Internet-Database of the Koordinierungsstelle at www.lostart.de in April 2000 in Berlin - on all important occasions since years. Secondly, Dr. Eckart Kirn, who was in November 2001 not only the Head of Department for Cultural Affairs within Minister Harms' Ministry, but also the Chairman of the Board of the Koordinierungsstelle and therefore the person who has - through numerous efforts - realized the expansion of the Koordinierungsstelle as some can see it today as a public institution gathering a group of highly specialised people dealing with national and international matters.

3. On the glasshouse

One of the central questions of the meeting and focus of the discussion was how to provide as much transparency as possible on the above-mentioned data towards the national and international public. It became clear in the course of the talks that the realization of this transparency could be made possible through international co-operation.

As a further step in this direction, the development of an extendable meta search system for the Internet as an efficient and user-friendly form of co-operation has been considered. The advantages of such a meta search system are numerous. The most important are that, while preserving the autonomy and special character of the single database and its provider, a meta search system gives the user of the Internet worldwide a mean to gain easier access to the information contained in this database in order to undertake some research in the object or the question he is interested in.

Against the background of these last-mentioned advantages, such a meta search system resembles a glasshouse which consists of several, individual rooms with different characteristics (i.e. the various databases worldwide) under one central roof (i.e. the meta search system).

Since the end of the Conference, the participants have been informed regularly on the technical activities and possibilities already done and planned for the future by the Otto-von-Guericke-University Magdeburg. With regard to the meeting, the University had already invented a prototype of a meta search system and presented it occasionally the Conference to the audience.

For the future, it remains to be seen, on which extend and in which form the ideas of the Conference especially with regard to the thoughts on a meta search system as a glasshouse for databases will be realised.

But also irrespective of this development, the Conference with its presentations and discussions itself already represents a reason to be thankful to each of the speakers of this meeting and - therefore - also to each of the authors of the following contributions. Without their support in providing these articles, this special issue of Spoils of War would not have been possible.

Michael Franz,
Koordinierungsstelle für Kulturgutverluste,
Magdeburg

Note:

* For further information on the Conference, please see Peter Liebers: "Mit lostart.de Raub - und Beutekunst auf der Spur", in: Märkische Oderzeitung v. 03.12.2001, Christoff Jenschke: "Zentrale Datenbank für Raub - und Beutekunst? " in: Der Tagesspiegel v. 03.12.2001 und Michael Franz: "Ein virtuelles Glashaus autonomer Datenbanken – (nur) eine Vision?" in: Kunstrecht und Urheberrecht 2002, issue 1 (January/February, 2002), pp. 7-10.

Conference Program: "Database assisted documentation of lost cultural assets – Requirements, tendencies and forms of co-operation"

Wednesday, November 28, 2001:

Opening Meeting of the conference

Dr. Michael Franz, Director of the Koordinierungsstelle, Magdeburg:
Welcoming speech

Dr. Gerd Harms, Minister for Cultural Affairs in Saxony-Anhalt, Magdeburg:
Opening presentation "Documentation of Cultural Assets and Internet"

Lucian Simons, Sotheby's, London:
"Provenance Research. An Art market Perspective "

Thursday, November 29, 2001:

Topic I: "Documentation of Cultural Assets with Databases – Models of European and American institutions"

(Presentations and discussion, Moderation: Dr. Michael Franz)

Dr. Regine Dehnel, Koordinierungsstelle für Kulturgutverluste, Magdeburg:
"www.lostart.de – synthesis of documentation of lost and found cultural assets"

Flora van Regteren Altena, Project bureau Herkomst Gezocht, The Hague:
"The 'originsunknown' database and website"

Isabelle le Masne de Chermont, Paris:
"Musée Nationaux Récupération – database and website"

Ekaterina Genieva, All-Russia State Library for Foreign Literature, Moscow:
"Removed Cultural Valuables – New Project of the All Russia State Library for Foreign Literature"

Pavel Jirásek, Ministry of Culture, Prague:
"Restitution–art.cz – database and website"

Enquiries / Discussion

Jacques Lust, Chancellery of the Belgian Prime Minister:
"Belgium and the spoils of the Second World War: research, databases and websites"

Johanna Pezechkian, Chancellery of the Belgian Prime Minister:
"The Study Commission on Jewish Assets: databases and results"

Susan Chun, The Metropolitan Museum of Art, New York:
"Provenance Research at The Metropolitan Museum of Art: Aspects of public Documentation"

M.A. Walter Schuster, Archive of the city of Linz:

"The examination of the collection Gurlitt of the city of Linz on the Internet"

Enquiries / Discussion

Meeting of the Editorial Board of the Newsletter "Spoils of War":

Moderation: Dr. Michael Franz

Hillary Bauer, Cultural Property Unit, Department for Culture, Media and Sport,
London:

"The Database of the National Museums Directors Conference"

Enquiries

Topic II: "Databases and Internet in the future – Expectations, Co-operations and Innovation"

(Moderation: Dr. Regine Dehnel)

Ulli Seegers, Art Loss Register Germany, Cologne:

"The Art Loss Register – a private Database between crime in the field of art and the so-called looted art"

Dr. des. Ute Haug / Dr. Katja Terlau / Dr. Ilse von zu Mühlen, Working group
Provenance research, Hamburg, Cologne, Munich:

"Provenance research at German art museums and the importance of databases"

Dr. Karin Leitner, Regional Museum Joanneum, Graz:

"The Restitution-Homepage of the Regional Museum Joanneum and a co-operation project"

Anne Webber, Central Registry of Information on Looted Cultural Property 1933-1945, London:

"The Central Registry of Information on Looted Cultural Property 1933-1945: The creation of a universal database"

Shauna Isaac, Central Registry of Information on Looted Cultural Property 1933-1945, London:

"The Central Registry of Information on Looted Cultural Property 1933-1945: Technical issues relating to the content of a universal database"

Enquiries / Discussion

Eike Schallehn, Institute for technical Information systems at the Otto-von-Guericke-University of Magdeburg:

"Technical demands and opportunities of a meta-search-engine for user-orientated research"

Dr. Michael Mönnich, University Library Karlsruhe:

"The Karlsruhe virtual catalogue – Experiences and structure of a research supply by different databases"

Dr. Ingo Schmitt, Institute for technical Information systems at the Otto-von-Guericke-University of Magdeburg:

"Content-based multimedia search as research supply"

Enquiries / Discussion

Summarizing Discussion

(Exchange of experiences, questions of co-operation, perspectives)

Friday, November 30, 2001.

Topic III: "The legal meaning of the documentation of lost cultural assets on the Internet"

(Presentations and Discussion, Moderation: Dr. Michael Franz)

RAin Dr. Astrid Müller-Katzenburg, Clifford Chance Pünder, Berlin:

"Duty of care in respect to lost art databases"

Tim Schröder, Institute for Eastern European law at the University of Kiel:

"Legal meaning of databases in respect to cultural assets taken away as a result of the Second World War or confiscated as a result of the NS-persecution"

RA Christoff Jenschke, Berlin:

"The conclusive or right-protecting claim via databases in respect to cultural assets taken away as a result of the Second World War or confiscated as a result of the NS-persecution"

Ass. iur. Hannes Hartung, Eberhard-Karls-Universität Tübingen:

"The legal meaning of Internet-databases in respect to cultural assets taken away as a result of the Second World War or confiscated as a result of the NS-persecution regarding possible 'Ersitzung'"

Discussion

Final Discussion

(Moderation: Dr. Michael Franz)

Summary of the conference results;
Discussion of a final statement;
Farewell to the participants

End of conference

I. Opening speeches

Documentation of cultural assets and the Internet

Ladies and Gentlemen

On the occasion of our conference on "Database-assisted documentation of lost cultural assets" I'd like to warmly welcome you all to Magdeburg, the state capital of Saxony-Anhalt. It is a pleasure for me to see that so many of you took the trouble to come here from various parts of Europe and the United States in order to meet and talk.

At the beginning I would like to share some thoughts on this conference with you.

I. Historical background

The issues you are going to discuss until Friday are rooted in very tragic historical events, which in many cases were closely connected with the fate of individuals and are even today still hard to conceive. The terms we frequently use in our work often sound very bureaucratic, such as "cultural assets relocated during World War Two" or "cultural assets seized as a result of Nazi persecution". But they are a mere description and cannot truly express the horror and pain which finally led to the relocation or confiscation of cultural assets.

Just by looking at the losses which occurred in the state of Saxony-Anhalt alone it becomes clear that we are still affected by the impact of the events of the past throughout Europe and the world and right here.

To give you an example: The Museum of Cultural History located just a few hundred metres from here is still searching for more than 300 cultural assets which were relocated during the war. Among others, this Museum lost works by van Gogh, Spitzweg, Menzel, Corinth, Feuerbach, Böcklin and Courbet, to mention just a few. By the way, the Museum is currently presenting the exhibition "Otto the Great – Magdeburg and Europe" organized under the auspices of the Council of Europe.

II. The three levels

All of you are familiar with the wide spectrum of problems connected with the terms "looted art" and "spoils of war".

However, in order to be able to make progress in the field of database-assisted documentation, search and, consequently, the restitution or return of works of art, two aspects seem important to me:

First, although our work is sometimes highly administrative and technical, we must never forget the historical circumstances I briefly touched upon at the beginning of my speech.

Second, in dealing with these issues it is important to differentiate between moral, political, legal or factual aspects. Otherwise complex matters may be linked with each other that are located at different levels. The resulting jumble would rather be counterproductive to progress in this field.

Therefore I'm very happy that this conference, devoted to the level of documentation and research, will focus in particular on special issues relating to databases.

III. Transparency as a signal

You may have noticed that after putting the focus on the technical level I set another limit because this expert meeting will deal with the requirements, tendencies and forms of co-operation primarily with regard to databases. And there is a good reason for that! In my opinion documentation and research are the prime prerequisites for all further questions because transparency can only be achieved by providing information on lost or found objects.

To me it seems that this transparency is the *conditio sine qua non* on the basis of which political, moral and legal issues can be discussed adequately and successfully. It is, for example, absolutely clear to legal experts, whose presentations we are going to hear on Friday morning, that a judge can only make a proper ruling provided he knows as many facts in great detail as possible. And irrespective of whether proceedings or negotiations focus on cultural assets relocated during World War II or seized as a result of Nazi persecution, they can only be successful for all parties concerned if – as a basis - the issue at hand or the individual object is known and relevant information available.

However, transparency has two functions:

Besides the factual function described before, transparency also has a signalling effect towards third parties where every database functions as a special signal. For this reason I am very pleased that so many experts from Belgium, France, Great Britain, the Netherlands, Austria, Poland, Russia, the Czech Republic, Hungary, the USA and Germany have gathered here. You all keep up the good work and send out signals. No matter in which country you work and independent of the concrete nature and focus of your particular database, you send signals of international transparency which can be seen worldwide.

IV. Different orientations

I'm well aware of the fact that you have chosen different priorities with regard to your database activities.

Some of you focus their activities on databases listing lost and sought objects of art. Others have created databases containing information on existing cultural assets, although there are still some provenance gaps to fill.

In addition, we should also take into consideration the group of database users, i.e. those people whose interests should play a major role in the development and presentation of a database. In this context, ideas and thoughts of people in the art trade business as potential addressees could be very helpful. Following my speech, Mr Simmons of Sotheby's London will tell us more about the art dealer's approach to these matters.

And last but not least, there is another group focusing on technical aspects at hand. I am very pleased that speakers representing "Otto-von-Guericke" University of Magdeburg are participating in this conference, too, as they are the ones who managed the technical side of the Koordinierungsstelle Internet database www.lostart.de.

V. The Koordinierungsstelle für Kulturgutverluste

Since I briefly mentioned the conference's regional connections with Saxony-Anhalt and the city of Magdeburg, please allow me to use this opportunity to say a few words about the Koordinierungsstelle which is affiliated to my ministry.

As you know the Koordinierungsstelle is a public entity of the Federal Republic of Germany financed by both the federal states and the federal government. It works at the technical level I mentioned earlier in my speech.

The Koordinierungsstelle documents and researches information and data on lost and found cultural assets relocated during World War II or confiscated as a result of Nazi persecution. The Office does not only work at a national level, but also provides assistance internationally, for example by giving reports provided by other countries more or wider transparency. For this reason it is a great pleasure for me to inform you that the Regional Museum "Joanneum" in Graz not only presents its objects of art on the museum's Austrian website, but has also included them on the Koordinierungsstelle site at www.lostart.de.

I just mentioned the primary tool used by the Koordinierungsstelle. It is the Internet database www.lostart.de. At this point I do not want to leap ahead because tomorrow morning Dr. Dehnel of the Koordinierungsstelle will tell you more about www.lostart.de. Nevertheless, I would like to use this opportunity to let you know – and I must admit I'm a bit proud of it – that by setting up www.lostart.de we created an efficient transparency tool or a small signal for Germany. This is backed statistically by the fact that since the time the database was launched in April 2000 we have registered more than seven million visits and several hundred sessions per day during which thousands of kilobytes are transferred between computers worldwide.

VI. The Joint Declaration and the motion for resolution

Speaking of the Koordinierungsstelle, I would like to draw your attention to a Declaration on the basis of which the Koordinierungsstelle was expanded early this year. The so-called "Joint Declaration" (or precisely: "Declaration of the German federal government, the federal states and central organizations of municipal authorities with regard to the location and restitution of cultural assets seized by Nazi persecution, primarily from Jewish property"), dated December 1999, not only asks competent organizations to thoroughly research their stock and inventories, but also

provides for a web presentation as a means to guarantee access to research results. And this is exactly what www.lostart.de does.

Before I come to the objectives of this conference, please let me make a final comment on the activities of my country, i.e. Germany:

In the past few weeks some of you might have heard about planned legislation to reform the German Civil Law (BGB). The bill has been adopted in the meantime and will come into force in January 2002. Before the new law was adopted some people voiced their criticism and fear that it could have a negative impact on the issue of the limitation of claims to restitution of cultural assets relocated during World War II or confiscated as a result of Nazi persecution.

I am pleased that for reasons just mentioned Saxony-Anhalt, being the federal state responsible for the coordination of the final procedure in the Federal Council, has proposed a motion for resolution in connection with this bill. It does not only back the "Joint Declaration", but also stresses the fact that the Federal Council expects the federal government to give its opinion on whether the two groups of cultural assets mentioned above require special regulation and if so to introduce an appropriate bill as soon as possible.

We really hope to see satisfactory results with regard to this both politically and historically highly sensitive issue.

VII. Objectives of the Conference

In the course of my speech I mentioned the numerous signals that have already been sent out at both a national and international level.

If I look at the diversity of databases on cultural assets on the one hand and the development of the Internet on the other hand, I can well imagine that these two lines of development have led to numerous learning experiences of technical and legal nature as well as with regard to content. Against this background this conference has two major objectives:

First, the conference aims at providing an overview of the nature of various database projects. For example, tomorrow we will learn more about the French database of the "Musée National Récupération" based in Paris, the Dutch "Projectbureau Herkomstgezocht" and the database of the Czech Republic called "restitution-art". In addition, national co-operation projects launched by various entities, e.g. the "British National Museums Directors' Conference", will be presented tomorrow.

Second, based on these presentations participants can share experiences to access the potential for future developments. Through this approach the conference will collect information and gather experiences on the expectations of various entities or users in order to help identify modern database requirements. I'm certain that the discussion of

legal issues related to the documentation of cultural assets on the Internet, which will take place on Friday, will enrich this expert meeting.

In the course of this conference we hope that based on the many opportunities for discussions and talks, some ideas on forms of international co-operation, such as joint projects at the level of documentation, will be generated.

In my opinion this is even more important because rapidly advancing technical networking opens up tremendous practical opportunities. In addition, we urgently need better tools for orientation for database users in the ever growing data maze.

What I just said has particular relevance to the question of transparency mentioned earlier because co-operation among a much larger number of Internet users and, consequently, of people concerned could help pave the way to quicker, easier and more practicable methods to provide access to the information searched for.

VIII. The new signal

I am confident that this expert meeting will provide a great forum whose work results will enable us to make another important and innovative step towards greater and improved transparency in the field of restitution and return of cultural assets to the legitimate owners.

Therefore, let us use this conference and the individual national and international signals sent from here to set a new common signal for the future.

With this in mind, I wish this expert meeting much success.

Thank you for your kind attention.

Dr. Gerd Harms,
Minister of Education and the Arts of Saxony-Anhalt,
Magdeburg

Provenance Research: An art market perspective

It is Sotheby's policy to disclose the fullest possible provenance for the years 1933 to 1948 in its catalogues – this longstanding policy is driven by ethical, legal and commercial considerations. Following the adoption of ethical codes by museums in a number of countries, in recent years it has become increasingly common for potential bidders at auction, both institutions and individuals, to stipulate that they will only bid

on works if they can be satisfied that they have been properly researched. Sotheby's will give them a report on what research we have done in respect of each work which we sell based on our research programme.

So far as legal exposure is concerned, recent cases in France and England have emphasised the importance of good faith and due diligence on the part of vendors of works of art so there is a clear legal incentive for an auction house to be thorough in researching property offered for sale.

Finally, there is a commercial incentive to give a full provenance for a work of art. If for example it has been in the collection of a famous pre-war connoisseur then people may pay a premium for a part of that connoisseur's taste. The inclusion of a full provenance may also support the authenticity of a work – a work which was in a 1930s collection cannot be a modern fake.

Against this background, we endeavour to make our cataloguing as clear and transparent as possible through our provenance research programme. Provenance research for Sotheby's is very different to the equivalent research for a Museum or a private collector, because we have a constant stream of works to research in contrast to a Museum with a comparatively static collection. We generally sell as agent rather than as principal. This means that we are not the owners of the property we sell and often have imperfect information at the start of the research process and we often have weeks or days to research a work for sale as compared to a museum or gallery which may have months or years in which to work on its collection.

Before Sotheby's includes an object created prior to 1948 in a sales catalogue we check both the object itself and the past owners of that object.

For many years, the process has involved:

? requiring our consignors, by contract, to disclose all they know of the history of the work of art.

? undertaking art historical research – i.e. looking for the work of art concerned in the catalogue raisonné for the artist, exhibition catalogues and so on.

? simultaneously, we undertake a physical examination of every work coming in for sale: our experts are trained to check of all property for physical signs that it may have been looted; in respect of paintings, this will involve looking for ERR markings or the trade labels of dealers and shippers who are rumoured to have worked with the Nazis. names in the provenance are checked against Sotheby's own database – 4,500 names and biographies of aggressors, collaborators and victims – noble, Jewish, state and political. The appearance of any of these names in a provenance will trigger further research that must be completed, satisfactorily, before the work of art concerned may be included in a sale. we check hard copy missing property lists – including those listed on this slide - for France, Poland, Germany, Belgium, Russia,

Italy, Hungary, and Austria. finally, we check works against Internet databases so far as they do not duplicate the hard copy lists.

All of this work goes on before a catalogue is published. After publication, we submit our catalogues to the Art Loss Register for checking. We also send free catalogues to experts and research bodies in the field so that they too can make sure that there are no matches in our catalogues with missing works of art. The purpose of our research programme is to minimise the risk of a looted work of art appearing in a Sotheby's catalogue. The difficulty is that provenance research is far from simple. It is difficult enough researching the history of a well known work by a well known artist – a Monet or a Rembrandt perhaps – but it is harder still researching works by unknown artists or mass produced or generic works such as engravings, porcelain and jewellery.

Much of what was taken during the war was of comparatively low value or was of sentimental rather than of artistic importance. Research as to the provenance of lower value works, or works which were unloved by the Nazis, is particularly tricky because there may be no pre-war records or catalogues in which to undertake research. By way of example, a Schiele drawing which today is worth DM 200,000 may in 1938 have been worth almost nothing and would have been inventoried both by the pre-war owner and by the Nazis as a "*modern drawing*" and with no subject, dimensions or artist if listed at all.

Another difficulty in database research is that the majority of old master paintings which come to the art market for sale come without a title or have changed title over time. Shifting attributions present a similar obstacle. What is a Rembrandt one year may be a Dou the next and many works bear bogus signatures of more important artists than their true authors.

It follows that the absence of provenance in an auction catalogue is not sinister but may simply reflect the difficulty in discovering any history for the work of art concerned.

As a user of on-line data-banks, Sotheby's looks for two primary attributes: speed and clarity. Sotheby's experts research around 250 works of art per auction sale and several auctions per week in high season. If one is to check each lot against on-line databases then the speed of web server and speed of search engine is paramount. The second vital characteristic of a site is clarity of data – at Sotheby's we are now used to entering multilingual searches and guessing how a database might record an artist's name, a place name or maybe the subject of the work. This is fine for us as we are used to undertaking research but the same would not apply to an heir or an inexperienced researcher trying to track down a missing work.

Sotheby's is broadly supportive of the idea of a central repository of information on World War II spoliation. As long ago as February 1998, in written evidence to the Banking and Financial Services Committee of US Congress, Sotheby's called for the establishment of a single reliable database at a Governmental or multi-lateral level

that would allow victims, auction houses, museums, art dealers and purchasers to determine quickly and accurately – at a single source – whether a work was looted during World War II. We made the same plea in our evidence to the UK House Of Commons Select Committee on Culture, Media and Sport last year. The same issue was raised yet again at the Vilnius International Forum in October 2000. On that occasion, a centralised hyperlink web-site created in association with the Council of Europe was proposed. At Vilnius, Sotheby's offered to provide seed funding and expertise for the formation of this web-site – an offer which is still under discussion with the Council of Europe.

We would see three models for a global database:

1. A hyperlink portal (which acts as directory of other people's sites and allows interested parties to jump to them)
2. A meta-search portal (which allows you to search other people's sites for a particular painting or collector)
3. A central database – which seeks to absorb everyone else's data and present it in one place.

A global database is attractive but only if it is:

- ? Transparent as to organisation, funding and methodology
- ? Independent from commercial interests and lobbying groups (which is why Sotheby's supports an official site run under the aegis of the Council of Europe)
- ? Updated so that changes to the underlying data or research (e.g. museum provenance research projects) are reflected simultaneously to the global site
- ? Free (so that information provided to the central database for no charge is not re-sold to those using the database)

Whenever possible, Sotheby's has actively encouraged independent mediation and discussion as opposed to litigation to facilitate resolution of a restitution claim. It has been Sotheby's experience to find that when current possessors and victims elect to mediate rather than litigate their respective claims, the process has been more productive. In the same way, we would be very supportive of the establishment of state sponsored mediation and arbitration bodies along the lines of the English Spoliation Advisory Panel as an alternative to litigation.

Sotheby's is often asked to provide information to museums, governments, collectors and heirs of wartime spoliation on historic sales. We will gladly give this information so far as our legal duties allow. For sales prior to 1970, we will usually be able to give information on buyers, and sellers. Thereafter, we may be constrained from giving the

names of individuals but we will often be able to give generic information as to buyers and sellers.

We are also happy to exchange information on individual collectors from our own provenance databases as a member of the research community.

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II. Documentation of cultural assets in databases – models of European institutions

The database of the Koordinierungsstelle – a synthesis of documentation of lost and found cultural assets

Since April 2000 an Internet-Database for the documentation and research of cultural assets, lost, relocated or found resulting in World War II or Nazi-persecution is available under the address www.lostart.de for users all over the world.

This database contained from its beginning reports concerning lost assets as well as reports concerning found assets. At the moment of the start of www.lostart.de there were listed some German public institutions, e.g. museums, libraries and archives of the federal states Berlin and Saxony-Anhalt on the site of the lost cultural assets. On the site of found cultural assets www.lostart.de documented information on the so-called "Remaining Stock Central Collecting Point Munich" can be found. This stock includes cultural property, concerning which it was not possible to find out their rightful owners nevertheless the activities of the Allied forces between 1945 and 1949 and the following activities of the "Treuhandverwaltung für Kulturgut" (Trusteeship-administration of cultural assets) between 1952 and 1962 had been concerned with this matter. At the moment they are in the possession of the Bundesministerium für Finanzen (German Federal Ministry of Finance). The department (Referat) V 42 of the "Oberfinanzdirektion" Berlin is responsible for this stock and its documentation.

It was decided to include at the one side reports on lost cultural assets, on the other side to give information concerning found cultural assets and to document both in the

same database. It expresses the history of the Koordinierungsstelle (Coordination Office). The "Koordinierungsstelle der Länder für die Rückführung von Kulturgütern" (Coordination Office of the Federal States for the Return of Cultural Property) was set up in Bremen in 1994 by the federal states Berlin, Brandenburg, Bremen, Hamburg, Lower Saxony, Saxony, Saxony-Anhalt, Thuringia, Mecklenburg-West Pomerania and Schleswig-Holstein to document the *knowledge* on cultural assets of German museums, libraries and archives, removed or lost as a result of World War II and to provide an information tool for negotiations on the return of cultural property with other states in this way.

Since 1998 the Koordinierungsstelle continues its work in Saxony-Anhalt. Meanwhile, all 16 federal states support the Koordinierungsstelle financially. Since then it is located in Magdeburg. The task to document World War II losses of public institutions meanwhile concerns all 16 federal states.

After the proclamation of the "Joint Declaration" ("Declaration of the German federal government, the federal states and the municipal organizations on the search and return of Nazi-confiscated art – especially from Jewish property") the planned Internet-Database of the Koordinierungsstelle for documentation of German World War II losses was rebuilt into an Internet-Database for the documentation of these losses at the one side and cultural property, taken away by Nazi-persecution on the other side.

In correspondence with this process a new Koordinierungsstelle, the "Koordinierungsstelle für Kulturgutverluste" (Coordination Office of Lost Cultural Assets), financially supported by both, the German federal government and the federal states, and located at the Kultusministerium des Landes Sachsen-Anhalt (Ministry of Culture and Education of Saxony-Anhalt) was set up in January 2001.

The responsibilities of the new Koordinierungsstelle in this context became wider. From 1994 to 2000 the main task was the documentation of lost cultural assets of German museums, libraries and archives and since 2000 the publication of these assets via Internet but also the cultural assets of German private owners, lost as a result of World War II. In context with the negotiations on return of property there was the other task to search for lost cultural assets of other countries. Before this background specially the question of found reports became important in some concrete cases.

Besides these, the Koordinierungsstelle has to fulfil a new task since 2001. At the one side it has to provide the technical facilities to document cultural assets with provenance gaps in the period between 1933 and 1945 or with provenance of possible Nazi-persecution via Internet for German museums, libraries and archives to be filled in by themselves. On the other side there must be the possibility for victims of Nazi-persecution or their heirs to document their losses, taken away in the period of the National Socialism via Internet.

Besides the documented reports on World War II losses of German public institutions in the last year, but especially in this year the Koordinierungsstelle received reports on lost and found cultural assets in context with the "Joint Declaration".

In November 2001 www.lostart.de listed 37,645 war time losses. 36,803 of them are missing in German public institutions and 3,003 by German private owners. These losses can be divided into 10,110 paintings, 13,572 books, 577 incunabula, 531 sculptures and 224 prints. Before the background of the "Joint Declaration" the internal database of the Koordinierungsstelle forms the basis of the Internet-Database, containing information on 546 cultural assets, lost as a result of Nazi-persecution. 357 of them are at present available on www.lostart.de in correspondence with the will of the affected persons. These reports can be divided into 256 paintings, 63 drawings, 56 prints and 32 ceramic works. Concerning information on cultural assets, possibly taken away as a result of Nazi-persecution and at the moment being in the possession of German public institutions there are 2,240 objects of the above mentioned "Remaining Stock CCP" and 568 other objects.

The Internet-Database of the Koordinierungsstelle is characterised by some specifics. The documentation of the cultural assets does not depend on the kind of object. This principle was involved in the beginning of the work of the Koordinierungsstelle due to the fact that the Koordinierungsstelle was responsible not only for the lost museum items but also for the losses of archives and libraries. In www.lostart.de there are also no differences made between "more important" and "less important" institutions and there is no evaluation of the cultural assets before listing them in the database according to their "worth" on the art-market. This is because in our opinion the loss of a "Zunftrolle" (guild's roll) or a registry for a small city archive is as painful as the loss of a famous painting for a grand museum, the return of a lost book can be as important for a private owner as the return of a whole collection of paintings for another private owner. In the result of this wide interpretation of documentation-tasks in the database there are some information without special hope of identification of these lost assets. But in this way chances remain to follow the smallest indices by searching for a lost item.

Another specific of www.lostart.de concerns the fact that this database lists not only information on concrete and different single objects but also on so-called groups of objects. This structure of data at the one side is useful to give the large and arising data a better structure. Another reason why www.lostart.de contains also information on groups of objects is the fact that some institutions or persons cannot describe their losses in a different way because of the long period between the moment of the loss and the moment of describing the looted object. So in some cases there is only some information available concerning the moment or place of loss of a whole group of objects, their evacuation or persecution. In the hope, that this information can be useful it will be inserted in the database. For the user of www.lostart.de the description of groups of objects besides the description of the single objects provides the possibility to get a good first impression about the measurements and the kind of objects lost by different institutions or persons or found by them, via navigation.

When in April 1994 the Koordinierungsstelle was founded it immediately became evident that the traditional kind of documentation by printed books or catalogues would not be suitable to register and describe thousands of cultural treasures of German museums, libraries and archives, looted during World War II or shortly after the war (until this day a total of about 3,500 000 objects are lost, this number includes about 2,500 000 books, 250,000 items from museums and 3 kilometres of archival materials). Therefore a first database was created. It also became evident, that the documentation of such a large number of losses can be undertaken only by a strong co-operation with the affected institutions. From 1994 until now there arise co-operations with about 300 institutions (about 180 museums, 50 libraries and 50 archives). Besides the German public institutions, the Koordinierungsstelle gets search reports from 48 German private owners, missing cultural property as a result of World War II.

At the beginning of this year there are also 29 German public institutions (24 museums, 1 library, 4 archives) providing information on cultural property with provenance gaps in the period of 1933-1945 or taken away by Nazi-persecution, at present being in their possession. 16 of these institutions are reporting found objects exclusively and are not affected themselves by World War II losses. 40 persons, affected by Nazi-persecution contacted the Koordinierungsstelle during last year. The number shows, the documentation of such a large number of lost and found cultural assets, the publication of these information via Internet and – as good as possible – a consultation of affected persons and institutions concerning the documentation and publication is possible only in case of a clear distribution of responsibilities.

The responsibility of the Koordinierungsstelle is to provide the possibility to document their search reports and finds via Internet for institutions and persons. That means besides the creation and optimising of www.lostart.de also taking care of some search activities, in case, these search activities are useful for a maximum of affected persons and institutions, for example search activities in federal archives with the aim to clarify the way where and how affected institutions and persons can find out archival reports concerning their losses, the history of their persecution, relocation etc.

The responsibility of the affected institutions and persons, especially the German museums, libraries and archives is to use the existing system of www.lostart.de for their documentation activities and provide research activities in their institutions, to be dealt with carefully and self-responsibly.

The described situation, in which the Koordinierungsstelle works, is the reason for another specific of www.lostart.de. This database provides not only different ways of search (simple text search, detailed text search, picture search) for the user. Institutions and persons can use this database also by writing access for reporting their losses or finds directly via Internet. The Koordinierungsstelle is looking for these

reports, and after reading and correcting the reports, they become part of the internal and then – in most cases – Internet-Database.

The decision to insert reports concerning losses and reports concerning finds, meaning information on lost cultural assets and information on objects with provenance gaps or provenance surely connected with Nazi-persecution in the same database also express the hope, that this way of documentation can be helpful to identify the lost objects of one institution or person among the finds of another institution or person.

That means with the internal database as well as the Internet-Database we are trying to create intelligent tools to compare objects and to get matches automatically.

In this context it is useful to direct the attention to the possibility of "Global search" in www.lostart.de. The global search looks for all data, available in www.lostart.de. The list of results contains not only lost objects but also finds, if they are part of the database. If for example, the database contains not only information on lost objects of the German painter Carl Blechen but also on works of Blechen with provenance gaps, found in German public institutions, the list of results contains both. If the list of results is not long, it is not difficult to look through all the results and find out, maybe, a lost Blechen among the found Blechen.

Though difficulties do arise if the list of results contains more than 50 or 100 items or if nevertheless the searched object is among the finds, the data on these results are different and it is not possible to discover their identity. This can happen by changing the date or measurements of a work. Also the title or the artist can have been changed during the last 50 years. For example, only by comparing at least the inventory number of the "Portrait of a young blond man", missing by the Schlossmuseum Gotha, it became evident that this portrait is listed in the catalogue "Dokumentation des Fremdbesitzes. Verzeichnis der in der Galerie eingelagerten Bilder unbekannter Herkunft". In the catalogue the portrait was titled "Miniature with the Bildnis of a young man". The university is at present dealing with this problem.

In this context, interesting and hopeful is the project to compare not only textual but also visual data. The new version of www.lostart.de of spring 2002 will contain a first test version of a visual comparison tool.

At the end of this paper I would like to direct some words concerning the next possible developments and the optimising of www.lostart.de. Some of the developments will be directed to the existing Internet-Database. The existing side will be optimised by providing as much information as possible. Artists will not only be named. There will be a link to information when and where they were born, what they did and when they died. There will be information available concerning provenance. At the moment among the about 40,000 single objects which are described in full detail, there are 10,107 of them containing information on provenance. The structure and navigation of the search in www.lostart.de will become easier. In difference to the

existing version there will not be five but only two areas for search: search reports and found reports.

A new part of the Internet-site of the Koordinierungsstelle is the Forum, where users can participate in discussion with interested, affected and involved persons and – of course – with the staff of the Koordinierungsstelle concerning the matter of cultural property lost as a result of World War II or Nazi-persecution. The main categories of the Forum will be "Advisory", "Discussion" and "Losses". New themes can be posted by the user of www.lostart.de under the address www.lostart.de. The University will continue its activities concerning the comparison of textual and visual data.

Besides all these activities we are sure that the co-operation between the existing and may be arising Internet-Databases and Internet-Websites are very important. A starts of this co-operation can be the creating via links between different sites. Keeping in mind the affected institutions and persons but also the abstract Internet-user it will be hopeful to think over how to create a transparent, user-friendly and easy "landscape" of databases and sites, concerning cultural assets, looted during World War II or as a result of Nazi-persecution, on the Internet.

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www.originsunknown.org

The Dutch database and website on art and the Second World War

After an introduction about the research in The Netherlands, an elucidation of the choice of the database and the use of the database is given. The ways in which we make our results public, through interim reports and the website will be the main subject of this article.

Introduction

The Herkomst Gezocht or Origins Unknown project office started with 6 researchers in 1998 and now employs 9 art historians and historians as researchers, a research assistant and a secretary. Our offices are located in the National Archives, in a kind of Dutch knowledge centre together with institutes such as the Royal Library and the Netherlands Institute for Art History.

In October 1997, the Secretary of State for Education, Culture and Science assigned the Ekkart Committee to carry out a pilot study into the provenance of a selection of artworks, recovered after the Second World War which are in State custody. The pilot

study recommended further research and as a result the Origins Unknown project was started in September 1998.

The collection

The collection that is studied is the Netherlands Art Property collection (Nederlands Kunstbezit Collectie) referred to as the NK collection for short. This collection comprises approximately 4,000 art objects and consists of paintings (around 1,600), drawings, prints, ceramics, silverware, furniture and other objects. This collection is what remains of the artworks recovered from Germany after the Second World War and is managed by the state. After the war, the Netherlands Art Property Foundation (Stichting Nederlandsch Kunstbezit) (SNK) returned many of the recovered artworks to their rightful owners on behalf of the Dutch State. Nevertheless, there are still a large number of works in state custody. The artworks are housed in various Dutch museums, at embassies abroad and in government buildings. Parts of the NK collection can also be found in the Netherlands Institute for Cultural Heritage's storage room (Instituut Collectie Nederland). This institute is the custodian of the Dutch State's art collection.

Archives

Bureau Herkomst Gezocht's researchers primarily use the archives of the Netherlands Art Property Foundation (the Stichting Nederlandsch Kunstbezit (1945-1953)). The research method has been standardised in order to fully utilise this archive. A flow chart indicates which archival documents definitely need to be examined in order to find the correct provenance data.

An art object's file consists of basic documentation, correspondence, photographic material and other archival documents from the SNK archive and many other archives. For further information on which archives we use please refer to our website.

Database

Because we carry out research into the NK collection which is in the the Netherlands Institute for Cultural Heritage's custody, adopting their database system seemed the obvious thing to do. They use the Adlib system by Adlib Information Systems which is widely used in the Netherlands. This system was originally designed for library collections and was later expanded with a museum application. It is a relational database developed for the not entirely numeric cultural field. The system has special characteristics which distinguish it from standard relational Database management systems (DBMS), such as being able to handle repeated fields and groups of fields, and simultaneously functioning as indexing text retrieval software. In that sense it is a classic Information Storage and Retrieval program (ISR).

Another advantage was that we could make use of a Netherlands Institute for Art History systems administrator, who could adapt the Adlib system to suit our specific

requirements. A disadvantage is that it is relatively slow, even with a relatively limited number of records.

The use of other systems was considered, but appeared not suitable.

As mentioned above, we adopted the Netherlands Institute for Cultural Heritage's database and that means all object data had already been entered, including terms related to the object and keywords such as painting, landscape, cow, table, oak, etc.

The research carried out by Origins Unknown at the various archives is added to the database. In other words, the provenance names are entered including the source they were retrieved from. Furthermore, there is a comments field for internal use which consists of reports on the research. This also lists research avenues that led nowhere, background information and hypotheses for the information found. There are also fields for the comments to be published and the conclusion with regard to the provenance.

The current provenance is reconstructed on the basis of all these results.

Publications

The research results are published in two ways: via a printed interim report and on our website. The publications are an important part of the study: It is important for the Dutch collection of recovered art to be public and well-documented. It should not be veiled in secrecy.

Printed report

In general, the publications are intended to provoke responses from former owners or their heirs, but also from other interested parties. We hope to receive responses from the general public with regard to incomplete provenances. To stimulate this, pictures of this type of artwork are included in the reports in the hope that these will be recognised.

Website

The possibility of immediate recognition does not exist online, a search query is needed, after which pictures and data are visible. In this way the medium offers other options.

Searches can be executed for the artist's name, the name of the former owner, words from the title and keywords. The undirected or free search field also offers the option of combining the above searches. The latter also offers the option of searching for a particular inventory number. You can browse the entire collection by only entering 'NK' in the undirected search field as all the inventory numbers start with NK.

On the Internet almost every object is accompanied by a picture which can be viewed in different sizes. The website was launched in April 2001 and contained the data of the 3 reports that have been published so far (the pilot study and interim-reports I and II.). The idea is to update the database on the website every time the interim reports are published, the last (Interim Report III) of which has been published recently. There will be no intermediate data transfer to the website.

Providing information and accessibility were central to the design of the website. For example, we knew that we did not want any animations. On the one hand, because the subject matter is serious, and, on the other hand, because it would make high demands on users' computers and user computer skills.

Building the website

Origins Unknown started drawing up Internet requirements itself, based on the mentioned demands among other things. The entire process of building the website took over a year.

We intended to have the execution carried out by an external agency and one such agency did indeed control the designer and web designer. However, it proved impossible for them to maintain contact with the database manufacturer. This means that we maintained contact with the manufacturer ourselves using the before mentioned, free lance, system administrator.

This is where the biggest problems lay for the realisation of the website as the text part and the database part of the site were written in different programming languages. The web designers who used html did not know xml, which is what was used for the database and the database creators did not want to be limited by a design concept. It is therefore important to be aware of this before you start on a project of this nature.

Test group

We had a particular type of user in mind, but we nevertheless had the site's effectiveness tested. An international panel was created consisting of friends and family, a journalist, a claimant that had an artwork returned, etc. of various ages and with different levels of computer literacy, rare users to heavy users of the Internet.

This testing group was sent a questionnaire and a temporary URL where they could view the website. The questions were both open and closed and concerned the Internet experience, functionality, the content of the texts and the searchability of the database. We posed two questions of a substantive nature in order to ascertain whether the search method to employ was clear to everyone.

The test revealed that in general users were positive about the site and that they could solve the substantive questions. There was also some criticism which we could partly put to use and some which we had to take into consideration for any possible, future

far-reaching updates to the site. Changes we could institute included providing more explanations, adding more tags (or mouse over fields) and indicating who to write to in connection with what type of question.

It was interesting to meet people unfamiliar with using a database. A frequent computer user filled in 'A. van Dyck' in the 'artist name' field, instead of 'Dyck', and was amazed that she got no results. But this is how she found information using Internet search engines.

Use of the website

The number of visitors to the site has fluctuated as follows: in the first days after the website was launched at the end of April, we had days with circa 500 visitors to the site's homepage. In the course of May and June this decreased to 20-30 visitors per day.

We are currently studying the more long-term visitors' statistics. In October we had 350-400 visitors to the site's homepages (both the English and Dutch pages), 170 used the search pages.

In total, from April until the end of the year 2001, there were over 5,000 visitors to the first Dutch and first English page and more than 2,600 visitors who used the search pages.

We can also gain a general impression of where visitors are from, the percentages were calculated for the number of bytes sent, so these percentages are influenced by requests for, for example a PDF file, which generates more data traffic.

One third of the visits to the site are from the Netherlands. Other European countries, such as France, England and Germany account for a bit over 1 % of the data traffic. Belgium accounts for 10% and 25 % of the data traffic logged is from '.net' and '.com' IP addresses. It is remarkable that the site receives few hits from, for example, Israel. The data traffic log also allows us to conclude that the PDFs of the entire reports are consulted quite often, over 2,500 times during the year 2001 (2,847).

e-mail responses

The responses to the site we receive per e-mail can roughly be sub-divided into three categories: Technical comments, about 1 a month (for example, pages on the site or links do or do not work), general questions, approximately 2 – 3 a month. (such as requests for reports, requests for help in connection with research), questions with regard to objects, round and about 1 a month (among which questions in connection with objects on the website or in the NK collection, and once being put right with regard to a name). On average we receive 2 e-mails per week, which are usually less thoroughly backed up by documentation than letters.

For serious questions we therefore prefer to switch to letters for contact.

Concluding remarks

In this article I have given a short introduction on the Origins Unknown research and an impression of the making of the Origins Unknown website and how it is used. For further reading on the Origins Unknown Project please refer to the website: www.originsunknown.org or www.herkomstgezocht.nl and to an article published in this International Newsletter (Josefine Leistra, 'Country Reports: The Netherlands', Spoils of War February 1999 No.6, p.43-49, this can also be found on www.lostart.de/kontakt and then click on 'Spoils of War'). With questions, information or remarks regarding the research, please contact us at herkomstgezocht@cultuurbezit.nl.

Interim Reports can be ordered from: Project Origins Unknown, Prins Willem Alexanderhof 20, 2595 BE The Hague, The Netherlands, t.+ 31 70 3717200, f.+31 70 3852958, or the above mentioned e-mail address.

Flora van Regteren Altena,
Projectbureau Herkomst Gezocht,
The Hague

Property looted during the Second World War - The French Ministry of Foreign Affairs Database

Creation and content

1. THE COMMISSION FOR ARTISTIC RECUPERATION - PARIS (*COMMISSION DE RECUPERATION ARTISTIQUE - CRA*)

Creation

The French foreign ministry's database of cultural property looted during the Second World War was created in 1991. By 1997, it contained over 50,000 entries. Today, it numbers almost 100,000. This ACCESS software database contains several fields:

- "Propriétaire" (Owner), Family name and given name(s) to avoid confusion arising from cases of homonymy.
- "Cote" (Document number) refers to the old document number in the archives of the Commission for Artistic Recuperation and/or to the file number assigned to the spoliated person by the *Office des biens et intérêts privés - OBIP* (Office for Private Property and Interests).

- "Carton" (Cardboard box) makes reference to the new arrangement adopted by the French Ministry of Foreign Affairs since 1991.
- "Artiste" (Artist, painter) if he/she appears on the index cards and lists that have been analyzed.
- "Oeuvre" (Work of art), if it appears on the index cards and lists that have been analyzed.
- "Série" (Series) indicates whether the data comes from Paris, Colmar or the *Centre des Archives diplomatiques de Nantes - CADN* (Nantes-based Diplomatic Archives of the French Ministry of Foreign Affairs).
- "Observations", this is the only field allowing free text that can contain more details for use in analyzes of more general documents when the "propriétaire/owner" field is empty. This field also contains details about works of art such as dimensions, descriptions and their fate.

Origin of entered data

The origins of the entered data are extremely varied. The chief ones are as follows:

1. To start with, this was for the most part an extremely detailed description of the 1,000 cardboard boxes that make up the archives of the Commission for Artistic Recuperation (CRA).
2. Later on, the files set up by the CRA on the basis of the claims filed by spoliated families were integrated into the database.
3. List of the works that were in the *Train d'Aulnay* (called *Nikolsburg Train* by the Germans) which was stopped by the French in August 1944 and of the works that remained in the *Jeu de Paume* Museum.
4. List of exchanges conducted with the *Einsatzstab of Reichsleiter Rosenberg (ERR)* during the war, in particular the *Röchlitz* exchanges.
5. List of works whose export was requested in France during the war, etc.
6. List of property that was placed in the custody of the "Domaines" authority, a study used in the Taskforce Study into the Spoliation of the Jews of France.
7. Lists drawn up by the ERR (*Moebel Aktion Bilder*) and of the works entered under "Unbekannt" (Works of unknown origin).
8. List of ERR's shipments, arranged alphabetically by the abbreviations given to collections and sometimes by consignees.
9. List of property under sequestration which had belonged to Germans (Abetz, Schencker, etc.) or to dealers (Jansen) or french collaborators (Lefranc, Burcard, etc.). The CRA was temporarily appointed as the Depositary Office for this property

in order to determine whether it was spoliated property. This property was then placed in the custody of the "Domaines" authority for sale or restitution to the rightful owners or their heirs.

10. Although incomplete, the inventory of paintings from Goering's Art Gallery was translated and integrated into the database.

11. A file on press articles published between 1945 and 1964, set up and entered into the database in 1993 by French Ministry of Foreign Affairs, served as a basis for a study on the press in the Taskforce Study into the Spoliation of the Jews in France.

12. The French Ministry of Foreign Affairs has begun to update the *Répertoire des biens spoliés pendant la deuxième guerre mondiale* (Register of cultural property looted during the Second World War). This work is now essential, given that works of art looted during the Second World War occasionally turn up on the art market. By once again studying the claims submitted by spoliated families, it was possible to modify or complete about 2,500 index cards of paintings and graphic arts.

13. Following the compilation of photo albums for each family based on prints taken from personal or general records, additional data was entered into the database. This has made it possible to identify the owners of certain works of art entrusted with French museums.

2. COLMAR CENTRE FOR THE ARCHIVES OF THE FRENCH OCCUPATION OF GERMANY AND AUSTRIA (*CENTRE DES ARCHIVES DE L'OCCUPATION FRANÇAISE EN ALLEMAGNE ET EN AUTRICHE DE COLMAR*)

The Center's database is identical to that described above. The data entered into it is regularly integrated into the main database in Paris (around 10,000 data sheets).

3. CADN - NANTES-BASED DIPLOMATIC ARCHIVES OF THE FRENCH MINISTRY OF FOREIGN AFFAIRS

The files of OBIP (Office for Private Property and Interests) are kept at the CADN which has four databases comprising almost 70,000 entries. These ACCESS software databases constitute a detailed description of all the personal records stored in the different series of archives.

1. Database of German spoliations in France (*Base spoliations allemandes en France* - SPAF)

2. Joint database of series on Prisoners of War and deportees (*série Prisonniers de guerre et déportés* - PGD), Spoliations series (*série Spoliations* - SPO), Monetary gold series (*série Or monétaire* - OM)

3. Database of Sequestrations of German property (*Séquestres de biens allemands* - SBA)

4. Database of Pre-existing property in Alsace-Moselle (*Biens préexistants en Alsace-Moselle* - BPAM)

All databases include the following fields:

- "Nom" - name of spoliated owner
- "Prénom" - given name of owner
- "lieu" - place where the property was seized
- "Numéro de dossier" - filing reference given to each spoliated person by the Office for Private Property and Interests (OBIP)
- "Série de spoliation" - spoliation series indicating the archival series in which the file is found.
- "Code" - code given to that series
- "Carton" (cardboard box) refers to the new arrangement adopted by the Nantes-based Diplomatic Archives of the French Ministry of Foreign Affairs (CADN)
- "Renvoi" (cross-reference) may refer to the personal record of a member of a given family or indicate that there is another file for that person in another archival series (e.g. "*voir série OM*", "see monetary gold (OM) series")
- "Observations" may possibly include the following: name of the person submitting the claim if he/she is not the spoliated person, and his/her nationality, if a duplicate of his/her file has been transmitted to the Commission for Artistic Recuperation, or if he/she has contributed to the payment of the one billion franc fine, and so on.

Communicability of data

Given the confidentiality of the data they contain, the above databases are covered by the same legislation as that which applies to the documents on which they are based. They can therefore be consulted solely by the French Ministry of Foreign Affairs agents in charge of issues of spoliation and restitution* .

Research

However, applications to conduct research may be filed either by the owners or the heirs who can have access to their personal file in its entirety or by the Commission for the Compensation of Victims of Spoliation in charge of representing their interests. Around 300 applications were received in Paris and over 1,500 by the Nantes-based Diplomatic Archives of the French Ministry of Foreign Affairs (CADN).

As regards works of art, many (over one hundred) applications have been received for some time now from auction houses, art galleries and foreign museums wanting to check the origin of the works they intend to sell or purchase.

Applications, including photographs and detailed information, should be sent to:

Ministère des Affaires étrangères
Direction des Archives
37, Quai d'Orsay

75007 Paris
Fax: 33 (0)1 43 17 48 44

World Wide Web

The Schloss Collection is currently the only one available on the Internet by visiting <http://www.france.diplomatie.fr/archives/dossiers/schloss>.

Marie Hamon,
conservateur en chef du Patrimoine,
Direction des Archives,
Ministère des Affaires étrangères,
Paris

Notes:

* The Law no. 79-18 of 3 January 1979 on Archives provides in its Article 7 that the time limit beyond which documents in public archives may be freely consulted is brought to sixty years from the date of the deed in the case of documents containing information that threatens privacy.

Web Site "Removed Cultural Valuables" – New Project of the Library for Foreign Literature

The Internet is a world storage of information, allowing to collect, distribute and receive information immediately, not leaving your own table, at home or at work. This characteristic feature made the Internet one of the most popular and usable world channels of spreading information.

At the moment the All Russia State Library for Foreign Literature, as many other libraries of Russia, is extensively using the Internet in its work providing distant users with information not only about its collections but also about various activities of the Library.

One aspect of the Library's activities is the topic related to cultural valuables, removed as a result of World War II. Experts and media marked the lack of balanced information according to the fate of cultural valuables, removed during World War II, a long time ago, free of emotions and political speculations. Using an absolutely endless scope of Internet, we gained access to information resources of various organizations, operative connectivity with specialists in any country of the world, we managed to familiarize ourselves with the modern directions of research and scientific activities on the question.

The history of creation of the first Russian public information website by the specialists of the Library is closely connected with more than 10 years activities of the LFFL in the sphere of removed cultural valuables, mostly book collections. In this respect we have to remember the first Russian-German round table, held in Moscow in 1992, "Restitution of Library Collections and Co-operation in Europe", when we were unable to completely overcome the barrier of estrangement and mutual distrust, but managed to put forward joint suggestions which are still topical: providing full unlimited access to the removed book collections, following the principle of prohibition of selling and buying books of "doubtful" origin.

The continuation of this round table takes place in international contacts and relations, in book exhibitions from the Library collections, publishing catalogues, participating in issuing this international newsletter "Spoils of War", organizing and holding international conferences in Moscow and also participating in various national and international events related to the removed cultural valuables.

To coordinate activities and hold further events, devoted to the topic of removed cultural valuables, the Library for Foreign Literature, launched the "International Information and Document Center on the problems of the removed cultural valuables" in 2001. The employees of the center collect, analyze and process the accumulated materials.

Besides, the analysis of Internet resources, related to the topic of removed cultural valuables, they showed the deficit of open informational and universal content of resources, meeting the requirements of various groups of users. The resources we managed to locate did not show a high level of scientific processing and were not adapted for the Russian language users. Our attention was attracted only by two of them – "The Project for the Documentation of Wartime Cultural Losses", being supported and maintained by a non-governmental institution "Cultural Property Research Foundation", headed by Elizabeth Simpson, and a German "Lost Art Internet Database" of the federal government and the federal states of Germany. All these factors became seriously incentive for us to start working on the creation of the first public information website in Russia on the problems of removed cultural valuables.

Working together with institutions and researchers both, in Russia and abroad, we received a unique possibility to collect manifold materials for our new project. Financial and moral support to the project was rendered by the Ministry of Education, Culture and Science of the Netherlands together with the Embassy of the Netherlands in Moscow and by the Open Society Institute - Soros Foundation (Russia). Our partners in collecting and providing materials included the State Regional Universal Library of Nizhnij Novgorod; the National Library of Chuvash Republic; State Public Scientific Technical Library of the Siberian branch of the Russian Academy of Sciences; Central State Public Library named after V.V. Mayakovskij in St. Petersburg; the Center of Legal Information, created at the Library for Foreign Literature several years ago; and also Russian and international institutions, independent researchers and collectors.

The aim of the project is to accumulate various materials on the problems of cultural valuables removed as a result of World War II in order to create intellectual and data field by actively informing Russian and international public on historical, legal and cultural aspects of the problem. This is a universal by content, free of charge and accessible subject site, orientated, which is very important, at various categories of users – lawyers, historians, librarians, archivists, journalists, researchers.

The site started its independent life on the Internet in May 2001. Located at the home page of the Library for Foreign Literature, it is implemented in a text format open for copying and printing. Up to date the volume of information located at the site in html format is 2,6 MB; the volume of the graphic materials – 130 MB. It is a permanent interactive resource, where there is nothing accidental, starting from the title.

The starting page is illustrated by the photo of the ruined Berlin, taken in June, 1945, by Adrian Vasiljevich Rudomino (son of the founder of our Library M. I. Rudomino, who was a part of the Commission of the Department of People's Education of the Soviet War Administration in Germany in 1945-1946. It participated in the removal of books from Germany.

The site has 7 main subject sections: Collections, Law, Institutions, Conferences, this "Spoils of War"-Newsletter, Archive "Rudomino", bibliography of the Russian press. Every section is equipped with swimming menu and navigation up to 4 levels of enclosure. Information data is presented in html format. Full text retrieval is available from the starting page. Besides, additionally, the starting page includes the following services: news channel, forum, subscription, e-mail for connecting with the Center on the Problems of Removed Cultural Valuables. We also considered it necessary to locate the points of access to the information about the project sponsors, the history of the project on the starting page.

The site has 5 databases: Foreign book marks from the Rare Books Collection of the Library for Foreign Literature; Books from the Sarospatak Reformed College, kept at the Library of Nizhnij Novgorod; Books from German libraries in the collection of the National library of Chuvashija; Private collection of cards and also a database of Russian articles on the problems of removed cultural valuables. Reviews written for every database allow to find necessary documents quite easily.

The General menu of the catalogues allows to pick up interesting databases straight from the starting page. Every database has its own users' interface, corresponding to the type of the resource. Every database allows to retrieve information by the fields of bibliographic format of description, a combined retrieval is possible. For example, the database of Foreign book marks from the Rare Books collection of the LFFL contains 390 entries. The retrieval could be done in 6 fields: key word, owner, rubric, author, heading, index of the mark and also by the group of fields. For more precise definition in the search of the main fields there are additional lists of possible meanings which could be pre-viewed and interesting entries could be chosen.

The database on Private Collections presents a small part of private card collection, which compiles cards with the images of art objects, lost not only by museums and storage of the former USSR, but also by some German museums - Dresden Art Gallery, Berlin museum of the Emperor Friedrich. Some of them are the only left images of the valuables, lost during World War II.

The attention of our users are also attracted by the database of Russian press articles. I would like to draw your attention to the fact that our site contains information about 922 articles from 65 Russian periodical editions, received by the LFFL. In the majority of cases the documents are the full text ones and can be copied to no expense. This database provides several procedures for retrieving information - bibliographic card or list.

The basis of the section Collections is compiled by reviews about the removed book collections located in Russian libraries. These articles are closely connected with databases, presented at the site. The user can directly access a concrete database straight from the section Collections, which is very convenient.

The section Law includes three main rubrics: Russian Legislation, International Law, Legislation of Certain Countries. In the rubric Russian Legislation you can find a full text of the latest version of the Law of the Russian Federation "On the Cultural Valuables, removed to the USSR as a result of World War II and located in the Territory of the Russian Federation", and also the comments on it, prepared especially for our site by the independent Russian expert Valery Kulishov; Verdicts of the Constitutional Court, State Duma of the Russian Federation, Government decrees, resolutions of the Ministry of Culture of the Russian Federation, related to the removed cultural valuables. The rubric International Law contains UNESCO documents, protocols of the Geneva Convention of 1949 and the Hague Convention of 1954. It is planned that the rubric Legislation of certain countries will cover laws, regulations and acts of various states, covering various aspects of the problem, related to the return, preservation, conditions of export and import of cultural valuables.

The section Institutions has two rubrics. One of them will cover not only lists of institutions which declared the loss of their collections during the war, but will also include the lists of losses and their descriptions. The second rubric will include information about the Russian, Ukrainian and international organizations, dealing with the problem of removed cultural valuables with the indication of contact information.

The section Conferences quite fully covers the materials of various conferences, held by LFFL, starting from 1992. Full texts of papers can be found both in Russian and English. This section provides an access to audio materials in the format of real audio with the possibility of listening to the paper in real time mode.

The section Archive "Rudomino" includes articles and documents from the family archive of M. I. Rudomino and also the review of archival materials of the LFFL, appurtenant to book collections, removed as a result of World War II.

Due to numerous links the site is closely connected with many subject resources, represented on the Internet. It is opened for new partners and co-operation, which, without any doubts, will help it's further development.

We are sure that the new project of the Library for Foreign Literature is essential and a highly needed part of information in the space of the Internet covering the problem of removed cultural valuables.

Ekaterina Genieva,
All Russia State Library for Foreign Literature,
Moscow

Restitution-art.cz – data bank and website

Let me briefly inform you about the database "restitution-art.cz" used for publishing the results of the research conducted in the Czech lands in 1999-2000 by the Ministry of Culture in co-operation with the Governmental Office of the Czech Republic.

First, I would like to divert a bit into the dark history of the 20th century. It is not my task to study historical and ethnic aspects of the Nazi occupation. There are more competent people to do that. Let me just briefly summarize the movement of art objects in former Czechoslovakia and the Protectorate of Bohemia and Moravia. Information used here has been taken from the Report of the expert team on clarification of historical and economic issues related to the aryanization of Jewish properties that was established within the Governmental Commission working at the Government of the Czech Republic.

The confiscation of art objects from the Jewish property took place in the years 1939 – 1945 in several steps. The following methods were applied:

1. Using rules and regulations from a so-called Second Republic (decree of the Permanent Committee and other regulations governing the export of art objects) and depositions made before September 15, 1939 for future confiscation by the German Reich during World War II.
2. Using the above-mentioned rules and regulations by the German Occupation Administration when conducting a so-called "legal" emigration of the Jews.

3. Forfeiture of the property for the benefit of the German Reich in connection with mass deportations of Jewish people.

4. Confiscation by the Gestapo using a wide variety of criminal law regulations of the German Reich and regulations on incorporation and administration of the property belonging to enemies (namely, confiscation of the property of so-called "enemies to the Reich").

Art object confiscation had been conducted primarily based on rules and regulations of the Reich or regulations issued by the Reich's protector.

Complicated structure of legal rules and regulations was reflected by a complicated structure of German bodies that were responsible for confiscation. Confiscation of art objects was mainly the responsibility of the *Office of the Protector of the Reich* (since 1943 *the German State Ministry for Bohemia and Moravia*) and a special property fund of *the Vermögensamt, Zentralstelle fuer jüdische Auswanderung* (since 1942 *Zentralamt fuer Regelung der Judenfrage*) and the subordinate *Treuhandstelle* (formally, a branch of the *Jewish Religious Community* in Prague), a so-called *Auswanderungsfond* established by the *Zentralstelle*, as well as a number of German security bodies, namely the *Gestapo*.

The expert team has come to the conclusion that, based on preserved and available archive materials, it is not possible to accurately determine a real number of art objects that had originally been a Jewish property confiscated in 1939 – 1945 for the following reasons:

1. Lists of confiscated objects preserved as parts of different summarized reports do not give a clear explanation of the nature of art objects (there, also handicraft objects and pieces of furniture may be mentioned that have been randomly included into the category of "art objects" which in no case comprises all the objects that may be considered as art objects from today's point of view).

2. The documents that provide an overview of the number of confiscated objects are always limited in time and I am sorry to say that we do not have the documents available (they cannot be identified at present or have been destroyed in accordance with the ARLZ plan) that would cover the entire time period, i.e. March 16, 1939 to May 1945 in this case.

3. The documents containing the lists have reference only to the Protectorate area. They do not list art objects confiscated in the Czech territory sequestered after signing the Munich Agreement.

4. The documents are related to the property confiscated by the Gestapo. They list not only a Jewish property but also a so-called "other property of enemies".

5. Based on the documents available, it is only possible to trace the art objects that ended up in different institutions, not those that have been confiscated and ended up in private Aryan collections or homes.

Restitution of these objects was conducted immediately after the war. In the years 1945 – 1948 the most difficult problem was to establish the heirs of holocaust victims, to establish their nationality, to collect relevant documents and to identify relevant art objects. After communists took over in February 1948, all these problems became more complicated as the communists were very reluctant to restitute large properties. Another issue was the property of those holocaust victims and their heirs who had become other countries' nationals and whose property had been nationalized or confiscated in accordance with the relevant Decrees of the Czechoslovak President.

Therefore, a part of the properties were restituted after 1989 when democracy returned to our country. Based on restitution laws, a number of collection objects confiscated after 1948 have been returned, e.g. objects from the Waldes' collection or from the Morawetz's collection. Nevertheless, there are still objects remaining in state collections which have been confiscated during the World War II and which have not been returned after 1945 nor after 1989. These objects were either not known or they were not covered by the legislation passed for this reason.

Therefore and also based on the conclusions and recommendations of a so-called Washington conference and based on the decision No. 773 of the Czech Government of November 25, 1998, the first phase of the inspection of state collections stored in museums, galleries, state castles and chateaux established by the Ministry of Culture was initiated. This inspection was carried out in the period between December 1998 and the end of June 1999. The purpose of the inspection was to determine whether in the state collections stored in museums, galleries, state castles and chateaux there are objects that:

- a) had been a property of holocaust victims (individuals and legal entities in the sense of the Nuremberg laws) and have been obtained in connection with their racial and political persecution in the period between September 30, 1938 and May 5, 1945,
- b) had been a property of holocaust victims and have become part of the collections after May 5, 1945 as a result of so-called Benes' Decrees or by transfer from the Fund of National Restoration,
- c) had been a property of holocaust victims and have become part of the collections by other transfers.

In the first phase only those objects were looked up which could be without any doubt identified as objects confiscated in connection with racial or political persecution.

Museums, galleries, libraries, state castles and chateaux directly established by the Ministry of Culture, as well as district offices and mayors of statutory cities of Prague, Brno, Plzeň, and Ostrava have been invited to inspect their collections. The final term for inspections of the first phase was set to June 30, 1999.

Further to the first phase of inspection of the state collections established by the Ministry of Culture carried out in 1999, the second phase of inspection was initiated. This inspection was to establish the wrongdoings committed against the interests of holocaust victims by identifying their properties in collections and depositories. The following items were looked for:

- a) Art objects owned by holocaust victims that have presumably been obtained by racial and political persecution of the victims in the period between September 30, 1938 and May 5, 1945;
- b) Art object presumably owned by holocaust victims that have been obtained after May 5, 1945 in connection with Presidential Decrees by their transfer from the Fund of National Restoration or by any other transfers.

Municipal offices administering museums, galleries, and historical depositories, respective ministries, higher education establishments, organizations and businesses not administered by the Ministry of Culture, as well as state libraries, not participating in the 1999 phase, have been invited to inspect their collections.

In the first phase 2,475 objects have been identified originally owned by holocaust victims. In the second phase 4,275 objects and more than 10 collections have been recognized. Thus, information has been obtained that has been published on the Internet and that I would like to briefly present to you here. The Database is financed by the state and is updated and upgraded in Moravian Museum in Brno. We also received financial support from Sotheby's.

The Parliament has passed a Government proposal of the Act No. 212/2000 Coll. to mitigate certain property – related injustice caused by the Holocaust, a director of a contacted institution is responsible for returning the objects. In case of disputes a ruling of an independent court shall be decisive.

As the Government is aware of the necessity to continue the project, on November 1, 2001 the Center for documentation of property transfers of art objects owned by the World War II victims as part of the Academy of Sciences of the Czech Republic was established.

The purpose of the project is to conduct research and to document confiscated properties, namely Jewish properties, that have been part of the national cultural heritage. The objective of the project is to incorporate the issue of confiscated cultural objects and their transfer into international research networks.

The Center shall focus on background research and study of archive sources related to confiscated properties, namely cultural and art objects, in 1939 – 1945 and on their movements during and after the war that have been deposited in Czech and foreign archives, museums and similar establishments. The majority of the activities shall be focused on collecting information for the needs of cultural and governmental institutions and on identifying individual objects located in the Czech Republic and abroad.

The Center has been designed as an interdisciplinary institution. Historic sciences will be able to disclose confiscation mechanisms of the Nazi administration, to analyze and evaluate issues not clarified so far the study of which has been banned until recently for political reasons. Copies of archive sources will be made and filed in the Center in order to create a documentary center that will provide all collected information and data to the professional public for further research. By establishing the Center an institution will be founded that will systematically study the issues of aryanization of cultural items and confiscation methods of the Nazi regime. Standard foreign institutions active in this sphere will hereby get a corresponding partner so far non-existent, which has had a negative impact on the research.

Center research project for the near future:

2002

- looking up for documents and conducting background research in archives (mainly in the State Central Archive – so far 48 funds have been selected) and in organizations which are the responsibility of the Ministry of Culture of the Czech Republic (namely, the State Monuments Department and Museums and Galleries)
- beginning of research in foreign archives
- on-going revision of the Moravian Museum database

2003

- archive research in Czech and foreign archives
- organizing a conference for presenting the results of the research
- publishing a collection of the documents on aryanized objects of art
- organizing seminars for students
- updating of the Moravian Museum database

2004

- archive research in Czech and foreign archives
- on-going presentation of the results
- establishment of the database of cultural objects that have disappeared from the territory of the Czech Republic during World War II
- updating of the Moravian Museum database

2005

- archive research in Czech and foreign archives
- international conference
- preparation and printing of conference proceedings
- preparation of an exhibition
- preparation of a printed catalogue
- updating of the Moravian Museum database and the database of cultural objects that have disappeared from the territory of the Czech Republic during World War II

2006

- termination of the research in Czech and foreign archives
- finalizing of both databases
- finalizing preparatory works related to the exhibition
- catalogue publication

Presentation of the results and the activities of the Center:

The results shall be presented:

- 1) through work databases for the needs of the research team and state institutions,
- 2) through an Internet database and concise information on the results and research carried out by the Center,
- 3) providing details on partial studies in professional journals and bulletins,
- 4) at regular seminars (held once a year) for undergraduate and post-graduate students,
- 5) through details on comprehensive studies published in renowned Czech and foreign journals and through monographs, i.e. within publication series of the Institute for Contemporary History of the Academy of Sciences of the Czech Republic).

Pavel Jirásek,
Department of Movable Cultural Heritage, Museums and Galleries,
Ministry of Culture of the Czech Republic,
Praha

Research and documentation of provenance of the ?Gurlitt Collection? of the City of Linz ¹
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The term "Gurlitt Collection" refers to a significant part of the licensed art dealer Wolfgang Gurlitt's collection, which was sold by him to the City of Linz on January 14, 1953. This collection in Gurlitt's possession, consisting of 76 oil paintings and 33 prints, mainly by German artists from the 19th and 20th centuries, a further 30 oil

paintings and 426 prints as well as the extensive Kubin Collection made up the basis of the "New Gallery of the City of Linz – Wolfgang Gurlitt Museum".²

Wolfgang Gurlitt – the person

The Berliner Wolfgang Gurlitt was a versatile and dazzling person who combined real understanding of art – and especially modern art – with a striving to make profit. However, Gurlitt's business ventures before, during and after National Socialism were marked above all by financial difficulties. It was probably only with the sale of his extensive collection to the City of Linz in 1952/53 that he was freed of financial constraints.³

Reports from the time before, during and after that time also concur on another point: the art dealer Gurlitt was repeatedly said to have had unsound business practices. His repeated practice of founding firms and buying businesses and property in the name of his wife, his former wife or his significant other is remarkable.

It is probable that the reasons for the disagreements which occurred between the representatives of the City of Linz and the co-founder of the New Gallery over many years lay largely in Gurlitt's awkward personality. Finally, these differences in opinion led to the removal of Wolfgang Gurlitt's name from the title of the institution. This change of name led to a legal battle conducted at every level of appeal, which Gurlitt managed to win in 1963.

The art dealer Gurlitt had encountered problems during National Socialist rule simply because of his Jewish descent – he was regarded a "one-quarter Jew": this resulted in enquiries and charges from competitors and other malevolent people. After the National Socialist "takeover" he was accused of having especially close business contacts with Jews. Correspondingly, the Gestapo and various party institutions made negative judgements of his person.

Wolfgang Gurlitt was not a National Socialist. There is not a single piece of evidence among his many surviving letters from that time that he tried to ingratiate himself with various public offices by using expressively National Socialist language. His lack of concern in political matters was so marked that in his letters to the office responsible for the "Linz Special Command" ("Sonderauftrag Linz") he all too often left out the obligatory closing phrase "Heil Hitler!". His employment of a non-National Socialist, Walter Kasten, in 1938, matches this image.

On the other hand Wolfgang Gurlitt understood well how to remain in business between 1933 and 1945. Besides his regular activities as an art dealer he was successful in getting involved in special projects (although on a modest scale compared to his cousin, Hildebrand Gurlitt): these included the sale abroad of artwork confiscated and labeled "degenerate art" ("Entartete Kunst") by the Reich's Ministry for Propaganda, as well as making purchases for Linz's "Führer Museum".

Obviously Wolfgang Gurlitt had a good relationship with Berlin's provincial leadership of the Reich's Chamber of Fine Art (Reichskammer der bildenden Künste). Moreover, he was in regular contact with the special representatives of the "Führer Museum" project in Linz, Hans Posse and Hermann Voss. He made skillful use of these contacts in pursuing his business interests and securing personal benefits.

Results of the research into provenance

It is demonstrable that Gurlitt acquired artwork of previous Jewish ownership on several occasions: through direct purchase from the Jewish owner, through auctions, and probably also through other art dealers. The total scope and the method of acquisition in respective cases are unclear; the number probably extends beyond those examples proven unequivocally.⁴ Like practically all art dealers who were active during the rule of the National Socialists, Gurlitt had no qualms about this form of acquisition.

The question how Gurlitt came to own the pictures which were finally bought by the City of Linz can only partially be answered by referral to the municipal records and other sources. Especially regarding moral considerations – in light on the "aryanisation" which occurred during National Socialist rule - Gurlitt's acquisitions can be divided into five categories:

- Acquisitions from before the time of the National Socialists (before 1933 in Germany), as well as purchases of artworks created after 1945. These pictures from the Gurlitt collection can be evaluated as completely unobjectionable. However, for the time being not a single picture can be proven without doubt to have been purchased before 1933.
- The acquisitions of works which were not in the possession of Jews during National Socialist rule. These pictures, too, count as entirely unobjectionable. (Because of the extremely scarce sources about provenance, however, one cannot tell whether the original owner was a Jew or not.)
- Acquisitions from German museums seized by the Reich's Ministry for Propaganda as "degenerate art" ("Entartete Kunst") in 1937.⁵ Works from this action found their way into museums and private collections all over the world. At least five of these pictures are in the New Gallery today. Gurlitt's role can be seen from different perspectives – accessory to the National Socialist regime or preserver of threatened artwork; in any case he attempted to make profits for himself through "degenerate artwork".
- Acquisitions from confiscated Jewish ownership, whether through other art dealers or auctions. At least one Schiele, which is still located in the New Gallery today, falls into this category.⁶ One can presume that many other art dealers, too, who worked during the National Socialists' rule made purchases in this way, although clearly this does not outweigh moral culpability in an individual case.

- The acquisitions Gurlitt made directly from Jews during the National Socialist regime. As Jews had to fear for their very lives from 1938 onwards at least, they had no choice at this time in the sale of their possessions. Thus this is undoubtedly the most morally loaded category. Until now just one example, Lesser Ury's "The Needlewoman" ("Die Näherin") has been found to fall into this category. This picture was handed over to a descendent of Loewenthal, the previous owner, from whom it was removed in 1939 in Berlin.⁷

One can tell from several short remarks made in correspondence within the city council, that those responsible within the municipality did indeed consider the matter of provenance and the issue of previous ownership in regard to the Gurlitt Collection. It is remarkable that the checks and consultation that was undoubtedly carried out at that time is not reflected in the surviving files. Whether such records were removed later or whether this delicate matter was mainly discussed verbally cannot be ascertained.

The decision makers in the City of Linz were determined to act properly. It was considered that where Gurlitt's ownership was contested in concrete cases, he must respond to these accusations himself – even in court. The purchase of the pieces in question was delayed until these legal matters had been clarified.

Why the expressed misgivings regarding the legality or at least the moral precariousness of some of Gurlitt's acquisitions did not have more serious consequences for the municipality over time (until connection with Gurlitt were severed) can only be speculated upon. Gurlitt was probably seen more as a victim and not at all as a beneficiary of Nazi rule: after all, he had been considered a "one-quarter Jew" and had been exposed to negative political appraisals. The National Socialists themselves had accused him of having entertained close business contacts with Jews in the past. It seems understandable that one was not able to regard someone who had been accused of having these kinds of contacts during the Nazi regime as an "Aryaniser" or an opponent of the Jews. In addition, Gurlitt the exhibitor appeared to have excellent contacts in the highest levels of the occupying US forces.⁸

It seems that in the light of his obviously "positive" background, less attention was paid to individual cases in which Gurlitt's activities during Nazi rule threatened to tarnish this reputation. In this respect it is also notable how little pressure the Jewish community in Linz exerted, whom Dr. Fritz Loewenthal had appealed to for support over the disputed remainder of his father's collection. No more was done than to question Mayor Koref about Gurlitt. The matter was dropped once he backed up Gurlitt's good reputation.

The reservations which Mayor Koref nevertheless felt against purchasing the Gurlitt collection were dispelled the most senior lawyer of the municipality, Municipal Director (Magistratsdirektor) Egon Oberhuber, whose purely legal arguments and

considerations certainly did not address the moral dimensions of the problem any more than they do today.

It is widely known that the problem of restitution or reparation for the Jews was generally given little importance in politics or the media in Austria after 1945.⁹ This prevalent insensitivity – especially in matters of "art robbery" – is witnessed by the fact that in the autumn of 1945 and even as late as 1952 the representatives of the provincial state of Upper Austria and of the City of Linz seriously attempted to lay claim on the works of art which had been set aside for the "Führer Museum".¹⁰ As far as the City of Linz is concerned, these attempts seemed to come from civil servants, as the Mayor, Ernst Koref, rejected legal claims harking back to the time of National Socialist rule out of principle.¹¹

For some time even the Americans seemed to consider "handing over" the stock assembled at the Munich Collection Point of the planned "Führer Museum" indiscriminately to Austria. On May 5, 1949, the heads of the Bavarian National Museum opportunistically recommended a different course of action: "A situation could arise, in which it would be in the German interest to ensure the largest possible volume of ownerless objects remains to be used for "reparations", in order to prevent having to satisfy claims for reparation from German museums' stocks."¹²

It remains to be stated that all claims for restoration that have been researched come from the time when the relevant pictures were still in Gurlitt's possession. Nothing is known about later demands for restitution from the City of Linz.

Documentation of Results

The Mayor of the City of Linz initiated the process of examining the Gurlitt Collection of the New Gallery of the City of Linz as far back as September 17, 1998. The archive of the City of Linz examined – primarily through existing municipal files – the provenance and acquisition of the pictures in stock. A comprehensive report with the results of the research (which have been briefly summarised here), together with a catalogue including all works in the "Gurlitt Collection" was published in January 1999.¹³ The complete report has been accessible since then on the Internet at <http://www.linz.at/archiv>, the first public body in Austria to decide to act in this way. 1,800 hits a month (as of February 2002) to the contents of this documentation bears witness to the active interest of the public in this matter.

Walter Schuster,
Archive of the City of Linz

Notes:

¹ This article is a revised summary of Walter Schuster's 'Die "Sammlung Gurlitt" der Neuen Galerie der Stadt Linz', published in German by the Archive of the City of Linz, 1999, pp. 188. The complete work (with downloadable footnotes) is published on the Internet at <http://www.linz.at/archiv>.

² For more on the purchase of the Gurlitt collection by the City of Linz, see above all the Archive of the City of Linz, Contracts, Sign. 19461114B, Vol. 20-23, Contract of sale, January 14, 1953, enclosed Inventories of sale 1-4. In the New Gallery's inventory for oil paintings and sculptures, 83 oil paintings are registered as having been purchased in January 1953.

³ The statements about Gurlitt's person are taken from the following sources: Munzinger-Archive/International Biographical Archive - Personen aktuell 26/1965 (CD-ROM Edition), Wolfgang Gurlitt; Peter Baum, 'Aspekte eines modernen Museums', in: New Gallery of the City of Linz, Collection Catalogue 1979. 'Malerei, Graphik, Plastik und Objektkunst des 19. und 20. Jahrhunderts.' Linz, 1979, 2; Archive of the City of Linz, KVD-files, Sch. 34b, Neue Galerie 1946-1950, 1951 and 1952/53; Archive of the City of Linz, Register of Persons, Wolfgang Gurlitt; Archive of the City of Linz, MD Oberhuber, Sch. 41, p. 362; Federal Archive Berlin, R 2 Pers, Wolfgang Gurlitt, Akt Reichskulturkammer; Federal Archive Berlin, R 2 Pers, Wolfgang Gurlitt, Karteikarte Reichskammer der bildenden Künste; Federal Archive Koblenz, Treuhandverwaltung von Kulturgut, B 323/134. More detailed sources can be found in the work listed in footnote 1.

⁴ Besides the cases of the pictures by Lesser Ury and Schiele documented below, a further reference can be found in the Federal Archive Berlin, R 2 Pers, Wolfgang Gurlitt, Akt Reichskulturkammer, Aktennotiz Gespräch Lederer-Gurlitt, undated (probably late 1938/early 1939).

⁵ cf. above all Andreas Hüneke, 'Dubiose Händler operieren im Dunst der Macht'. Dealing with "degenerate art". In Alfred Flechtheim, 'Sammler, Kunsthändler, Verleger. Katalog des Kunstmuseums Düsseldorf 1987', pp. 102 and 105; Georg Kreis, "'Entartete" Kunst für Basel. Die Herausforderung von 1939.' Basel 1990, pp. 23 and 26; Federal Archive Berlin, Reichsministerium für Volksaufklärung und Propaganda, R 55/21015, Galerie Gurlitt.

⁶ cf. Styrian provincial archive, Provincial Court Graz, Rückstellungskommissionsakt 440/1948.

⁷ Archive of the Jewish community Linz, Dr. Fritz Loewenthal file (1950); Archive of the City of Linz, KVD-files, Sch. 34b, Loewenthal Folder (1950/51).

⁸ Archive of the City of Linz, KVD-files, Sch. 35, New Gallery, 1948-1955, Folder 1950, 'Gurlitt an Oberhuber am 12. März 1950', also Gurlitt's report on the conversation with General Keyes; cf. also Archive of the City of Linz, Cultural Archive, Sch. 53, New Gallery, 'Gurlitt an Grau am 30. Juli 1946'.

⁹ "'Ich bin dafür, die Sache in die Länge zu ziehen.'" Wortprotokolle der österreichischen Bundesregierung von 1945-52 über die Entschädigung der Juden. 'Robert Knight (Ed.). Frankfurt am Main 1988, esp. pp. 12, 36, 46, 50, 58, 102, 108, 132, 147-170, 196, 208, 216-222 and 229.

¹⁰ Hanns Kreczi, 'Städtische Kulturarbeit in Linz', Linz 1959, p. 107.

¹¹ 'Kunstraub, Kunstbergung und Restitution in Österreich 1938 bis heute.' Theodor Brückler (Ed.). Wien-Köln-Weimar 1999, Notes, p. 308.

¹² Federal Archive Koblenz, Treuhandverwaltung von Kulturgut, B 323/343, 'Bayerisches Nationalmuseum an Bayerisches Staatsministerium für Unterricht und Kultus am 5. Mai 1949' (Translated into English by the author).

¹³ This refers to the work listed in note 1.

**The Art Loss Register - a private database
for the detection of stolen and looted art and antiques**

The ALR is creating the largest private, internationally-operating database for the detection of stolen art and antiques. Founded in London in 1991 with support from the art market and the insurance industry, the database currently stores records of approximately 120,000 stolen, looted or missing objects or those taken confiscated as a result of persecution.

Recorded are all those objects that are uniquely identifiable which have a minimum value of €1000, so that the database does not just include paintings, drawings, prints and sculptures but also furniture, silver, carpets, jewellery as well as valuable manuscripts and musical instruments. In an ideal world, the database would include all such losses, so that searches of the database for the status and location of questionable objects can be answered immediately. Almost 1,400 art objects including antiquities have been returned to their rightful owners thanks to the ALR plus a further 4,500 identified as stolen property thanks to research even where they have not been registered on the database. The company has now contributed to the identification of missing art to the value of over \$ 100 million. The investigation of Paul Cézanne's 'Jug with Fruit' was a sensational discovery. Stolen from a private American collection in 1978 and uninsured, it was found by The Art Loss Register in Switzerland exactly twenty years after the theft. Each month, the holdings of the database rise by a further 1,200 losses. 54% of all registrations originate from private ownership sources, 12% from museums and galleries and the remainder from either public or private institutions. Therefore, private art lovers and collectors constitute by far and away the group most affected by theft.

While the constant capturing of data serves as the basis for a potential identification, the ALR uses meticulous and efficient methods in order to contribute to the recovery of missing artworks. Over 50% of all identifications are the result of daily and routine matching against auction house material. Thus, each lot is systematically compared against the database by one of the ALR's art historian staff and on average, one lot in 4,500 is identified as stolen or missing. Over 300,000 lots are searched in this way annually.

A further important source for the identification of stolen objects are the enquiries received from law enforcement, museum curators, art dealers and private collectors. The Register offers the opportunity to check current stock, potential purchases or suspicious items with uncertain provenance. For the last two years, the ALR has been working "in the field" whereby, under contract with the most important art trade fairs, the ALR has been checking the stock of the exhibitors at the fairs itself.

Alongside the constant checking and presence of the ALR at the core of the international art market coupled with the continuous updating of the database in its four offices in London, New York, Cologne and, recently, St Petersburg, the success of the enterprise to detect stolen art and stem the problem of theft relies upon the capability of the individual staff who are all art historians plus have knowledge of the international art market. It is these precise qualifications that allow the identification of more and more recent losses alongside historical research in connection with so-called 'War Loot'.

Since the middle of June 1998, the ALR has been maintaining a database of so called 'War Loot' that is nevertheless integrated into the overall database. Into this 'Register of Looted Art' come listed works of art from private collections or public museums that were stolen, confiscated or forcibly sold during or as a result of World War II.

But while the lion's share of the looted art database encompasses works of art stolen by the Nazis, it is not limited to Jewish losses or those of other persecutes of the Nazi regime. So, alongside the losses due to the depredations of the red army or those following theft by allied troops, there are other losses resulting from the maelstrom of war. The Register of Looted Art currently records more than 15,000 artworks reported by individuals or institutions from France, Austria, Germany, Hungary, Russia, Poland and Belgium. In order to give claimants or their representatives the best chance of locating works of art missing for over sixty years as well as protecting the art trade from looted art through the exercise of 'due diligence', the sharing of information in respect of looted art must be a common interest.

Since the Register of Looted Art started its activities, over 25 objects have been identified by the ALR. In many cases, this has led to restitution by the parties. Each work reflects not only a very specific story of loss but also the individual circumstances of identification. Many museums in the United States and Europe use the database to record losses or check on the individual provenance of works in their collections, particularly for the period of 1933 – 1945. Since 1998, their usage has increased by 300%. The close co-operation that the ALR enjoys with the HCPO and the CAR, both in New York, is to their benefit.

The ALR is neither judge nor jury, nor does it replace the services of the police. But in the international spider's web of auction houses, galleries, collectors, police and insurance providers on the one hand and the victims on the other, the ALR acts rather more as the focal point for the marketing of art and its history. Both sides have always been inseparable. And it is only through an examination of both aspects that the individual histories and fates of works of art can be traced.

Ulli Seegers,
Art Loss Register Deutschland,
Köln

The Restitution Homepage of the Landesmuseum Joanneum and a cooperation project

The Steiermärkische Landesmuseum Joanneum in Graz was founded in 1811 by the archduke Johann Baptist of Austria. It is not only the oldest public museum of the republic of Austria but also the biggest. In its diversity and in its inventory of collection, it is the most significant of all the Austrian regional museums. Furthermore, it is the most important scientific-cultural institution of the Province of Styria. 16 specialised departments take professional care of the valuable and extensive foremost regional collection; a collection to do with the nature, culture and art of Styria. These departments are also responsible for preparing the collections to be presented to the public.

The association for "Acquisitions and reserves from Jewish property 1938-1955" is run by employees of the Landesmuseum Joanneum. At the beginning of April 1998, they were given the task of examining and analysing records from the war and post-war period in relation to the dubious acquisition of objects in the collection. Its objective is to establish whether there are still objects in the museum today that do not rightfully belong there, and to return them to the rightful owners or their heirs.

At the end of 1999, the results of this research were presented to the government of the Province of Styria in a full report of around 400 pages. Investigations had revealed that essentially three of the Landesmuseum Joanneum departments were affected: the Kulturhistorische Sammlung, the Neue Galerie and the Alte Galerie.

On March 14, 2000, a regional constitutional law based on the report of the Styrian regional parliament was passed to govern the return of dubious acquisitions from Jewish ownership. Subsequently, with the help of the Israelitische Kultusgemeinde in Vienna, several heirs were traced and their rightful property was returned.

In order to forge on ahead with the work, the association is now appealing to a wider public via the Internet in the hope of obtaining further information about the objects in question and their previous owners or current entitled claimants.

As a first step, the objects are presented which, according to what has been discovered to date, were passed on to the museum under circumstances that mean they should be considered for restitution according to the law mentioned above, and which so far could not be clearly linked to an owner or whose heirs were not known to the museum.

Via the homepage www.museum-joanneum.at you can get to the button "restitution", which shows an introductory page. This page explains the association and its investigation. A German and an English version are available. In order to access the objects considered for restitution, one has to click on one of the three icons for the Alte Galerie, the Neue Galerie and the Kulturhistorische Sammlung. In clicking on the objects, the reproduction will be enlarged and the technical description will be given (such as size and technique etc.) as well as the results of the research report. The employees turn to the reader with questions concerning the origin and the former inventory of the collection. It is possible to contact the person responsible directly via email addresses given alongside each object. The representatives for each department are as follows: Dr. Karin Leitner for the Alte Galerie, Dr. Gudrun Danzer for the Neue Galerie and Dr. Monika Jäger for the Kulturhistorische Sammlung.

It did not seem helpful to install a search function for the relatively small number of objects (54) as the person searching would presumably receive more error messages than successful hits. The visitor needs to browse through the homepage of the Landesmuseum or rather browse through the three departments to get a first overall view. Through the co-operation with the Koordinierungsstelle für Kulturgutverluste in

Magdeburg (FRG) it is now possible with the help of search functions to track down the individual objects according to the different material, artists and subjects.

Since August 27, 2001, the data of the Restitution Homepage of the Steiermärkische Landesmuseum Joanneum are included in the Internet database www.lostart.de of the Koordinierungsstelle für Kulturgutverluste in Magdeburg. The aim of this German-Austrian data co-operation is to establish an even greater transparency to increase the chances of identification and restitution of objects with provenance gaps. The co-operation makes it possible first for the museum's internal problems to become more well-known and secondly, it leads to new contacts with other researchers into origin and ownership from various museums. Thus, through a snowball effect a European network could be established; a network which through a high degree of advertisement could also spread widely within other continents.

Karin Leitner,
Regional Museum Joanneum,
Graz
Translation: Claudia Carrara

**The establishment of the Central Registry of Information on Looted
Cultural Property 1933-1945 -
www.lootedart.com**

The Commission for Looted Art in Europe (ECLA) was set up in March 1999 as an independent, non profit-making, expert body dealing with all matters relating to Nazi looted art and other cultural property. The ECLA, at www.lootedartcommission.com, assists families, communities, museums, governments and institutions worldwide with the research, identification and recovery of looted cultural property.

The founding charter of the ECLA contained the commitment to establish a Central Registry of Information on Looted Cultural Property 1933-1945. This has now been achieved, and the Central Registry is available at www.lootedart.com as a comprehensive website containing internationally available information and research relating to all cultural property looted between 1933-1945 - paintings, drawings, books, manuscripts, Judaica, archives and all other unique objects. Information and documentation has been collected from over 40 countries, and the Registry provides details of laws, policies and guidelines, official reports, government and non-government bodies, historical archives and other research resources, art trade records, cases histories, claimant information, news reports, and much else. The Registry includes a unique searchable database of many thousands of looted objects and of objects under investigation in museums and libraries throughout the world.

The need for a Central Registry of Information was first enunciated at the Washington Conference in December 1998 as the sixth of the 11 principles endorsed by 45

nations. The paramount themes of the Washington Principles were the need for countries to identify looted works of art, essential archives and records, and the need to make all information publicly available and accessible. The work undertaken since then both by organisations like the ECLA, and by countries and institutions around the world, has only served to underline the importance and urgency of establishing such a resource.

At the Vilnius International Forum on Holocaust Era Cultural Property in October 2000, the Final Declaration stressed again the need to provide and co-ordinate access to the widest possible range of information resources. At Vilnius, the ECLA was pleased therefore to be able formally to announce that funding had been raised to start work on the Central Registry.

Projects till now have generally been national or institutional websites of looted and/or missing property, or of cultural property with gaps in its provenance, and have arisen from commitments or research that have been undertaken as a result of government or institutional initiatives. Examples of these include the lostart.de database, sponsored by the German authorities, and the Landesmuseum Joanneum (www.museum.joanneum.at/restitution/) website, created by the museum to help trace owners of the looted objects in their collection.

Other kinds of databases have been built up by commercial organizations, such as Sotheby's and Christie's, and the Art Loss Register. The former two contain extensive information on looted families, looted objects and on traders in looted art, but this information is not publicly searchable and is used by the auction houses for internal and commercial purposes. The Art Loss Register has a database of looted works of art registered by families and other claimants, which is similar to the claimant database by the Central Registry.

The Central Registry differs from the existing projects in a number of ways. Firstly, it is an independent, non-commercial, charitable body under the auspices of an affiliated institution of Oxford University, the Oxford Centre for Hebrew and Jewish Studies. Its aim is pro-actively to assist all those involved in the research and identification of looted cultural property, and to be freely available for everyone.

Secondly, the Central Registry has an international focus. It is intended to be a repository of all internationally available information, original research and documentation on this whole subject, covering paintings, drawings, books, manuscripts, Judaica, any unique object. Information is organised by country and internationally, under a large number of categories as noted above, and all the information is fully searchable. The Central Registry will also work in conjunction with existing sites to provide information about them to users of the Registry, and to direct users to the sites themselves.

The Central Registry will function as a virtual encyclopaedia on looted cultural property. To ensure its international reach, an International Advisory Board has been

established comprising leading scholars and experts on this subject, who are contributing their knowledge, skills and expertise to help ensure that the Central Registry is the essential resource of its kind. The Central Registry is constantly increasing its communication networks with researchers all over the world, and is building many areas of dialogue to help in the drive towards providing the most up to date research, and the most creative sharing of information about the work that is taking place today.

The Central Registry website will also contain a singular searchable database of looted property and of works under investigation in museums throughout the world, with images wherever possible. Images are essential to families – that is what they most often remember. The Central Registry has secured agreements with over a dozen governments and institutions for the provision of data amounting to date to over 30,000 objects.

The philosophical principles underlying the Central Registry were first enunciated at Washington in 1998. The watchwords today are transparency, accountability and access to information. For 50 years the information available to families and those who lost cultural property during the Nazi years has been limited and hard to access. The information on the Registry should further the identification both of the thousands of works that remain missing, and of the families and countries from whom looted cultural property was taken.

Information has also been difficult to access for museum curators and art dealers, who may have wanted to know more about works of art they were acquiring or researching. Similarly for scholars, the primary materials on this subject have till now been widely dispersed, and sometimes hidden and unavailable. Access to specialized knowledge, and to other experts in the field, will supply a basis for developing our historical understanding of the scale and nature of the looting, of the post-war fate of the looted works, and of the history of the collections from which works were taken.

The Central Registry aims to have a practical and pro-active aspect. For example, the Central Registry is a tool for showing what resources are available internationally. It can also highlight resources that are not yet available. The Registry can show what research work is currently in progress, and what has been completed. It can illuminate principles and procedures operating in over 40 countries. It also provides a forum for the confidential exchange of inquiries on particular aspects of research, information about families, or any other subject. With regard to historical records, the Central Registry already receives many requests for information on the location of archives or records on particular subject areas, and about families and art dealers.

The Central Registry is a collaborative effort. As we are constantly learning about new sources of information and documentation to make publicly available, we ask all those working in this subject to send to the Central Registry details of any useful research materials that they find, so that they will be available for everyone.

International efforts, ties of cooperation and mutual assistance are essential or the work we all do. We hope therefore that the Central Registry will provide a forum for the exchange of information about these efforts, and that it will be an invaluable source of help to everyone in all their work.

Anne Webber,
Director Central Registry of Information,
Co-chair Commission for Looted Art in Europe,
London

III. The legal meaning of the documentation of lost cultural assets on the Internet

Looted Art Databases: Is there a legal dimension?

During the last years the first Internet-based databases of cultural goods looted during the time of the Nazi reign emerged. While some of them merely list works of art which are in possession of public museums or galleries and whose rightful owners are unknown, some of them also contain often detailed information about cultural goods missing since the end of the war and being searched for by their then owners (or rather their heirs now).

Looted Art Databases: An International Phenomenon

These several already existing national databases express the grown international concern about the fate of works of art deprived of their rightful owners by the Nazi regime: Databases allow to identify looted art and in this way to reconstitute cultural goods at last. Several countries agreed on the Washington Conference on Nazi-Confiscated Art (December 1998) to reinforce the return of works of art to their rightful owners and therefore to establish a central registry containing information on looted art (art. vi. Washington Conference Principles). Until such a central registry will be established, national databases have to serve as temporary solutions.

Return of Looted Art: Legal and Moral Implications

Looted art databases have without doubt factual effects on the art market: When consulted by art traders or collecting institutions, an entry in such a database indicates the unclear provenance of a concrete work of art and raises suspicion whether the possessor has a rightful title. However, it seems questionable whether the setting up of such databases can have legal consequences with regard to restitution claims, besides from casting doubt on the rightfulness of title. The return of works of art looted in the time of 1933-1945 is, to cite again the Washington Conference proceedings, a 'moral as well as a legal matter'. This statement indicates that from a

legal point of view restitution claims will presumably not in all cases be successful but can be satisfied only by relying on a more moral point of view. As looted art databases serve to facilitate the return of works of art, they inevitably share the fate of restitutions claims: The less these claims are founded on legal arguments, the less legal effects of databases are likely to be observed.

Consequences of Database Entries: Legal Uncertainty

But for what reason will restitution claims for looted works of art brought forward by their former rightful owners not be successful in every case? Most legal systems tend to react to the fact of a lasting divergence between rightful ownership and (factual) possession of chattels which is exactly the case regarding looted art contained in the described databases. While of course, the rightful owner has legal rights to claim recovery for the first time after the unlawful removal of works of art, these rights dry up in most legal systems already after a couple of years, e.g. by the expiry of relevant limitation periods (which are in some legal systems really short, e.g. three years under Russian law) or the possibility of a good faith possessor to acquire a rightful title by prescription (and therefore to extinguish the rights of the original owner). Moreover, in some legal systems like in Italy or Poland it is also possible to confer title to a good faith acquirer although the work of art in question is stolen. As chattel property law significantly differs from most legal systems it is crucial to determine which national property law is to be applied on works of art known to be looted. According to the *lex situs* rule which is being applied in almost all countries, chattel property is ruled by the national law of the country in which the work of art is situated at that time. If it is moved across a national border, it is from then on ruled by another law.

The Legal Dimension of Looted Art Databases

If therefore looted art is traced down by a database, in order to be able to make exact statements about rightful ownership one has to determine

- the exact provenance of the work of art after its unlawful removal including any border crossing;
- whether the former rightful owner has lost his rights due to expiry of limitation periods or prescription;
- whether title was conferred to a good faith purchaser;
- whether each possessor was in good faith or in bad faith with regard to his rights.

Knowing or not knowing these facts is decisive to help a restitution claim to be successful. The more time elapsed since the looting of a work of art, the more difficult it is, generally spoken, to determine these facts. With regard to works of art looted in the time from 1933 to 1945 there will surely be many claims which cannot be brought to a satisfying ('moral') result by mere application of legal rules, in this context also looted art databases will not have legal importance. However, there will also be emergence of claims which are legally founded – in these cases looted art databases have legal importance.

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**Failing to report a lost cultural asset at data banks –
abandonment of property?**

If an owner of a cultural asset (which was taken away from him as a result of the Second World War or resulting in NS-persecution) finds out that he has to claim the return of the cultural asset, he is confronted with the question, where to claim this loss.¹ The more the owner knows about the current location of the cultural asset, e.g. a museum abroad, the more simple it will be to him to assert the claim at the right authority. Frequently, it is only known to an owner that his cultural asset got lost in the course of the war. In such case it could be important that the owner publishes the loss as he otherwise might lose property rights in respect to the asset. The publication of the loss can be done at one of the growing number of "looted art"-data banks.

In order to reach such an obligation of the owner it would have to be claimed by positive law. But at present this is not the case, neither in international nor in national law. There is no legal norm including the obligation to register a lost cultural asset at a data bank. Though it is to be questioned whether or not an owner may lose his right to claim if he does not register the asset.

Dereliction is defined as wilful and voluntary abandonment of property. It is known to almost every legal system.² To the objective action of abandoning property, subjectively a corresponding will of the owner has to exist. Though the different legal systems recognize that the abandonment does not have to be declared explicitly. It is sufficient enough if the action is convincing. But the intention to abandon property has to be demonstrated in the action of abandonment and has to be visible. Simply to fail to register is therefore no abandonment of property. If an owner – which is probable in all cases of lost cultural assets – is not any more the possessor, it might be sufficient if he directs the corresponding will of abandonment towards the possessor. The non-entry of a cultural asset in a data bank can only be evaluated as a dereliction if it can be proved to the owner that he did not register the cultural asset at the data bank just because of his wilful abandonment of the asset. However, this is almost impossible if there are no other unambiguous circumstances to the matter.

On the other side, the registration of a lost cultural asset at a data bank can only be effective and can be a right-protecting claim if the data bank is at the same time the authority responsible for positioning the claim according to national law. If this is not the case the registration has only advantages in respect to a search for the cultural

asset but not to protecting the claim. In case the data bank is attached to a museum which at present accommodates the cultural asset the registration of the claim could be considered effective, e.g. to avoid that the claim comes under the statute of limitation.

Even in international law the same rule is applied. It could be considered an effective claim registration of a state at a data bank of a different state, if the data bank is at the same time the responsible authority according to domestic law for the elevation of return requests. A non-entry cannot represent an international law dereliction³. This could only be considered if the owner's government has knowledge of the exact location of the cultural asset, e.g. if the state of the location has asked the owner's government to place a claim. Then, a non-entry at the responsible authority could be evaluated as missing protest against the displacement of the property. This would result in the renouncement of the demand of the owner's state.

The registration of a lost cultural asset by a state at a foreign data bank can on the contrary always be evaluated as a protest against the displacement of the property. In the said case where a state asks another state to place her claim the application of statutes of limitation would be possible, provided that the state does not react to the announcement.

The request for restitution by an individual should be done in the following steps. At first it has to be indicated to the current possessor that the return of a shifted cultural asset is wanted. If the possessor declines it is to be claimed by prosecution at the legal courts of the state where the cultural asset is located. Only if the highest court of justice rejects the desire of the owner, he may seek diplomatic protection by the state he is a national of (local remedies rule). However, here could arise a problem for the owner. Provided that the state he is a citizen of has waived all legal claims in respect to private property, e.g. in reparation payment negotiations, the individual is also bound to what the state he is a national of negotiated. In this case the individual claim for restitution of a lost cultural asset has been converted into a claim for compensation against the state he is a citizen of.

The request for restitution of one state at another state is regularly carried out by diplomatic note. If a complaint is refused it would be possible to file a lawsuit at an international court of justice. Here, however, the complaint could already fail because the court of justice might fail to have jurisdiction over the case. Using an arbitral court would be another possible solution. But this requires, however, the agreement of the defendant state. The last means of international law would be a reprisal. However, on intergovernmental level the most promising way to reach a successful restitution of cultural assets is by bilateral negotiation.

The article represents a summary of a presentation which the author held on the conference "Data bank-supported documentation of lost cultural assets – demands, tendencies and co-operations" in Magdeburg, November 28 to 30, 2001.

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Notes:

¹ For material-legal questions about the publication of cultural assets in Germany cf. Armbrüster, "Privatrechtliche Ansprüche auf Rückführung von Kulturgütern ins Ausland", *Neue Juristische Wochenschrift* (2001), pp. 3581 et seq.

² For example, in the Federal Republic of Germany: § 959 Civil Code; in the Netherlands: Art. 5:18 Civil Code; in Switzerland: Art. 729 ZGB; the French Code Civile contains no explicit provision in respect to abandonment, of property however, it is recognized as such by customary law; in Great Britain one speaks of "willful abandonment", in the USA of abandonment of property voluntarily and deliberately.

³ Many details are seen controversial in international law concerning abandonment of property : i.e. whether it is sufficient - as the ruling opinion considers it - that the will to give up property arises from the circumstances. Cf. Brownlie, *Principles of public international law*, 4th edition, Oxford: Clarendon Press, 1990, pp. 145 et seq.; Verdross / Simma, *Universelles Völkerrecht*, 3rd edition, Berlin: Duncker and Humblot, 1984, pp. 754 et seq.

Internet Databases and the usucapio of WW II-looted art in international law: A new chance for restitution?

A. Introduction¹

The possibility to acquire a good title by the acquisitive prescription respectively the adverse possession dramatically jeopardizes the restitution of WW II-looted art.² The international art market and museums all over the world use this possibility or the prescription of a time- barred claim as a "killing" exception.³ In contrary to their opinion, *restitutio in integrum* is the only and just means for amendment and therefore should not be enforced on a moral, but rather on a legal basis.

In almost every legal system the problem of the lapse of a long period of time together with the uncertainty about the rightful owner of cultural property is regulated by legal instruments like the regular prescription or the related acquisitive prescription.⁴ In general, the latter instrument requires an open (adverse), undisturbed, uninterrupted, unchallenged possession of the object in good faith over a certain period of time.⁵ These requirements are applicable to the acquisitive prescription in private as well as in public international law.⁶

B. The adverse possession in between public and private international law

In the conflict of laws, the acquisitive prescription is qualified like the limitations statute to the *lex fori* (the jurisdiction where the claim is instituted) even if their right of action is still in existence according to the *lex causae* (law regulating the substance of the cause of action).

However, one should pay more attention to the standards of public international law because most cases of plunder of cultural property in war and persecution are originally qualified as an international crime, as a *delicta juris gentium*.⁷

The dispossession of art in the Second World War is qualified as a war crime or in the cases of persecution even discussed in a close connection to the holocaust. Therefore, it should be reflected under consideration of all aspects of the concerned case whether the result of a "successful" acquisitive prescription can be accepted.⁸

There is no doubt that the (international) public policy⁹ is the adequate mean to respond to insufferable and intolerable legal results in correlation with WW II looted art, for only public policy can originate and consider common international standards proscribing the genocide and war crimes adequately. No single national legal system is not – or has not to be prepared to react adequately to this unique factual and legal situation.

It should also be mentioned that the flexible instruments like estoppel or laches could handle prescription rules much better. Therefore the latest developments in German civil law seem to be a step in the wrong direction, as they stipulate a strict barrier of 30 years for any restitution claim.¹⁰

Going back to the main issue, we have to emphasize that the leading cases concerning the restitution of looted cultural property in World War II, especially in U.S. art law, dealt with the acquisitive prescription. In the view of the courts, the answer to that question very often was the decisive point of law, e.g. in cases like *Menzel v. List and de Weerth v. Baldinger*.¹¹

Dealing with the question of the proportionate and reasonable diligence in the bona fide purchase of artworks or the statutory duties towards the "innocent buyer", the courts pointed out that there are no adequate means to trace the provenance of sold good.¹² Considering the *livres raisonnées* and some special literature of that time, there was in fact no easy access to reliable information.

But nowadays, online-databases¹³ provide a powerful and comfortable data recall facility, where the origin and the fate of an artwork can be checked on a very efficient basis.¹⁴

Therefore, this article deals with the legal and factual interdependency between the modern Internet databases and the art-purchasers' knowledge preventing a possible adverse possession. The question is, if there can still be any innocent buyer of looted art when we consider the fact that the involved *objet d'art* is listed in such a database

or if there somehow exists some kind of statutory duty to attain the relevant knowledge by doing research in such databases.

C. The existing legal framework

The Washington Conference Principles on Nazi-confiscated art¹⁵ stipulate the necessity of a publication of art "that is found to have been confiscated by the Nazis" (V) or even a central register (VI).

But so far, in spite of further soft law-principles¹⁶ and efforts¹⁷ no effective legal framework¹⁸ on national basis has been developed in order to facilitate the restitution of looted art or to hinder the illicit trade with looted art.

Precise rules are needed to govern the relationship between the Internet databases and the possible knowledge of the current owner of looted art¹⁹ because they are the most decisive, practical and important requirements in the system of acquisitive prescription - not to mention the 'classical' issue of the bona fide purchase of cultural assets.²⁰

To illustrate the current situation: Every item which already was subject to (acquisitive) prescription has to be omitted²¹, except when this prescription, due to concrete factual reasons, has still to be considered as being doubtful.²² Of course, hiding cultural property in a "safe place" just until the time limit of the correspondent *situs* is reached, cannot permit any acquisitive prescription.²³ In this context, the exception that a claim is now barred by extinctive prescription has to be qualified as a clear abuse of rights.

D. Questions of good faith

The question whether there is some kind of statutory duty to consult the Internet, can be answered by an unequivocal: No! Nevertheless, it is clear that there is an *obligation to enquire* on a situs database²⁴ whenever there are some certain clues, whatever signs or indications²⁵, even a red flag in the pedigree of an artwork²⁶.

The intensity of the required diligence should be flexible, though, depending on the individual experience, knowledge, applicable ethics of conduct and repetition of art deals. For that reason every art professional *must* care for a clean provenance, whilst - on the other extreme of the scale - someone who buys a picture just once in his lifetime should not be confronted with highest standards of diligence.

Thus, when an owner of cultural property has just the *idea* - the slightest suspicion - that some circumstances in the purchase of the painting might not be correct or that something could be wrong, he should prove that he tried every suitable, reasonable and adequate measure in order to figure out the truth.²⁷

As we can see, a certain consciousness, somehow reasonable doubts in the bona fide-owners' perspective that he *could* not be the rightful owner is sufficient.²⁸ Otherwise this purchaser, objected being blind self-interested²⁹, is definitely not an innocent owner of looted art.³⁰

Unfortunately, problems can still occur if the lost art is only registered in just one national database, since the current possessor could allege that he consulted another database where the artwork was *not* included. Only the existence of a central register could resolve such a problem.³¹

Consequently, the Magdeburg Conference in November 2001 stressed that the lost and found data of looted art should be made accessible to a wider public through international co-operation by the development of an extendable meta search system on the Internet. With the establishment of such a powerful source of information, no one could any longer allege that he did not get the proper information about the provenance of his artwork. Furthermore rightful owners who have not yet lost their titles will be supported efficiently: A central register will help them to prevent any further illicit trade or acquisition.

E. Conclusion

The issue of looted art has not been acknowledged by the art world for a very long time.³² This enabled many purchasers to acquire a good title by acquisitive prescription.

The just way to deal with this historic responsibility should not just be the awareness of the *moral aspects* of the issue resulting in a feeling of obligation to restitute looted art.³³ In all cases where there still is a legal chance to interfere, every effort should be made to facilitate the return of looted art, either by international co-operation or by negotiations³⁴.

Above all, every owner or purchaser of art should feel his personal responsibility to have a look for the provenance of the artwork in certain cases, e.g. to enquire at a database when probably looted art is on sale. These objectives can be reached, inter alia, by providing precise legal provisions dealing with the interdependency between Internet databases and all possibilities of bona fide acquisitions (as shown) in order to establish a reliable legal due diligence.

In fact, there never is a limitation for providing new chances for restitution.

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Notes:

¹ This article bases upon the author's presentation "The legal meaning of Internet-databases in respect to cultural assets taken away as a result of the Second World War or confiscated as a result of NS-persecution regarding possible 'Ersitzung'", held at the Magdeburg Conference on November 30, 2001. The author would like to thank Ms. stud. ref. Veronica Klaus for her critical remarks.

² In German the so-called Ersitzung, as stipulated in § 937 BGB.

³ Compare the reaction of the Tate Gallery in London asked to restitute an oil painting on copper plate entitled View of Hampton Court Palace as prescribed by Norman Palmer, *Museums and the Holocaust* (2000), 15.

⁴ If the alienability of the cultural property is excluded by law, these cultural goods are specified as *res extra commercium*. "Demanio pubblico" (Article 822/3 CCit.) or "domaine public" is neither subject to adverse possession nor to limitation barriers, see Kurt Siehr, *International Art Trade and the Law*, RdC 243 (1993), p. 64 and 82.

⁵ The lapse of time spreads from just one year (Letland) to 30 years in French law (Article 2262 Code civil). Typical lengths of acquisitive prescription are 3 (Poland, the Netherlands), 5 (Switzerland, Art. 934 ZGB and Russia, Article 234 civil code) and 10 years (Germany, § 937 BGB et seq.).

⁶ Some authors seem to think that the acquisitive prescription is only applicable in private (international) law. But in the author's point of view the maxims of (immovable) territorial claims in respect to its acquisition by acquiescence are transferable to the acquisition of movable cultural property (*argumentum de maiore ad minus*), see also Karl Doehring, *War die Universität Heidelberg verpflichtet, die Bibliotheca Palatina dem Vatikan zurückzugeben?*, in: Ruperto Carola, *Heidelberger Universitätshefte* 39 (1987), Heft 76, p. 138 – 142.

⁷ For that reason, the breach of the Articles 46, 47 and especially 45 of the Hague Convention of 1907 regulating the protection of cultural property during wartime have to be considered as a breach of peremptory norms in international law (*ius cogens*), see T. Schweisfurth, *SBZ- Konfiskationen privaten Eigentums* (Frankfurt/Oder 2000), at 38.

⁸ In the famous case *City of Goth v. Sotheby's Justice Moses* pointed out that it "would touch the conscience of the court" if the (short) German limitation period would be applied in the circumstances of the defendants procedural behavior and the fate of *Wtewaels* painting. One also could use the pattern of public international law for the result that the acquisitive prescription has not taken place: In public international law this would always acquire some kind of open consentment of the plaintiff of the cultural good. In private international law these legal valuations should be considered because the limited intrastate law, even when applied in the conflicts of law, is not written for grave original breaches of public international law. In the author's opinion the discussion should be carried out much more in that question (interference between public and private international law) in respect to dealing with looted art from WW II and even more in respect to the persecution of the Jews in that time.

⁹ Compare Albert Bleckmann analyzing BGHZ 59, 82, 73 Int. L. Rep 226 (Benin-masks), in: *Sittenwidrigkeit wegen Verstoßes gegen den internationalen ordre public*, *ZaöRV* 34 (1974) 112-132.

¹⁰ The Bundesrat discovered this mistake in that greatest reform of civil law in German history (the so-called *Schuldrechtsmodernisierungsgesetz*) and suggested that the limitation rules should be reconsidered in respect to the very hard and unacceptable results preventing (better blocking) the

restitution especially of the NS confiscated art from Jewish provenance and the so-called "Beutekunst", see the declaration of 9.11.2001 under www.bundesrat.de.

¹¹ These judgements are well known because of their development of important limitation rules in U.S. (art) law just like the discovery rule (*De Weerth v. Baldinger*, 836 F. 2d 103, 107,111 (2d Cir. 1987)) and the preferable demand and refusal rule (*Menzel v. List*, 267 N.Y.S 2d 804, 808 [Sup. Ct. 1966]).

¹² See *O'Keefe v. Snyder* N.J. 416 A. 2d 862,885 Fn. 4 (1980): "...Similarly, there are no reasonable means readily available to a purchaser to ascertain the provenance of a painting. "

¹³ There are too many to name them all at this place, but as an example for Germany www.lostart.de should be mentioned. See also a survey of all relevant lost and found databases in the net at www.Beutekunst.info or www.art-restitution.de (Website under construction [4/2002], hosted by german art lawyers, historians and provenance researchers).

¹⁴ Compare Yeide/Akinsha, *The AAMD Guide to provenance research*, Washington 2001.

¹⁵ Compare e.g. Norman Palmer, [Fn. 2], Appendix VII, p. 278.

¹⁶ See Erklärung der Bundesregierung, der Länder und der kommunalen Spitzenverbände zur Auffindung und zur Rückgabe NS-verfolgungsbedingt entzogenen Kulturgutes, insbesondere aus jüdischem Besitz vom 14. Dezember 1999.

¹⁷ Resolution 1205 of the European council from 11/4/ 1999: Looted Jewish cultural property.

¹⁸ The restitution laws in France and Austria currently do not reflect on that issue.

¹⁹ So far there are only very few regulations dealing with this problem, see Unidroit Convention 1995, Article 4 IV.

²⁰ See Astrid Müller-Katzenburg, *Internationale Standards im Kulturgüterverkehr und ihre Bedeutung für das Sach- und Kollisionsrecht*, 1995, at 225 et. seq. and 315 et. seq.

²¹ This should mean all items, which were bought in good faith after WW II and longer ago than, e.g., 10 years (§ 937 BGB).

²² This shall mean e.g. gifts or grants to *German museums* from the National Socialist usurpator. In these cases, prescription can not take place from the very beginning. What's more, the knowledge of these conditions of acquisitions can still be presumed in these days by the instrument of the Wissenszurechnung (§ 166 BGB).

²³ From this moment on, cultural property seems to be alienable again.

²⁴ Deriving from the popular situs-rule in private international law.

²⁵ E.g. provenance marks or stamps on the back of a painting.

²⁶ E.g. the name of a person known to be involved in the illicit trade of art from doubtful provenance in the times of WW II, such as Wendland, Hofer, Haberstock etc.

²⁷ In the Swiss case *Koerfer gegen Goldschmid* the Goldschmids checked the provenance by reading loss books. For that reason the court refused to return two pictures of Henri Toulouse-Lautrec to the Koerfers. In an obiter dictum the Swiss federal court said that the lapse of time in prescription in different states might be considered together by adding them, if there are no indications that a prescription could not have taken place in one forum because of, compare BGE 94 II 297 ff.

²⁸ In German law, this is judged by the 'Parallelwertung in der Laiensphäre' (redliches Nachdenken über den Mangel des Rechtsgrunds oder des Eigenbesitzes).

²⁹ In German law, this behavior is called "eigennützige Blindheit" (§ 937 II BGB).

³⁰ This result does not depend on the professional status of the owner of looted art (art dealer, auctioneer or just a private purchaser).

³¹ Beside the Washington Principles you might refer to Rebecca L. Garrett, *Time for a change? Restoring Nazi-looted artwork to its rightful owners*, *Pace Int'l law review* [367, 2000], at 394.

³² See Michelle I. Turner, *The innocent buyer of looted art*, *Vanderbilt Journal of transnational Law*, [32, 1999] 1519 et seq.

³³ Moral aspects in fact become important when legal instruments can not be applied any longer in a successful way. Unfortunately they are not able to serve fairness in every case and adequate legal control.

³⁴ For details see Rebecca L. Garrett, *ibid.*, at 390 et. seq.

VI. Final Declaration

1. From November 28 to 30, 2001, an expert meeting on the "Database assisted documentation of lost cultural assets – Requirements, tendencies and forms of co-operation" was held in Magdeburg.

2. Experts from Belgium, France, Great Britain, the Netherlands, Austria, Russia, the Czech Republic, the U.S.A., and Germany specialized in public and private, national and international databases documenting the loss and discovery of cultural assets as well as specialists of art law, information processing, provenance research and other guests had followed the invitation of the Koordinierungsstelle für Kulturgutverluste.
3. In addition to the presentation of individual database and Internet projects and the discussion of legal aspects, opportunities for forms of co-operation were explored at length.
4. The participants agree that the documentation of lost cultural assets should be made as transparent to the public as possible.
5. With regard to professional, moral, and legal aspects, the participants consider it imperative to make the data on cultural assets, seized by the Nationalsozialisten or relocated due to World War II, accessible to a wider public through international co-operation. Until recently, information has been stored in separate individual databases or websites.
6. The participants in the meeting consider it necessary for each individual institution to identify the most adequate forms of technical, financial, organizational and content-related involvement in concrete cooperation projects.
7. Besides bilateral data exchange, the participants consider the development of an extendable meta search system for the Internet an efficient and user-friendly form of co-operation.
8. While preserving autonomy and copyright information, such a meta search system could give co-operation partners a tool to provide a wider public with easier access to data and to facilitate the desired transparency.

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