

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



Report 2007

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Cover:
St. Paul and St. Barnabas at Lystra by W. de Poorter (NK 2786)

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Used abbreviations:

BHG:	Origins Unknown Agency
ICN:	Netherlands Institute for Cultural Heritage
NK collection:	Netherlands Art Property Collection
OCW:	Culture, Education and Science
SNK:	Netherlands Art Property Foundation

Foreword

You have before you the sixth annual report of the Restitutions Committee, outlining its activities in 2007.

The year under review was a particularly busy one. The Committee reviewed 57 cases and issued 16 recommendations – far more than the number of cases handled in the first few years of its existence. In 2007 alone, the Minister for Education, Culture and Science (abbreviated as OCW in Dutch) referred 35 new requests for advice to the Committee. The large increase in the number of claims can be seen as a result, on the one hand, of the publicity campaign conducted in 2006 by the Ministry of OCW at the recommendation of the Ekkart Committee, in the Netherlands and abroad, the aim of which was to call attention to the expiry of the term for filing applications for restitution on 4 April 2007, and, on the other hand, of the Ministry's policy of having the former Origins Unknown Agency actively approach possible claimants. Incidentally, in the course of 2007, the Minister announced that claims could still be filed after 4 April 2007. As a result, the total number of cases the Committee will be dealing with is as yet unknown.

A key event in 2007 was the decision taken by the Minister for OCW to extend the Restitutions Committee's mandate by three years, from the end of 2007 until the end of 2010. The large number of claims for restitution, the continuing demand for independent research and assessment, as well as the wish to guarantee continuity in the handling of the claims prompted the Minister to decide to amend the 2001 Decree establishing the Advisory Committee on the Assessment of Restitution Applications, which provided for a maximum term of appointment of six years for its members. This opened the way for a third term for the Committee members appointed at the end of 2001. With the exception of the chairman, Mr B.J. Asscher, all sitting members of the Committee were reappointed on 23 December 2007, thus securing the expertise the Committee has built up in the last few years. The undersigned was appointed chairman from that date.

Mr Asscher, the previous chairman, was no longer available for a third term. The Committee is very much indebted to Mr Asscher, whose astute judgement was of great value to the Committee's advisory task, for his commitment in the last six years as vice-chairman from the end of 2001 and as chairman from late 2004. The Committee is delighted that both he and the Committee's first chairman, Mr J.M. Polak, are willing to serve as advisors to the Committee. The Committee is also obliged to Professor I.C. van der Vlies, appointed vice chair on 25 June, for her willingness to act as interim chair for the period between May to December 2007.

The Committee is pleased to be able to continue its duties, assured in the knowledge that it does so with the assistance of a skilled, dedicated secretarial staff.

R. Herrmann
chairman



1. An American soldier at Neuschwanstein Castle near Füssen, where the Allied Forces discovered a huge cache of artworks.

1. Introduction

This is the sixth annual report of the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (hereafter: the Restitutions Committee). The *Report 2007* is to be seen as a continuation of the reports previously published from 2002 to 2006.

The Restitutions Committee is an independent advisory Committee set up by the State Secretary for Education, Culture and Science (OCW).¹ The Decree establishing the Restitutions Committee stipulates that it is the Committee's task, based on current national policy, to advise the Minister for OCW on decisions to be taken concerning applications for restitution of items of cultural value whose original owners lost possession involuntarily due to circumstances relating directly to the Nazi regime.² In 2007, the Committee met on twelve occasions and issued advice in 16 cases, first to Minister M.J.A. van der Hoeven and subsequently to her successor, Minister R.H.A. Plasterk. From the date it took up its duties on 1 January 2002 to the end of 2007, the Committee received a total of 91³ requests for recommendation, 35⁴ of which were submitted in 2007. The Committee issued 49⁵ recommendations during that same period.

Chapter 2 of this report describes the composition of the Committee and its secretarial office, followed by a review of the year 2007. Chapter 3 then briefly discusses the Committee's advisory tasks. Several observations concerning policy framework and general considerations on which the Committee bases its recommendations are examined in chapter 4. Chapter 5 contains the full text of the recommendations issued by the Restitutions Committee in 2007, in addition to a statistical overview and details about a few of the cases.

¹ For a detailed description of the origins of the Restitutions Committee, see the 2002 and 2005 annual reports. All annual reports of the Restitutions Committee (years 2002 to 2006 inclusive) can be found on the Committee's website: <http://www.restitutiecommissie.nl> (Dutch language version) or <http://www.restitutionscommittee.org> (English language version).

² 'Decree establishing the Advisory Committee on the Assessment of Restitution Applications of Items of Cultural Value and the Second World War', dated 16 November 2001 (WJZ/2001/45374(8123)). Hereafter: Decree establishing the Restitutions Committee. Appendix 1.

³ Until the end of 2007, a total of 94 requests for recommendation were referred to the Restitutions Committee, two of which were deferred and one is combined with a request filed later.

⁴ In addition to the 35 requests for recommendation referred in 2007 by the Minister, one new case arose from the Mogrobi claim (RC 1.37). This is the recommendation, deferred in 2007, on a single art object from the Mogrobi claim. See the Mogrobi recommendation, paragraph 5.3, for more information.

⁵ The Committee issued 49 recommendations, one of which combined 2 separate requests for recommendation. Hence the total number of recommendation requests was 50.

2. The Restitutions Committee

2.1 Members of the Restitutions Committee and the secretariat

On 22 December 2007, the Restitutions Committee comprised the following members:

B.J. Asscher (chair)
I.C. van der Vlies (vice chair)
J.Th.M. Bank
J.C.M. Leijten
P.J.N. van Os
E.J. van Straaten
H.M. Verrijn Stuart

Mr J.M. Polak acted as advisor at the request of the Committee.

Between May to December 2007, Ms I.C. van der Vlies acted as interim chair of the meetings of the Restitutions Committee. She was appointed vice chair from 25 June 2007.

The three-yearly (re)appointment period of the members of the Restitutions Committee ended on 23 December 2007. Given the large number of cases referred to the Committee by the Minister in 2007 and the expectation that new requests for recommendation could follow, the Minister decided to renew the Committee's mandate from the end of 2007 to the end of 2010. *'In the light of optimum progress and continuity of the recommendations'* the Minister considered it appropriate to hold on to the reappointed members of the Committee and to make a third appointment term possible.⁶ To this end, the Decree establishing the Restitutions Committee dated November 2001, which provided for just one reappointment of sitting members, was amended accordingly.⁷

Mr B.J. Asscher was not available for a third term and laid down his duties as chair and member of the Committee on 23 December 2007. He will continue to serve as advisor to the Committee, as does his predecessor, Mr J.M. Polak. Commencing on the same day, Mr R. Herrmann was appointed chair of the Restitutions Committee for a three-year period up to 23 December 2010. In accordance with the amended Decree establishing the Restitutions Committee, members Van der Vlies (vice chair), Bank, Leijten, Van Os, Van Straaten and Verrijn Stuart were also reappointed until 23 December 2010.⁸

⁶ 'Amendment of Decree establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War' dated 8 November 2007, (WJZ/2007/41600 (8225)). Published in: *Netherlands Government Gazette*, 19 November 2007, no. 224, p. 9. Appendix 2.

⁷ Ibid.

⁸ 'Appointment member/chair and reappointment of members of the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War'. Published in: *Netherlands Government Gazette*, 12 December 2007, no. 241, p. 12. Appendix 3.

In the performance of its duties, the Restitutions Committee enlists the support of its secretarial staff under the management of Ms E. Campfens (secretary/rapporteur). In 2007, the secretariat also employed the following persons: Ms T. Brandse (office manager), Ms A.M. Jolles (archivist), Ms A.J. Kool (researcher), Mr F.M. Kunert (researcher), Ms A. Marck (deputy secretary/researcher), Ms E. Muller (researcher), Mr O.M. van Vessem (legal assistant) and Ms H.A.M. van Veldhoven (secretary). Given the large number of requests for recommendation and the maternity leave of one employee, Mr A.J. Bonke, Ms M. Stek, Mr T.D. van der Wal and Mr C.P.L. van Woensel were temporarily assigned to the secretariat in 2007.

2.2 A review of the year 2007

There were two particular developments in 2007, the year under review. The year marked the high point of the publicity campaign conducted by the Ministry of OCW with the explicit aim of giving maximum exposure to the possibility of restitution of works of art looted during World War II that are currently in the possession of the national government. And, for the first time, the beginnings of a change in public opinion were noted, in which the importance of public art collections was more expressly weighed against the moral satisfaction of returning items of cultural value that had been looted by the Nazis.



2. Claims exhibition at the Rijksmuseum, Amsterdam, 20 April – 9 June 1950.

In 2007, the Ministry of OCW also endeavoured to draw the attention of potential claimants to the possibilities of applying for restitution, using more than just the internet – an exhibition entitled *Looted, but from whom?* was organised in the *Hollandsche Schouwburg* in Amsterdam, in co-operation with the Jewish Historical Museum. Running from 30 November 2006 to 18 March 2007, the exhibition displayed state-owned works of unknown provenance administered by the Netherlands Institute for Cultural Heritage and attracted a good deal of attention from the public.

The main motive behind this campaign was the decision to set the deadline on the current restitution period of 4 April 2007. That meant that claims referred to the Ministry up to that date would be handled in accordance with the criteria of the liberalised restitution policy adopted by the government at the recommendation of the Ekkart Committee. The effect of this deadline and the publicity surrounding it was a huge influx of new claims to the Minister. Please refer to the information given in chapter 4 for claims filed after the said date.

In 2007, questions gradually started emerging in the media about the legitimacy of returning looted items of cultural value. This was sparked by reports about a legal dispute between the Goudstikker heirs and their lawyers and the auctioning off of Goudstikker works that had been returned in 2006. The discussion centred on two questions:

1. To what extent can descendants qualify for restitution and are they, in doing so, acting in agreement with the original owner? Should a certain limit be imposed on the legitimacy of claims filed by heirs?
2. Which (moral) value should be assigned to the restitution of looted works of art and which (cultural) significance is there in preserving valuable or unique items of cultural value in public art collections in the Netherlands?

Touching on the core of restitution policy, this discussion is by no means settled and will, in all probability, go on commanding public attention in 2008. The Restitutions Committee adheres with full conviction to the guidelines established by the government and parliament, which aim to compensate post-war parsimony in returning looted works of art by pursuing a generous policy in line with the latest insights into art loot during the Second World War.

The Restitutions Committee completed its second term of office in 2007. The Minister for OCW has decided that in its third term, the Committee will deal, among other things, with the series of applications that were submitted prior to the 4 April 2007 deadline. This year, the Committee issued 16 recommendations to the Minister. With the large number of claims, 35 in all, submitted in 2007 in consideration of the deadline, the Committee was compelled to prioritise its research agenda and place some claims on a waiting list. To bring waiting times down as far as possible, a number of researchers and legal assistants have joined the Committee's secretariat.

It was during the year under review that the Restitutions Committee for the first time considered requests for recommendation submitted under Article 2, paragraph 2 of the

Decree establishing the Restitutions Committee. These cases concern items of cultural value which are not in possession of the State of the Netherlands but of a private individual, a foundation or a provincial or municipal government institution, for example. Until the end of 2007 three such cases were referred to the Committee and it hopes to issue its first recommendations in 2008. In 2007, the Committee drew up regulations for handling requests for recommendation under Article 2, paragraph 2 of the Decree, which are discussed in more detail in paragraph 3.3.

After careful consideration, the Committee started to fine-tune the general considerations on which its recommendations regarding items of cultural value in state possession are based. This involves, in particular, the tightening up of the assessment framework in what are known as art-trade cases. With regard to this fine-tuning, the Committee was guided by the recommendations of the Ekkart Committee concerning the art trade. The amendment to the general considerations has been included in recommendations issued since December 2007 and will be addressed in paragraph 4.2.

As in previous years, the Committee was also active abroad. Committee member J.Th.M. Bank represented the Committee at the international conference *Restitution of confiscated works of art. A wish or a reality?* in Liberec (Czech Republic) from 24 to 26 October 2007, where he delivered a paper entitled *Restitution policy in the Netherlands 2002-2006: the Koenigs collection and the Goudstikker case*.



3. Glass goblet, decorated with diamond engraved portraits of Queen Mary Stuart, the text 'Regina Maria' and a floral motif on the base, c. 1680 (NK 464)
See recommendation RC 1.37.

3. Activities of the Restitutions Committee

3.1 Introduction

Based on the Decree establishing the Restitutions Committee of 16 November 2001, the Committee's task is to advise the Minister for OCW, at the latter's request, on:

- decisions to be taken concerning applications for the restitution of items of cultural value of which the original owners involuntarily lost possession due to circumstances directly related to the Nazi regime and *which are currently in the possession of the State of the Netherlands* (Article 2, paragraph 1 of the Decree);
- on disputes concerning the restitution of items of cultural value between the original owner who, due to circumstances directly related to the Nazi regime, involuntarily lost possession of such an item, or the owner's heirs, and the current possessor which *is not the State of the Netherlands* (Article 2, paragraph 2 of the Decree).⁹

If a work of art for which an application for restitution has been made is in possession of the State of the Netherlands and therefore part of the 'National Art Collection', the Committee will observe national policy in its recommendation.¹⁰ In cases in which the claimed objects are *not* in possession of the State of the Netherlands, but are owned for instance by a private individual, a foundation, a provincial or municipal government institution, then the concepts of 'reasonableness and fairness' define the assessment framework.¹¹

3.2 Cases concerning objects from the National Art Collection

All 16 recommendations issued by the Committee in 2007 concern applications for restitution referred to the Committee under Article 2, paragraph 1 of the Decree.¹² These cases involve applications for the restitution of works of art in state ownership, which are, for the most part, in the Netherlands Art Property Collection (NK Collection), a subdivision of the Netherlands Art Collection.¹³ The NK collection currently comprises approximately 3,700 works of art with a 'war history', objects that were confiscated or sold during the Nazi regime, most of which were taken to Germany whereupon they were recovered by the Allied Powers after 1945 and returned to the Netherlands, under whose administration they then fell.

⁹ Decree, Article 2, first and second paragraphs. Appendix 1.

¹⁰ See paragraph 4.1 of this annual report for an overview of the documents on which restitution policy is based. Please refer to *Report 2002* and *Report 2005*, also found on the Committee's website (see note 1), for a full description of national restitution policy.

¹¹ Decree, Article 2, fourth and fifth paragraphs. Appendix 1.

¹² See paragraph 5.3 of this report for the full text of the 16 recommendations.

¹³ The Netherlands Art Property Collection contains some 3,700 paintings, drawings, prints, ceramics, silver, furniture, carpets and other special items and it is administered by the Netherlands Institute for Cultural Heritage (ICN). Some objects are in museum and government institutions in the Netherlands and abroad, others are in the ICN depot.



4. Discovery by the allies of one of the hundreds of caches of stolen art. This shows an art collection stored by the German army at a farm near Klein Richterfeld.

Of the 16 applications for restitution regarding which the Committee issued recommendations to the Minister in 2007, 4 related to the art trade. These were the following cases: Morpurgo (RC 1.33), Mogrobi (RC 1.37), Lemaire (RC 1.27) and De Vries (RC 1.50).¹⁴ In art-trade cases, the claimed objects were not in private hands at the time of loss of possession but were part of an art dealer's trading stock. The Committee assesses art-trade cases using specific 'art trade policy' criteria. In the case of the art trade, the involuntary nature of the loss of possession is less obvious compared to cases involving the ownership of art by private parties, given that during the occupation, the selling of art was still part of business operations.

Restitution policy with regard to art-trade cases is described in more detail in the 2005 annual report, which can also be consulted on the Committee's website.

During the year under review, the Restitutions Committee received 34¹⁵ new requests for recommendation under Article 2, paragraph 1 of the Decree. This huge increase in the number of claims – partly a result of the expiry date for submitting applications for restitution under the liberalised policy (4 April 2007)¹⁶ – left the Restitutions Committee no option but to draw up a waiting list of claims regarding which active research is still pending. We refer to the *Report 2006* for the working method employed by the Committee as of the moment active research will start on the cases.¹⁷

¹⁴ See paragraph 5.3 of this report.

¹⁵ In 2007, the Restitutions Committee received a total of 35 requests for recommendation, 34 of which under Article 2, paragraph 1 of its Decree and 1 under Article 2, paragraph 2.

¹⁶ For more on this, see paragraph 4.3 of this report.

¹⁷ See paragraph 4.1 of the *Report 2006* of the Restitutions Committee, which can also be found on the website (see note 1).

3.3 Binding advice

Until the end of 2007, the Minister referred a total of 3 requests for recommendation under Article 2, paragraph 2 of the Decree to the Committee.¹⁸ Since these 3 cases were still being reviewed on 31 December 2007, their content will not be discussed until one of the next annual reports. These are claims where a dispute exists between the heirs or the legal successor of the original owner and the current owner. The distinguishing feature of these claims with regard to those cited in the previous paragraph is that the current owner is *not* the State of the Netherlands but is, for example, a private individual, a foundation or a provincial or municipal government institution.

In the year under review, in connection with the handling of cases referred pursuant to Article 2, paragraph 2 of the Decree, the Committee adopted certain regulations setting out the procedure for such claims. It follows from these regulations that the Committee complies with its advisory task in these cases by providing *'binding advice within the meaning of Section 7:900 of the Netherlands Civil Code or by promoting a settlement between the parties'*.¹⁹ The parties involved have to request the Minister to refer their dispute to the Restitutions Committee. After the dispute has been presented, and once the parties have signed an agreement stating that they accept the advice at issue as binding, the Committee will then hear the dispute.²⁰ The regulations provide rules governing the authority of the Committee, the admissibility of applicants and the hearing of disputes by the Committee. Article 4 of the regulations summarises the aspects the Committee may take into consideration in its binding advice, such as:

Article 4

The Committee makes a recommendation in accordance with the requirements of reasonableness and fairness, and may, in any event, take the following into consideration:

- a. the government's line of policy concerning the restitution of stolen works of art in so far as they apply by analogy;
- b. the circumstances in which possession of the work was lost;
- c. the extent to which the applicant has endeavoured to trace the work;
- d. the circumstances in which the owner acquired the work and the inquiries the owner made when acquiring it;
- e. the significance of the work for the applicant;
- f. the significance of the work for the owner;
- g. the significance for the public art collection.

The full text of the regulations can be found in Appendix 4 to this annual report.

¹⁸ Under Article 2, paragraph 2 of the Decree, 2 requests for recommendation were referred to the Committee in 2006 and 1 in 2007.

¹⁹ 'Regulations on binding advice procedure under Article 2, paragraph 2 and Article 4, paragraph 2 of the Decree establishing the Advisory Committee on the Assessment of Restitution Applications of Items of Cultural Value and the Second World War' (hereafter: Regulations). See Appendix 4 of this report for the full text of the Regulations). See Article 2, paragraph 2 of the Regulations for the cited text.

²⁰ Regulations, Article 6, paragraph 2.

4. Policy framework and general considerations

4.1 Policy framework

The Decree establishing the Restitutions Committee stipulates that to the extent that the applications for restitution concern objects in the National Art Collection, the Committee shall conduct its advisory task with due regard for relevant national policy. This policy framework was discussed at length in the 2002 and 2005 annual reports and remarks made there will not be repeated here.²¹ An overview of the documents from which the policy framework in question arises is included, however. Some of these documents can be found in the appendices to previous annual reports of the Committee.

<u>Date</u>	<u>Description</u>
April 1998	Recommendations of the Origins Unknown supervisory Committee
20 May 1998	State Secretary's response to the recommendations of the Origins Unknown supervisory Committee
21 March 2000	Letter to the Dutch Lower House concerning the government's overall position on World War II Assets
14 July 2000	Letter to the Dutch Lower House concerning the government's position on restitution and recuperation of items of cultural value
26 April 2001	Recommendations by the Ekkart Committee regarding the restitution of works of art
29 June 2001	Government's response to the Ekkart Committee's recommendations
16 November 2001	Additional government's response to the Ekkart Committee's recommendations
28 January 2003	Ekkart Committee's recommendations regarding the restitution of works of art belonging to art dealers
5 December 2003	Government's response to the Ekkart Committee's recommendations regarding the art trade
14 December 2004	Ekkart Committee's final recommendations
8 March 2005	Government's response to the Ekkart Committee's final recommendations

4.2 Amendment of the general considerations of the Restitutions Committee

As mentioned in paragraph 2.2, the Restitutions Committee bases its recommendations regarding applications for restitution of objects in the National Art Collection on five general considerations. The policy framework as set out in the Decree establishing the

²¹ See the Restitutions Committee website (see note 1) for *Report 2002* and *Report 2005*.

Restitutions Committee provides the basis for these general considerations. Until 12 November 2007, the general considerations were as follows:

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. Involuntary loss of possession is also understood to mean sale without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, insofar as the original owner or his heirs did not receive all the profits of the transaction, or insofar as the owner did not expressly waive his rights after the war.

In line with the recommendations with regard to the art trade published by the Ekkart Committee in 2003 and the government's response thereto, the Committee came to the conclusion in 2007 that consideration c should only apply to the ownership of art by private parties and not to the ownership of objects from an art dealer's trading stock. Consideration e was amended accordingly while, furthermore, this consideration should be taken to mean that *only* those objects that were effectively part of the old trading stock are eligible for restitution. The term 'old trading stock' refers to trading stock that was acquired by the (often Jewish) art dealer himself, before he was obliged to cease trading – generally because of measures taken by the occupying forces – and before a caretaker (*Verwalter*) was appointed to manage the firm.²²

²² The trading stock purchased under the caretakership of the *Verwalter* is indicated by the term 'new trading stock'.

Hence, as of 12 November 2007, the general considerations c and e of the Restitutions Committee read:

- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government if the art was privately owned, save in cases where exceptional circumstances apply.
- e. It is highly probable that loss of possession was involuntary if the object was sold without the art dealer's consent by Verwalters or other custodians not appointed by the owner of items from the old trading stock under their custodianship, insofar as the original owner or his heirs did not receive all the profits of the transaction, or insofar as the owner did not expressly waive his rights after the war.

4.3 Deadline 'liberalised claim policy': 4 April 2007

In its 'Final Recommendations' of 14 December 2004, the Ekkart Committee recommended that the government '*provide the opportunity to submit claims on works of art from the NK collection until two years following publication in the Government Gazette of the government policy formulated on the basis of these final recommendations*'.²³ The government adopted these 'Final Recommendations'. The following announcement was subsequently published in the *Government Gazette* on 4 April 2005:

*As of today, claimants have another two years in which they can seek to reclaim art looted by the Nazis. This is revealed in a government response to the final recommendations of the Ekkart Committee published today in this gazette. With the Committee, the government recognises that a period of two years is necessary to gather the information required to submit a claim. Nevertheless, both the government and the Committee consider a period longer than two years inappropriate because it is becoming ever more difficult to gather first and second-hand information about the situation during the Second World War.*²⁴

This publication made it clear that up until 4 April 2007, applications for restitution could be filed with the Minister for OCW under the liberalised government policy, which took effect at the recommendation of the Ekkart Committee after 2001.²⁵ The Minister indicated that for the review of claims submitted after 4 April 2007, recourse will have to

²³ 'Final recommendations of the Ekkart Committee', 14 December 2004. Published in: *Government Gazette*, 4 April 2005, no. 64, p. 13 and included as Appendix 4 in the *Report 2004* of the Restitutions Committee.

²⁴ *Government Gazette*, 4 April 2005, no. 64, p. 13.

²⁵ See also *Report 2004*, paragraph 4.4 and *Report 2005*, paragraph 3.3.

be taken to the restitution policy as it was pursued in 2000. The Minister described the policy of 2000 as follows to the Lower House:

*The essence is that the restoration of rights that took place after the war is not repeated. Claims that have not been submitted before or claims where new, relevant details have come to light can still be heard. The statute of limitations shall not be invoked in such cases.*²⁶

Until the end of 2007, the Minister for OCW had not referred any applications for restitution filed after 4 April 2007 to the Restitutions Committee.

In connection with the date of 4 April 2007 – the deadline for submitting claims under the liberalised restitution policy – and the exhibition *Looted, but from whom?* referred to in paragraph 2.2, the Ministry of OCW organised a symposium with the *Hollandsche Schouwburg* and the Jewish Historical Museum at the Royal Netherlands Academy of Arts and Sciences in Amsterdam on 13 March 2007. In addition to the keynote subject *Are there limits to provenance research?*, various domestic and foreign experts presented their views on the legal and ethical aspects of the time factor in relation to provenance research and looted Jewish art property. Committee member Prof. I.C. de Vries presented a paper at this symposium in which she addressed several background issues linked to the Dutch restoration of rights policy.



5. *Winter landscape with skaters* by A. van Breen (NK 2178)
See recommendation RC 1.42.

²⁶ Letter from the Minister for OCW to the chair of the Lower House of the States General, 27 April 2007.

5. Restitutions Committee recommendations

5.1 State of affairs 2002-2007

In the period since the Committee took up its duties in January 2002 until the end of 2007, the Minister for OCW has requested its advice in 94 cases. Two of these requests were withdrawn and one was combined with an application for restitution that was filed later. This leaves a total of 91 filed requests for recommendation. In that same period, the Restitutions Committee issued 49 recommendations.²⁷ The recommendations issued hitherto involved several hundred items of cultural value in the National Art Collection, varying from paintings by 17th-century Dutch masters to silver or porcelain objects. The scope varies from claims to a single work of art to claims for the return of several hundreds of art works. Of the total of 49 recommendations issued, the advice in 32 cases was to fully grant the claims in the applicants' favour. In seven instances, it was recommended that the claim be rejected in full.²⁸ In 8 recommendations, the claim was allowed in part and rejected in part²⁹ and in 2 instances, the Committee considered itself unauthorised to prepare a substantial recommendation.³⁰

Number of cases put before the RC each year		Number of recommendations issued by the RC each year	
2002	12	2002	5
2003	4	2003	7
2004	9	2004	2
2005	16	2005	7
2006	17	2006	12
2007	36 ³¹	2007	16
Total	94³²	Total	49³³

²⁷ The Committee issued 49 recommendations, including one in which two separate applications for restitution were combined. Hence, a total of 50 requests for recommendation were dealt with. All recommendations issued by the Committee can be found on the Restitutions Committee website (see note 1).

²⁸ RC 1.6 (Koenigs collection), RC 1.9, RC 1.11, RC 1.27 (Lemaire), RC 1.43 (Goldsteen), RC 1.55 (Ter Laare) and RC 1.59 (Letowski).

²⁹ RC 1.10, RC 1.15 (Goudstikker), RC 1.18, RC 1.19, RC 1.26, RC 1.3 (Mogrobi), RC 1.39 (Von Marx-May), RC 1.50 (De Vries).

³⁰ RC 1.13; RC 1.38 (estate of Anne Frank).

³¹ In 2007, the actual number of requests for recommendation referred to the Committee by the Minister was 35. The total of 36 requests in the table includes one case concerning a recommendation about NK 414, arising from the Mogrobi case (RC 1.37), which was deferred in 2007. See the Mogrobi recommendation in paragraph 5.3 for more information.

³² A total of 94 requests for recommendation were referred to the Committee, 2 of which were deferred and 1 merged with an application filed later.

³³ See note 27.

Until the end of 2007, the Committee issued recommendations on roughly 544 claimed items of cultural value. These recommendations granted claims in the case of 375 objects (approx. 69%) and advised rejection for the remaining 169 objects (approx. 31%). Below, an overview of the number of objects regarding which the Committee has issued recommendations over the period from 2002 to 2007: ³⁴

Year	Recommended grants <i>number of objects</i>	Recommended rejections <i>number of objects</i>
2002	100	0
2003	5	73
2004	4	1
2005	220	72
2006	15	1
2007	31	22
Total	375	169

5.2 Recommendations in 2007: details of a few cases

The Restitutions Committee had a total of 57 cases under review in 2007. Thirty-five of these were filed in 2007, 1 case arose from a deferred recommendation on an object from a claim, which, with regard to the other objects in that claim, was settled in 2007. The remaining 21 cases dated from previous years.³⁵

The Committee issued 16 recommendations in the year under review. The advice in 9 cases was to grant the claim in full,³⁶ to reject 4 in full,³⁷ and to allow the claims in part and reject them in part in 3 cases.³⁸ Together, this means that 41 requests for recommendation were still pending at the end of 2007, which are to be settled in 2008 or later.

Before the recommendations issued in the year under review are set out in full in paragraph 5.3, this section gives details of a few of the cases. The 16 applications for restitution on which the Committee advised the Minister in 2007 differ in complexity and

³⁴ This table takes no account of objects for which neither a grant or a rejection was recommended, for example the application for the restitution of various objects from the estate of Anne Frank (RC 1.38), with regard to which the Committee considered itself unauthorised to advise the Minister on account of the fact that loss of possession was not linked to circumstances directly related to the Nazi regime.

³⁵ See note 31.

³⁶ RC 1.52 (Kaufmann-Parser), RC 1.56 (Pimentel), RC 1.42 (Hakker/Anholt), RC 1.33 (Morpurgo), RC 1.58 (Alsberg), RC 1.47 (Carstens), RC 1.34 (Van Cappellen), RC 1.54 (Jaffé) and RC 1.69 (tin maccabee lamp).

³⁷ RC 1.27 (Lemaire), RC 1.43 (Goldsteen), RC 1.55 (Ter Laare) and RC 1.59 (Letowski).

³⁸ RC 1.37 (Mogrobi), RC 1.39 (Von Marx-May) and RC 1.50 (De Vries).

scope. More than half were the result of the Origins Unknown Agency (BHG) actively tracking down and approaching potential claimants, under responsibility of the Minister. The recommendation in the Kaufmann-Parser case (RC 1.52) issued by the Committee on 12 February 2007 is an illustration of this. This case concerned an application for the restitution of an eighteenth-century commode in the style of Louis XVI. Investigations showed that this commode was recognised by the applicant's mother at an 'art recovery exhibition'³⁹ after World War II as her property and subsequently claimed from the Netherlands Art Property Foundation. In its recommendation, the Committee came to the following conclusion concerning the events surrounding this post-war claim:

In the period following the exhibition, the director of the SNK,⁴⁰ J. Jolles, requested Kaufmann-Parser to provide evidence that the commode had belonged to her. However, Kaufmann-Parser's statement, and later that of her sister-in-law, were found by the SNK to be inconclusive proof. On the basis of the post-war dossier, the Committee concludes that the SNK's stringent requirements together with personal circumstances of the witnesses put forward by Kaufmann-Parser were the reason why the procedure was, at the time, unsuccessful.



6. SNK personnel at the claims exhibition at the Rijksmuseum, Amsterdam, 20 April – 9 June 1950.

³⁹ Several works of art recovered from Germany were made available to parties concerned at three 'art recovery' exhibitions in 1949 and 1950. If visitors recognised any of the objects on display as their former property, they could submit a claim with the restitution authorities.

⁴⁰ The Netherlands Art Property Foundation, the foundation in charge of handling post-war applications for restitution, under supervision of the Netherlands Property Administration Institute.

As a result of the active approach of the family by the Origins Unknown Agency, the family were once again given the opportunity to file a claim. On the basis of the investigation, the Committee found in its recommendation that the conditions for restitution had been met:

In accordance with the Ekkart Committee's eighth recommendation from 2001, national policy dictates that art objects 'can be returned if a plausible case has been made for ownership rights and there are no indications to the contrary'. In view of the fact that Kaufmann-Parser herself recognised the commode at the art recovery exhibition, as did her sister-in-law some time later, the Committee considers it highly plausible that the commode was indeed the property of the Kaufmann-Parser couple at the start of the war. Moreover, the Committee attaches importance to the fact that after seeing the commode on 12 June 2006, the applicant made a statement to the Origins Unknown Agency declaring that the piece of furniture was identical to the one that was formerly at her parents' house.

Seeing as its investigation had also established that the loss of the commode had been involuntary due to circumstances directly related to the Nazi regime, the Committee advised that the application for restitution be granted to the heirs of the original owner on 12 February 2007.

The inspection of the claimed object by the applicant, referred to above, was a result of an investigation by the Origins Unknown Agency and the active tracking down of the claimant. In 2007, there was also a claim that came about directly as a result of the exhibition *Looted, but from whom?* This exhibition was specially organised in the *Hollandsche Schouwburg* in Amsterdam in 2006-2007 with a view to finding owners who had not yet been tracked down. This concerns a recommendation made by the Committee on 3 December 2007 regarding a tin maccabee lamp (RC 1.69). Among the 50 art objects



7. An overview of the exhibition hall at the *Looted, but from whom?* exhibition in the *Hollandsche Schouwburg* in Amsterdam. The tin maccabee lamp from case RC 1.69 can be seen on the left in the display cabinet.

and paintings on display, the applicant recognised a tin maccabee lamp, also known as a chanukkiyah or menorah, as his property and applied for restitution.⁴¹ In his application for restitution to the Minister, the applicant says the following:

At the (...) exhibition on 4 December 2006, I most certainly recognised the abovementioned object as the one I owned before losing it during the Second World War. The Chanukkiyah was a Bar Mitzvah present given to me by my uncle, Mr B. Z. in Amersfoort.

The Committee's arguments in favour of returning the maccabee lamp are discussed in more detail in its recommendation RC 1.69 in paragraph 5.3.

In 2007, the Committee not only recommended that applications be granted but also that some be rejected. One such example in 2007 of a recommendation to reject an application is the Ter Laare (RC 1.55) case. The applicant in this case applied for the restitution of the painting *Reclining Nude* by J.C.B. Sluijters, saying that it had belonged to her father who, she said, had sent it to Germany in 1944 to have it sold by a third party. After the war, he stated to the Netherlands Art Property Foundation that the sale did not go through in 1944 but that the painting was never returned to him. The Netherlands Art Property Foundation then traced the painting to Germany and in May 1948, it was returned to the Netherlands, where it became part of the Netherlands Art Property Collection. As far as the Committee could ascertain, there was no further contact between the Netherlands Art Property Foundation and the applicant's father.

Irrespective of the question of whether it was indeed possible to identify the painting as being the former property of the applicant's father, in its recommendation, the Committee deemed there to be insufficient evidence pointing to involuntary loss associated with the Nazi regime:

Neither the existing archival material nor Ter Laare's declarations show that Ter Laare was forced by the Nazis to send the painting to Gelsenkirchen to be sold. Given the fact that Ter Laare did not belong to a persecuted group, the Committee is also of the opinion that there is no reason to suppose that any coercion took place. The applicant has also been unable to provide further information in this regard.

The Committee concluded that the conditions for restitution as set out in the national policy had not been met, advising the Minister on 11 June 2007 to reject the application for the restitution of *Reclining Nude*.

As mentioned in paragraph 3.2, the Committee issued 4 recommendations on objects from the trading stock of an art dealership in 2007. In cases of art dealers, the involuntary nature of loss of possession is less obvious compared to cases involving the ownership of art by private parties, given that during the occupation, the selling of art was still part of an art dealership's business operations. One of the art-trade cases the Restitutions

⁴¹ Such lamps or candlesticks were used during Jewish Chanukah celebrations in remembrance of the rededication of the Temple in Jerusalem by the Maccabees after the victory over the Syrians in 165 BC.



8. Morpurgo art dealers at Rokin 108 in Amsterdam, October 1955.

Committee looked into in 2007 was the Morpurgo case (RC 1.33). This was an application for the restitution of *A girl in a pastoral dress holding a basket*, a painting by J. van Noordt from the former trading stock of Firma Joseph M. Morpurgo. During the Second World War, the occupying authorities instructed that the art dealership be placed under the management of a *Verwalter*, who subsequently sold the business and part of the trading stock to a Viennese dealer. The rest of the trading stock was confiscated and sold at auction. The two partners in the firm were deported to Auschwitz and Theresienstadt concentration camps.

The Committee's considerations with regard to the ownership and subsequent loss of possession of the claimed painting and the question of who was to be designated as rightful claimant in this

case can be found in the Morpurgo recommendation in paragraph 5.3. As in all cases concerning the art trade, the Committee drew up its opinion with due regard for the Ekkart Committee's guidelines on art trade cases of 2003.⁴²

The Committee does not decide in every case in which it advises granting a claim that restitution should take place without it being subject to further conditions. One such example is the Van Cappellen case (RC 1.34), which concerned an application for the restitution of *Still life with fruit and fowl* by the Flemish artist J. Fyt, on which the Committee made a recommendation to the Minister on 14 May 2007. This painting was originally owned by an Amsterdam doctor, who did not belong to any of the groups persecuted by the Nazis. The investigation of the facts revealed that he had been forced to sell the painting during the Second World War to raise money to pay a fine imposed on the municipality of Amsterdam by Seyss-Inquart (*Reichskommissar*) in connection with the Dutch Strike of February (1941). The fine was to be paid by rich citizens of the city.

The Committee was of the opinion – as set forth in the Van Cappellen recommendation in paragraph 5.3 – that loss of possession in this case was involuntary and due to circumstances that were directly connected to the Nazi regime. The Committee went on to say that although the proceeds of the sale of the painting during the occupation were probably used to pay the fine mentioned above, the Committee assumed that the Dutch state compensated Van Capellen for it after the war. The Committee therefore

⁴² For a discussion of these recommendations see *Report 2005*, which can also be found on the Restitutions Committee website (see note 1).

deemed it reasonable that the restitution of the work of art be subject to the payment of a monetary consideration. To determine the amount, the Committee recommended that the sum received at the time be indexed on the basis of the general price index. Seeing as it was impossible to determine with certainty whether Van Cappellen was recompensed *in full* for the reconciliation money he paid, the Committee recommended subjecting the restitution of the painting to a reimbursement of half the indexed sale price.

Together with all other recommendations issued in 2007, the recommendations highlighted above are reproduced in full in the following paragraph.

5.3 Recommendations issued in 2007

1. Recommendation regarding the application for the restitution of a saucer, so-called 'klapmutsschoteltje' (NK 593) and the painting *Woman and child at a cradle* by J.S.H. Kever (NK 2231)

(case number RC 1.27)

In a letter dated 7 February 2005, F.L.L. asked the Restitutions Committee for the return of works of art from the Netherlands Art Property Collection that had belonged to his uncle, Marcus Frederik de Vries, a Jewish art dealer. In reply to this, the State Secretary for Education, Culture and Science (OCW) asked the Restitutions Committee in a letter dated 28 February 2005 to issue a recommendation about nine works of art (NK 1756, NK 2727, NK 3303, NK 1018, NK 2047, NK 2059, NK 1930, NK 593 and NK 2231). After F.L.L.'s death on 28 December 2005, his daughter F.L. took her father's place as applicant. For reasons to be discussed below, F.L. (hereafter referred to as 'applicant'), subsequently amended the application to include only the saucer (NK 593) and the painting *Woman and child at a cradle* by the artist J.S.H. Kever (NK 2231). The saucer is currently in the Zuiderzee museum in Enkhuizen and the painting at the Dutch Embassy in Ankara, Turkey.

The procedure

With reference to the original application for restitution made by F.L.L., the Restitutions Committee conducted a further investigation into the provenance of the nine works referred to above. The results were summarised in a draft report that was sent to F.L.L.'s heirs for comment on 16 January 2006. At the request of the heirs, F.L.L.'s nephew A.K. replied to this letter on 28 March 2006. It was established during the investigation that F.L.L. was not M.F. de Vries' heir. After the death of her father, the applicant therefore informed the Committee by telephone on 31 October 2006 that she was withdrawing the application for restitution, in so far as the objects formerly belonging to M.F. de Vries were concerned, and upholding the application for the objects NK 593 and NK 2231, which may have been part of the trading stock of her grandfather's art dealership (Galerie Lemaire).¹ The Committee confirmed this in a letter of 7 November 2006. As a result of the amended claim, the Committee drew up a new draft report which was sent to the applicant for comment on 7 November 2006. The applicant was also requested to provide additional information regarding the claimed objects. On 2 January 2007, the applicant said that she had found no further information in the files of Galerie Lemaire. The draft report was also sent to the Minister for OCW, who informed the Committee that there was no additional information. The report was adopted on 12 March 2007. For the facts of the case, the Committee refers to its investigatory report, which is considered an integral part of this recommendation.

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. Involuntary loss of possession is also understood to mean sale without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.

¹ Afterwards, the applicant's father continued this art dealership and the applicant herself currently runs the business.

Special considerations:

1. The applicant requests the restitution of the saucer (NK 593) and the painting *Woman and child at a cradle* by J.S.H. Kever (NK 2231) as heir of her father, F.L.L. The applicant states that she is also acting on behalf of the other heirs.
2. The fact-finding investigation has shown the following. In the 1920s, the applicant's grandfather Matthias Ludovicus Joannes Lemaire (1891-1979) established Galerie Lemaire, an art dealership specialising in ethnographic art. During the war, the gallery had its premises at Leidsestraat street in Amsterdam. Lemaire's wife, Mietje de Vries, was Jewish, he himself was not. The couple had two children, F.L.L. (the original applicant) and T.F.L. During the occupation of the Netherlands, the family was active in the resistance movement, distributing the 'Parool' newspaper and helping Jewish people who had gone into hiding. The family managed to come through the war safely.

Mietje de Vries' brother, art dealer Marcus Frederik de Vries, did not survive the war, however. He perished in Auschwitz on 18 July 1942. Mietje de Vries' mother, the applicant's great-grandmother, died in Sobibor on 2 July 1943, despite efforts taken by M.L.J. Lemaire to procure an exit visa for his mother-in-law, involving payment of a sum of NLG 30,000 on 30 June 1943. Half of this sum was taken from money that he held in safekeeping for his (diseased) brother-in-law, M.F. de Vries. The applicant stated that the purpose of selling the claimed painting by Kever was to finance this attempt at securing her release.
3. Few details are available about the dealings of Galerie Lemaire during the occupation years. As M.L.J. Lemaire was not Jewish, the art dealership was not placed under the administration of a *Verwalter*. Extant documents in archives did not show that Lemaire made any attempts after the war to recover any works of art which were involuntarily lost due to circumstances directly related to the Nazi regime. No files pertaining to the Galerie Lemaire were found in the archive of the Netherlands Art Property Foundation.
4. Pursuant to current national policy with regard to the restitution of items of cultural value, restitution may be recommended provided a plausible case has been made that the claimed objects were originally the property of (the art dealership) M.L.J. Lemaire and that the original owners involuntarily lost possession thereof due to circumstances directly related to the Nazi regime. The applicable government policy for the restitution of art works belonging to art dealers is explained in detail in the Ekkart Committee's document 'Recommendations regarding the restitution of artworks of art dealers' (January 2003). Although these guidelines apply in particular to Jewish art dealers, applicability extends beyond that. Pursuant to the recommendations it is important here that the loss of property of works of art through sales by both Jewish and non-Jewish art dealers during the war years – other than sales effected by private Jewish persons – is not assumed to have been of an involuntary nature, given that *'the majority of transactions conducted involved, in principal, normal sales, in Jewish art dealerships too.'* A reasonable case should be made for the possibility that Lemaire's loss of the claimed objects was involuntary.
5. In respect of the saucer, the investigation showed that it was in Galerie Lemaire's trading stock in 1943 and that it came into the possession of the Thaulow Museum in Kiel, Germany, in 1943 or 1944, which had, in that same year, acquired several objects of applied art from Galerie Lemaire. The investigation did not, however, reveal any evidence that sales were involuntary due to circumstances directly linked to the Nazi regime. As mentioned above, the art dealership had not been placed under the administration of a *Verwalter*, and therefore no involuntary sales took place for that reason. In addition, as appears from the archive of the Netherlands Art Property Foundation, Lemaire did not report the loss of this object nor did he correspond about its return. The additional fact that the saucer was sold to a German museum does not directly point to an involuntary sale, as would possibly have been the case had the object been sold to Nazi art buyer. Finally, there is no evidence to suggest that the saucer was sold to fund efforts to secure the release of M.L.J. Lemaire's mother-in-law in 1943, or that the sale was directly linked to the funding of resistance activities. The Committee therefore assumes that the sale was voluntary and recommends rejecting the application for the restitution of this object.
6. As regards ownership of the claimed painting NK 2231, the Committee finds as follows. Documents in the archive of Amsterdam auction firm Mak van Waay showed that Galerie Lemaire put the painting up for auction on 22 December 1942, where it was bought by art dealer Oncken in Oldenburg, Germany. On the basis of information supplied by the original applicant, F.L.L., the Committee considers it plausible that the work was the property of art dealer Marcus Frederik de Vries, who had it put in storage at the art dealership of his brother-in-law Lemaire, along with seven other paintings. The Committee also considers it plausible that after De Vries' death, Lemaire had the painting NK 2231 sold at auction on behalf of the latter's widow Solvejg Fuchs, who was of Jewish extraction and in hiding at the time. The Committee come to this conclusion on the basis of a note F.L.L. made on a photograph of the painting:

'This painting "Woman at cradle" was sold by my father at an auction for Solvejg-Fuchs. This painting was brought by Marcus [Frederik de Vries, RC], together with seven other paintings, [...]. These seven paintings were all in storage at my father's house, Leidschestraat no. 29 in Amsterdam. Sold by Solvejg or my father Lemaire during the war years.'

7. As it has not been made plausible that the painting NK 2231 was the property of (Galerie) Lemaire, it is the Committee's opinion that the applicant cannot claim the restitution of the work.

In the light of the above, the Committee is of the opinion that the application for restitution of the saucer (NK 593) and the painting *Woman and child at a cradle* by J.S.H. Kever (NK 2231) are not admissible.

Conclusion

The Restitutions Committee advises the Minister for Education, Culture and Science to reject F.L.'s application.

Adopted at the meeting of 12 March 2007,

B.J. Asscher (chair)
J.Th.M. Bank
J.C.M. Leijten
P.J.N. van Os
E.J. van Straaten
H.M. Verrijn Stuart
I.C. van der Vlies

2. Recommendation regarding the application for the restitution of *A girl in a pastoral dress holding a basket* by J. van Noordt (NK 1742) (case number RC 1.33)

In a letter dated 11 July 2005, the State Secretary for Culture, Education and Science ('OCW') asked the Restitutions Committee to issue a recommendation on the application by A.W.-M. of Amsterdam (hereafter referred to as 'the applicant') for restitution of the painting *A girl in a pastoral dress holding a basket* by J. van Noordt from the former trading stock of Firma Joseph M. Morpurgo (hereafter also referred to as 'art dealership Morpurgo'). The claimed work of art was previously also attributed to J.A. Backer, G. Flinck and J. Ovens and has been part of the Netherlands Art Property Collection (hereafter referred to as 'NK collection') under inventory number NK 1742 since it was returned to the Netherlands after the Second World War. The painting is on long term loan to the Mauritshuis in The Hague.

The procedure

The application for restitution was filed in response to documentation of the Origins Unknown Agency (hereafter referred to as: 'BHG') on several works of art that may have been part of the trading stock of art dealership Morpurgo during the Second World War. Based on this documentation, the applicant asked the State Secretary in an undated letter of June 2005 for restitution of the above painting. In response to the request for recommendation that was subsequently submitted to the Restitutions Committee, the committee instituted a fact-finding investigation, the results of which have been recorded in a draft report of 21 August 2006. This draft report was submitted to the applicant, in response to which she submitted her written memories in a letter of 8 October 2006. The applicant's response as well as information resulting from the further investigation have been incorporated in the draft report that was adopted in the committee meeting of 12 March 2007. For the facts of the case, the Committee refers to the report, which is considered an integral part of this recommendation.

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. Involuntary loss of possession is also understood to mean sale without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.

Special considerations:

1. The applicant requests the restitution of the painting *A girl in a pastoral dress holding a basket* by J. van Noordt (NK 1742). The applicant is the owner and sole trader of the firm of Joseph M. Morpurgo, established at Herengracht 119 in Amsterdam, the continuation of Firma Joseph M. Morpurgo. In this context, the committee has taken cognisance of an extract from the trade register of the Chamber of Commerce dated 15 September 1947, as well as of a recent extract from the trade register of the Chamber of Commerce dated 1 March 2007. The applicant has indicated that in this application for restitution she is acting as the sole heir to her father Lion Morpurgo. In this context, the committee has taken cognisance of a certificate of inheritance dated 19 April 1994, drawn up by Henricus Bernardus Johannes Stein, notary-public in Amsterdam.



9. *A girl in a pastoral dress holding a basket* by J. van Noordt (NK 1742)

2. All relevant facts are given in the investigatory report of 12 March 2007. This recommendation limits itself to the following summary. Art dealership Morpurgo was established in 1869 and was managed by the Jewish art dealer Louis Morpurgo, the applicant's grandfather, from 29 April 1926 onward. Louis Morpurgo was married to Naat van Wynbergen. The couple had five children: Flora, Lion, Selma, Rachel and Susanna Morpurgo. The committee has taken cognisance of an agreement dated 1 August 1939 between Louis Morpurgo and his son Lion Morpurgo, from which it can be inferred that both of them were partners in the Firma Joseph M. Morpurgo. The agreement also shows that after his father's death, Lion Morpurgo would be entitled to continue the firm on his own, with the obligation of making payments to his father's other heirs, the amount of which was to be determined later.
3. At an unknown point in time at the beginning of the Second World War, art dealership Morpurgo was closed down by the Sicherheitsdienst (SD). In November 1941, under a decree issued on 12 March 1941, the aim of which was to remove Jews from the business sector, the German occupiers appointed Jacques Jansen, a trader of German nationality living in Amsterdam, as Verwalter. During Jansen's administration, Louis and Lion Morpurgo each received an amount of NLG 200 for a period of approximately six months, but they were denied access to the art dealership. A study of the archives has shown that, as Verwalter of the firm of Morpurgo, Jansen '*continuously "acquired" and "sold" goods as if he were the owner himself, or rather, he made a mess of things*'. After the war, most of the books Jansen had kept during his administration had disappeared, so that it is no longer possible to gain a clear insight into the management of art dealership Morpurgo during this period.
4. In the summer of 1942, the occupying forces deported Louis Morpurgo to Auschwitz concentration camp, where he died on 11 or 12 August 1942. His son Lion Morpurgo was deported to Theresienstadt concentration camp at an unknown date and survived the war.
5. On the instructions of the German authorities, Jansen's administration of art dealership Morpurgo was terminated in October 1942, after which the business, including part of the remaining trading stock, was sold to a Viennese trader on 19 October 1942. The part of the trading stock that was not sold in this transaction was confiscated and auctioned on the instructions of the German Omnia Treuhandgesellschaft mbH (hereafter referred to as 'Omnia'). Omnia deposited the proceeds of the sales – a total of over NLG 62,000 – in the name of the firm of Morpurgo with the Bank voor Nederlandschen Arbeid N.V. It is not known whether the art dealership had access to this money after the war.

6. After the liberation, Lion Morpurgo returned from camp Theresienstadt to Amsterdam. He continued the Firma Joseph M. Morpurgo as sole owner as of 1 October 1945. In 1947, he stated the following about the financial damages incurred during the war: *'All in all, I lost approximately 400,000 guilders to the Germans during the war, which I believe is quite a low estimate. Jansen will have acquired a significant share of this money, or even the lion's share, I dare claim'*.
7. After the war, Lion Morpurgo reported dozens of objects from the former trading stock of art dealership Morpurgo missing to the Netherlands Art Property Foundation (hereafter referred to as 'SNK'). Based on the rules for filing such a claim applicable at the time, he limited himself to the works of art that he knew had been sold directly to German buyers. Painting NK 1742 is not listed on the Declaration Forms, nor anywhere else in the Morpurgo dossier in the SNK archive. The committee therefore concludes that no prior application for restitution of NK 1742 has been made, as a result of which this application is admissible.
8. As regards ownership of the claimed painting (NK 1742), the investigation has yielded the following results. An exhibition catalogue found shows that the painting was part of the art dealership's trading stock in 1929. Moreover, the committee refers to the applicant's letter of 8 October 2006, in which she recorded her childhood memories from the period starting in *'approx. 1936 until the end of the first year of the war, 1940'*. In this letter, the applicant says she remembered that NK 1742 was in the art dealership in this period: *'Walking up the narrow stairs, which made a turn coming from the ground floor, you would come to the first floor where painting no. NK 1742 was hanging on the wall facing Spui, approximately in the middle'*.
9. The investigation has also revealed that, at an unknown point in time, NK 1742 came into the possession of Haarlem dealer M. de Ridder, who, on 13 January 1944, sold the work of art through an agent for the collection of the Führermuseum in Linz that was to be established. Archival evidence shows that at some point, before it was in the possession of M. de Ridder, NK 1742 was part of the collection of H.P. Doodeheefver, an Amsterdam private art collector, known to be active on the art market during the occupation. Based on a surviving list of accounts receivable of art dealership Morpurgo, the committee has found that H.P. Doodeheefver purchased a work of art from the firm, during the administration of Verwalter Jansen, in the period between 1 December 1941 and 18 October 1942. Given the fact that most of Jansen's books have disappeared, it is impossible to say exactly what he purchased.
10. Based on the above, the committee deems it highly likely that the painting *A girl in a pastoral dress holding a basket* was still part of the trading stock of the Morpurgo art dealership on 1 December 1941 and that it was sold to H.P. Doodeheefver prior to 18 October 1942, under Verwalter Jansen's administration. The committee refers to the eighth recommendation of the Ekkart Committee from 2001, which was adopted by the government and also applies to art dealerships, and which states that a work of art be restituted if the title thereto can be proved with a high degree of probability and there are no indications to the contrary. An explanation to this recommendation states that, in dividing the burden of proof, the applicant rather than the State should be given the benefit of the doubt.
11. As regards the question of whether the loss of possession of NK 1742 can be considered involuntary, the committee rules as follows. As considered above, the committee deems it highly likely that NK 1742 was sold to Doodeheefver during Verwalter Jansen's administration. Given the fact that Louis and Lion Morpurgo were denied access to their company almost immediately upon the start of Jansen's administration, the committee considers it likely that they did not consent to this sale. With reference to the sixth art dealership recommendation of the Ekkart Committee from 2003, which states that sales by Verwalters from the stocks under their management are considered an indication of involuntary sale, the committee concludes that the involuntary nature of the loss of possession is sufficiently plausible. In view of the above, the committee deems the application for restitution of NK 1742 admissible.
12. The question then remains which parties are entitled to the restitution. The committee's considerations in this respect are as follows. In accordance with the continuation agreement concluded by Louis and Lion Morpurgo on 1 August 1939, Lion Morpurgo, one of the two partners of the firm of Joseph M. Morpurgo, continued the company after the war after the death of the other partner, viz. his father Louis Morpurgo, on condition that he pay his father's other heirs. In this context, the committee has taken cognisance of three statements by Lion Morpurgo's then still surviving sisters dated January 1947, in which they say that the financial settlement in question was to take place at a later point in time. This had to do with the fact that the amounts to be paid could not be determined in 1947 because of pending restoration of rights procedures. The committee assumes that the restitution of NK 1742 was not taken into account in the eventual performance of the agreement and the financial settlement. The committee is of the opinion that the 1939 agreement will have to serve as the basis for restitution of NK 1742. On that basis, art dealership Joseph M. Morpurgo would have been entitled to restitution of NK 1742, with settlement of the value of the painting with Louis Morpurgo's heirs. The committee rules, therefore, that as owner and sole trader of Joseph M. Morpurgo, the applicant has a claim to restitution of NK 1742, although the value of the painting will have to be settled with Louis Morpurgo's heirs.
13. Finally, in light of compensation received by the Morpurgo art dealership, the question will have to be answered of whether restitution of the painting will have to be made conditional on payment of a sum of

money. The committee finds as follows. The investigation shows that, after the liberation, art dealership Morpurgo received some compensation of damages incurred on the basis of amicable settlements with brokers and auctioneers. The dossiers also show that, after the war, art dealership Morpurgo submitted claims with the post-war administrators of the Bank voor Nederlandschen Arbeid N.V. and Omnia. Whether and to what extent these claims were honoured is not known. In so far as the committee has been able to ascertain, neither the damages nor the outstanding claims refer to the painting currently claimed. The committee finds, therefore, that art dealership Morpurgo has not received compensation for NK 1742, so that repayment of a sum of money is not in order.

Conclusion

The Restitutions Committee advises the Minister for Culture, Education and Science to return the painting *A girl in a pastoral dress holding a basket* by J. van Noordt (NK 1742) to the applicant as owner and sole trader of Joseph M. Morpurgo, without prejudice to the stipulations under consideration 12.

Adopted at the meeting of 12 March 2007,

B.J. Asscher (chair)
J.Th.M. Bank
J.C.M. Leijten
P.J.N. van Os
E.J. van Straaten
H.M. Verrijn Stuart
I.C. van der Vlies

3. Recommendation regarding the application for the restitution of *Still life with fruit and fowl* by J. Fyt (NK 1728)

(case number RC 1.34)

In a letter dated 11 July 2005, the Minister for Education, Culture and Science (OCW) asked the Restitutions Committee to issue a recommendation regarding the application dated 5 June 2005 submitted by M.M. v. C.-R. ('the applicant') for the restitution of a seventeenth-century painting entitled *Still life with fruit and fowl* by J. Fyt (NK 1728). The claimed work of art is part of the Netherlands Art Property Collection under the custody of the national government and is currently on deposit at the Netherlands Institute for Cultural Heritage.

The procedure

The application for restitution was filed in response to a letter to the applicant dated 25 October 2004 from the Origins Unknown Agency (hereafter referred to as: 'BHG'), containing a request for more detailed information regarding the painting NK 1728. According to the BHG, the painting was sold by her father-in-law, Dr. Dr. D. van Cappellen, during the war. In response to the request for recommendation, the committee instituted a fact-finding investigation, the results of which were recorded in a draft report dated 31 July 2006. This draft report was submitted to the applicant, to which she responded in a letter dated 17 November 2006. The report was subsequently adopted on 14 May 2007. For the facts of the case, the Committee refers to the report, which is considered an integral part of this recommendation.

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. Involuntary loss of possession is also understood to mean sale without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.

Special considerations:

1. The applicant requests the restitution of the painting *Still life with fruit and fowl* by the Flemish artist J. Fyt, formerly belonging to her father-in-law Dr. D. van Cappellen. The applicant was married to Dr. D. van Cappellen's son, who, according to the applicant, died in 2003. She declares that she is filing the application as his heir. No documents have been submitted regarding the applicant's position pertaining to the law of succession.
2. The fact-finding investigation has revealed the following: various documents in the archives of the Netherlands Art Property Foundation (hereafter referred to as: 'SNK') show that the Amsterdam urologist, Dr. D. van Cappellen, gave the painting by J. Fyt on consignment to the art dealer P. de Boer on 21 March 1941 for the sum of NLG 6,000. De Boer sold the work by Fyt in May 1941 for the sum of NLG 10,000 to Dr. Hans Posse for the Führer Museum that was to be built in Linz. The documents show that Van Cappellen was then paid NLG 6,000 as agreed.
3. According to a post-war statement from 1949, Van Cappellen told the Dutch authorities that he had sold the painting, along with eleven other works of art, under duress 'to raise the money to pay a fine imposed by *Seys-Inquart*.'
The investigation revealed that Van Cappellen was referring to a fine that the Nazis had imposed on a few municipalities, including Amsterdam, soon after the Strike of February 1941, on the 25th of that month. A penalty of NLG 15 million was imposed on Amsterdam. In order to raise the sum, the municipalities were required to requisition payment of the imposed amount from citizens with a taxable income over NLG 10,000 within six weeks ('reconciliation money'). Documents preserved in the Amsterdam Municipal Archives show that Van Cappellen was required to pay a total of NLG 10,234.10. In November 1942, the municipality of Amsterdam refunded NLG 1,024.31 of it to him, so that in the end, paid a total of NLG 9,209.79.

Given the fact that the date on which Van Cappellen gave the painting on consignment to De Boer (21 March 1941) fell within the six-week period that the municipalities were granted, the Committee deems Van Cappellen's statement credible. However, the Committee would like to note that the investigation revealed that post-war tax legislation provided for the restitution of reconciliation money to those parties involved. Because it was a universal statutory regulation, the Committee considers it plausible that Van Cappellen also took advantage of it or at least could have done so. The Committee therefore also assumes that, after the war, Van Cappellen was compensated for the fine he had paid. At present, there is no way to verify whether this compensation was in full. Inquiries into this matter at the Ministry of Finance did not yield any additional information.

4. The painting NK 1728 was recovered from Munich in 1946 and returned to the Netherlands where it was probably stored in the SNK depot.



10. *Still life with fruit and fowl* by J. Fyt (NK 1728)

5. After having recognised the painting at a claims exhibition held from April to June 1950 at the Rijksmuseum in Amsterdam, Van Cappellen submitted a request for restitution. The SNK, succeeded by the Bureau for Restoration Payments and the Restoration of Property (Hergo) under the direction of J. Jolles, acknowledged that the painting by Fyt had belonged to Van Cappellen, but required further proof as to the involuntary nature of the sale. Moreover, Jolles indicated that the painting would only have been returned after NLG 6,000 had been paid, the amount that Van Cappellen had received for it at the time. Because the work of art was valued at a mere NLG 1,000 after the war, Van Cappellen abandoned the procedure.
6. In the 1980s, Van Cappellen's son made several attempts to gain possession of the works of art sold by his father at the time, which included the currently claimed painting. However, contacts with the Ministry of Finance and the Ministry of Foreign Affairs did not lead to a decision on the restitution of the works of art. Therefore the Committee does not consider this a case that was settled in the past and deems the application admissible.
7. As to the question whether restitution can be recommended, the current restitutions policy is concerned with whether the sale of the claimed painting can be considered involuntary and due to circumstances that were directly connected to the Nazi-regime. In this respect, the Committee notes that Van Cappellen was not Jewish, nor did he belong to one of the other groups persecuted by the Nazis. The reversal of the burden of proof for persecuted groups, as provided in the Ekkart Committee's third recommendation of April 2001, is therefore not applicable. Consequently, the question is whether the sale by Van Cappellen of the painting was directly linked to the fine that the Nazis had imposed and can therefore be considered an involuntary sale.

The Committee answers this question in the affirmative. Based on the facts found by the investigation, the Committee deems it plausible that Van Cappellen would not have sold the painting if there had been no fine, and is therefore of the opinion that the sale can be deemed involuntary. Particularly the date of sale of the painting is a good indication of this. The Committee believes that, at present, no further information is available for determining whether Van Cappellen could have drawn on other assets to pay the fine. As stated in the general consideration cited under c., the Committee believes that the government is liable for the risk associated with not being able to retrieve evidence due to the passage of time. Lacking any further evidence, the Committee believes that Van Cappellen could not have done so.

8. The question remains whether the applicant should pay a sum for the return of the painting. In accordance with the Ekkart Committee's fourth recommendation of April 2001 as adopted by the government, the refund of sales proceeds should be discussed '*only if and to the extent that the seller or his heirs actually obtained the free disposal of said proceeds*'. In this case, the amount should be indexed on the basis of the general price index. In addition, the Ekkart Committee's ninth recommendation says '*owners who did not use an earlier opportunity of repurchasing works of art be reafforded such an opportunity, at any rate insofar as the works of art do not qualify for restitution without any financial compensation according to other applicable criteria*'. These recommendations are based on the perception that the current restitutions policy should not lead to the original applicant or their heirs becoming wealthier on unfounded grounds.
9. In this respect, the Committee would like to note that although Van Cappellen probably used the NLG 6,000 of sales proceeds he acquired during the occupation to pay the NLG 9,209.79 fine, the Committee assumes that the state compensated him for it after the war. This means that after the war, Van Cappellen received a substantial portion of the purchase price. The Committee therefore deems it reasonable that the restitution of the work of art is subject to the payment of a monetary consideration. To determine the amount, taking the circumstances into consideration and in accordance with the Ekkart Committee's fourth recommendation, it recommends that the sum of NLG 6,000 be indexed on the basis of the general price index. Seeing as it is impossible to determine with certainty whether Van Cappellen was recompensed in full for the reconciliation money he paid, the Committee deems a reimbursement of half that amount appropriate.
10. The Committee advises the Minister to reserve the funds thus obtained, in accordance with the Ekkart Committee's seventh and eighth Final Recommendations, for Jewish cultural purposes.

Conclusion

The Restitutions Committee advises the Minister for Education, Culture and Science to return the work of art *Still life with fruit and fowl* by J. Fyt (NK 1728) to the joint heirs of Dr. D. van Cappellen, subject to the condition as previously established in paragraph 9.

Adopted at the meeting of 14 May 2007,

B.J. Asscher (chair)
 J.Th.M. Bank
 J.C.M. Leijten
 P.J.N. van Os
 E.J. van Straaten
 H.M. Verrijn Stuart

4. Recommendation regarding the application for the restitution of fifteen objects of applied art from the trading stock of art dealership Kunsthandel Mozes Mogrobi

(case number RC 1.37)

In a letter dated 14 July 2005, the State Secretary for Education, Culture and Science (OCW) asked the Restitutions Committee to issue a recommendation regarding a decision to be taken on the application filed by A.M. J. in A., also on behalf of his sisters R.S. J., J.M. J. and E.H. J. (hereafter referred to as ‘applicants’), for the restitution of fifteen objects of applied art from the former trading stock of Kunsthandel Mozes Mogrobi, the art dealership that belonged to the applicants’ grandfather (hereafter referred to as ‘Kunsthandel Mogrobi’). Ever since their return to the Netherlands after the Second World War, the fifteen objects have been part of the Netherlands Art Property Collection (hereafter referred to as the ‘NK collection’), where they have been registered under the following fourteen inventory numbers: NK 170, NK 186 A-B, NK 219, NK 347, NK 348, NK 350, NK 353, NK 356, NK 361, NK 411, NK 414, NK 419, NK 464 and NK 595.

The procedure

The application for restitution was the result of the publication of *Deelrapportage VI (Subreport IV)* by the Origins Unknown Agency (hereafter referred to as ‘BHG’), which mentions several art objects that, according to BHG, were part of the trading stock of Kunsthandel Mogrobi up to various points in time during World War II. In response to this publication, applicant A.M. J. corresponded with the Ministry of OCW, after which he submitted an application for restitution on 23 June 2005. In response to the request for a recommendation that was subsequently submitted, the Restitutions Committee instituted a fact-finding investigation, the results of which were summarised in a draft report dated 25 September 2006. This draft report was submitted to the applicants, after which A.M.J. reported on their behalf by telephone that they did not have comments. The report, which is considered an integral part of this recommendation and which is referred to as far as the facts are concerned, was adopted by the Restitutions Committee in its meeting of 12 February 2007. In view of the announcement of a contradictory claim to one of the fifteen claimed art objects – a nineteenth-century bronze sculpture by C.E. Meunier (NK 414) – the Committee decided in its meeting of 12 February 2007 to postpone its recommendation on NK 414 and register it as case number RC 1.60. This recommendation therefore has no bearing on NK 414 and in the rest of this text it is assumed that the application for restitution concerns fourteen objects of applied art (thirteen NK numbers, see appendix 1 to this recommendation).

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. Involuntary loss of possession is also understood to mean sale without the art dealer’s consent by ‘Verwalters’ [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.

Special considerations:

1. The applicants request the restitution of fourteen objects of applied art from the NK collection (thirteen NK numbers, appendix 1), which, according to BHG research data, were part of the trading stock of Kunsthandel Mogrobi, the art dealership of which their grandfather – and, after World War II – their grandmother, was the sole owner.
In their request for restitution, the applicants act in their capacity as heirs of Mozes Mogrobi (1898-1944) and his widow Zilia Mogrobi-Jacobi (1897-1971). The latter continued her late husband’s art dealership as sole owner from the liberation until 1 October 1956. Kunsthandel Mogrobi went into liquidation in 1956 and was wound up as of 1 October 1956.
The Committee has taken note of various certificates of inheritance drawn up by Theodoor Heimans and Redmer Bouwman, respectively, both civil-law notaries in Amsterdam.
2. The relevant facts are described in detail in the above-mentioned investigatory report of 12 February 2007. The document at hand is only a summary of the information. Mozes Mogrobi was born in Alexandria, Egypt, on 10 February 1898. He was of Jewish extraction and had the Ottoman nationality after his birth, which he lost at an unknown point in time. He married Zilia Jacobi in the Netherlands in 1921. Zilia Jacobi had the Dutch nationality and was also of Jewish origin. The investigation shows that Mozes Mogrobi was stateless

at the time of his marriage and had a special passport for stateless citizens. The Mogrobi-Jacobi couple had two children: Alfred Mogrobi (1921-1944) and Sonja Mogrobi (1923-1987). As of 1 May 1921, Mozes Mogrobi was the sole owner of an art and antiques dealership in Amsterdam, called Kunsthandel Mozes Mogrobi. From 1933, this art shop was established at Spiegelgracht 11, where the Mogrobi family also lived.

3. During World War II, some time after the 'Order concerning the Exclusion of Jews from Economic Affairs' (12 March 1941) was issued, Kunsthandel Mogrobi was placed under seal by the German occupying forces. The art history archives consulted show that Mozes Mogrobi was still active as a buyer on the art market until 24 June 1941, but he is no longer recorded as buyer after this date. Mozes Mogrobi and his wife went into hiding at an unknown point in time. In July 1944, the Mogrobi family was arrested and deported to Auschwitz, where Mozes Mogrobi died in September 1944. His son, Alfred Mogrobi, died in Buchenwald in December 1944. Zilia Mogrobi-Jacobi and her daughter, Sonja Mogrobi, survived the war.
4. It is an established fact that works of art were alienated from the trading stock of Kunsthandel Mogrobi in the period following the events in 1941 until July 1944. The investigation has shown that most of the works of art now claimed, which will be discussed in more detail below, were acquired by German buyers during this period. It has also been established that works of art present at Spiegelgracht 11 – the address of the art dealership and the Mogrobi family's private address – were confiscated by order of the German Omnia Treuhandgesellschaft mbH in July 1944 and auctioned off at auction house Mak van Waay in Amsterdam on 25 July 1944. A catalogue made of this auction shows that none of the claimed works of art were put up for auction.
5. After the liberation, Zilia Mogrobi-Jacobi continued the business of her late husband until 1 October 1956. In 1947, Zilia Mogrobi-Jacobi declared the following about the events during the war and the financial damage incurred:

'The total damage we incurred during the occupation years as a result of theft from our business etc., etc., amounts to approximately 50,000 guilders. Moreover, our private property was auctioned off at the Fa. S. Mak van Waay, which yielded approximately 58,000 guilders.'

As regards the financial damage suffered, she filed claims for compensation with various agencies after the liberation. Whether and to what amount these claims have been honoured is not known, but as far as the Committee has been able to ascertain, none of these claims concerns the works of art that are the subject of this application for restitution. There has not been any contact either after the war between the Dutch restoration of rights authorities and Zilia Mogrobi-Jacobi about the works now claimed. This means that this case has not previously been settled.

6. The investigation of the fourteen art objects that are part of the current claim for restitution shows that a majority of twelve NK numbers were part of the trading stock of Kunsthandel Mogrobi during the war. A study of the archives has first of all demonstrated that NK 170 was sold by Kunsthandel Mogrobi in July 1942 to the St. Annen Museum in Lübeck. The study then showed that the art objects registered as inventory numbers NK 186 A-B, NK 347, NK 348, NK 350, NK 353, NK 361 and NK 595 were acquired from Kunsthandel Mogrobi by the Kunstsammlungen der Stadt Düsseldorf in 1942. This same German institute acquired what is now NK 356 from the art dealership in the year 1943. As regards NK 419 and NK 464, sources state that Kunsthandel Mogrobi sold these objects to the Thaulow Museum in Kiel in 1943 or 1944. Finally, it has been established that NK 411 was purchased from Kunsthandel Mogrobi by Dr Valentin of Stuttgart at an unknown point in time during World War II. The investigation did not yield any further details about the circumstances surrounding the sales, nor about the persons involved in the transactions.
7. Pursuant to current national policy in respect of the restitution of works of art, the Committee is obliged to ask itself whether it is highly likely that the works were originally the property of Kunsthandel Mogrobi and whether possession thereof was relinquished involuntarily as a consequence of circumstances directly associated with the Nazi regime. The fact that the NK numbers referred to above were owned by Kunsthandel Mogrobi and alienated during the war has been demonstrated in the investigation as described above in section 6. The question of whether the loss of possession of these art objects should be considered involuntary is also answered in the affirmative. The Restitutions Committee considers these art objects, except for NK 411 (see consideration 8), to have been acquired by German buyers from 1942 onwards, a period during which Mozes Mogrobi cannot be seen as having acted voluntarily given the circumstances referred to above under 3 and 4. The Committee particularly points to the fact that the occupying forces placed the art dealership under seal and that the Mogrobis were persecuted and went into hiding, events the Committee assumes to have taken place in the same period of time. The Committee also draws attention, no doubt superfluously, to the statement by Zilia Mogrobi-Jacobi as quoted under 5, which shows that in addition to the confiscation in 1944, she also suffered damage as a result of other forms of looting, such as theft. In the light of the above, the committee considers the application for restitution of NK 170, NK 186 A-B, NK 347, NK 348, NK 350, NK 353, NK 361, NK 595, NK 356, NK 419 and NK 464 admissible.



11. Persian glazed pottery tile in star shape with polychromed decor of animals, 16th century (NK 356)



12. Delft plaquette in a frame, decorated in blue and white with a mythological scene, probably the Delphi Oracle, 18th century (NK 361)



13. Bronze lion lying down, 13th century (NK 411)

8. One of the twelve NK numbers referred to under 6, viz. NK 411, was sold to a German buyer at some unknown point in time during World War II. Because there is no information about the time this transaction took place and it is not known whether the sale occurred with Mozes Mogrobi's consent, the question concerning the involuntariness of the loss of possession cannot be answered with certainty. Given the above-mentioned circumstances, which show that Mozes Mogrobi must have lost any say about his art dealership quite early after the occupation, and referring, in so far as necessary, to the Committee's general consideration under c, stating that the risk of loss of information due to the lapse of time is to be borne by the authorities, the Committee is of the opinion that the involuntariness of the loss of possession of NK 411 is also sufficiently plausible. The Committee finds the claim for restitution of NK 411 likewise admissible.
9. As regards one of the thirteen NK numbers to which the claim for restitution applies, viz. NK 219, it was impossible to ascertain whether it was part of Kunsthandel Mogrobi's trading stock at the beginning of the war. Although we do know that this work of art belonged to Kunsthandel Mogrobi in 1931, there is no information showing where the work was in the ten subsequent years. The object was purchased by the Museum für Kunstgewerbe in Frankfurt am Main in 1941, but not known is from whom the museum purchased it. As the object of any art dealership is the sale of works of art, the Committee considers it insufficiently plausible that NK 219 was still part of Kunsthandel Mogrobi's trading stock at the start of the occupation. Referring to the recommendations of the Ekkart Committee, the Restitutions Committee uses the criterion that the right of ownership should be highly plausible. Based on current information there is, therefore, insufficient ground to award the claim for restitution of NK 219.
10. As the Committee has not found any indication in this case that Kunsthandel Mogrobi has ever received a consideration for the works of art now claimed, repayment of consideration is out of the question.

Conclusion

The Restitutions Committee advises the Minister for Education, Culture and Science to return the art objects registered under inventory numbers NK 170, NK 186 A-B, NK 347, NK 348, NK 350, NK 353, NK 356, NK 361, NK 411, NK 419, NK 464 and NK 595

to the heirs of Mozes Mogrobi and Zilia Mogrobi-Jacobi, the successive owners of Kunsthandel Mozes Mogrobi, the art dealership wound up in 1956.

The Committee advises the Minister to reject the application for restitution of NK 219.

Adopted at the meeting of 12 February 2007.

B.J. Asscher (chair)
 J.Th.M. Bank
 J.C.M. Leijten
 P.J.N. van Os
 E.J. van Straaten
 H.M. Verrijn Stuart
 I.C. van der Vlies

Overview of claimed works of art regarding recommendation RC 1.37:

NK 170: Copper candlestick, 16th century

NK 186 A-B: Two glazed pottery tiles with blue and white decor of reading woman in an interior, 18th century

NK 219: Delft dish with polychromed decor in Italian style, 17th century

NK 347: Delft dish with polychromed decor with tulips in a flowerpot, so-called farmer's Delft, 17th century

NK 348: Glazed pottery plate with blue and white decor in Ming style, 17th century

NK 350: Small China dish with polychromed decor with lovers and a happy boy, 18th century

NK 353: Dish, earthenware, glazed, polychrome decorations, Whieldonware, 18th century

NK 356: Persian glazed pottery tile in star shape with polychromed decor of animals, 16th century

NK 361: Delft plaquette in a frame, decorated in blue and white with a mythological scene, probably the Delphi Oracle, 18th century

NK 411: Bronze lion lying down, 13th century

NK 419: Large glazed pottery jar with polychromed relief of a branch encircling it, and a bird on a branch on the lid, 18th century

NK 464: Glass goblet, decorated with diamond engraved portraits of Queen Mary Stuart, the text 'Regina Maria' and a floral motif on the base, c. 1680

NK 595: Glazed pottery dish with polychromed decor, in the centre a bird, begin 17th century

5. Recommendation regarding the application for the restitution of five paintings from the NK collection, previously belonging to the Von Marx-May family

(case number RC 1.39)

In a letter dated 19 September 2005, the Minister for Education, Culture and Science (OCW) asked the Restitutions Committee to issue a recommendation regarding the application dated 2 September 2005 submitted by R.v.M. (hereafter referred to as 'the applicant') for the restitution of six paintings that are part of the Netherlands Art Property Collection (NK collection), namely NK 1959, NK 2132, NK 2421, NK 2717, NK 2896 and NK 2558 that previously belonged to the Von Marx-May family. The painting NK 1959 (N. de Largillière, *Jeanne de Robais*) is currently on long-term loan to the Museum Boijmans Van Beuningen in Rotterdam; the work of art NK 2717 (J. Van Walscappelle, *Still life with grapes, medlars and mouse*) is currently on long-term loan to the Dordrechts Museum and the painting NK 2896 (J. Snellinck II, *Still life with flowers and fruit*) is currently on long-term loan to the Museum Het Prinsenhof in Delft. The paintings NK 2132 (J. De Wit, *Allegory of transitoriness*), NK 2558 (Wieringa, *Portrait of a man*) and NK 2421 (Q.G. van Brekelenkam, *Interior with a woman and children*) are being stored in the depot of the Netherlands Institute for Cultural Heritage (ICN) in Rijswijk. The aforementioned painting (NK 2421) is regarded by the ICN as a total loss due to irreparable fire damage.

The procedure

The reason for the application for restitution was a letter from the Origins Unknown Agency (hereafter referred to as 'BHG') of 12 November 2004 to the applicant concerning the aforesaid works of art. In response to the application for restitution that was subsequently submitted, the Restitutions Committee instituted a fact-finding investigation, the results of which were summarised in a draft report dated 15 January 2007. This draft report was submitted to the applicant and to the Minister of OCW on 14 February 2007. Because the investigation revealed that the work of art NK 2558 originally belonged to the applicant's great uncle, Robert May, and the applicant is not his legal heir, the applicant withdrew the claim in his letter dated 20 March 2007. Therefore, the application for restitution now only includes five works of art from the Netherlands Art Property Collection (hereafter referred to as the NAP collection). The investigatory report was subsequently adopted on 25 June 2007. For the facts of the case, the Committee refers to its investigatory report, which is considered an integral part of this recommendation.

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. Involuntary loss of possession is also understood to mean sale without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.

Special considerations:

1. The applicant requests the restitution of five works of art from the NAP collection. It is possible that the paintings NK 2132 and NK 2717 belonged to his grandparents, Siegfried Paul Daniel May and Rosine Mariane May-Fuld. The remaining works claimed, NK 1959, NK 2421 and NK 2896, may have belonged to his parents, Ellen van Marx-May (1897-1970) and Alexander van Marx (1895-1980).¹This recommendation addresses the claims to the NAP works of art belonging to Mr and Mrs May-Fuld separately from the claim to those of Mr and Mrs Van Marx-May.
2. The applicant requests the restitution of the paintings in his capacity as heir of his parents and grandparents. He has stated to be acting on behalf of the heirs who are, according to the applicant, his sister V.M.-V.M. and himself. In this context, the Committee has taken cognisance of a certificate of inheritance from 1947 in which Ellen van Marx-May is listed as sole heir of her parents, Siegfried Paul Daniel May and Rosine Mariane Fuld.

¹ The family's original name was Von Marx. The name was changed to Van Marx when they became American citizens.

3. The applicant's grandparents, Siegfried Paul Daniel May (hereafter referred to as Paul May) and Rosine Mariane May-Fuld (hereafter referred to as Rosine Fuld) were of Jewish extraction and were living in Zeist at the time the Second World War broke out. Paul May was a partner in the Lippmann, Rosenthal en Co bank on the Spiegelstraat in Amsterdam (hereafter referred to as Liro-Spiegelstraat).² The married couple committed suicide on 15 May 1940. Their only daughter, Ellen May, had fled to the United States around 14 May 1940 with her husband, Alexander van Marx, and their three children (among whom, the applicant). The Liro-Spiegelstraat bank was declared enemy property and was placed under the administration of a German *Verwalter*, A. Flesche.

May-Fuld provenance history

4. The investigation revealed the following regarding the claimed works which formerly belonged to Paul May and Rosine Fuld. One of Paul May's brothers, Robert May, also a partner at the Liro-Spiegelstraat bank, had been designated administrator of the estate of Paul May and Rosine Fuld. On the instructions of *Verwalter* Flesche, Robert May reported both estates as enemy property to the *Deutsche Revisions- und Treuhand A.G.* (hereafter referred to as DRT) on 27 February 1941. The reason for this was the fact that heir Ellen van Marx-May (temporarily) was on or had been on enemy territory. In March of 1941, the occupation authorities appointed a German administrator for the estate of Paul May and his wife. On the administrator's orders, part of the estate was auctioned off at Frederik Muller & Co auction house in Amsterdam in the period from 14-17 October 1941 and 2-5 December 1941. The auctions yielded roughly NLG 450,000, of which NLG 441,000 was booked to the DRT's bank account in April 1942.



14. *Still life with flowers and fruit* by J. Snellinck II (NK 2896)

5. Various archived documents show that Ellen van Marx-May, as sole heir, instituted various lawsuits with regard to the sale of her parents' estate and the auction proceeds. In its decision of 29 December 1947 concerning an auctioned object from the estate, the Council for the Restoration of Property Rights, Jurisdiction Department in Amsterdam ruled that the sale had been '*against the will of the rightful claimant (the applicant) and that she had not received the proceeds of that sale*'. The Committee also considers the sale of Mr and Mrs May-Fuld's estate by the German administrator to be a sale under duress. In all probability, at least a part of the auction proceeds was paid to Ellen van Marx-May in the end. However, it is no longer possible to determine the sum involved.
6. In reference to the claimed painting NK 2132 (Jacob de Wit, *Allegory of transitoriness*), the investigation has shown that the work of art was bought at the aforementioned auction of 17 October 1941 by Kunsthandel Voorheen J. Goudstikker N.V., managed by the German Alois Miedl at the time. The auction catalogue that has survived states that the painting came from the May-Fuld estate. Furthermore, it has been established that Miedl sold the painting in 1943 to a buyer in Germany. After the war, the painting was recovered and returned to the Netherlands, but there is no indication that Mr and Mrs May-Fuld's surviving relatives were informed of this by the Dutch authorities.

² The term 'Liro-Spiegelstraat' is used here to differentiate the bank from the German looting organisation Lippmann, Rosenthal & Co on the Sarphatistraat.

7. Now that it has been determined that the case was not settled in the past, the Committee deems the application for restitution admissible. Furthermore, the Committee considers that the requisites for restitution have been satisfied. After all, the investigation has made it clear that the work of art originally belonged to Mr and Mrs May-Fuld and that it was taken from them without their consent. The Committee recommends allowing the application for restitution of NK 2132.
8. With regard to the claimed work of art NK 2717 (J.A. van Walscappelle, *Still life with grapes, medlars and mouse*), the investigation has revealed no conclusive evidence of its provenance. However, the investigation did show that Paul May in all likelihood bought it in or after 1917 from Kunsthandel J. Goudstikker. In addition, archive documents from the Netherlands Art Property Foundation (SNK) indicate that the work of art was sold by Amsterdam art-dealer Jan Dik Jr and, in the end, was acquired for the establishment of the Fuehrer museum in Linz. It never became clear when and from whom Jan Dik Jr purchased the work. Nor is it possible to determine whether the work of art was still in the possession of Paul May or whether it was given up involuntarily.
9. Pursuant to national policy in respect of the restitution of works of art, restitution can only be recommended if it is highly probable that the claimed work belonged to Paul May or his wife, and if the work of art was given involuntarily due to circumstances directly related to the Nazi regime. Because there are no records for the period 1917-1944, the Committee deems it possible but not probable that the work of art was still in the possession of Mr and Mrs May-Fuld at the beginning of the war. A fact that suggests that the work was not part of their belongings is that the painting NK 2717 was not included in Frederik Muller & Co's auction catalogue for the sale of the couple's entire estate in 1941. As the investigation currently stands, the Committee sees insufficient grounds for admitting the application for restitution of this painting and recommends dismissing the request.

Van Marx-May provenance history

10. The investigation revealed the following regarding the claimed works which formerly belonged to Mr and Mrs Van Marx-May (NK 1959, NK 2421 and NK 2896). Post-war correspondence between Robert May and the SNK clearly indicate that a few years after they fled to the United States, the couple's entire estate was auctioned off on the instructions of *Verwalter* Flesche at auction house Frederik Muller & Co in the period from 18-21 July 1944. Several sources show that the works of art NK 1959, NK 2421 and NK 2896 were also sold. The Committee has taken cognisance of various items including the auction catalogue and documents from the SNK archives that confirm that these paintings were originally property of Mr and Mrs Van Marx-May. After the auction, the three claimed works of art eventually ended up in Germany. There is evidence suggesting that the net auction proceeds were transferred to Liro-Spiegelstraat's bank account in the name of Ellen van Marx-May. No information has been discovered from which it can be deduced that the proceeds were indeed received by her.
11. After the war, the aforementioned works of art were recovered from Germany. As regards NK 1959, the SNK corresponded with a representative of the Liro-Spiegelstraat, who was acting in the name of Ellen van Marx-May in September 1950. Even though the correspondence indicates that Ellen van Marx-May did not show any interest in the return of the paintings, the Committee is of the opinion that this cannot affect the admissibility of the current application for restitution, as the case did not at the time result in a judgement by a competent authority concerning the restoration of rights nor a formal settlement, and therefore, based on the current restitutions policy as stated in the Ekkart Committee's first recommendation from 2001, it is not a case that was settled in the past. As regards the other two claimed paintings from the NAP collection, no proof was found of the SNK having contacted Mr and Mrs Van Marx-May, so that again there are no objections to consider the application for restitution.
12. In the opinion of the Committee, the paintings NK 1959, 2421 and 2896 are eligible for restitution now that it has been established that the works of art belonged to the couple at the time of the auction and were sold without their permission.
13. The Committee has no reason to make the restitution of NK 2132, NK 1959, NK 2421 and NK 2896 conditional on the payment of a fee. Even though it is probable that Mr and Mrs Van Marx-May received a portion of the various auction proceeds, the sums involved can no longer be determined. Moreover, pursuant to the Ekkart Committee's fourth recommendation of April 2001, repayment of sums received is only in order if the money was at the free disposal of the original owner or owner's heirs, and applicants are to be given the benefit of the doubt in cases where this cannot be ascertained. The Committee's opinion is that this policy rule should be interpreted in such a way that applicants will not be enriched unduly. In the case in question, the Committee finds that there is no question of undue enrichment. In this respect, it deems it very probable that a major portion of Mr and Mrs May-Fuld's and Mr and Mrs Van Marx-May's collections of art and antiques were lost to the family as a result of the Nazi regime, while it is plausible that Mr and Mrs Van Marx-May benefited from only a part of the sales proceeds after the war. Moreover, the Committee notes that NK 2421 was irrecoverably damaged by fire and is considered a total loss.

Conclusion

The Restitutions Committee advises the Minister for Education, Culture and Science to return the paintings NK 2132, 1959, 2421 and 2896 to the heirs of Alexander Van Marx and Ellen van Marx-May.

The Restitutions Committee advises the Minister for Education, Culture and Science to reject the application for restitution of the painting NK 2717.

Adopted at the meeting of 25 June 2007,

I.C. van der Vlies (chair ad interim)
J.Th.M. Bank
J.C.M. Leijten
P.J.N. van Os
E.J. van Straaten
H.M. Verrijn Stuart



15. The former building of the German looting organisation Lippmann, Rosenthal and Co. (Liro), on the Sarphatistraat in Amsterdam.

6. Recommendation regarding the application for the restitution of four seventeenth-century Dutch Masters from the property of the Hakker/Anholt families (case number RC 1.42)

In a letter dated 28 March 2006, the State Secretary for Culture, Education and Science ('OCW') asked the Restitutions Committee to issue a recommendation on the application by R.M. S.-L.C. and R.J. (formerly S.J.) A. (hereafter also referred to as 'the applicants') for restitution of four paintings from the former family property. Following their recovery to the Netherlands after the Second World War, the four paintings were included in the Dutch National Art Collection. The works are currently in the collections of the Bonnefantenmuseum in Maastricht (NK 1821), the Limburgs Museum in Venlo (NK 2256) and the Museum Het Catharijneconvent in Utrecht (NK 2786). The work by Van Breen (NK 2178) is in the depot of the Netherlands Institute for Cultural Heritage in Rijswijk.

The procedure

The application for restitution was prompted by correspondence with the Origins Unknown Agency (hereafter referred to as 'BHG') which informed the applicants, in October 2004, that the works of art mentioned above may once have been owned by three of their relatives. In response, the applicants informed BHG that they remembered four of the paintings, after which they submitted an application for restitution to the State Secretary for OCW on 28 February 2006. The State Secretary submitted the application to the Restitutions Committee in a letter dated 28 March 2006.

The Committee first of all found that the application for restitution concerns four paintings from the property of three owners, viz. Jesaia Hakker, Levie Hakker and Salomon Anholt. Given the specific family relationships and in line with the Minister's request for a recommendation, the Committee has ruled that this application can be handled in a single recommendation. Below, a distinction will be made where necessary; otherwise, the former owners will be jointly referred to as Hakker/Anholt.

In response to the request for recommendation, the Committee instituted a fact-finding investigation, the results of which were summarised in a draft report of 25 September 2006. This draft report was presented to the applicants, after which they responded to the contents of this report in a letter from their representative dated 4 December 2006. The draft report was also presented to the Minister for OCW, who informed the Committee that there was no additional information. The investigatory report, which is considered an integral part of this recommendation and to which the Committee refers as far as the facts of the case are concerned, was adopted in the Committee meeting of 12 March 2007.

During the procedure before the Restitutions Committee, the applicants were represented by P.W.L. Russell, lawyer in Amsterdam.

As regards the application for restitution of the painting *Ice skating in a village* by F. de Momper (NK 2256), special circumstances have arisen in the form of a contradictory claim from Mr A.K. in the De Vries case (RC 1.50). The Committee will compare both claims to NK 2256 below (see under iii).

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. Involuntary loss of possession is also understood to mean sale without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.

Special considerations:

1. The applicants request the restitution of four seventeenth-century paintings from the Dutch National Art Collection, viz. *Winter landscape with travellers crossing a bridge* by J. de Momper II (NK 1821), *Winter landscape with skaters* by A. van Breen (NK 2178), *Ice skating in a village* by F. de Momper (NK 2256), and *St. Paul and St. Barnabas at Lystra* by W. de Poorter (NK 2786) from the former family property. According to the applicants, these works belonged to their grandfather Jesaia Hakker (NK 2256, NK 2786), their great-uncle Levie Hakker (NK 2178) and their father/uncle Salomon Anholt (NK1821).

The applicants, who were both born in 1923 and are living in the United States of America, are cousins. Applicant R.S declared that she and her co-applicant R.J. A. (formerly: S.J. A.) are Jesaia Hakker's only two grandchildren and, consequently, the sole heirs of Jesaia Hakker, Levie Hakker and Salomon Anholt. Applicant R.J. A. declared he is Salomon Anholt's only child and one of Jesaia Hakker's two grandchildren. In this context, the Committee has taken cognisance of a certificate of inheritance regarding Jesaia Hakker, drafted by notary-public J.D. Overberg in Amsterdam on 24 May 1947, in which certificate Judith Hakker, married to Jacques Lopes Cardozo, and Frederika Hakker, married to Salomon Anholt, are stated as the only children and – implicitly – the only heirs of Jesaia Hakker. Both applicants are **Jesaia Hakker's** grandchildren and, as such, his heirs, at least for the statutory portion of the estate.

Given the fact that at any rate one child, viz. applicant R.J. A., was born of the marriage between Frederika Hakker and **Salomon Anholt**, it is to be assumed that this child – barring the presence of any last will and testament that would disinherit him, in which disinheritance he would have acquiesced, but of which no proof has been found – is heir of Salomon Anholt and probably the sole heir.

Although **Levie Hakker** could have disposed otherwise in a will, it can be considered highly likely, assuming that he had no descendants, that under the applicable statutory rules both applicants would be entitled to his estate by hereditary succession.

This constitutes sufficient grounds for the Committee to issue a recommendation.

In this case, the Committee conducted a provisional further search for possible heirs, with a view solely to establish the admissibility of the claim and to be able to issue a recommendation. It is not the Committee's task to determine who is heir; this only becomes an issue upon implementation of the recommendation.

2. The investigatory report shows that, when the war broke out, the Jewish Hakker/Anholt family of diamond merchants were living at Apollolaan in Amsterdam and that they collected art. Head of the family was the applicants' grandfather Jesaia Hakker (1882-1946), who ran the Gebroeders Hakker diamond trading firm in Amsterdam together with his brother Levie Hakker (1887-1960). His two sons-in-law, Jacques Lopes Cardozo and Salomon Anholt, also worked there. According to a statement by applicant R.M. S, her uncle Salomon Anholt and his wife and son (applicant) were travelling in France when the German army invaded the Netherlands in May 1940. The Anholt family did not return to the Netherlands and managed to escape to the United States. In the United States, Salomon Anholt released money to help bring members of his family left behind in the Netherlands to safety. This plan succeeded and in January 1942 Levie and Jesaia Hakker and Jacques Lopes Cardozo and their families managed to flee the country. When they fled the Netherlands, the occupying forces took away most of the family's possessions. Post-war documentation that paintings owned by Salomon Anholt were confiscated by the "Sammelverwaltung feindlicher Hausgeräte", while the paintings owned by Levie and Jesaia Hakker had ended up with Lippmann, Rosenthal Sarphatistraat. However, the investigation revealed that the Hakker/Anholt family may also have lost possession of works of art in other ways. After the war, the Hakker/Anholt family tried to regain possession of the missing works of art, but this only resulted in restitution of a small number of works.

The considerations for each individual painting are given below.

i) NK 1821 from the property of Salomon Anholt:

3. It is a known fact that *Winter landscape with travellers crossing a bridge* by J. de Momper II (NK 1821) was owned by Salomon Anholt in 1936. However, the investigation of NK 1821 did not yield any concrete indications as to the ownership situation in the years between 1936 and 1944 and whether Salomon Anholt was still in possession of NK 1821 in 1940. In 1944, the work was in possession of art dealer Jan Dik jr., who sold it to auction house Dorotheum in Vienna that same year, after which it ended up in the collection of Hitler's Führermuseum that was to be built in Linz. As stated above under 2, the works of art that were present in Salomon Anholt's home in Amsterdam in 1940 when he left the country were confiscated by the *Sammelverwaltung feindlicher Hausgeräte*, a clearing house for stolen works of art. An inventory of these works of art no longer exists, so that it is uncertain whether NK 1821 was one of these stolen works of art. The *Sammelverwaltung feindlicher Hausgeräte* is known to have frequently brought looted Jewish possessions on the market, and art dealer Jan Dik jr. is known to have traded with the Germans on a large scale during the war, also in formerly Jewish art property.
4. The applicants, who were old enough to consciously experience the early part of the occupation, stated that the painting by De Momper was still in Salomon Anholt's home when the Anholt family left the Netherlands. In her statement of 18 October 2005, applicant S. says: *'My cousin R. A. and his parents Salomon and Frederika Anholt were travelling in France when the Germans invaded Holland in May 1940. At that moment the painting "Winter landscape with travellers crossing a bridge" by J. de Momper was still in their house.'* In a statement of 19 October 2005, R.A. says: *'The painting "Winter landscape with travellers crossing a bridge" was hanging in my parents house when the war started in the Netherlands on May 10, 1940. I was not in the Netherlands at that time but I remember the painting was still in our home when I left the Netherlands with my parents and went travelling through France some weeks before the war started.'*
5. In the light of the above, the Committee considers it highly likely that *Winter landscape with travellers crossing a bridge* by J. de Momper II (NK 1821) belonged to the Salomon Anholt's stolen art property. In this context, the Committee would like to point out that there is no indication whatsoever that Anholt, a private art collector, had sold the painting in the period between 1936 and 1940.
6. As the case has not been previously settled, the Committee considers the current application for restitution of NK 1821 to the heirs of Salomon Anholt admissible.

ii) NK 2178 from the property of Levie Hakker

7. NK 2178 is a winter landscape with skaters by painter A. van Breen, previously attributed to E. van de Velde. The investigatory report shows that the looting bank of Lippman, Rosenthal & Co. (hereafter referred to as 'Liro bank') confiscated the painting from Levie Hakker's property in 1941 or 1942. It is also known that 'L. Hakker' bought the work from art dealership P. de Boer in Amsterdam in 1937. The applicants recognised the painting by Van Breen from the photographs sent to them by BHG in 2004, and their statements confirm that this painting belonged to their great-uncle Levie Hakker, who still had it in his possession at the beginning of the war. The Committee finds this sufficient proof that NK 2178 was the property of Levie Hakker and lost involuntarily as a result of circumstances directly related to the Nazi regime.



16. *St. Paul and St. Barnabas at Lystra* by W. de Poorter (NK 2786)

8. After the war, the Hakker family contacted the Netherlands Art Property Foundation (hereafter referred to as 'SNK') about this work. The SNK was the institute that had since recovered the painting by Van Breen to the Netherlands. Despite attempts by the family members and a mediating attempt by art dealer P. de Boer to identify the recovered work (NK 2178) as the Hakkers' property, the SNK failed to recognise at the time that NK 2178 was Levie Hakker's painting surrendered to the Liro bank. The consideration of a previous application for restitution never took place.
9. Under these circumstances, the Committee is of the opinion that the conditions for returning NK 2178 to the heirs of Levie Hakker have been met.

iii) NK 2786 and NK 2256 from the property of Jesaia Hakker

- St. Paul and St. Barnabas at Lystra by W. de Poorter (NK 2786)

10. It is a known fact that the painting by De Poorter was confiscated from Jesaia Hakker's property by the Liro bank at an unknown point in time prior to April 1942. The Liro bank then auctioned this painting off at the firm Mak van Waay in Amsterdam on 14 April 1942 for a sum of NLG 31,00, after which it ended up in the Kunsthistorisch Museum in Vienna.

No details about the pre-war ownership situation are known, other than that NK 2786 was part of the trading stock of art dealership Wolff in Amsterdam in 1938. Applicant S. also stated that Jesaia Hakker had the painting by De Poorter in his possession when the war broke out.

The Committee considers it sufficiently proven that NK 2786 came from the property of Jesaia Hakker and was lost involuntarily as a result of circumstances directly related to the Nazi regime.

11. It was not until 1951 that the Dutch authorities recovered the painting by De Poorter to the Netherlands, initially with the aim of using it for an exchange with works of art from the museum in Vienna. Upon its return in the Netherlands, however, the work was offered to a representative of the Hakker family, on condition that *'the claim amounting to f. 3100 to liquidation of Verwaltung Sarphatistraat is assigned to my Bureau and, furthermore, an amount yet to be determined is paid to my Bureau for the expenses incurred for the recovery, administration, and stamp and registration costs'*. On 11 December 1951, the representative of the Hakker family responded that they did not wish to receive the painting on these conditions. Applicant S. says the following about this:

I know that fleeing to the US caused us all financial hardship. Both my grandparents had died by 1951, Mr. Anholt had a severe heart condition, and my father, who had been part of the Oranje Brigade and participated in the invasion from 1943 till well after the end of the war, had lost two brothers in Nazi concentration camps and was himself a prisoner in one of the early razzia's in Amsterdam, did not feel able to deal with matters including the return of paintings. Most likely my uncle, L. Hakker, who had no children, and was close to seventy years of age, turned down the unacceptable and vague terms offered relative to the return of the painting. The painting simply had to be returned to the rightful owner being Jesaia Hakker.

12. The Committee is of the opinion that, under these circumstances, this previous settlement has no consequences for the admissibility of the applicants' current claim. The ideas on financial conditions as imposed on the Hakker family at the time have since changed considerably and the Committee therefore considers this to be a new fact in the sense of restitution policy. The Committee refers to the second recommendation of the Ekkart Committee from 2001, which recommends that *'the notion of new facts be given a broader interpretation than has been the usual policy so far and that the notion be extended to include (...) the results of changed (historic) views of justice and the consequences of the policy conducted at the time.'*
13. The Committee considers the application for restitution of NK 2786 from the property of Jesaia Hakker to the heirs of Jesaia Hakker admissible.

- *Ice skating in a village by F. de Momper (NK 2256)*
14. The painting by De Momper (NK 2256) for which the applicants in the case of Hakker/Anholt have filed an application for restitution is also subject to a claim by A. K., who has applied for restitution of works of art from the property of his father, art dealer Marcus de Vries (RC 1.50). The Committee discusses both claims below.
15. The investigatory information gained on the work by De Momper (NK 2256) shows that the painting was purchased by a person by the name of 'Hakker' in 1936. In her letter of 18 October 2005, applicant S. stated that the painting was in the possession of her grandfather Jesaia Hakker: *'I know that Jesaia Hakker still possessed the [painting] Ice-skating in a village by F. de Momper [...] when the war started'*. As there are no indications that the work by De Momper belonged to a different member of the Hakker family, the Committee believes that Jesaia Hakker can be considered the former owner of *Ice skating in a village* by F. de Momper. As there are no indications to the contrary, the Committee also considers it sufficiently plausible that he still had NK 2256 in his possession at the beginning of the occupation and that he lost it under circumstances that are not clear. The work may have been confiscated, but it is also possible that Jesaia Hakker sold the De Momper painting before he fled in January 1942. According to the Committee, both cases can be considered involuntary loss of possession as a result of circumstances directly related to the Nazi regime. In this context it refers to the Ekkart Committee's third recommendation from 2001 on the basis of which sales of works of art by Jewish private persons in the Netherlands from 10 May 1940 onwards be treated as forced sales, unless there is express evidence to the contrary.
16. A. K., applicant in the De Vries case (RC 1.50), bases his claim on statements from members of his family which indicate that Marcus de Vries, a Jewish art dealer from Amsterdam, purchased the De Momper painting from the Dutch art dealer Schretlen in 1941. The Committee observes that this statement is not inconsistent with the other investigation results and therefore assumes that Marcus de Vries purchased NK 2256 from art dealer Schretlen in 1941 and also lost it under circumstances that remain unclear. According to A. K., NK 2256 was stolen from Marcus de Vries' home in July 1942, after he was arrested and deported to extermination camp Auschwitz. This, too, could be considered involuntary loss.
17. The investigation has also shown that NK 2256 came in the possession of art dealer Jan Dik Jr. at an unknown point in time and in an unknown manner. In August 1944, Jan Dik Jr. sold the work for the Führermuseum that was to be built in Linz. Together with a painting by J. v.d. Capelle, Dik Jr. received a sum of NLG 155,000 for this transaction.
18. As regards these two contradictory claims, the Committee considers that current restitution policy gives priority to the first loss of possession. After all, in its recommendations of 2004, the Ekkart Committee determines that in the event of mutually conflicting claims the first loss of property should generally prevail but that the Restitutions Committee should be given room to consider the relative weight of such contradictory claims, depending on the specific circumstances.
The Committee does not, however, see any specific circumstances in this case that would justify a deviation from the main rule and therefore concludes that the loss of possession by Jesaia Hakker is to be given priority.
19. As there has been no previous application for restitution, the Committee considers the claim by applicants S. and A. for restitution of NK 2256 to the heirs of Jesaia Hakker admissible and that the application by Mr A. K. (RC 1.50) is to be rejected in as far it concerns NK 2256.
20. The question that is finally to be discussed is whether restitution of NK 2256 is to be subject to a payment obligation with a view to any compensation received for any sale of the work. The Committee first of all finds that it is not certain that Jesaia Hakker sold the work by De Momper, and that no details of this sale are known, such as the amount of the sales price. According to current restitution policy, applicants should for this reason alone be given the benefit of the doubt. Perhaps superfluously the Committee adds that if

Jesaia Hakker were to have sold the work in 1940 or 1941, the compensation received for it would no doubt have been used to help his family flee the Netherlands shortly afterward. In that case, there is no question of the owner having been able to freely dispose of the compensation in the sense of current policy.

Conclusion

The Restitutions Committee recommends the Minister for Culture, Education and Science

- a. to return *Winter landscape with travellers crossing a bridge* by J. de Momper II (NK 1821) to the heirs of Salomon Anholt;
- b. to return *Winter landscape with skaters* by A. van Breen (NK 2178) to the heirs of Levie Hakker, and
- c. to return *Ice skating in a village* by F. de Momper (NK 2256) and *St. Paul and St. Barnabas at Lystra* by W. de Poorter (NK 2786) to the heirs of van Jesaia Hakker.

Adopted at the meeting of 12 March 2007,

B.J. Asscher (chair)
J.Th.M. Bank
J.C.M. Leijten
P.J.N. van Os
E.J. van Straaten
H.M. Verrijn Stuart
I.C. van der Vlies

7. Recommendation concerning the application for the restitution of *Couple in an Interior* after A. van Ostade (NK 2884)

(case number RC 1.43)

In a letter dated 2 May 2006, the Minister for Education, Culture and Science (OCW) asked the Restitutions Committee to issue a recommendation regarding the application dated 5 April 2006 by M.N.-M. (hereafter: applicant 1) for the restitution of the painting *Couple in an Interior* based on Adriaen van Ostade. In a letter dated 16 August 2006, the Minister for OCW made a second request for a recommendation by the Restitutions Committee in relation to this painting. This request was submitted on 31 May 2006 by D.M.H. on behalf of his children S.S.H. and M.I.H. (hereafter: applicants 2). The painting in question is part of the Netherlands Art Property Collection under the custody of the national government (NK 2884) and is housed in a depot of the Netherlands Institute for Cultural Heritage in Rijswijk. Applicant 1 and applicants 2 are jointly referred to as applicants in this recommendation. The Committee has dealt with the restitution applications collectively. Due to the age of applicant 1, this request has been given priority.

The procedure

The reason for the application for restitution was a letter to the applicants from the Origins Unknown Agency (BHG) dated 30 January 2006, containing a request for more detailed information regarding the provenance of painting NK 2884. According to the BHG, the painting may have belonged to a member of their family, Schoontje Goldsteen, and was possibly handed over to the German looting bank Lippmann, Rosenthal & Co (Liro bank) during the war.

On receipt of the request for advice, the Committee began an investigation into the facts. Part of that investigation involved more detailed art-historical research into both the painting and its attribution to Adriaen van Ostade by a Van Ostade expert. The results of the investigation were included in a draft report dated 18 December 2006, which was enclosed in a letter to the applicants on 12 January 2007, in which it was pointed out to the applicants that during the research it had not revealed that NK 2884 was identical to the painting that Schoontje Goldsteen had been forced to give up during the war. It was for this reason that the applicants were asked where possible to provide more specific information on this point. Applicant 1 responded by post on 27 March 2007; applicant 2 by email on 7 March 2007. No new facts pertaining to the painting that was lost during the war were forthcoming in these replies. The report was subsequently adopted on 14 May 2007. As regards the facts of the case, the Committee refers to its investigatory report, which is considered an integral part of this recommendation.

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. Involuntary loss of possession is also understood to mean sale without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.

Special considerations:

1. In their capacities as heirs of Schoontje Goldsteen (1877-1942), applicants are asking for restitution of the painting *Couple in an Interior*.
Applicant 1 is the second wife of Michaël Nathans (1905-2002), whose first wife, Saartje Regina Goldsteen (1910-1975), was a niece of Schoontje Goldsteen. According to a certificate of inheritance from 1950, Schoontje Goldsteen named her niece Saartje Regina and nephews Jacob and Mozes Goldsteen as sole beneficiaries in 1937. Saartje Regina was the sole family survivor of the war, along with Hartog Simon Goldsteen, the only child of Jacob and his wife.
Applicants 2 are the grandchildren of Michaël Nathans. Their mother, A.S.N. (1940-1982), was the daughter of Michaël Nathans and Saartje Regina Goldsteen and was married to D.M.H. The Committee has taken note of several documents with reference to the position of the applicants according to the law of inheritance.
2. The fact-finding investigation has revealed the following: Schoontje Goldsteen (hereafter: Goldsteen) was born in 1877, was not married and had no children. At the beginning of the Second World War, she lived at Amsteldijk 38 in Amsterdam, where, according to the applicants, she owned a collection of art and antiques. Goldsteen died around 2 October 1942 in Auschwitz.
It has been determined that during the war, Goldsteen handed over at least 19 paintings to the Liro bank. This information comes from a list of registered works that were turned over to this looting bank. Among other works, the list includes *'Man and Woman Drinking'*, *'copie n[aar]/ Ostade'* (copy of Ostade) registered to *'S. Goldstein'*, Amsteldijk 38. The Committee is assuming that *Goldstein* means Goldsteen. The work was valued at the time at NLG 2 and was sold, on 20 September 1943, for NLG 5 to the N.V. Handelonderneming A.D.O.C. (hereafter: Adoc), a commercial enterprise with connections to the Liro bank. It is not clear what happened to the painting after it was sold to Adoc.
3. In 1946, the Netherlands Art Property Foundation (SNK) drafted an internal registration form presumably based on the Liro list with regard to *'Man and Woman Drinking'*, *'Copie naar Ostade'* (copy of Ostade), stating *'S. Goldstein, Amsteldijk 38, Amsterdam'* as the former owner. At that moment, no work that satisfied this description had yet been recovered.
4. With reference to the currently claimed work, NK 2884, the investigation has yielded the following:
At the end of July 1949, the painting, which portrays a man and woman drinking, was recovered from Munich and returned to the Netherlands. On a list from the *Bundesarchiv Koblenz* (Federal Archive in Koblenz) of cultural assets returned to the Netherlands after the war, it is stated in connection with the provenance of NK 2884 that *'it came in 1940 from Holland to Germany [...]'*.
According to an inventory card that was kept, the painting was attributed to Adriaen van Ostade and was valued by the SNK at NLG 2,000. They then associated the work with the painting that Goldsteen had handed over to the Liro bank, doubting, however, whether NK 2884 was the painting that Goldsteen had lost. An SNK employee noted:
'On Lippmann frame sold for f 5.-; it is improbable that this is the painting. No mention of Adoc.'
As far as is known, the SNK did not establish contact with any of Goldsteen's surviving relatives after the war about the possible return of the work. The Committee does not consider this a case that was settled in the past and considers the application admissible.
5. Pursuant to current national policy in respect of the restitution of works of art as contained in the Ekkart Committee's eighth recommendation of April 2001, a work of art will only be considered for restitution if *'the title thereto has been proved with a high degree of probability and there are no indications to the contrary'*.
6. In view of the fact that the aforementioned investigation yielded insufficient evidence to suggest that NK 2884 is the same painting as was lost by Goldsteen during the war, the Committee ordered additional research. Points of interest were:
 - i) the painting from Goldsteen's estate was considered by the Liro bank to be a copy worth NLG 2, whilst NK 2884 was regarded by the SNK as an original worth NLG 2000 and

ii) Adoc bought the painting from Goldsteen in September 1943 in the Netherlands, whilst according to archive material, NK 2884 went to Germany in as early as 1940.

7. The Committee asked Prof. R.E.O. Ekkart, former head of the BHG, to give a more detailed opinion concerning the provenance of the painting claimed. The BHG had earlier concluded in *Sub report III* of the research into the origins of the NK collection that NK 2884 belonged to Goldsteen. Ekkart reported that the earlier conclusion had been too definitive. In a letter dated 21 May 2006, he wrote the following:

'I don't take the last problem [the difference in valuation, RC] too seriously: with these sorts of paintings attributed to Van Ostade, the dividing line between originals and copies is hard to determine and is a constant source of confusion. [...]

The discrepancy between 1940 and 1943 seems more serious to me, although that can also be due to an error in information from Koblenz, if there was evidence suggesting the contrary. [...]



17. *Couple in an Interior*
after Adriaen van
Ostade (NK 2884)

Ekkart concluded:

'My conclusion is therefore that with regard to further investigation as to whether NK 2884 is the painting from the Goldsteen collection, I can only qualify it as "highly probable", if there is supplementary documentation that in my opinion can only come from the family.'

8. Further to this, the Committee requested that more detailed art-historical research be done in order to find out more about the provenance of NK 2884. To this end, Charles Roelofsz, an Amsterdam art dealer and Van Ostade expert, and others, investigated the work. Mr Roelofsz concluded that NK 2884 is not an original Van Ostade, but a copy of fairly good quality, possibly from the late 17th century. The Committee observes that this could explain the difference in valuation of the work between the Liro bank (copy) and that of the SNK (original), as was also indicated by Ekkart.
9. In order to obtain more specific details with regard to the period in which NK 2884 arrived in Germany, and to explain the possible discrepancy between 1940 (arrival in Germany according to the archive in Koblenz) and 1943 (sale in the Netherlands according to the Liro archive), the *Bundesarchiv Koblenz* was once again consulted. This investigation, however, failed to yield any result regarding the said discrepancy.
10. The Committee concludes on the basis of the information available that it was possible, but not highly probable, that NK 2884 belonged to Goldsteen. The discrepancy between the possible arrival dates in Germany from the *Bundesarchiv Koblenz* and the Liro archive constitutes an indication to the contrary. In the opinion of the Committee, the fact that there are scores of copies of the 'Man and Woman Drinking' theme that are attributed to Van Ostade, is further indication that more evidence of ownership is necessary. After all, the chance that NK 2884 is returned to the wrong party under the circumstances is by no means imaginary. As described in the introduction, the applicants were unable to supply supplementary documentation with regard to the painting lost by Goldsteen. The Committee therefore considers the request inadmissible. It notes however that a new assessment is possible should new facts be brought to light.

Conclusion

In view of the above, the Committee advises the Minister for Education, Culture and Science to reject the request for restitution of the painting *Couple in an Interior* (NK 2884) after A. van Ostade.

Adopted at the meeting of 14 May 2007.

B.J. Asscher (chair)
J.Th.M. Bank
J.C.M. Leijten
P.J.N. van Os
E.J. van Straaten
H.M. Verrijn Stuart
I.C. van der Vlies

8. Recommendation regarding the application for the restitution of four gilded silver chalices (NK 498 A-D) and a silver crosier (NK 738)

(Case number RC 1.47)

In a letter dated 12 July 2006, the Minister for Education, Culture and Science ('OCW') asked the Restitutions Committee to issue a recommendation on the application submitted by H.G.S. (hereafter referred to as 'the applicant') dated 6 June 2006 for the restitution of four gilded silver chalices and a fifteenth-century silver crosier. The claimed objects form a part of the Netherlands Art Property Collection (hereafter referred to as 'NK collection') in the custody of the national government under inventory numbers NK 498 A-D and NK 738. The chalices are on long term loan to the Bonnefantenmuseum in Maastricht and the crosier is in the Limburgs museum in Venlo.

The procedure

The application for restitution was filed in response to a letter to the applicant dated 11 May 2006 from the Origins Unknown Agency (hereafter referred to as 'BHG'), containing a request for information regarding the aforementioned objects. According to the BHG, the objects had belonged to the applicant's mother, K.H.A.A. Carstens, who had sold them during the war. In response to the request for recommendation, the Committee instituted a fact-finding investigation, the results of which were recorded in a draft report dated 6 November 2006. This draft report was submitted to the applicant, to which she responded by telephone on 4 December 2006. The applicant also furnished additional information regarding the applicant's position with respect to the law of succession. The report was subsequently adopted on 14 May 2007. For the facts of the case, the Committee refers to the report, which is considered an integral part of this recommendation. The Committee has given priority to this application because of the advanced age of the applicant.

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. Involuntary loss of possession is also understood to mean sale without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.

Special considerations:

1. The applicant requests the restitution of four gilded silver chalices and a fifteenth-century silver crosier as the heir of his parents, Leopold Salomon (1875-1935) and Kätchen Henny Alma Auguste Carstens (1892-1976). According to the applicant, his mother sold the objects against her will during the Second World War. The applicant states that he is also acting on behalf of the other heirs. The Committee has taken cognisance of a number of documents concerning the applicant's position with regard to the law of succession.

2. The investigation shows that the claimed objects were originally the property of the Lübeck diocesan chapter in Germany. The objects subsequently came into the possession of a member of the House of Oldenburg, who probably sold them to Leopold Salomon sometime between 1930-1932. Since 1914, Salomon had been married to Carstens, the daughter of the governor of Eutin Castle, the residence of the Dukes of Oldenburg. The Committee assumes that Carstens had a mediating role in the sale. Salomon, who was of Jewish extraction, was a wealthy lawyer and the son of an art dealer from Dresden. According to the applicant, he sold the objects to prepare for the family's departure from Nazi Germany to the Netherlands during the period when taking money abroad had already been severely restricted. The investigation shows that the *Reichsfluchtsteuer* ('escape tax' imposed by the Third Reich) referred to had indeed been in force from March 1931. The Committee has taken cognisance of a statement by the then director of the St. Annen Museum in Lübeck dated 1946, in which this provenance information is confirmed. The Committee therefore considers it proven that the claimed objects had been the property of Salomon from 1930-32.
3. Around 1933, the family settled in the Netherlands. After Salomon's death in 1935, the objects were inherited by Carstens and her four children, one of whom being the applicant. According to Carstens, the objects were sold for the sum of NLG 42,500 during the Second World War, in late 1941, to Dr. Hans Posse, the man assigned to acquire art for Hitler. This sale of the objects to Posse is confirmed in other sources. As to the nature of this loss, Carstens declared after the war that:

'[...] Shortly after the occupation, I was visited by German members of the Higher SS and told that these objects were to be returned to Germany, where they were under 'Museumschutz'(museum protection). At the same time, the objects were confiscated from the Rotterdamsche Bank, Kneuterdijk, where they had been stored until the proceedings. Afterwards, I was summoned to the Plein on various occasions and, after having been threatened with expropriation, sold the items to Prof. Posse. [...].'



18. Gilded silver chalice
(NK 498 A)

4. After the war, the objects were returned to the Netherlands from Germany. In 1949, in an attempt to regain possession of the objects from the Dutch government, Carstens reported to the Netherlands Art Property Foundation (hereafter referred to as 'SNK') that the sale to Posse had taken place under duress. Because the SNK required Carstens to repay the sum they were sold for before it would return the items, and he did not, at the time, have the financial means to do so, the procedure was probably terminated. Regarding this, the applicant declared that the sum obtained for the sale of the objects during the war was no longer at his disposal and that this was partially due to a tax assessment to be paid immediately after the war on the selling price received.

The Committee does not consider this a case that was settled in the past and deems the application admissible.
5. The current restitution policy allows claimed objects to be returned if they were sold involuntarily and due to circumstances that were directly linked to the Nazi regime. In accordance with the Ekkart Committee's third recommendation from April 2001, the sale of a work of art by a Jewish private party, or a member of another persecuted minority, in the Netherlands after 10 May 1940, is considered a sale under duress, unless conclusive evidence to the contrary is provided. The committee is of the opinion that Carstens, though not of Jewish extraction, was in such a vulnerable position that she can be considered equivalent to a member of a persecuted minority. Moreover, the Committee refers to the fact that her children were part-Jewish and therefore the family was continually under threat. The applicant declares, for example, that during the war, he and his brother could not live in their home in The Hague but that they were forced to find lodgings elsewhere. It is important to note here that Carstens provided assistance to Jewish acquaintances and was put in Scheveningen prison for doing so from fall 1942 to spring 1943. Therefore, the Committee considers Carsten's sale to fall under the scope of the aforementioned Ekkart Committee recommendation, so that the sale to Posse of the claimed objects can unreservedly be classified as a sale under duress. The objects are therefore eligible for restitution on the basis of current national policy.

6. The next question to be dealt with is whether the payment of a sum of money is in order in the case of restitution. In accordance with the Ekkart Committee's fourth recommendation of April 2001, the refund of sales proceeds should be discussed *'only if and to the extent that the seller or his heirs actually obtained the free disposal of said proceeds'*. If there is any doubt as to whether the proceeds were actually enjoyed, the claimant should be given the benefit of the doubt as stated in the sixth recommendation.
7. The Committee is of the opinion that, given the family's vulnerable position during the war as described in 5 above, it is feasible that Carstens and her children were not able to spend the sum they received of around NLG 42,500 at will, but that it was necessary to use it for the protection of her family and possibly to finance the assistance to her Jewish acquaintances. In this regard, the Committee would like to specifically refer to the position of Carsten's four half-Jewish children and her own imprisonment. In addition, the investigation revealed that after the war, Carstens was assessed for the sum she received in 1941 based on the capital gains tax. This tax could range from 50% to 90% of the capital gains obtained during the occupation. It is no longer possible to ascertain from the archive records how much exactly Carstens had to pay; however, it is likely that she was required to refund the Dutch government a substantial portion of the sales price. Based on the foregoing, the Committee assumes that it is out of the question that the sum received at the time could be freely disposed of and also that a substantial part of the money was probably paid to the Dutch government after the war. The Committee therefore recommends that no conditions be imposed with respect to the repayment of money received.

Conclusion

The Restitutions Committee advises the Minister for Education, Culture and Science to return the four chalices (NK 498 A-D) and the crosier (NK 738) to the heirs of Kätchen Henny Alma Auguste Carstens.

Adopted at the meeting of 14 May 2007,

B.J. Asscher (chair)
J.Th.M. Bank
J.C.M. Leijten
P.J.N. van Os
E.J. van Straaten
H.M. Verrijn Stuart
I.C. van der Vlies



19. Entrance to the prison on the Pompstationsweg in Scheveningen.

9. Recommendation in the case of Marcus de Vries

(case number RC 1.50)

In a letter dated 23 October 2006, the Minister for Education, Culture and Science (OCW) asked the Restitutions Committee to issue a recommendation regarding a decision to be taken on the application submitted on 6 September 2006 by A. K. from L. (hereafter referred to as 'applicant') for the restitution of twelve paintings from the Dutch National Art Collection that formerly belonged to his father, Marcus de Vries (hereafter referred to as De Vries). This concerns the following works:

NK 1756: G. Lundens: *Interior of an inn with hunters and other figures*
NK 2047: A. Eversen: *View in a Dutch town*
NK 2059: F.A. Breuhaus de Groot: *Farmhouse near a sandy road*
NK 2160: A. Schelfhout: *Landscape with the ruins of Brederode castle*
NK 2251: B.C. Koekkoek: *Winter landscape*
NK 2256: F. de Momper: *Ice skating in a village*
NK 2380: J. Ekels I: *The Haarlemmersluis and the Haringpakkerstoren in Amsterdam*
NK 2508: F. de Braekeleer I, *A farmyard*
NK 2727: J.H. Steen: *Fortune teller*
NK 2933: K. Dujardin: *Horse and two cows in a hilly landscape*
NK 3072: Anonymus: *Italian landscape in the evening*
NK 3303: H. van Streek: *Interior of the Oude Kerk in Amsterdam*

These paintings have been part of the Netherlands Art Property collection (hereafter referred to as 'NK collection') since they were returned to the Netherlands after the Second World War and can now be found in various Dutch museums and government institutions.

The procedure

For the background to this case, the Committee refers to its recommendation dated 18 May 2004 regarding an application by A.K. for the restitution of four works of art from the De Vries estate (RC 1.18). This recommendation advised the restitution of three of the works belonging to the NK collection and the rejection of the restitution application for NK 3072 due to lack of evidence. The applicant is now requesting that recommendation RC 1.18 in so far as it applies to NK 3072 be revised, based on new information.

The Committee also refers to case RC 1.27 in which another De Vries family member (originally) applied for the restitution of essentially the same works from the De Vries estate on 7 February 2005. In connection with this, the Committee has conducted a preliminary investigation into aspects pertaining to the law of succession, which determined that neither the applicant in the RC 1.27 case nor A. K. is De Vries' heir. The application in the RC 1.27 case regarding the works of art belonging to De Vries was subsequently withdrawn on 31 October 2006. The preliminary investigation determined that A. K. is the rightful owner of the works of art from De Vries estate in the NK collection, in so far as they were to be returned (see consideration 1).

The Committee saw sufficient reason for processing the application dated 6 September 2006 by A. K. and subsequently instituted a fact-finding investigation, for which it also obtained art-historical advice from the Netherlands Institute for Art History (RKD). The applicant explained his claim in person at a hearing on 11 June 2007.

To support his claim and identify the works of art lost by De Vries, the applicant referred to evidence he had sent previously to the Committee in RC 1.27. This includes a notebook with descriptions of 16 paintings that (partially) match those NK works of art whose restitution is being requested, but the status of which was unclear. Taking into account the importance of this notebook for the claim in question, the Committee requested Mr T. van Ruiten, managing director of the National Museum of Education in Rotterdam and handwriting expert, to examine the notebook. He concluded that the notebook contains two different specimens of handwriting. The first belongs to someone who was educated in the period from 1930-1960 and the second to someone who had his written education in the period from 1970 to the present. Based on the above, the Committee deems that only those statements written using the first handwriting style in the notebook have any evidential bearing on the identification of the works from the De Vries estate.

The Committee handled the application for restitution of NK 2256 in its recommendation of 12 March 2007 together with a second restitution application for NK 2256 (RC 1.42). For the considerations that led to the rejection of A. K.'s application, the Committee refers to considerations 14-17 in the above recommendation RC 1.42.

NK 2727 and NK 1756 are also part of the application for restitution RC 1.90, which is yet to be handled. In reference to considerations 5-7, the Committee has found no reason to uphold the recommendation until RC 1.90 has been considered.

A draft report of the results of the Committee's fact-finding investigation was sent to the applicant for comment on 27 April 2007. The results of the examination of the handwriting in the notebook were also sent to the applicant on 4 May 2007. For the facts in this case, the Committee refers to its investigatory report dated 1 October 2007, which is considered an integral part of this recommendation, as well as to the investigatory reports in the RC 1.18, RC 1.27 and RC 1.42 cases.

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government if the art was privately owned, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. It is highly probable that loss of possession was involuntary if the object was sold without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.

Explanation of general considerations c and e¹

In line with the recommendations with regard to art dealing and the explanation thereof, the Committee has come to the conclusion that consideration c should only apply to the ownership of art by private parties. Consideration e has been modified accordingly and, furthermore, this consideration should be taken to mean that only those objects that were effectively part of the old trading stock are eligible for restitution.

Special considerations:

1. A. K. requests the restitution of the above-mentioned paintings from the Dutch National Art Collection in his capacity as entitled party, following the transfer by the rightful heir of Marcus de Vries of his rights and claims to the works of art in question. As to the capacity in which he is currently acting, the applicant states in his restitution application dated 6 September 2006:

'I would like to hereby declare that I am acting in the capacity as entitled party, following the transfer to me by Mr A.R. B. of his rights and claims to the works of art in question. Mr B. recently made a written statement of his wish to confer to me his rights to the works of art from the Dutch National Art Collection, which include the above-mentioned works. (...) A short explanation is in order. As far as is known, Mr A.R. B. is the sole heir to my father. This is because he is the heir to Mrs S. de Vries-Fuchs (wife of M. de Vries) who, in turn, was sole heir to M. de Vries. However, Mr B. decided to confer his entitlement to the works of art from the Dutch National Art Collection to me, as the son of the original owner'.

The Committee took cognisance of a decision by the District Court in Leeuwarden dated 26 November 1931 which shows that De Vries was the applicant's father but that De Vries did not recognise him as his son. Consequently, the applicant is not an heir to De Vries (see also the recommendation in the RC 1.18 case). The Committee also took cognisance of the Swiss will of Solvejg Fuchs, De Vries' wife, dated 17 October 1980, in which she names A.R. B. as her sole heir, as well as a letter from B. dated 9 May 2006, addressed to the Committee, in which he confirms that he confers his entitlement to the works of art from the former Marcus de Vries estate that are currently in the Dutch National Art Collection to A. K.

2. The relevant facts are listed in the investigatory report dated 1 October 2007. The following summary will suffice for present purposes. The Jewish merchant Marcus Frederik de Vries (1897-1942) traded in paintings from the late 1930s and was able to earn a substantial income. The investigation revealed that De Vries was active in the Resistance. He continued to deal in art in the early years of the Second World War and partly used this as a means of generating funds for the resistance movement, one of the purposes being the publication of the resistance newspaper *Het Parool*. In addition, De Vries' residence on the Daniël Willinkplein in Amsterdam was a clandestine contact address for the Resistance. On 2 April 1941, De Vries married Solvejg Fuchs (1909-1981), a German-Jewish refugee. The lives of the

¹ Until 12 November 2007, general considerations c and e read:

- c) The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- e) Involuntary loss of possession is also understood to mean sale without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, insofar as the original owner or his heirs did not receive all the profits of the transaction, or insofar as the owner did not expressly waive his rights after the war.

De Vries-Fuchs became endangered when the occupying forces found out about De Vries' involvement in the Resistance. In January 1942, the *Sicherheitsdienst* (SD, Security Service) raided the residence of the married couple when they were out, after which they went into hiding. De Vries was eventually arrested on 9 July 1942 and deported via Westerbork to Auschwitz, where he died on or around 18 July 1942. Solvejg de Vries-Fuchs remained in hiding until the end of the war and survived. She died in Switzerland on 19 May 1981.

3. The applicant stated that most of the claimed works of art had been stolen in 1941 and 1942. The Committee's further investigation did not reveal when the thefts actually took place nor which works of art were taken, with the exception of NK 3072 as detailed in considerations 11 and 12. However, the investigation did establish that some of the works were sold to a Dutch art dealer (see considerations 5-7).
4. The applicant declares that the claimed works of art were his father's private property. However, based on the fact that De Vries actively dealt in the Dutch art market until late 1941, as stated in the investigatory report, the Committee is of the opinion that the claim in question (with the exception of NK 3072) should be judged on the basis of the art trade guidelines (Ekkart recommendations 2003). In this context, the Committee believes that in their formulation of the art trade recommendations, the Ekkart Committee, in addition to regular art dealers, expressly took into account occasional traders who, though not established as (official) art dealers, were involved, on one level or another, in the buying and selling of artwork. In the Committee's opinion, De Vries belongs to this category of trader and the claim, with the exception of NK 3072 for which special circumstances apply, therefore falls under the art trade policy that has the following premise as its basic principle: *'the art trade's objective is to sell the trading stock so that the majority of the transactions, even at the Jewish art dealers, were principally carried out in the normal way'*. In the Committee's opinion, taking into account the applicable policy for the art trade, the fact that the proceeds from these sales may have been used for resistance activities cannot, without any further evidence of a direct connection between the Nazi regime and the specific sale, lead to the conclusion that the possession of the works was lost involuntarily.

I) NK 1756, NK 3303, NK 2727

5. The Committee considers that in the case of three paintings, independent archival sources have revealed that Marcus de Vries was in possession of the paintings in question at some time during the occupation. This concerns NK 1756, NK 3303 and NK 2727.
6. It is known that the painting NK 2727 belonged to at least five consecutive Dutch owners during the occupation, including De Vries, who bought the work from art dealer P. de Boer in Amsterdam on 26 March 1941. According to the provenance details that are available, the Jan Steen was in the possession of G.B. Lanz in Laren a month later, on 23 or 28 April 1941, after which it ended up with Posse, Hitler's art collector, via the Kunsthandel Katz art dealer in Dieren. Whether Kunsthandel Katz was the mediator in this last transaction or the (intermediate) owner is uncertain and, for the current investigation, irrelevant. The applicant claimed that his cousin T.L., who died in 1988, told him before she died that this painting, NK 2727, was purported to have been stolen from her uncle De Vries in April 1941. However, due to the short time the painting was in De Vries' possession and the lack of evidence concerning the stolen object – other than the applicant's second-hand statements – the Committee is of the opinion that it is insufficiently probable that it is a case of involuntary loss of possession as a consequence of circumstances directly associated with the Nazi regime.
7. It is known that the works NK 3303 and NK 1756 belonged to De Vries in 1941 and that he sold them on 22 January and 24 September 1941, respectively, to the art dealership Gebroeders Douwes in Amsterdam. The Committee deems that under these circumstances, this was a normal trading transaction.

II: NK 2380, NK 2508, NK 2933, NK 2047, NK 2059, NK 2160, NK 2251

8. As regards the seven paintings grouped here under category II, the Committee is of the opinion that it is not very likely that these works were (still) in De Vries' possession during the occupation and that they were involuntarily taken from him. The evidence that these paintings belonged to De Vries is based on sources that the Committee finds to be insufficiently substantiated on their own and without corroboration from independent or authentic source materials. This evidence comprises either a mention in the notebook (NK 2059, NK 2251), the applicant's recollections of the painting in question (NK 2933, NK 2160), or a combination of a mention in the notebook and the applicant's recollections (NK 2380 and NK 2508), where, in the last case (NK 2508), the notebook and the recollections reveal contradicting information. In this respect, the Committee considers that the notebook (at any rate numbers 1-12) cannot be seen as much more than a list of works that were in the possession of De Vries at some point in time, and that they are second-hand entries, made by someone other than De Vries. Therefore, the notebook cannot be considered a list of works that De Vries lost involuntarily.
9. If, based on the applicant's distinct recognition of several works in this category, the Committee were to be of a different opinion to that stated in 8, and were to accept that these works were (still) in De Vries'

possession during the occupation, and, accordingly were to consider the involuntary nature of the loss of possession, the Committee considers there to be insufficient evidence to this effect.

Even after further investigation by the Committee, it is still unknown how De Vries lost these seven paintings. The Committee assumes that the applicant is basing his memories on his last visit from his then home in Friesland (see also RC 1.18) to his father in Amsterdam as a nine- or ten-year-old in the summer of 1939. Therefore, the Committee concludes that regarding the works that the applicant remembers (NK 2059, NK 2160, NK 2251 and NK 2933) from 1939 at the latest, there is an undeniable possibility that De Vries' voluntarily sold these paintings for the purposes of his trade after that date and before going into hiding. In respect of second-hand statements made on behalf of the applicant that works were stolen from the De Vries residence during the war, the Committee considers there to be no concrete evidence.

10. Based on the above, the Committee concludes that the current information is insufficient and that if no further information is available, there are insufficient grounds for granting the application for the restitution of NK 2059, NK 2160, NK 2251, NK 2380, NK 2508 and NK 2933.

Category III: NK 3072

11. Based on new information, the applicant requests that the Committee revise its opinion on the application for the restitution of NK 3072, *Italian landscape in the evening* (Anonymous, formerly attributed to Govaerts), as stated in the Committee recommendation dated 18 May 2004 (regarding case RC 1.18).
12. This earlier recommendation regarding case RC 1.18 reveals that in a postcard from Camp Westerbork, De Vries bestowed five paintings from his estate on his son A. K. For the circumstances surrounding this gift, which the Committee considers to be legally valid, the Committee refers to considerations 8-10 in its recommendation dated 18 May 2004. This recommendation states that, due to circumstances at the time, the applicant never received the paintings given to him by De Vries since, when the postcard was received during the war, the paintings mentioned had already disappeared from the De Vries residence on the Daniël Willinkplein, possibly as result of theft after his arrest (see considerations 1-4 in the recommendation RC 1.18).

The Committee considered in its recommendation of 18 May 2004 that three of the paintings referred to on the postcard could be identified as works claimed by the applicant in RC 1.18 (NK 2389, NK 2394 and NK 2526), given the facts that these works appeared on the Amsterdam art market in the period following De Vries' arrest, that the applicant had positively identified these works before the Origins Unknown Agency, and that the descriptions on the postcard provided sufficient points of similarity from an art-historical perspective. In respect of the application for the restitution of NK 3072, the Committee deems that there is currently insufficient research data available to corroborate that this work (in the Dutch National Art Collection entitled *Italian landscape in the evening*, Anonymous, previously attributed to Govaerts) is the same as the one described on the postcard as '*Abram Govaerts, Italian Mountains*'. The Committee based the opinion in its recommendation on the fact that the description on the postcard is too unclear to be able to identify NK 3072 as a work that belonged to De Vries, and all the more because, unlike the three



20. Anonymous: *Italian landscape in the evening* (NK 3072)

other works that the applicant could positively identify, including particular details, the applicant failed to identify NK 3072, stating the following with regard to the painting: *'As to the fourth painting (Govaerts), I can only remember that such a painting was hanging at my father's house, but I cannot remember it distinctly'*. On 18 May 2004, the Committee decided that the application for the restitution of NK 3072 could not be allowed without further evidence.

13. The applicant is now substantiating his renewed claim for NK 3072 by referring to the (aforementioned) notebook, which he saw for the first time in 2006, in which the painting appears in the first handwriting style as *'Abram Govaerts / Italian mountains in the evening/ Kats Dieren'*. Based on this information, the Committee asked Prof R.E.O. Ekkart, managing director of the Netherlands Institute for Art History, for art-historical advice. His conclusion, based on the description in the notebook, is that he deems it much more likely that NK 3072 is the same as the painting mentioned on the postcard due to the detailed description in the notebook.
14. In connection with the circumstances surrounding the above-mentioned bestowal, which proves that the work was De Vries' personal gift to A. K., and in reference to the recommendation of 18 May 2004, the Committee considers that NK 3072, as opposed to the other works of art in the recommendation in question, should not be seen as trading stock but as private property. Based on the less rigid stipulations as regards evidence that applies to the private possession of art under the restitution policy, the Committee is of the opinion that this new information makes it sufficiently probable that NK 3072 belonged to De Vries and that the work was lost involuntarily and as a consequence of the Nazi regime.

Conclusion

Regarding the application for the restitution of twelve works of art from the Dutch National Art Collection, the Restitutions Committee advises the Minister for Education, Culture and Science to:

- grant the application regarding NK 3072, *Italian landscape in the evening*
- reject the application regarding the other works.

Adopted at the meeting of 3 December 2007,

I.C. van der Vlies (vice-chair)
J.Th.M. Bank
J.C.M. Leijten
P.J.N. van Os
E.J. van Straaten
H.M. Verrijn Stuart

10. Recommendation regarding the application for the restitution of an eighteenth-century commode in the style of Louis XVI (NK 994)

(case number RC 1.52)

In a letter dated 23 October 2006, the Minister for Culture, Education and Science (OCW) asked the Restitutions Committee to issue a recommendation regarding a decision to be taken on the application filed on 1 September 2006 by M.W.-K. (hereafter referred to as 'applicant'), also on behalf of her sister-in-law M.S.K.-L., for the restitution of an eighteenth-century commode in the style of Louis XVI. Recovered from Germany after World War II, the commode is currently part of the Netherlands Art Property Collection (NK 994) and is in storage at the Netherlands Institute for Cultural Heritage.

The procedure

The application for restitution was the result of a letter from the Origins Unknown Agency (hereafter referred to as 'BHG') dated 31 March 2006, in which M.W.-K. and M.S.K.-L. were asked for further information about the commode. It was also noted in the letter that the piece of furniture may well have belonged to M. Kaufmann-Parser, the addressees' mother and mother-in-law, respectively. In response to the application for restitution that was subsequently submitted, the Restitutions Committee instituted a fact-finding investigation, the results of which were summarised in a draft report dated 6 November 2006. This draft report was submitted to the applicant, who informed the Committee by telephone that she had no further comment to make. The report was adopted at a Committee meeting held on 12 February 2007. For the facts of the case, the Committee refers to its investigatory report, which is considered an integral part of this recommendation.

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. Involuntary loss of possession is also understood to mean sale without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.

Special considerations:

1. The applicant requests the restitution of the commode (NK 994) in her capacity as heir of her mother Marie Kaufmann-Parser. She declares that she is acting on behalf of M.S.K.-L. as well, the daughter-in-law of Marie Kaufmann-Parser and Frits Kaufmann. The Committee has taken note of a certificate of inheritance dated 22 October 1959, in which Frits Kaufmann appointed his wife Marie Kaufmann-Parser and their two children as heirs.



21. The bricked-up houses of Jewish deportees, Amsterdam, September 1943.

2. The investigation of the facts revealed the following. When World War II broke out, Marie Kaufmann-Parser and her husband Frits Kaufmann, both of Jewish extraction, were living with their two children at Euterpestraat in Amsterdam. The family subsequently tried to flee to Switzerland via France. Frits Kaufmann was captured in France and deported to Auschwitz, where he died on 6 November 1942. Marie Kaufmann-Parser and her two children managed to get to Switzerland and so were able to survive the war.
3. After the war, Kaufmann-Parser returned to the Netherlands with her children. The applicant declared that on their return, the contents of the house at Euterpestraat had disappeared. This is confirmed in the files of the Foundation of Jewish Communities and Social Organisations for Damage Reimbursement (JOKOS), which show that the couple's household and personal effects had been confiscated during the war.
4. In early 1950, Kaufmann-Parser recognised and claimed the commode at an 'art recovery' exhibition held by the Netherlands Art Property Foundation (SNK) in the Amsterdam Rijksmuseum. The Committee has taken note of the claim she filed on 14 January 1950. In the period following the exhibition, the director of the SNK, J. Jolles, requested Kaufmann-Parser to provide evidence that the commode had belonged to her. However, Kaufmann-Parser's statement, and later that of her sister-in-law, were found by the SNK to be inconclusive proof. On the basis of the post-war dossier, the Committee concludes that the SNK's stringent requirements together with personal circumstances of the witnesses put forward by Kaufmann-Parser were the reason why the procedure was, at the time, unsuccessful. From the foregoing, it can be concluded that the case was never dealt with conclusively in the past, and the Committee therefore considers the application to be admissible.
5. The Committee is of the opinion that the conditions for restitution have been met. In accordance with the Ekkart Committee's eighth recommendation from 2001, national policy dictates that art objects 'can be returned if a plausible case has been made for ownership rights and there are no indications to the contrary'. In view of the fact that Kaufmann-Parser herself recognised the commode at the art recovery exhibition, as did her sister-in-law some time later, the Committee considers it highly plausible that the commode was indeed the property of the Kaufmann-Parser couple at the start of the war. Moreover, the Committee attaches importance to the fact that after seeing the commode on 12 June 2006, the applicant made a statement to the Origins Unknown Agency declaring that the piece of furniture was identical to the one that was formerly at her parents' house. The Committee also considers that the confiscation of the furniture establishes the involuntary nature of the Kaufmann-Parser's loss of possession, as a result of circumstances directly associated with the Nazi regime.

Given the above, the Committee considers the applicant's claim for the restitution of the commode admissible.

Conclusion

The Restitutions Committee advises the Minister for Education, Culture and Science to return the commode (NK 994) to the heirs of M. Kaufmann-Parser.

Adopted at the meeting of 12 February 2007,

B.J. Asscher (chair)
 J.Th.M. Bank
 J.C.M. Leijten
 P.J.N. van Os
 E.J. van Straaten
 H.M. Verrijn Stuart
 I.C. van der Vlies



22. Eighteenth-century commode in the style of Louis XVI (NK 994)

11. Recommendation regarding the application for the restitution of Unloading the hay wagon by Isaac van Ostade

(case number RC 1.54)

In a letter dated 31 October 2006, the Minister for Education, Culture and Science (OCW) asked the Restitutions Committee to issue a recommendation regarding the application dated 23 August 2006 submitted by A.M. in France (hereafter referred to as 'the applicant') for the restitution of a painting by Isaac van Ostade entitled *Unloading the hay wagon* (NK 1861). The claimed work of art is part of the Netherlands Art Property Collection (NK collection) and is on long-term loan to the Stedelijk Museum in IJsselstein.

The procedure

In response to the application for restitution, the Restitutions Committee instituted a fact-finding investigation, the results of which were summarised in a draft report dated 11 June 2007 and submitted to the applicant in a letter dated 13 July 2007. The applicant was also requested to supply supporting documents. The applicant's response, including the requested information, was received on 1 August 2007 and the report was subsequently adopted on 1 October 2007. For the facts of the case, the Committee refers to its investigatory report, which is considered an integral part of this recommendation.

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. Involuntary loss of possession is also understood to mean sale without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.

Special considerations:

1. The applicant, in his capacity as heir of Anna Emilie Jaffé-Gluge (hereafter referred to as Anna Jaffé), requests the restitution of the 17th-century painting *Unloading the hay wagon* by Isaac van Ostade. The applicant has stated to be acting on behalf of the other heirs. Anna Jaffé was married to Joseph John Jaffé (hereafter referred to as John Jaffé), who died on 6 May 1934. Anna Jaffé passed away in March 1942, having listed four family members as her heirs, including her nephew G.C. The applicant has stated that he is his grandson.
2. The investigation has revealed the following. John Jaffé and his wife were both Jewish. They were British subjects but lived in Nice, France, at Villa Jaffé, where the couple owned a substantial art collection. Based on the investigation, the committee has found sufficient proof to conclude that the claimed painting NK 1861 was part of the Jaffé collection. The third volume of the standard work *Beschreibendes und kritisches Verzeichnis der Werke der hervorragendsten Holländischen Maler des XVII. Jahrhunderts [Descriptive and critical index of the works of the most outstanding Dutch painters of the 17th century]* by Dr C. Hofstede de Groot, published in 1910, cites John Jaffé as last owner of a panel by I. van Ostade. In the committee's opinion, the description of the panel is convincingly similar to the claimed work NK 1861. In addition, the applicant has stated that various family members who visited Villa Jaffé between 1935 and 1938 recognised the image of NK 1861 on the BHG website as formerly belonging to the Jaffés.
3. During the Second World War, Nice was governed by the Vichy regime, which collaborated with the Nazis. Anna Jaffé died in March 1942. In October 1942, the *Commissariat General aux Affaires Juives [State Commission for Jewish Affairs]* appointed an administrator to administer her estate. Against the wishes of the heirs, the authorities auctioned Jaffé's art collection in Nice on 12 and 13 July 1943. The committee deems it plausible that the claimed work of art NK 1861 was also auctioned. As proof thereof and at the request of the committee, the applicant has supplied a copy of the illustrated auction catalogue that contains a picture corresponding to the claimed work of art NK 1861. This conclusion is confirmed by the fact that an investigation into the photograph collection of the Netherlands Institute for Art History showed that the genre of Isaac van Ostade does include farming scenes but that a painting of a *loaded* hay wagon is relatively unique. Therefore, the committee considers it very likely that the claimed work NK 1861 was part of the auctioned estate of the Mr and Mrs Jaffé.



23. *Unloading the hay wagon* by Isaac van Ostade (NK 1861).

4. Furthermore, several documents show that the painting was bought at the auction by a certain Madame Bonfils, of whom no other information is known to exist, and was subsequently bought from an art dealer in Paris in September 1943 by W.A. Hofer for Göring's collection.
5. After the war, the painting was mistakenly recovered to the Netherlands from Munich. Presumably, the Netherlands Art Property Foundation concluded that the work came from an art dealer in Amsterdam due to a statement by Hofer issued after the war. The internal SNK report pertaining to NK 1861 states that the work originally belonged to an art dealership in Amsterdam. The committee considers it likely that the statement by Hofer was erroneous and therefore that the information on the provenance of the painting in the SNK's archive was also incorrect.
As far as is known, there have been no applications for the restitution of NK 1861 since the end of the war.
6. Pursuant to current government policy regarding the restitution of items of cultural value, restitution can be recommended only if it is highly probable that the claimed object was originally the property of Anna Jaffé and if the work of art was relinquished involuntarily due to circumstances directly related to the Nazi regime.
7. On the basis of the abovementioned investigation, the committee concludes that both conditions for restitution have been met. The committee is of the opinion that there is sufficient evidence to presume that the work of art NK 1861 belonged to Anna Jaffé until her death in March 1942 and after that was auctioned by the French authorities in Nice in collaboration with the Nazis without the heirs' consent. This proves that it was indeed a case of involuntary loss of possession.
As there is no question of this case having been settled in the past, there are no grounds for not allowing the restitution application.

Conclusion

The Restitutions Committee advises the Minister for Education, Culture and Science to return the painting *Unloading the hay wagon* by Isaac van Ostade (NK 1861) to the heirs of Anna Jaffé.

Adopted at the meeting of 1 October 2007,

B.J. Asscher (chair)
J.Th.M. Bank
J.C.M. Leijten
P.J.N. van Os
E.J. van Straaten
H.M. Verrijn Stuart
I.C. van der Vlies (vice-chair)

12. Recommendation regarding the application for the restitution of Reclining Nude by J.C.B. Sluijters (NK 3392)
(case number RC 1.55)

In a letter dated 1 November 2006, the Minister for Education, Culture and Science (OCW) asked the Restitutions Committee to issue a recommendation regarding the application dated 7 September 2005 submitted by S.M.C. (hereafter referred to as 'the applicant') for the restitution of the painting entitled *Reclining Nude* by J.C.B. Sluijters (NK 3392). The claimed work of art is part of the Netherlands Art Property Collection under the custody of the national government and is currently on long-term loan from the Netherlands Institute for Cultural Heritage to the Stedelijk Museum, Schiedam.

The Procedure

The reason for the application for restitution was a letter from the Origins Unknown Agency (hereafter referred to as 'BHG') of 23 February 2005 to the applicant, containing a request for further information concerning the painting NK 3392, that, according to BHG, had belonged to her father, C. ter Laare. In response to the application for restitution that was subsequently submitted, the Restitutions Committee instituted a fact-finding investigation, the results of which were summarised in a draft report dated 27 November 2006. This draft report was submitted to the applicant, who was asked to provide more specific information regarding the involuntary nature of the loss of property and the connection with the Nazi regime. The applicant responded on 23 December 2006, but could not furnish more detailed information on this matter. The report was subsequently adopted on 11 June 2007. For the facts of the case, the Committee refers to its investigatory report, which is considered an integral part of this recommendation.

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. Involuntary loss of possession is also understood to mean sale without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.

Special considerations:

1. The applicant, in her capacity as the heir to her father, Cornelis Maria Leonard ter Laare (1909-2006), requests the restitution of the painting *Reclining Nude* by J.C.B. Sluijters (NK 3392). In this context, the Committee has taken cognisance of his will, dated 29 September 1992, as amended by codicil on 23 April 1999.
2. Cornelis Maria Leonard ter Laare was an embroiderer by trade and of Dutch nationality. In 1932, he married Cornelia Elisabeth Haasma, which resulted in the birth of a son, Rudolf Leonard ter Laare. In 1939, this marriage was dissolved and he married Esther van der Goen, with whom he had two daughters, J.C. (born 1943) and the applicant, S.M. (born 1947). During the war, the family lived in the Graaf Florisstraat in Amsterdam. Ter Laare was not Jewish and did not, as far as is known to the Committee, belong to any other persecuted group.
3. During the investigation into the provenance of the claimed painting, no sources could be found that established with any certainty when or from whom Ter Laare had acquired the claimed painting. There are several declarations in the archives of the Netherlands Art Property Foundation (SNK) from Ter Laare himself regarding the ownership and loss of the claimed work. In a declaration form of September 1945 and in his correspondence with the SNK, Ter Laare stated that during the war, he bought the painting from a Mrs De Barbanson and, in 1944, sent it to an address in Gelsenkirchen, Germany. In Gelsenkirchen, a person by the name of Mr P. de Ree was commissioned by Ter Laare to sell the painting. Ter Laare stated that the sale did not go through but that the painting was not returned to him. In light of his subsequently unsuccessful attempts to recover the painting, he requested that the SNK bring the painting back to the Netherlands for him after the war.

A more detailed investigation by the Committee into the acquisition of the painting by Ter Laare during the war and the loss of it some time later failed to provide any further information. For this investigation, the Committee consulted, among others, an expert on Sluijters from the Netherlands Institute of Art History and had genealogical research carried out into the painting's former owner, Mrs De Barbanson.

4. It has emerged from the investigation that the SNK traced the work to Germany and in May 1948 returned it to the Netherlands. The Committee has taken cognisance of the inventory card accompanying the work, which states that the painting was originally the property of Ter Laare and that it was sold to P. de Ree in Gelsenkirchen. It is unknown on what this information is based. No indications have been found that the SNK informed Ter Laare about the recuperation of the painting. As far as is known, the last contact between Ter Laare and the SNK in connection with the work was in August 1947.
5. Pursuant to current national policy in respect of the restitution of works of art, the Committee can only advise restitution if it is deemed sufficiently likely that the work was originally the property of Ter Laare and whether possession thereof was relinquished involuntarily as a consequence of circumstances directly associated with the Nazi regime.

In the Committee's opinion, the conditions for restitution have not been met. Even if Ter Laare's declaration in regard to ownership of the work were to be accepted as sufficient evidence, there is still the matter of whether a connection exists between the loss of property and the Nazi regime. Neither the existing archival material nor Ter Laare's declarations show that Ter Laare was forced by the Nazis to send the painting to Gelsenkirchen to be sold. Given the fact that Ter Laare did not belong to a persecuted group, the Committee is also of the opinion that there is no reason to suppose that any coercion took place. The applicant has also been unable to provide further information in this regard. Accordingly, the Committee deems there to be insufficient evidence pointing to involuntary loss associated with the Nazi regime.

Conclusion

The Restitutions Committee advises the Minister for Education, Culture and Science to reject the request for restitution of the painting *Reclining Nude* by J.C.B. Sluijters (NK 3392).

Adopted at the meeting of 11 June 2007,

B.J. Asscher (chair)
J.Th.M. Bank
J.C.M. Leijten
P.J.N. van Os
E.J. van Straaten
H.M. Verrijn Stuart
I.C. van der Vlies



24. *Reclining Nude* by J.C.B. Sluijters (NK 3392)

13. Recommendation regarding the application for the restitution of a bamboo quiver (NK 957) and an oak three-door milk cupboard (NK 966)
(case number RC 1.56)

In a letter dated 1 December 2006, the Minister for Education, Culture and Science (OCW) asked the Restitutions Committee to issue a recommendation regarding the decision to be taken on the application filed on 7 November 2006 by N.P. (hereafter referred to as 'applicant'), for the restitution of a bamboo quiver from the Apokajan Dayaks in Borneo, Indonesia, and a 17th-century oak three-door milk cupboard. The objects are part of the Netherlands Art Property Collection and are registered as NK 957 and NK 966, respectively. The quiver is on loan to the Royal Tropical Institute in Amsterdam; the milk cupboard is in Museum Tongerlohuys in Roosendaal, both in the Netherlands.

The procedure

The application for restitution was the result of a letter from the Origins Unknown Agency (hereafter referred to as 'BHG') dated 26 October 2006, in which the applicant was asked for further information about the claimed objects. It was also noted in the letter that the quiver and the milk cupboard may have been the property of Abraham P., the applicant's father.

In response to the application for restitution that was subsequently submitted, the Restitutions Committee instituted a fact-finding investigation. The Committee has given priority to this application because of the advanced age of the applicant. The results of the fact-finding investigation were summarised in a draft report dated 12 February 2007, which was presented to the applicant and also to the Minister for OCW, who informed the Committee that there was no additional information. The report was adopted on 12 March 2007. For the facts of the case, the Committee refers to its investigatory report, which is considered an integral part of this recommendation.

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. Involuntary loss of possession is also understood to mean sale without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.



25. A bamboo quiver
(NK 957)

26. An oak three-door
milk cupboard
(NK 966)

Special considerations:

1. The applicant, as the heir of his father, Abraham P. (1877–1957), requests the restitution of a quiver (NK 957) and a milk cupboard (NK 966). The applicant states that he is also acting on behalf of the other heirs. The Committee has taken cognisance of a certificate of inheritance dated 19 March 1957, which states that Abraham P. appointed his wife Ida Annette Sequeira and their three children as heirs.
2. The following is known about Abraham P.'s life. He was born on 27 July 1877 of Jewish extraction. He served in the Royal Netherlands Indies Army from 5 October 1901 and was billeted in various places in the former Dutch East Indies from 1902. In 1915, he was posted to the 'Garnizoens Bataljon van de Zuid Ooster', a garrison battalion in the south-east, in Borneo, where he was in charge of the management of civilians in the Apokajan and Pudjagan regions until February 1921. He returned to the Netherlands with his wife and three children in 1929, taking with him his collection of ethnographic objects, according to the applicant. From 1935 on, the family lived at Nicolaas Maesstraat in Amsterdam. In March 1943, the P. family was arrested and deported via transit camp Westerbork to Theresienstadt. They survived the war.
3. The applicant has stated that the contents of the house on Nicolaas Maesstraat were confiscated when the family was arrested in 1943. This is also confirmed in files of the Foundation for Jewish Communities and Social Organisations for Damage Reimbursement (JOKOS), which also contained a declaration form dated 1958, submitted by Mrs P.-Sequeira, the applicant's widow, concerning the theft of household effects.
4. Pursuant to current national policy in respect of the restitution of works of art, the Committee is obliged to ask itself whether it is sufficiently plausible that the claimed objects were originally the property of Abraham P., and whether he relinquished possession of the works involuntarily as a consequence of circumstances directly associated with the Nazi regime.
5. Based on the investigation, the Committee has several indications that suggest that the claimed quiver (NK 957) was the property of P. until it was confiscated in 1943.

Shortly after the war, on 14 March 1946, P. reported the loss due to confiscation of a quiver that originated in the Apokajan district of Central Borneo to the Netherlands Art Property Foundation (SNK). He described the quiver as '*made of large bamboo stems into which were cut handsome figures using a Mandau knife*'. He also referred to a picture of a similar quiver in a book entitled *A Journey among the Peoples of Central Borneo in word and picture* by H.F. Tillema (1933). On the basis of these sources, the Committee has ascertained that the external features of the quiver lost by P. correspond to those of the presently claimed quiver NK 957.

Moreover, at a claim exhibition organised by the Netherlands Art Property Foundation in the Rijksmuseum in Amsterdam in March 1950, P. recognised and claimed the quiver NK 957, which had been recovered from a German museum and returned to the Netherlands in September 1947. Subsequently, the director of the Bureau for Restoration Payments and the Restoration of Property (Hergo), one of the successors to the SNK, requested him to prove that the quiver was his property. However, a witness introduced by P. was prevented from being heard due to illness, after which the procedure foundered and Hergo put the claim aside. Incidentally, the Committee assumes that the mention in several documents in the SNK archive of art dealership Aalderink as probable owner of the quiver is based on a misunderstanding. After viewing the quiver in August 1950, Aalderink declared that they did not recognise the quiver.

6. Based on the above, the Committee considers it sufficiently demonstrated that the claimed quiver was the property of Abraham P. until March 1943. Moreover, it was confirmed in its opinion by the fact that the applicant had recognised the object in a photograph as being the former property of his father, about which he made a detailed statement in October 2006. Needless to say, the Committee indicates that in the 1920s, P. was stationed in the Apokajan region in Borneo, where the quiver originates and, according to the applicant, where it was part of a collection of ethnographic objects that was taken to the Netherlands.
7. With reference to the milk cupboard (NK 966), on the basis of archive material, it cannot with any certainty be established who the owner was before or during the war. Nonetheless, the Committee has grounds to believe that the milk cupboard was owned by the P. family up until the date of the arrest in 1943. The fact of the matter is that P.'s wife did indeed recognise the milk cupboard at the said claim exhibition in 1950, after which P. submitted a restitution application to the SNK. As with the quiver, the statements given by the family members themselves did not constitute incontrovertible proof of ownership for the SNK (or Hergo), and when the intended witness was prevented from appearing, the procedure came to nothing.
8. In accordance with current standards of restitution policy, the Committee considers it sufficiently demonstrated that the object belonged to P. in view of the fact that the applicant also recognised the milk cupboard in a photograph and was able to remember exactly where it was situated in the house at the time. Where necessary, the Committee refers to the general consideration under C, in which any risk of proof having been lost on account of the lapse of time should be borne by the government.

9. Finally, the Committee considers that given the confiscation of household effects in 1943, it is plausible that P.'s loss of possession of the quiver and the milk cupboard was involuntary due to circumstances directly related to the Nazi regime.
10. In the light of the above, the Committee is of the opinion that the conditions for restitution have been met. As there is no question of this case having been settled in the past, there are no grounds for not allowing the restitution application.

Conclusion

The Restitutions Committee advises the Minister for Education, Culture and Science to return the quiver (NK 957) and the milk cupboard (NK 966) to Abraham P.'s heirs.

Adopted at the meeting of 12 March 2007.

B.J. Asscher (chair)
J.Th.M. Bank
J.C.M. Leijten
P.J.N. van Os
E.J. van Straaten
H.M. Verrijn Stuart
I.C. van der Vlies

14. Recommendation regarding the application for the restitution of an eighteenth-century Savonnerie carpet (NK 1066)

(case number RC 1.58)

In a letter dated 19 December 2006, the Minister for Culture, Education and Science (OCW) asked the Restitutions Committee to issue a recommendation regarding the application dated 5 December 2006 submitted by R.A.H. ('the applicant'), also on behalf of her sister-in-law, D.A., for the restitution of an eighteenth-century Savonnerie carpet with central medallion and rich decoration in brown and pink. The carpet was recovered from Germany after the Second World War and added to the Netherlands Art Property Collection (NK 1066). The carpet is now part of the Rijksmuseum collection in Amsterdam, where it is held in storage.

The procedure

The reason for the application for restitution was a letter from the Origins Unknown Agency ('BHG') of 18 October 2006 to the applicant containing a request for further information regarding the carpet. The letter also pointed out that the carpet had been the property of her mother, Ellinor Sternberg. In response to the application for restitution then filed, the Committee conducted an investigation of the facts. In view of the applicant's age, the application was given priority. The results of the investigation were included in a draft report dated 12 March 2007, which was given to the applicant, who informed the Committee by telephone that she had no comments. The draft report was also submitted to the Minister for OCW, who informed the Committee on 3 April 2007 that no additional information was available.

Subsequently, the Committee adopted the report on 16 April 2007. As regards the facts of the case, the Committee refers to its investigatory report, which is considered an integral part of this recommendation.

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. Involuntary loss of possession is also understood to mean sale without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.

Special considerations:

1. In her capacity as heir of her parents Max Alsberg (1877-1933) and Ellinor Käthe Margot Clara Sternberg (1888-1965), the applicant requests the restitution of the carpet (NK 1066). She is also acting on behalf of D.A., the widow of the couple's son, who died in 2001 and who changed his name from K.A. to C.A. in 1939.
2. The fact-finding investigation revealed the following. The claimed carpet was part of Dr Max Alsberg's collection of works of art and antiques. Dr Alsberg was married to Ellinor Sternberg and the couple had two children, one of which is the applicant. Alsberg and his wife were of Jewish origin and had the German nationality. During the Weimar Republic, Alsberg was a well-known criminal lawyer, notary public and man of letters. In 1933, he fled to Switzerland, where he took his own life in September of that same year. In 1939, Sternberg settled in the United Kingdom.
3. Documents from the Netherlands Art Property Foundation (SNK) and the Netherlands Property Administration Institute (NBI) show that in 1933, Sternberg had part of the art and antiques collection put in storage at the firm of N.V. Koninklijke Meubeltransport-Maatschappij De Gruijter & Co in The Hague. On or about 26 April 1941, the stored goods, including the claimed carpet, were confiscated by the *Sammelverwaltung feindlicher Hausgeräte*. The Committee has taken cognisance of a letter dated 21 April 1941 sent by this German looting organisation to the said transport company commandeering the Alsberg collection. Various sources reveal that after it had been confiscated, the carpet was auctioned off at the auction house of Van Marle en Bignell, after which it came into the possession of art dealership Von Flotow in Hamburg, Germany. It is not known whether Sternberg received part of the proceeds of the auction after the war.
4. After the war, assisted by various authorised representatives, Sternberg made several attempts at regaining the very valuable collection. In July 1946, the loss of an eighteenth-century carpet was reported to the SNK on Sternberg's behalf. A photograph was added some time later, which shows that that declaration related to the currently claimed carpet NK 1066.

The carpet was recovered in Hamburg in March 1948 and stored in an SNK depot. It can be deduced from surviving files that the carpet was viewed in 1949 by a person authorised by Sternberg, but that the proceedings were discontinued because of the poor condition of the carpet. With reference to the first recommendation of the Ekkart Committee of 2001, the Committee considers the application admissible as it is clear that the case was never dealt with conclusively in the past.

5. The committee is of the opinion that the conditions for restitution have been met. It concludes that the investigation has shown that the currently claimed carpet did belong to Max Alsberg and Ellinor Sternberg, the applicant's parents. Moreover, the committee considers that the loss of the collection due to its confiscation by the Nazis should be regarded as an involuntary loss that was the result of circumstances directly related to the Nazi regime.

In the light of the above, the Committee considers the application for the restitution of the carpet NK 1066 admissible.

Conclusion

The Restitutions Committee advises the Minister for Culture, Education and Science to return the carpet (NK 1066) to the heirs of E.K.M.C. Sternberg.

Adopted at the meeting of 16 April 2007,

B.J. Asscher (chair)
J.Th.M. Bank
J.C.M. Leijten
P.J.N. van Os
E.J. van Straaten
H.M. Verrijn Stuart
I.C. van der Vlies



27. Details of an eighteenth-century Savonnerie carpet (NK 1066)

15. Recommendation regarding Letowski

(case number RC 1.59)

In a letter dated 1 February 2007, the Minister for Culture, Education and Science (OCW) asked the Restitutions Committee to issue a recommendation regarding a decision to be taken on the application submitted on 3 January 2007 by Mr R.L. (hereafter referred to as the applicant) concerning the restitution of five artworks from the Dutch National Art Collection (NK 126, NK 1489, NK 1589, NK 2008 and NK 2199).

The procedure

In response to the request for a recommendation, the Restitutions Committee instituted a fact-finding investigation, during which the Committee requested additional information from the applicant in a letter dated 19 March 2007. The applicant informed the Committee via an undated letter, received on 2 May 2007, that he had no further information to support his application.

The results of the investigation were recorded in a draft report dated 11 June 2007, which was then submitted to the applicant for comments. Given the fact that the applicant has failed to respond to the draft report, the Committee assumes that the applicant has no further information. The draft report was also passed on to the Minister for OCW, who informed the Committee that no additional information was available. The report was adopted on 6 August 2007. For the facts of the case, the Committee refers to the report, which is considered an integral part of this recommendation.

Two of the works currently being claimed by the applicant, NK 126 and NK 1489, are also the subject of other applications for restitution that have been submitted to the Restitutions Committee, namely RC 1.51 and RC 1.15 respectively.

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. Involuntary loss of possession is also understood to mean sale without the art dealer's consent by 'Verwalters' [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.

Special considerations:

1. The applicant requests the restitution of three artworks (NK 2008, NK 2199 and NK 126) in his capacity as heir to his grandfather Franciszek Letowski (1880-1940), and the restitution of two paintings (NK 1589 and NK 1489) in his capacity as heir to his father Czeslaw Letowski (1904 –1965). The applicant is also acting on behalf of his sister, H. L.-A.
2. The following facts, provided by the applicant, are the basis for the application for restitution.
In June 1935, the applicant's father and grandfather (both Jewish) left Poland to start a business in Paris, France. After returning to visit family in Poland in July 1939, the threat of war made it impossible for them to return to Paris and they were forced to remain in Poland, leaving their belongings behind in the French capital. After World War II broke out, the family's entire possessions, both in Poland and France, were looted by the occupying forces. Franciszek Letowski, the applicant's grandfather, was transported to a camp in Poland and during an attempt to escape, was shot and killed. The applicant's father, Czeslaw Letowski, was arrested by the Nazis in 1940 and sent to a labour camp. He survived the war and died in 1965. At the time of his arrest, the rest of the family were driven from their home in the Wadolki-Bucki (Lomza district, Poland) after which the house was plundered by the Nazis. A former neighbour of the Letowski family in Poland confirms the plundering of the Letowski's home in a statement dated 17 August 2006 that was submitted by the applicant with his application for restitution: *'The house was robbed of all the valuables, pieces of art and of anything that had some value'*.
3. According to the applicant, the two claimed paintings, currently numbers NK 1589 and NK 1489 in the Dutch National Art Collection, were amongst his father's possessions that were looted in Poland. *'After five years of wandering during the occupation and return to our home town we found our house totally burnt down, and as I have mentioned above, robbed of those two paintings and all other valuables'*. The artworks

belonging to his grandfather that were looted in France include three pieces, NK 126, NK 2008 and NK 2199. Franciszek Letowski, the applicant's grandfather, is said to have bought these works in France before the war. When asked, the applicant told the Restitutions Committee that he based his identification of these artworks as being those lost by his family on oral descriptions given by his father shortly before his death in 1965. The applicant has no more specific information at his disposal.

4. The Origins Unknown Agency's fact-finding investigation has revealed that, during the occupation of the Netherlands, the five artworks were all in Dutch hands at one time or another. The Restitutions Committee has already undertaken an investigation into one of the claimed paintings, a panel by J.W. Bilders (NK 1489), that showed the painting to have been in the possession of J. Goudstikker N.V., an art dealership in Amsterdam, as early as May 1940, and very possibly before.
5. Given that the manner and timing of the acquisition of the claimed works by their respective Dutch owners is not entirely known, it cannot be ruled out, based on the details of the investigation, that any one of the five works found its way from Poland or Paris to the Netherlands after 1939 or 1940 respectively – the time when the applicant claims his family lost their possessions. Nonetheless, the Committee's investigation, which included consulting Polish and French historical sources and more detailed art historical studies, has failed to uncover any further evidence to indicate that the provenance of the artworks concerned is either Polish or French.
6. Pursuant to national policy in respect of the restitution of works of art, as contained in the Ekkart Committee's eighth recommendation of April 2001, restitution can only be recommended if *'the title thereto has been proved with a high degree of probability and there are no indications of the contrary'*.
7. In this respect, the Committee deems that since the only clue to the identification of the works looted from the Letowski family are recollections of an oral description given to the applicant by his father in 1965, the Committee concludes that under the circumstances, this is insufficient grounds for admitting the application for restitution. They have also taken into consideration that indications to the contrary have been found in the case of at least one of the claimed works.

Conclusion

The Restitutions Committee advises the Minister for Education, Culture and Science to reject Mr R. L. application for restitution of the five artworks in the Dutch National Art Collection, NK 126, NK 1489, NK 1589, NK 2008 and NK 2199.

Adopted at the meeting of 6 August 2007,

I.C. van der Vlies (chair ad interim)
J.Th.M. Bank
J.C.M. Leijten
P.J.N. van Os
E.J. van Straaten
H.M. Verrijn Stuart



28. Anonymous: France, *Rinaldo and Armida*, France, 18th century (NK 2008)

16. Recommendation regarding the application for restitution of a tin Maccabee lamp (NK 399)

(case number RC 1.69)

In a letter dated 10 April 2007, the Minister for Education, Culture and Science (OCW) asked the Restitutions Committee to issue a recommendation regarding a decision to be taken on the application submitted on 22 March 2007 by B.Z. (hereafter referred to as ‘applicant’) for the restitution of an eighteenth-century tin Maccabee lamp (NK 399) that is part of the Netherlands Art Property Collection (NK collection) and is currently stored in the depot of the Netherlands Institute for Cultural Heritage (ICN) in Rijswijk.

The procedure

The applicant submitted the application for restitution following a visit on 4 December 2006 to the ‘*Geroofd, maar van wie?*’ (‘Looted, but from whom?’) exhibition in the Hollandsche Schouwburg (Dutch Theatre) in Amsterdam where he had recognised the lamp as the one that had belonged to him. In response to the application for restitution that was subsequently submitted, the Restitutions Committee instituted a fact-finding investigation, the results of which were summarised in a draft report dated 3 September 2007. This draft report was submitted to the applicant and to the Minister for OCW for comment on 27 September 2007. The report was subsequently adopted on 5 November 2007. For the facts of the case, the Committee refers to its investigatory report, which is considered an integral part of this recommendation.

General considerations

- a. The Committee has drawn up its opinion with due regard for the relevant (lines of) policy issued by the Ekkart Committee and the government.
- b. The Committee asked itself whether it is acceptable that an opinion to be issued is influenced by its potential consequences for decisions in subsequent cases. The Committee resolved that such influence cannot be accepted, save in cases where special circumstances apply, since allowing such influence would be impossible to justify to the applicant concerned.
- c. The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government if the art was privately owned, save in cases where exceptional circumstances apply.
- d. The Committee believes that insights and circumstances which, according to generally accepted views, have evidently changed since the Second World War should be granted the status of new facts.
- e. It is highly probable that loss of possession was involuntary if the object was sold without the art dealer’s consent by ‘Verwalters’ [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, in so far as the original owner or his heirs did not receive all the profits of the transaction, or in so far as the owner did not expressly waive his rights after the war.

Explanation of general considerations c and e¹

In line with the recommendations with regard to art dealing and the explanation thereof, the Committee has come to the conclusion that consideration c should only apply to the ownership of art by private parties. Consideration e has been modified accordingly and, furthermore, this consideration should be taken to mean that only those objects that were effectively part of the old trading stock are eligible for restitution.

Special considerations:

1. The applicant requests the restitution of a Maccabee lamp, also known as a Chanukkiyah or menorah, which is a lamp or candleholder used during the Jewish holiday of Chanukah commemorating the Maccabean rededication of the Temple in Jerusalem after they had defeated the Syrian army in 165 BC. The applicant requests the restitution of the Maccabee lamp (NK 399) in his capacity as its former owner. His application for restitution states:

‘At the Geroofd, maar van wie? (‘Looted, but from whom?’) exhibition on 4 December 2006, I most certainly recognised the abovementioned object as the one I owned before losing it during the Second World War. The Chanukkiyah was a Bar Mitzvah present given to me by my uncle, Mr B. Z. in Amersfoort.’

¹ Until 12 November 2007, general considerations c and e read:

- c) The Committee then asked itself how to deal with the circumstance that certain facts can no longer be ascertained, that certain information has been lost or has not been recovered, or that evidence can no longer be otherwise compiled. On this issue, the Committee believes that if the problems that have arisen can be attributed at least in part to the lapse of time, the associated risk should be borne by the government, save in cases where exceptional circumstances apply.
- e) Involuntary loss of possession is also understood to mean sale without the art dealer’s consent by ‘Verwalters’ [Nazi-appointed caretakers who took over management of firms owned by Jews] or other custodians not appointed by the owner of items from the old trading stock under their custodianship, insofar as the original owner or his heirs did not receive all the profits of the transaction, or insofar as the owner did not expressly waive his rights after the war.

2. The investigation shows that the applicant, born on 25 December 1921, is the son of the married Jewish couple Israël Z. (1889-1942) and Matje Verdoner (1887-1942). The couple had other children as well. At the beginning of the war, the family lived in the Joden Houttuinen, a street in Amsterdam. On an unknown date, the German occupying forces deported Israël Z. and Matje Verdoner to Germany. On or around 17 September 1942, they died in Auschwitz. Their seven children, including the applicant, survived the war.
3. The Committee considers it probable that when the couple were deported, their household effects were confiscated by the Germans. On 7 December 2006, the applicant stated the following in a telephone conversation with an employee of the Origins Unknown Agency:

'[...] During the war, everything was taken from my parents' house at Joden Houttuinen 70-72, and a notebook was written on the subject. There was a matzo bakery behind our house called De Zwaan. The whole family hid there during the raid. Our house was completely emptied. And then it was demolished during the Dutch Famine of 1944. ... I was sent to Camp Westerbork and from there I went from camp to camp until the end of the war. [...]

In 1958, one of the applicant's sisters, C. Z., also declared to the Foundation of Jewish Communities and Social Organisations for Damage Reimbursement (JOKOS) that her parents' household effects were 'pulsed' (confiscated) after they were deported in September 1942. The Committee has taken cognisance of the application form found in the JOKOS archives. Based on this application, the German government has rewarded the Z. family damages. As far as is known, there was no contact between the Z. family and the Netherlands Art Property Foundation (SNK) about the Maccabee lamp or any other missing objects.



29. A lorry of the company of A. Puls. The clearing of property of Jewish houses in Amsterdam was often carried out by this company. This was therefore often referred to as 'pulsing' (removing) in Dutch.

4. During the investigation into the claim on the Maccabee lamp, no source materials were found that could indicate that the lamp belonged to the applicant at the beginning of the war. Nor could it be determined from the documentation that survived whether the claimed Maccabee lamp was part of the household effects that were stolen from the Z. family. However, a search of the Netherlands Art Property Foundation archives found that, in 1943, the Maccabee lamp (NK 399) belonged to Jannetje Denijs, owner of Denijs art dealers located on the Nieuwe Spiegelstraat in Amsterdam. It is a known fact that this art dealership conducted business with the Germans. The exact date of the sale and to whom Denijs sold the lamp is not known; however, it is known that Denijs sold it to a German buyer in late 1943. After the war, the lamp was returned to the Netherlands from Düsseldorf on 14 April 1948. As far as is known, no applications for the restitution of the Maccabee lamp were submitted after the war.
5. Pursuant to current national policy in respect of the restitution of items of cultural value, the Committee can only recommend restitution if it is deemed sufficiently probable that the work was originally the property of the applicant and if possession thereof was relinquished involuntarily as a consequence of circumstances directly associated with the Nazi regime. The Committee is therefore confronted with the question of whether it can consider it to be highly probable that the claimed Maccabee lamp was the property of the applicant together with the other household effects that were confiscated from the Z. family at the beginning of the war.

6. Regarding the question of ownership, the Committee attaches great value to the applicant's emphatic statement that he recognised the lamp as his own. In this respect, the Committee notes that the applicant had recognised the object on his first visit to the exhibition in December 2006 as the Chanukkiyah he was given by his uncle Barend Z. on the occasion of his Bar Mitzvah. The Committee would also like to note that the applicant has returned to the exhibition several times since his first visit to see the lamp and has not changed his opinion.

Moreover, further art-historical research commissioned by the Committee revealed several specific features that mark the claimed lamp as being unique among its kind. In September 2007, the Committee sent the Jewish Historical Museum information and detailed photographs of the claimed lamp and asked them whether it was unique, in other words, an object that could be recognised based on its individual features. The museum responded as follows:

'The 18th-century tin chanukkiyah is handcrafted and therefore has unique features including the decorative engraving round the eye, the flat area on the front and around the top. Although there are many lamps of this type, also in the Jewish Historical Museum's collection, none of them are exactly the same. Based on its shape and crafting, this lamp can be deemed unique in accordance with your own definition.'

Taking this into account, the Committee deems it highly probable that the chanukkiyah the applicant remembers is in actual fact the Maccabee lamp (NK 399) now being claimed. It also would like to point out that the absence of written, objective evidence of ownership cannot be used against the applicant. The Committee refers to its general considerations that state that, in this type of request, the risks of evidential problems occurring due to the lapse of time should be borne by the government. Furthermore, the Committee deems the possibility that a contradictory claim will be made on this Maccabee lamp in the future as negligible. The provenance of objects of art exhibited at the 'Geroofd, maar van wie?' exhibition has already been extensively investigated by the Origins Unknown Agency but has not revealed any former owners. It is for these objects that the public has been requested to provide knowledge. It is therefore obvious that great value is attached to the recognition of objects.

7. In the light of the above, the Committee considers it highly plausible that the claimed lamp was confiscated in 1942 along with the rest of the household effects after the Z.-Verdoner family was deported and that it was subsequently – either immediately or at a later date – sold to art dealer Denijs.
8. Therefore, the Committee also concludes that the conditions for restitution have been met. As there is no question of this case having been settled in the past, there are no grounds for not allowing the restitution application.

Conclusion

The Restitutions Committee advises the Minister for Education, Culture and Science to return the Maccabee lamp (NK 399) to the applicant B. Z.

Adopted at the meeting of 3 December 2007,

I.C. van der Vlies (vice-chair)
J. Th. M. Bank
J.C.M. Leijten
P.J.N. van Os
E.J. van Straaten
H.M. Verrijn Stuart



30. A tin Maccabee lamp (NK 399)

6. Conclusion

The Committee looks back on a year in which there was a significant increase in the number of requests for recommendation. In 2007, the Minister for OCW requested a recommendation in twice as many cases as the year before. At the end of the year under review, the Committee was processing 41 cases, varying in complexity and scope. The expectations are that more requests for recommendation will follow after 2007. The Committee intends to give its full attention to delivering independent research and judgement in the following years as well.

Appendices

1. 'Decree establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War', 16 November 2001 73
2. 'Amendment of the Decree establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War', 8 November 2007 79
3. 'Appointment of member/chair and reappointment of members of Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War', 12 December 2007 80
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Decree issued by the State Secretary for Education, Culture and Science, F. van der Ploeg, establishing a committee to advise the government on the restitution of items of cultural value of which the original owners involuntarily lost possession due to circumstances directly related to the Nazi regime and which are currently in the possession of the State of the Netherlands (Decree establishing the Advisory Committee on the Assessment of Restitution Applications)

Reference
WJZ/2001/45374(8123)

Zoetermeer
16 November 2001

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

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

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

Herewith decrees as follows:

Article 1

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

- a. the Minister: the Minister for Education, Culture and Science;
- b. the Ministry: the Ministry for Education, Culture and Science;
- c. the Committee: the Committee as referred to in Article 2 of this Decree.

Article 2

1. There shall be a Committee whose task is to advise the Minister, at his request, on decisions to be taken concerning applications for the restitution of items of cultural value of which the original owners involuntarily lost possession due to circumstances directly related to the Nazi regime and which are currently in the possession of the State of the Netherlands.
2. A further task of the Committee shall be to issue an opinion, on the Minister's request, on disputes concerning the restitution of items of cultural value between the original owner who, due to circumstances directly related to the Nazi regime, involuntarily lost possession of such an item, or the owner's heirs, and the current possessor which is not the State of the Netherlands.
3. The Minister shall only submit a request for an opinion as referred to in the second paragraph to the Committee if and when the original owner or his heirs and the current possessor of the item in question have jointly asked the Minister to do so.
4. The Committee shall carry out its advisory role as referred to in the first paragraph in accordance with the relevant government policy.
5. The Committee shall carry out its advisory role as referred to in the second paragraph in accordance with the requirements of reasonableness and fairness.

Article 3

1. The Committee shall comprise no more than 7 members, including the chairman and the deputy chairman.
2. Both the chairman and the deputy chairman shall be qualified lawyers (*meester in de rechten*).

3. The Committee shall include at least one member whose expertise on matters concerning World War II constitutes a substantial contribution to the work of the Committee.
4. The Committee shall include at least one member whose expertise on matters concerning art history and museology constitutes a substantial contribution to the work of the Committee.
5. The Minister shall appoint the chairman, the deputy chairman and the other members for a period not exceeding three years. They shall not form part of the Ministry or work in any other capacity under the responsibility of the Minister.
6. The chairman, the deputy chairman and the other members may be reappointed once at most.

Article 4

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

Article 5

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

Article 6

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

Article 7

1. Every year the Committee shall report to the Ministry of Education, Culture and Science on the current situation regarding the tasks referred to in Article 2.
2. The first report shall be submitted in January 2003.

Article 8

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

Article 9

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

Article 10

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

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

Article 11

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

Article 12

This Decree shall be cited as the Decree establishing the Advisory Committee on the Assessment of Restitution Applications.

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

The State Secretary for Education, Culture and Science

[signed]

F. van der Ploeg

General

The Ekkart Committee is one of the committees established in the Netherlands since 1997 to carry out research in the extensive field of post-World War II restitutions. The Committee supervises research into the origins of the 'NK collection', i.e. the collection of art objects that were recovered from Germany after World War II and have been held by the State of the Netherlands since then. Given the size of the NK collection, which comprises some 4000 objects, and the nature of the research, which involves tracing transactions that took place more than fifty years ago and of which, in many cases, very few documents have survived, the Ekkart Committee will not be able to finalise its research until the end of 2002.

In addition to supervising the research into the origins of collection items, the Committee is charged with issuing recommendations to the Minister of Education, Culture and Science on the government's restitution policy. The Committee submitted its interim recommendations to me on 26 April 2001. As stated in the accompanying letter, the Committee decided to draw up interim recommendations because in its view the urgency of policy adaptations is such, considering, among other things, the advanced age of some of the interested parties, that they should be implemented before the overall research project has been completed. In formulating its recommendations, the Committee aims to create scope for a more generous restitution policy. In its view, the strictly legal approach as laid down in the government's policy paper of 14 July 2000 is no longer acceptable.

I sent the Cabinet's response to these recommendations to the Speaker of the Lower House of Parliament on 29 June 2001, and a supplementary reaction of the government by letter of 16 November 2001. In its reaction to the Ekkart Committee recommendations, the government has not opted for a purely legal approach to the restitution issue, but rather for a more policy-oriented approach, also in the light of international developments in these matters, in which priority is given to moral rather than strictly legal arguments. This view was expressed, for example, in the outcome of the conference held in Washington in 1998 for a global discussion of World War II assets (known as the 'Washington Principles'). One of these principles is the establishment of "alternative dispute resolution mechanisms for resolving ownership issues." Countries like France and the United Kingdom have implemented this principle and have established committees charged with judging individual applications for restitution.

The establishment of an Advisory Committee in the Netherlands to consider individual applications for restitution is consistent both with the Ekkart Committee recommendations and with the international developments outlined above. The main reason for setting up an Advisory Committee was the need for the Ministry of Education, Culture and Science to decide on applications for restitution in as objective a manner as possible. Since the Minister of Education, Culture and Science, being the possessor/administrator of the NK collection, is directly concerned in the matter, the existence of an advisory committee will enhance the independence of the decision process. By letter of 7 June 2001 the parliamentary Education, Culture and Science Committee expressed its preference for an independent committee.

Based on its own experience, the Ekkart Committee currently expects that the Advisory Committee will be asked to consider 30 to 50 cases relating to objects currently held by the State. There are no indications as yet about the number of applications that might be submitted to the

Explanatory notes on each article

Article 2

The main task of the Committee is to advise the Minister of Education, Culture and Science, at his request, on individual applications for restitution of items that form part of the NK collection. In addition, the Minister may also ask for advice on restitution applications that relate to items in the state collection that do not form part of the NK collection but nevertheless came into the possession of the State due to circumstances directly related to the Nazi regime.

Following the example of similar committees abroad and at the express request of the Lower House of Parliament, the Minister may also refer to the Committee disputes between private individuals, provided that the parties involved have made a request to that effect and provided that the dispute concerns an object of which the original owner lost possession involuntarily due to circumstances directly related to the Nazi regime.

The Minister will ask the Committee to give an opinion if and when he receives an application for restitution that complies with the relevant framework conditions. The Minister himself will only directly deal with applications that evidently fall outside the Committee's remit, for example because they do not relate to the restitution of items of cultural value that were transferred within the context of World War II. It has been decided to present the applications to the Committee via the Minister so as to avoid overburdening the Committee with requests that fall outside its mandate.

The Committee's advisory framework corresponds with the relevant outlines of government policy; first and foremost, the general government policy on World War II assets as laid down in the letter issued by the government on 21 March 2000. In addition, the government has issued rules that more specifically concern the restitution of items of cultural value. These rules form part of the policy the government announced to the Lower House of Parliament in its policy paper of 14 July 2000. However, the Ekkart Committee recommendations and the government's response to them have led to major amendments to that policy. The government's letters continue to be effective and, together with the Ekkart Committee recommendations and the government's response to these recommendations, constitute the policy framework within which the Advisory Committee is to operate. It goes without saying that any further recommendations from the Ekkart Committee in the future may cause the government to make adaptations to this policy framework.

The Advisory Committee will judge any application for restitution in the light of this policy framework. It may then conclude that:

- the application, while being covered by the regular legal rules, falls beyond the Advisory Committee's mandate. If so, the Advisory Committee will incorporate this in its opinion to the Minister.
- the application falls within the Advisory Committee's mandate and therefore qualifies for an opinion.

The government also wishes to make available a facility for the settlement of disputes *between* private individuals concerning an object of which the original owner lost possession involuntarily due to circumstances directly related to the Nazi regime. In its assessment of such applications from private individuals the Advisory Committee will be guided by the principles of reasonableness and fairness.

The intervention by the Minister – since it is the Minister who refers disputes between private individuals to the Advisory Committee – is the result of pragmatic considerations. As it is the Minister who is responsible for ensuring that the Advisory Committee receives the support it needs, the Minister must be aware of the number of opinions the Advisory Committee is expected to issue.

Articles 3 and 4

The decisions about the Advisory Committee's size, composition and working method were taken with due regard to the need to balance the requirement of expertise against the requirement of efficiency in the formulation of Committee opinions.

The Advisory Committee is composed in such a way that at least the legal, historical and art history expertise required for the assessment of a restitution application is represented. The requirement that the chairman and deputy chairman be legal experts stems from the fact that in spite of the choice for a moral policy-oriented approach, legal expertise obviously remains indispensable in the assessment of the laws and regulations involved in applications for

restitution. The availability of legal expertise is ensured in all cases, given that no opinion is formulated without the involvement of either the chairman or the deputy chairman.

The intention is for the Advisory Committee to comprise seven members from the time of its inception. It is up to the chairman to decide which particular members, in a specific case, should contribute to the formulation of an opinion. The involvement of a member in a particular application for restitution may influence this decision. The number of members to be involved in the opinion on a particular application will depend on the complexity of the case. As a minimum requirement, each application must be considered by the chairman or the deputy chairman and at least two other committee members.

Article 5

The Minister will provide a Committee Secretariat that is able to give the advisory committee the required level of support. The Committee Secretary must be a qualified lawyer (*meester in de rechten*). In addition, the Secretariat should be able to offer research capacity as well as the required level of administrative and organisational support. The size of the Secretariat will be variable and geared to the Advisory Committee's workload.

Article 6

It is of the utmost importance that the Advisory Committee has access to all the relevant information in drawing up its recommendations: both information from claimants and information provided by the Ministry or third parties.

I have lifted the restrictions on the public accessibility of records filed in State Archives by virtue of Article 15, fifth paragraph of the 1995 Public Archives Act so as to enable the Advisory Committee to gather all the information it needs in the shortest possible time. This obviously only concerns those records that are relevant to the execution of the Advisory Committee's task. The fact that the Committee is allowed to inspect restricted documents does not automatically open up those documents to others as well, given that the members of the Advisory Committee themselves are bound to observe secrecy under Article 2:5 of the General Administrative Law Act regarding information that comes to their knowledge and the confidential nature of which is evident.

Article 10

By the time this Decree establishing the Advisory Committee was signed, the six persons referred to in this Article had already expressed their willingness to become members of the committee. This is why I have provided for their appointment in this Decree. One more member will be appointed (separately) as soon as possible.

The State Secretary for Education, Culture and Science,

[signed]

(F. van der Ploeg)

Amendment to the decree establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War

Decision of the Minister for Education, Culture and Science of 8 November 2007, no. WJZ/2007/41600 (8225) to amend the Decree establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War in connection with the reappointment of the members

The Minister for Education, Culture and Science,

Decision:

Article I

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

A

In article 1, paragraphs a and b, the word 'Sciences' is replaced in both cases by: Science.

B

In article 3, paragraph 6, 'once at most' is deleted.

C

In article 7, paragraph 1, 'Minister for Education, Culture and Sciences' is replaced by 'Minister'.

Article II

The decision of 21 January 2002, providing for the reimbursement of the members of the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (Government Gazette 2002, 16) is repealed.

Article III

This decision comes into force as from the second day after the date of the Government Gazette in which it is published.

This decision, plus explanation, will be published in the Government Gazette.

*The Minister for Education, Culture and Science,
R.H.A. Plasterk.*

Explanation:

Article I

The three-year appointment term of the members of the Restitutions Committee reappointed in 2004 ended on 23 December 2007.

In 2001, the expectation was that the Advisory Committee, that is the Restitutions Committee, would have some 30 to 50 cases to handle, for which they would need 3-5 years. Since this decision was drafted, the Minister has, over the years, already submitted 92 requests for advice, 44 of which are still pending. Moreover, it is possible that more requests for advice will follow. Over the next period, the Restitutions Committee will be giving priority to those applications for restitution submitted before 4 April 2007, which was the final date on which claims could be submitted under the extended restitution policy. Claims received after that date fall under the normal restitution policy.

In the light of optimum progress and continuity of recommendations, it is considered appropriate as from 23 December 2007 to hold on to the reappointed members of the Committee. Retaining knowledge is of great importance. This is why the provision that the members of the Restitutions Committee may only be

reappointed once ceases to apply pursuant to this decision.

Article II

This decision no longer serves a purpose because the Decision on fixed reimbursement of the Restitutions Committee was adopted on 25 August 2006. Since the decision in question was not repealed, this is effected in this amending decision.

*The Minister for Education, Culture and Science,
R.H.A. Plasterk.*

Ministry of Education, Culture and Science (OCW)

Appointment of member/chair and reappointment of members of Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War

The Minister of Education, Culture and Science, having regard to article 3, paragraphs five and six, of the Decree establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War:

Decree:

Article 1

To be appointed as member and also chair of the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War as of 23 December 2007, for a period of three years until 23 December 2010:

Mr R. Herrmann, *mr.*

Article 2

To be reappointed as member of the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War as of 23 December 2007, for a period of three years until 23 December 2010:

Ms I.C. van der Vlies, Prof., *mr.*, also deputy chair;
Mr J.Th.M. Bank, Prof.dr.;
Mr J.C.M. Leijten, Prof. *mr.*;
Mr P.J.N. van Os, *mr.*;
Mr E.J. van Straaten, Dr.;
Ms H.M. Verrijn Stuart, *mr.*

This decree comes into force on the second day after the date of the Government Gazette in which it is published.

*The Minister for Education, Culture and Science,
R.H.A. Plasterk.*

**ADVIESCOMMISSIE RESTITUTIEVERZOEKEN
CULTUURGOEDEREN EN TWEDE WERELDOORLOG**

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

Definition

Article 1

The terms used in these regulations are defined as follows:

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

Task

Article 2

1. At the request of the Minister, the Committee has the task of providing advice about disputes concerning the return of items of cultural value as referred to in Article 1 under d between the party applying for restitution of items of cultural value and the current owner which is not the State of the Netherlands.
2. The Committee does this by making a binding recommendation within the meaning of Section 7:900 of the Netherlands Civil Code or by promoting a settlement between the parties.

Authority

Article 3

The Committee is authorised to deal with a dispute referred to it by the Minister if and in so far as the parties have agreed to submit to the Committee's binding recommendation and both parties sign the agreement as referred to in Article 6, paragraph 2, which was sent to them by the Committee.

Article 4

The Committee makes a recommendation in accordance with the requirements of reasonableness and fairness, and may, in any event, take the following into consideration:

- a. the government's line of policy concerning the restitution of stolen works of art in so far as they apply by analogy;
- b. the circumstances in which possession of the work was lost;
- c. the extent to which the applicant has endeavoured to trace the work;
- d. the circumstances in which the owner acquired the work and the inquiries the owner made when acquiring it;
- e. the significance of the work for the applicant;
- f. the significance of the work for the owner;
- g. the significance for the public art collection.

**ADVIESCOMMISSIE RESTITUTIEVERZOEKEN
CULTURGOEDEREN EN TWEEDE WERELDOORLOG**

Admissibility

Article 5

The Committee can deny a party's application if:

- a. it concerns a dispute regarding which one of the parties has already instituted proceedings before a court,
- b. this is a dispute on the substance of which the court has already given a decision, or
- c. the applicant has previously explicitly relinquished his or her rights to the work at issue.

The hearing of disputes

Article 6

1. Both parties request the Minister to submit their dispute to the Committee for a binding recommendation in accordance with Article 2, paragraph 3 of the Decree.
2. After the Minister has presented the dispute to the Committee, it will not hear the dispute unless the parties have signed an agreement sent to them by the Committee, stating that they accept the recommendation at issue as binding.
3. If the parties, after a request thereto, have not met the stipulation referred to in paragraph 2 within four weeks, the dispute will not be heard.
4. The Committee may extend the said term of four weeks.

Article 7

1. The Committee notifies both parties in writing that it has received the request for advice from the Minister.
2. The applicant is the first to be given the opportunity to provide an explanation concerning his or her application within six weeks.
3. After receipt of the explanation referred to in paragraph 2, the owner is given the opportunity to set out his or her viewpoint within six weeks.
4. After receipt of the owner's viewpoint, first the applicant and then the owner are given the opportunity to lodge a reply and a rejoinder, subject to a reply deadline of six weeks.
5. Parties comply with the Committee's request for further documents and information, subject to a reply deadline to be determined by the Committee. The parties themselves are responsible for any investigations required for this purpose.
6. The Committee may extend the reply deadline.

Article 8

1. If the Committee deems it necessary or if both parties request it, the parties may be summoned to be heard in person. The Committee sets the place, day and time and informs the parties accordingly.
2. The Committee may allow the parties to bring witnesses or experts and have them heard. Names and addresses of such persons are to be given to the Committee at the latest ten days before the hearing.
3. Parties may send documents to the Committee until ten days before the hearing.

Article 9

1. If it deems such necessary, the Committee may make enquiries itself, for instance by hearing witnesses or experts, conducting an investigation or having an investigation conducted by one or more experts it designates.
2. The Committee informs the parties of this. They may be present when witnesses or experts are heard.
3. The Committee provides the parties with a copy of the investigation, to which they may respond in writing within three weeks. The Committee may extend the term.

Article 10

Each party immediately sends the other party copies of all documents submitted to the Committee during this procedure.

**ADVIESCOMMISSIE RESTITUTIEVERZOEKEN
CULTUURGOEDEREN EN TWEEDE WERELDOORLOG**

Article 11

If the parties reach a settlement during the verbal hearing, the Committee may lay down the contents thereof in the form of a binding recommendation.

Recommendation

Article 12

The Committee may recommend that:

- a. the work be returned to the applicant;
- b. the work be returned on payment by the applicant to the owner of a sum of money to be determined;
- c. the work be returned to the applicant subject to further provisions;
- d. the owner pay the applicant a sum of money to be determined, while the item remains in the owner's possession;
- e. the work be exhibited, stating its provenance and the part played by the (heirs of the) original owner;
- f. the application for restitution be denied, subject to further provisions, where applicable.

Article 13

1. The chairman or vice-chairman and the secretary of the Committee sign the recommendation and send it to the parties, with a copy to the Minister.
2. The chairman of the Committee may correct information or obvious calculation or writing errors in the recommendation, either of his or her own accord or in response to a written request from one of the parties submitted no later than two weeks after the recommendation was sent.
3. The parties are informed in writing of any changes or corrections.

Article 14

Any costs with regard to handling of the dispute and the preparation of the recommendation are for the account of the parties themselves, unless, in certain circumstances, the Committee decides otherwise.

Confidentiality, objection and exemption

Article 15

The members of the Committee are bound to confidentiality on all information relating to the parties of which they have become cognisant during the handling of the dispute.

Article 16

1. One or both parties may object to a member of the Committee on the basis of facts or circumstances that might make the forming of an impartial opinion difficult. Objections may be lodged within one week after receiving the confirmation of receipt of the application for recommendation.
2. The other members of the Committee decide if the grounds for objection are valid.
3. A member of the Committee may claim exemption in respect of a case on the basis of facts or circumstances as referred to in paragraph 1. The member is obliged to do so if the other members of the Committee are of the opinion that the said fact and circumstances do indeed exist in his case.
4. The parties are informed of the decision as referred to in the second paragraph.

Liability

Article 17

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

**ADVIESCOMMISSIE RESTITUTIEVERZOEKEN
CULTUURGOEDEREN EN TWEEDE WERELDOORLOG**

Final provisions

Article 18

The Committee's recommendation may only be reversed if it has been submitted to the ordinary court for review within two months after the recommendation was sent to the parties. The recommendation becomes irreversible if the decision is not submitted to the ordinary court within the said term.

Article 19

The Committee decides all cases not provided for in these regulations in accordance with the requirements of reasonableness and fairness.

Article 20

These regulations are sent to the parties as soon as possible.

Article 21

These regulations were adopted at the meeting of the Committee held on 3 December 2007 and will be published on the Committee's website.

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for Items of Cultural Value and the Second World War

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