

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



Report 2012

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Man with high cap by Ferdinand Bol (NK 1668)

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Foreword

The Restitutions Committee marked its tenth anniversary in 2012, but the problems it exists to deal with have been around for sixty-seven years. This meant there was no justification to celebrate, but there was reason to pause and reflect at an international level on the restitution policy's reason for existence, application and developments. The Carnegie Foundation also recognized the importance of this, which is why the Committee was able to organize a meeting on 26 November in the apposite surroundings of the Peace Palace in The Hague with the advisory committees of Germany, France, Austria and the United Kingdom, and the Special Envoy for Holocaust Issues of the United States, and then hold a symposium on 27 November. The subjects discussed at the symposium are described in this annual report in anticipation of a separate publication about them.

The subject of the symposium—*Fair and just solutions? Alternatives to litigation in Nazi-looted art disputes, status quo and new developments*—dovetailed with the Washington Principles. When considering the advent and assessment of new developments, it is always important to bear in mind the basic starting points as laid down in these Principles. This maintains the vitality of the common foundations for resolving restitution issues, and the international context is one of the characteristics. Justice can also be done to particular national circumstances within that framework. The place where restitution acquires substance can thus have an effect on the way in which a special case is assessed. International collaboration in the further study and elaboration of this idea will promote the character of *just and fair*.

These concepts also played a distinct role in the developments in 2012 at a Dutch national level. In a decree dated 4 July 2012, the State Secretary for Education, Culture and Science changed the Committee's terms of reference. From now on the assessment of claims to works of art in the Dutch National Art Collection that are not in the Netherlands Art Property Collection (NK collection)—in other words works that were not obtained in the years immediately after the war as a result of recovery by the allied armies—will be conducted according to the yardsticks of fairness and justice, and no longer in accordance with the rules designed by the Ekkart Committee, under which the interests of the current owner may not be considered. In his letter of 22 June to the Lower House of the States General, the State Secretary advised that the same will apply to the evaluation of claims to works from the NK collection with effect from mid-2015. After this, therefore, all claims will be appraised according to these yardsticks. The starting points taken into account by the Ekkart Committee can and will continue to influence what is to be considered as fair and just.

So the passage of time is also important to the way claims should be evaluated. Specific circumstances of place and time will continue to contribute to implementing the restitution policy on one common national and international basis.

W.J.M. Davids
Chairman

Disclaimer

This English version is a translation of the original Dutch report 'Verslag 2012', in case of possible differences in translation we refer you to the Dutch report.

Frequently used abbreviations:

BHG	Origins Unknown Agency
Council	Council for Culture
NA	National Archives of the Netherlands
NBI	Netherlands Property Administration Institute
NIOD	Netherlands Institute for War, Holocaust and Genocide Studies
NK-collection	Netherlands Art Property Collection
OCW	Education, Culture and Science
RCE	Cultural Heritage Agency
RKD	Netherlands Institute for Art History
SNK	Netherlands Art Property Foundation



1. Exhibition of recovered art in the Rijksmuseum, Amsterdam, April-June 1950.

1. Introduction

This is the eleventh annual report of the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (the Restitutions Committee). The Restitutions Committee was established over ten years ago by the State Secretary for Education, Culture and Science (OCW) through a decree dated 16 November 2001, and it gives its opinion about applications for the restitution of Nazi looted art.¹

This annual report should be seen as a follow-up to annual reports published previously, which describe the Restitutions Committee's history, policy framework and working methods. Readers seeking more detailed information about these subjects are referred to those earlier publications.² This report concentrates on the activities carried out in 2012.

Chapter 2 contains a brief description of the Restitutions Committee's history and an introduction to its members and employees. This is followed by an overview of the Committee's advisory tasks and the relevant policy framework, some parts of which were changed by the Dutch government in 2012. Chapter 3 addresses the year under review—2012—with an account of the activities carried out. There is also a summary of the proceedings of the international symposium *Fair and Just Solutions? Alternatives to litigation in Nazi-looted art disputes, status quo and new developments*, which was held on 27 November 2012. The Committee organized this event to mark its tenth anniversary. This section anticipates the publication of the symposium's proceedings in English in 2013/2014. A numerical overview of the recommendations issued from 2002 to 2012 inclusive is presented in chapter 4. After the conclusion in chapter 5, this annual report ends with the full text of all the recommendations that the Committee issued in 2012.

¹ 'Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War', 16 November 2001. The Decree establishing the Restitutions Committee was amended by the State Secretary of OCW through a decree of 4 July 2012. Appendix 1 contains the 2001 Decree establishing the Restitutions Committee and the associated explanatory notes. The entire amended text of the Decree establishing the Restitutions Committee, which came into effect on 19 July 2012, can be found in Appendix 2. See section 2.4 for more information about the amendment of the Decree establishing the Restitutions Committee.

² A detailed description of the history and policy framework of the Restitutions Committee is given in the 2002 and 2005 annual reports. The 2011 annual report addresses the Committee's working practices. All annual reports can be consulted in digital form on the website <http://www.restitutiecommissie.nl> (Dutch version) or <http://www.restitutiecommissie.nl/en> (English version). Please contact the office of the Restitutions Committee (the address can be found at the end of this report) to request printed copies of the annual report.

2. The Restitutions Committee

2.1 History in brief

During the Second World War the Nazis seized, stole or purchased art from private individuals and art galleries on a large scale. After the liberation the allies found many of these items of cultural value, particularly in Germany, after which they were brought back to their country of origin. This recovery was accompanied by the instruction to national governments to manage the art being returned and to ensure it was restored to the rightful owners or their heirs. In the Netherlands, the Netherlands Art Property Foundation (SNK) was tasked with the recovery and restitution activities. Some of the items of cultural value that were not restituted after the war were auctioned off by the Dutch State during the nineteen-fifties. The remainder was brought together in the Netherlands Art Property Collection (NK collection), as part of the Dutch National Art Collection.

DESCRIPTION	PHOTO Nr.	OBJECT: Picture	REG. Nr.: 17953
ARTIST: J. v. Goyen			
TITLE OR KIND OF OBJ.: Landscape			
SIGNATURE: DATE:		SIZE: 35 x 32	
MATERIAL: Panel met			
ORIGIN:			
LIT.: VERKOOP 11 MAI 1952 FRED. MULLER f. 800.-			
PHOTO DOC. CENTRE HOLLAND:			
OWNER: Jewish property, Amsterdam.			
PRESENT FACTS: Bought through Mahlsan, The Hague, for Gooring-Deo, 1941.			
APPRAISED VALUE: f. 1.800.--			
PRESENT LOCATION: Manich nr.: 6428			
Dutch run nr.: (Transport III, USP:ET) 4008			

2. Post-war SNK inventory card about a painting by Jan van Goyen with the provenance 'Jewish property Amsterdam'.

Starting at the end of nineteen-nineties, renewed interest arose in the Netherlands and other countries in the return of art treasures that had been stolen during the Second World War. There were calls for a flexible restitutions policy, for example in such international instruments as the *Washington Principles on Nazi Confiscated Art* (1998) and in a resolution on *Looted Jewish Cultural Property* (1999) adopted by the Parliamentary Assembly of the Council of Europe. Recommendations were made to opt for a form of alternative dispute settlement outside the standard judicial process. The actions taken in the Netherlands in response to these principles included establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War (Restitutions Committee) in a decree dated 16 November 2001. The Origins Unknown Committee, also known as the Ekkart Committee, played an important role in its history.³ Under the supervision of this committee, between 1997 and 2004 the Origins Unknown Agency (BHG) investigated the provenance of all items in the NK collection. At around the same time, the government gave notice of a more liberal restitutions policy based on recommendations made by Ekkart Committee in 2001, 2003 and 2004. Within the scope of this generous policy, since its establishment the Restitutions Committee has been giving the Minister of OCW its opinions about decisions to be taken in regard to individual applications for the restitution of items of cultural value stolen during the Nazi regime.

2.2 Members and employees of the Restitutions Committee

In 2012 the Restitutions Committee comprised the following members:

Mr W.J.M. Davids (chairman)
Professor I.C. van der Vlies (vice-chair)
Professor J.T.M. Bank
Mr P.J.N. van Os
Mr D.H.M. Peepkorn
Dr E.J. van Straaten
Ms H.M. Verrijn Stuart

The director is Ms E. Campfens. The office of the Restitutions Committee, where the day-to-day activities are carried out, has a team made up Ms A. Marck (deputy director/historical researcher), Ms T. Brandse (office manager), Ms I. El Achkar (management assistant), Ms A.M. Jolles-van Loo (archivist), Ms A.J. Kool (art historical researcher), Mr F.M. Kunert (historical researcher), Ms E. Muller (historical researcher) and Mr O.M. van Vesseem (legal researcher). In addition, for a part of the year under review Ms D.H. van Emmerik assisted the office during the maternity leave of one of the staff. Mr H.D.O. Blauw assisted on two occasions with legal advice. The office of the Restitutions Committee is located at Lange Voorhout 13 in The Hague and it also has an office in the National Archives of the Netherlands in The Hague.

³ The Origins Unknown Committee was chaired by Professor R.E.O. Ekkart.

During the year under review the Minister of OCW announced that the resignation of Committee member Peeperkorn would be accepted with effect from 1 January 2013. In him the Committee is losing a committed lawyer with broad interests. As his replacement, Mr R. Herrmann was appointed a member of the Committee as of 1 January 2013. As a former Committee chairman and consultant, Mr Herrmann is very familiar with the Committee's work and, like the other members, he has been appointed until 23 December 2013.⁴



3. From left to right, the Director and Chairman of the Restitutions Committee, Ms E. Campfens and Mr W.J.M. Davids.

⁴ For the appointment of Mr Herrmann as a member of the Restitutions Committee see *Netherlands Government Gazette*, 4 December 2012, no. 24865. For the appointment of the other members see *Netherlands Government Gazette*, 12 October 2010, no. 15769.

2.3 The work of the Restitutions Committee: introduction

Today, works of art that were separated from their original owners as a consequence of the Nazi regime may be in the possession of the Dutch State, a provincial/local authority, a foundation or a private individual. A claim to such a work of art can be submitted to the Restitutions Committee for investigation and an opinion.

When it was established in 2001, the Restitutions Committee's primary task was to advise the Minister of OCW about claims to works of art in the Dutch National Art Collection, in the possession of the State.⁵ This advice was concerned exclusively with the return of the claimed items. The guidelines for evaluating these claims relating to the Dutch National Art Collection were specified in the generous restitution policy referred to above, which was based on the Ekkart Committee's recommendations.⁶

The second task described in the Decree Establishing the Restitutions Committee concerns advice about restitution issues in which the State is not involved, such as claims to works of art in the possession of lower tiers of government (provincial/municipal collections) and items from the collection of a foundation or private individual.⁷ The more liberal restitutions policy does not apply as the assessment framework for claims in these categories. In 2001 the Committee was instructed to give due regard to the 'yardsticks of fairness and justice'.⁸ In these types of case the Committee has the scope to weigh up the interests of the parties and it is also entitled to make recommendations other than the return of the claimed work of art. The Committee drew up regulations outlining the procedure based on article 4 paragraph 2 of the Decree Establishing the Restitutions Committee⁹. Pursuant to the regulations, the committee discharges this task of giving an opinion by means of a 'binding opinion in the sense of article 7:900 of the Dutch Civil Code (contract of settlement) or by means of promoting a settlement or the establishment of an agreement for mediation between the parties'.¹⁰ The regulations also give an overview of the considerations that the committee may include in its opinions in these cases and the possible solutions it may recommend.

For more information about the procedures employed by the Committee in the opinion-related tasks referred to above, see the description in the *Report 2011* and the Committee's website.

⁵ Decree Establishing the Restitutions Committee, 16 November 2001, article 2 paragraph 1. Appendix 1.

⁶ See Appendix 3 to this annual report for an overview of the documents on which the restitution policy is based. For a detailed description of national policy see the *Report 2002* and *Report 2005*, which can be consulted on the Restitutions Committee's website.

⁷ Decree Establishing the Restitutions Committee, 16 November 2001, article 2 paragraph 2. For more information see the explanatory notes to this Decree Establishing the Restitutions Committee. Appendix 1.

⁸ Decree Establishing the Restitutions Committee, 16 November 2001, article 2 paragraphs 4 and 5. Appendix 1.

⁹ Article 4 paragraph 2 of the Decree Establishing the Restitutions Committee states that, 'the committee is entitled to specify regulations concerning further working practices.'

¹⁰ 'Regulations for opinion procedure under article 2, paragraph 2, and article 4, paragraph 2 of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War.' Appendix 4.

2.4 Change to the more liberal restitutions policy and amendment of the Decree Establishing the Restitutions Committee

The recommendations by the Ekkart Committee to the Dutch government referred to above were drawn up at the time for the purposes of providing an assessment framework for the return of works of art from the NK collection—a special part of the Dutch National Art Collection consisting of items with a ‘war record’.¹¹ In response to the first set of recommendations, made in 2001, the Dutch government at that time decided to declare that the more liberal restitutions policy also applied to restitution applications relating to works of art in the possession of the State that were *not* in the NK collection.¹² On 22 June 2012 the State Secretary of OCW wrote a letter to the Lower House about it.

‘As already stated, under the current policy the same restitution policy applies to all claims to items possessed by the State, irrespective of whether it is a claim to an item in the NK collection or a claim to something in another part of the Dutch National Art Collection. The latter category, for example, also covers works of art that—unlike the NK collection—were not acquired until many years after the Second World War through normal channels, such as purchase in good faith at an auction. The question therefore arises as to whether the difference in the way the latter category of works of art was acquired should be expressed in the restitution policy’.¹³



4. T. Riemenschneider, *Annunciation*, two alabaster sculptures from the last quarter of the fifteenth century (NK 124 and NK 125). See Von Goldschmidt-Rothschild recommendation, RC 1.110.

This question arose in 2010 during consultation between the Restitutions Committee and the Ministry of OCW. In answering it, the State Secretary sought advice from an ad hoc advisory committee of the Council for Culture, consisting of the same members as the former Ekkart Committee.¹⁴ The advice from the Council for Culture in 2012 also addresses the question of whether and, if so, within which period and in which way the restitution policy can be terminated. The advice moreover includes a recommendation about the lifetime of the Restitutions Committee. The State Secretary of OCW gave his response to these policy

¹¹ See also section 2.1. The NK collection contains about 3,800 items, which include paintings, drawings, prints, ceramics, silver, furniture, tapestries, carpets and other special objects. The Netherlands Cultural Heritage Agency (RCE) manages the collection. Some objects are in museums and government institutions in the Netherlands and abroad, while others are in the RCE repository.

¹² Letter from the State Secretary of OCW to the Lower House with his response to the advice of the Council for Culture about the restitution policy in regard to items of cultural value, 22 June 2012. Lower House, session year 2011-2012, 25 839, no. 41, pp. 2-3. NB In recent years the Restitutions Committee has only dealt with a few claims relating to works of art possessed by the State that are not in the NK collection. See for instance the recommendations concerning Feldmann (RC 1.32), Anne Frank (RC 1.38), Behrens (RC 1.71), Glaser (RC 1.99) and Oppenheimer II (RC 1.120), which can be consulted on the website.

¹³ Letter from the State Secretary of OCW to the Lower House with regard to Second World War Assets, 22 June 2012, p. 3.

¹⁴ Professor R.E.O. Ekkart (Chairman), H. d’Ancona, J.C.E. Belinfante and R.M. Naftaniel.

recommendations from the Council for Culture in his letter of 22 June 2012 to the Lower House referred to above. A summary is given below.

Amendment of the restitution policy in regard to works of art not belonging to the NK collection
In his letter to the Lower House, the State Secretary of OCW wrote the following about the recommendations of the Council for Culture (hereinafter referred to as the Council).

‘In its advice, the Council remarked that the current restitution policy is less suitable for handling claims to works of art that do not belong to the NK collection. This is because the existing policy provides no scope for making allowances in the result of a restitution case for the way in which a work was acquired by the State [...]. There is similarly no place for considering the interests of other parties who might be involved. When honouring a claim, the Restitutions Committee therefore has no choice but to recommend the return of the work of art concerned.’¹⁵

In his letter the State Secretary commented that things are different when handling claims to items that are not in the possession of the State, but are the property of a local authority, province or foundation.

‘In these cases the Committee has more leeway in its assessment and it can – apart from the restitution of a work of art without further ado – also recommend other desired solutions. The Council considers this dissimilar treatment of claims to works of art to be extremely confusing and undesirable. The Council therefore recommends that the policy for claims to works of art possessed by the State (not being items in the NK collection) should be made the same as for handling claims to works of art in the possession of ‘third parties’. To this end the Council recommends that the Restitutions Committee’s task description, as specified in article 2 of the Decree Establishing the Restitutions Committee, should be amended. What the amendment of this article amounts to is that claims to works of art possessed by the State that are not in the NK collection should be assessed on the same basis as works of art possessed by parties other than the State.’¹⁶



5. J.G. Cuyp, *Michiel Pompe van Slingelandt (1643-1685) at the Age of Six with a Falcon, in a Landscape*. (NK 1695) See Katz recommendation, RC 1.90-B.

¹⁵ Letter from the State Secretary of OCW to the Lower House with regard to Second World War Assets, 22 June 2012, p. 3.

¹⁶ Ibid.

On the grounds of the Council's recommendation, the State Secretary of OCW changed the Restitutions Committee's task description in article 2 of the Decree Establishing the Restitutions Committee by means of the decree of 4 July 2012.¹⁷ The amending decree was published on 18 July 2012 in the *Netherlands Government Gazette* and it came into effect on 19 July 2012.¹⁸ The Restitutions Committee has thus acquired greater scope—when assessing claims to works from the Dutch National Art Collection that do not belong to the NK collection—to weigh up the interests of the parties involved on the basis of the specific facts and circumstances in a case. In his letter to the Lower House, the State Secretary wrote the following about this weighing up of interests.

'It goes without saying that such a weighing up of interests becomes less appropriate as the knowledge that the owner of a work of art had, or could reasonably have been expected to have, about its possibly suspect provenance increases. The possibility of knowledge about a suspect provenance is therefore a weighty factor'.¹⁹ The State Secretary advised that he explicitly wanted to give expression to this element in article 2 of the amended Decree Establishing the Restitutions Committee.

'In it I shall state that the Restitutions Committee will give great weight in its considerations to the circumstances of the acquisition by the owner and the possibility that there was knowledge about the suspect provenance at the time of the acquisition of the item of cultural value concerned. Under this new policy the Committee will also always be able to recommend restitution (unreservedly) of a tainted work of art, but it will also be able to recommend another satisfactory solution. The outcome depends on the specific facts and circumstances of every individual case.'²⁰

The aforementioned is expressed in the amended Decree Establishing the Restitutions Committee of 4 July 2012 in the sixth paragraph of article 2.²¹

Time limit for claims

In his letter of 22 June 2012 to the Lower House, the State Secretary wrote that the previously specified closing date for the more liberal restitutions policy of 4 April 2007 had emerged as being too soon in view of the unexpectedly large number of claims that were submitted after 4 April 2007, and the national and international criticism that arose about

the introduction of this closing date.²² At the time the government therefore decided to continue the more liberal restitutions policy for the time being. The State Secretary stated that the factors behind this decision included the national museum study, and handling the claims that might arise out of it.²³

A substantial part of the final results of the museum study will be published in 2013 and the State Secretary therefore asked the Council to advise him with regard to what reasonable time limit for claims should be applied. The State Secretary commented as follows about this advice.

'According to the Council it is still too early to determine a closing date for the restitution policy. As yet there is barely any discussion in international restitution circles about closing dates, and opinions are even expressed on a regular basis that there cannot be a closing date [...]. The Council takes the view that a time limit for claims cannot be determined until international consensus about it has developed. I endorse the Council's advice. Indeed, the *Washington Principles*, which were adopted in 1998, are still applicable in full as the international standard for restitution issues. As recently as 2009 the *Washington Principles* were reconfirmed during an international conference in Prague, resulting in the *Terezin Declaration*. In view of the international dimension of the restitution question, I agree with the Council that termination of the possibility of submitting claims cannot be considered until there is international consensus about it that replaces the *Washington Principles*'.²⁴

Change of the restitution policy for items in the NK collection

Despite the fact that the opportunity to submit claims will not be ended for the time being, the Council believes that the more liberal restitutions policy for the NK collection 'does not need to be drawn out indefinitely'.²⁵ The State Secretary responded to this advice from the Council as follows.

'In the opinion of the Council, the more liberal restitutions policy can be terminated two years after the full results of the current museum study have been published, provided that a hardship clause is incorporated for poignant cases. This hardship clause would also apply to cases in which new facts come to light, and in which the claimant can prove that he or she could not have submitted the claim any earlier. In the assessment of claims that meet these requirements, consideration can then be given to whether they can be dealt with according to the yardsticks of fairness and justice through the application of aspects of the more liberal restitutions policy.'²⁶

¹⁷ Decree issued by the State Secretary for Education, Culture and Science on 4 July 2012, no. WJZ/420483 (10207), regarding an amendment of the Decree Establishing the Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War in connection with evaluation of the restitution policy', 4 July 2012. *Netherlands Government Gazette*, 18 July 2012, no. 14780.

¹⁸ Appendix 1 concerns the original 2001 Decree establishing the Restitutions Committee of 16 November 2001 and the associated explanatory notes. In Appendix 2 there is the entire text of the amended Decree Establishing the Restitutions Committee, which came into force on 19 July 2012.

¹⁹ Letter from the State Secretary of OCW to the Lower House with regard to Second World War Assets, 22 June 2012, p. 4.

²⁰ Ibid.

²¹ See article 2 paragraph 6 of the amended Decree Establishing the Restitutions Committee. Appendix 2.

²² See the *Report 2007*, section 4.3.

²³ More information about this museum study see the *Report 2011*, section 4.3.

²⁴ Letter from the State Secretary of OCW to the Lower House about Second World War Assets, 22 June 2012, p. 5.

²⁵ Ibid.

²⁶ Ibid.

The State Secretary has decided on the basis of this advice that with effect from 30 June 2015, claims to items in the NK collection will also be evaluated according to the yardsticks of fairness and justice. This decision has been laid down in article 2 paragraph 4 of the amended Decree Establishing the Restitutions Committee.²⁷ As a result of this there is one policy for all works of art possessed by the State, whether they are in the NK collection or another State collection.

However, the State Secretary made the following comment in this regard.

‘Needless to say, the Restitutions Committee can take the specific provenance of works of art into account during the substantive assessment of a claim. This means that considerable weight will be given to the fact that a particular item comes from the NK collection. It goes without saying that there is also scope to permit a subtle approach, for example for the descendants of persecuted groups in the population, when it comes to the burden of proof of ownership and involuntary loss of possession. Substantive aspects such as these, which are also part of the current Netherlands Art Property Collection (NK) policy, remain important. But the degree to which these aspects are applied depends on the specific cases that are being addressed. I am willing to leave these considerations, as they relate to specific cases, to the Restitutions Committee.’²⁸

After the State Secretary announced that the formal criteria for the admissibility of claims are unchanged, he expressed the expectation that the number of claims to works of art in the NK collection would gradually dry up.²⁹ According to the State Secretary the new NK policy, which will come into effect on 30 June 2015, will in due course most probably only concern a few incidental claims.³⁰

Lifetime of the Restitutions Committee

In view of the above, the Council made a supplementary recommendation to the State Secretary of OCW with regard to the lifetime of the Restitutions Committee. The Council recommends retaining the Restitutions Committee until all claims submitted within two years after completion of the museum study have been handled. As regards claims that are submitted thereafter, the government could seek advice from an ad hoc committee.³¹ The State Secretary reacted to this recommendation as follows.

‘It is indeed my intention in any event to get the Restitutions Committee to deal with claims that arise out of the museum study. In my opinion the handling of restitution

claims, including those involving provincial and local authorities, by the Restitutions Committee always represents a proper response to the international call for alternative dispute resolution and independent research.’³²

The State Secretary also noted that it is not yet possible to estimate how many claims will arise out of the museum study because the results of the research are still awaited. Nevertheless, the State Secretary considers the period of two years after completion of the museum study referred to by the Council to be a realistic perspective.³³ In his view the Restitutions Committee will need the current research capacity for the time being, unless the number of claims turns out to be small. In the years ahead the State Secretary will continue to consult with the Restitutions Committee about its workload and organization. ‘If, at a certain point, there are only incidental claims, a switch can be made to an ad hoc committee.’³⁴

In conclusion it can be stated that the Restitutions Committee will continue to exist for the purposes of researching and handling claims that will arise out of the museum study.



6. J.H. Steen, *River Landscape with Figures and a Wagon by a Tower* (NK 2655). See the Mautner recommendation, RC 1.89-B and Katz recommendation, RC 1.90-B.

²⁷ See article 2 paragraph 4 of the amended Decree Establishing the Restitutions Committee. Appendix 2.

²⁸ Letter from the State Secretary of OCW to the Lower House about Second World War Assets, 22 June 2012, pp. 5-6.

²⁹ For more information about this see the *Report 2002*.

³⁰ Letter from the State Secretary of OCW to the Lower House about Second World War Assets, 22 June 2012, p. 6.

³¹ Ibid.

³² Letter from the State Secretary of OCW to the Lower House about Second World War Assets, 22 June 2012, p. 6.

³³ Ibid.

³⁴ Ibid.

2.5 Requests for revised advice

When the Minister has taken his decision in regard to a request for an opinion about works of art in the NK collection or other parts of the Dutch National Art Collection, the process is ended. Neither the Minister nor the Committee has the option of ‘redoing’ a case, as though an appeal had been lodged. However, in 2010 the option was created in consultation with the Minister of OCW to submit ‘requests for revised advice’. There are certain conditions that have to be met, as described below.

If claimants want to submit a request for a revised recommendation after the decision about their restitution application, they direct it to the Minister of OCW. The Minister can then decide to ask the Committee for a revised recommendation about the claim. In such a case the Committee will not completely reassess the case, but it will review its earlier advice against a restricted criterion. It will consider whether:

1. there are fresh facts (*nova*) that, had they been known at the time the earlier advice was formulated, would have led to a different conclusion, and/or
2. there were errors during the procedure that resulted in harm to the claimants’ fundamental interests

The handling of requests for revised advice does not involve facts or documents that were already known and that are submitted once again to support different arguments, but actual *new* sources that are relevant to the assessment of the claim. In addition, account is taken of the possibility of errors of a procedural nature, in particular in regard to the principle of hearing both sides.

The procedure that the Committee employs in the case of a request for a revised recommendation depends on the case and the documents submitted. Claimants are told about the procedure after the Minister has submitted the request for revised advice to the Committee.

3. A look back at 2012

The committee members met nine times in 2012. The Committee issued ten recommendations and organized three verbal hearings relating to cases under consideration.³⁵ The year under review was also marked by extensive legal and art historical research into the NK claims that are currently still being examined, and binding opinion cases. This involved consulting archives in the Netherlands as well as in other European countries and the United States. During this activity it was possible to make increasingly extensive use of digitized archive collections.

3.1 The Katz recommendation

The most extensive recommendation issued by the Committee during the year under review concerned the Katz case. The finalization of this recommendation on 17 December 2012 brought an end to a complex investigation that took over three years.

The application for restitution

The requests for advice from the Minister of OCW concerning the Katz claim were submitted to the Committee in 2004, 2007 and 2010. The claimants are 21 descendants of Nathan and Benjamin Katz, originating from six different countries. They include two children of Nathan Katz, and grandchildren of both Nathan and Benjamin Katz. They are requesting the return of 189 items from the NK collection, which according to them belonged to the trading stock of the D. Katz gallery in Dieren (or N.V. Schilderijen en Antiquiteitenhandel v/h D. Katz) and were lost involuntarily during the Second World War. The works are 187 paintings, largely by seventeenth-century Dutch old masters, and two tapestries.



7. Interior of the D. Katz gallery in Dieren, in 1936.

³⁵ The complete texts of the recommendations issued in 2012 are in chapter 6.

Art trade case

The D. Katz gallery in Dieren became the property of Nathan and Benjamin Katz in 1930. According to the claimants, the claimed works were part of this gallery's trading stock. The Katz claim therefore concerns an *art trade case*. The big difference between restitution cases involving private art ownership and art trade cases is that the involuntary nature of the loss of possession by art dealers is less obvious because the sale of works of art was among a gallery's normal activities, even during the occupation. This is why the rules for assessing art trade cases are stricter than the rules that apply to cases of private art ownership. These rules, which jointly form the Restitutions Committee's assessment framework in art trade cases, are based on the Recommendations for the Art Trade, which were adopted by the government in 2004 on the advice of the Ekkart Committee.³⁶

Opinion

The first important question in the assessment of the claim was whether it is highly plausible that the Katz gallery owned the claimed works during the relevant period. If a positive answer cannot be given to this question, the basis for the claim falls away and a work of art is not eligible for return. The second important question to be addressed in regard to works of art whose ownership has been sufficiently demonstrated is whether there was involuntary loss of possession as a result of the Nazi regime. In the case of a sale by a gallery, it has to be a forced sale.

In its advice the Committee concluded that one or both of the conditions referred to above were not met by 188 of these items. The Committee's advice means that:

- a. as far as most of the claimed works are concerned, it is not sufficiently plausible that the Katz gallery was the owner during the war, and
- b. the forced sale of the majority of the claimed works is deemed to be improbable.

In the Committee's opinion the only exception to this is the painting *Man with High Cap* by Ferdinand Bol (NK 1688), which is in Museum Gouda. In its recommendation, the Committee argued that both the ownership of the painting concerned and the forced character of the loss of possession have been sufficiently demonstrated. On 17 December 2012 the Committee therefore advised Minister Jet Bussemaker to return the painting to the descendants of the Katz brothers and to reject the claim to the other 188 works. The Minister adopted this advice in January 2013.

For the complete considerations of the Committee in this case and an extended extract of the investigation of the historical facts, see the text of the Katz recommendation given in chapter 6.

³⁶ See the *Report 2005* for a comprehensive discussion of the art trade policy.



8. F. Bol, *Portrait of a Family in the Guise of Venus, Mars and Cupid* (NK 1701)
See Katz recommendation, RC 1.90-B.

3.2 Symposia and study days

The Restitutions Committee and its employees closely monitor national and international developments in the restitution field. Committee members and staff attended symposia and study days in the Netherlands and abroad to that end. New contacts were established and existing contacts were refreshed. The days organized by the Committee itself in the Peace Palace in The Hague in November 2012 were an important part of this activity. They are discussed in detail in section 3.3.

During the year under review the Committee's director Ms E. Campfens presented the Committee's work at the two-day symposium *Art, Cultural Heritage and the Market: Ethical and Legal Issues*, which was held on 15 and 16 March 2012 in Maastricht. This symposium was also attended by other committee employees. On 10 and 11 May 2012 Ms E. Campfens attended the *Workshop for mediators in art and cultural heritage of the International Council of Museums (ICOM)* and the *World Intellectual Property Organization Arbitration and Mediation Center (WIPO)* in London. The central question during this two-day workshop was how mediation can offer a solution to disputes involving art and cultural heritage. A month later, from 10 to 15 June 2012, researcher Ms E. Muller visited the *Provenance Research Training Program* in Magdeburg, Germany. During this training course all kinds of aspects of investigating the provenance of works of art in connection with restitution were discussed and demonstrated. There was also scope to share experience at an international level.

In the context of the study of museum acquisitions, which was discussed comprehensively in the *Report 2011*, on 11 May 2012 in the Amsterdam City Archives the Netherlands Museums Association organized the symposium *Herkomst Helder*, which was attended by researchers Ms A.J. Kool and Ms E. Muller. During the Annual Museum Conference of the Netherlands Museums Association on 4 October 2012 in Maastricht, the Committee's Chairman, Mr W.J.M. Davids, explained the Committee's binding opinion procedure to museum representatives by means of a hearing in an imaginary restitution case.

During the sixth *Heidelberger Kunstrechtstag*, on 28 and 29 September 2012 organized by the German *Institut für Kunst und Recht*, the main focus was on international and national German legal aspects of art and collecting, including restitution of Nazi looted art. Director Ms E. Campfens was present during these days and was able to take note of recent trends and research results in this field in Germany and Austria.

Finally, the Chairman, Mr W.J.M. Davids, and deputy director Ms A. Marck gave presentations about restitution on 26 October 2012 to the Elisabeth Leseur group in Rotterdam and on 11 December 2012 Ms E. Campfens attended the meeting *Responsibility and Transparency: Looted Art, Trophy Art and the Documentation of Cultural Assets* in Brussels, which was organized by the *Koordinierungsstelle Magdeburg*.

Besides these organized meetings, during the year under review personal contacts were established and maintained for the purposes of sharing insights and results. On 8 March 2012 the Chairman, Mr W.J.M. Davids, committee member Professor J.T.M. Bank and employees Ms E. Campfens and Ms A. Marck went on a working visit to Berlin at the invitation of the German *Beratende Kommission im Zusammenhang mit der Rückgabe NS-verfolgungsbedingt entzogener Kulturgüter, insbesondere aus jüdischem Besitz*, also known as the Limbach Commission. The Dutch delegation attended a Commission hearing in a current case, and it was also received by Mr Bernd Neumann, the German State Minister for Media and Culture.

Contact was also maintained with the Austrian *Kommission für Provenienzforschung*. For example on 8 October 2012 Ms A. Marck attended the presentation of the book *Kunst sammeln, Kunst handeln* in the Belvedere museum in Vienna. Staff members Mr F.M. Kunert and Ms A. Marck made a contribution to *Beiträge des Internationalen Symposiums in Wien* about the Dutch art market in the 1930-1945 period and Restitutions Committee recommendations about art trades cases.³⁷

³⁷ Floris Kunert and Annemarie Marck, 'The Dutch Art Market 1930–1945 and Dutch Restitution Policy Regarding Art Dealers' in Eva Blimlinger and Monika Mayer Eds., *Kunst sammeln, Kunst handeln. Beiträge des Internationalen Symposiums in Wien* (Böhlau Verlag Wenen, Cologne and Weimar 2012).

3.3 26 and 27 November 2012: 'Fair and Just Solutions?'

On 26 November 2012 the Restitutions Committee organized a meeting in the Peace Palace in The Hague involving five European advisory committees (two which were referred to in the previous section) in order to enhance contacts and information sharing. During this closed meeting, delegations from advisory committees in Germany, the United Kingdom, France, Austria and the Netherlands that are concerned with art looted by the Nazis met for the first time ever to talk about procedures, criteria and more international collaboration. The US Federal Government's *Special Envoy for Holocaust Issues* was an observer. After a day that was devoted to sharing knowledge and experience, the committees decided to support a proposal from the Chairman, Willibrord Davids, that they would investigate and work out the options for further international cooperation.



9. The delegations from five European Looted Art Committees in the Peace Palace in The Hague, 26 November 2012.

On the following day, 27 November 2012, to mark its tenth anniversary, the Restitutions Committee organized the international symposium *Fair and Just Solutions? Alternatives to litigation in Nazi-looted art disputes, status quo and new developments*. On that day in the Peace Palace in The Hague, the Chairman—Willibrord Davids—welcomed the delegations from the other European looted art committees, the US *Special Envoy for Holocaust Issues*, and also prominent academics, lawyers, history and art history experts, art dealers, people from the museum world, staff from firms of auctioneers, and representatives of focus groups from various countries. The key message during the symposium was that we must continue to do our best to seek justice in restitution issues, even though it is late and not always simple, not least as an example in the event of future injustices.

After a welcoming address by the Chairman, the symposium was officially opened by Dr Jet Bussemaker, the Dutch Minister of Education, Culture and Science (OCW). She stressed that the venue for the symposium—the Peace Palace in The Hague—placed an obligation on those attending to arrive at fair and just solutions, as referred to in the Washington Principles³⁸. Following on from this, during the course of the day a number of speakers emphasized that finding fair and just solutions is a moral duty and is furthermore a way for us to achieve reconciliation with the past.

In his keynote speech, Professor Norman Palmer from the United Kingdom wondered what could be improved in the field of resolving disputes in cases of looted art, and whether there is a need for international coordination. In this context he concentrated on a few basic concepts. One of these concepts, in his view, is that ‘hard cases make bad law’. This means that legal and other rules that have been drawn up for ‘normal cases’ are often inadequate when searching for a resolution of disputes about art looted by

the Nazis. He also commented that there is a danger of looted art cases being considered in too much isolation. According to Palmer it is a ‘cross-border issue calling for a cross-border solution.’ He asked the audience which fundamental principle should be applied here. Is restitution to the victims of the Nazi regime, or their descendants, of all the items that were looted the only way to achieve restoration of rights? Or should the principle be retaining and maintaining museum collections to the best of one’s ability? In answering this question Palmer then referred to the Washington Principles, which state that in every case the specific facts and circumstances of that case should be assessed for the purposes of arriving at a fair

and just solution. Palmer contended that we should aim for a ‘fact sensitive’ solution, the core of which is a just weighing up of the interests. In cases of looted art, it is not about a ‘one size fits all’ solution. It would, after all, be wrong to commit the error of treating dissimilar cases the same way. Palmer linked this weighing up of interests to the cross-border nature that is a feature of many looted art cases, and concluded, with regard to the question that had arisen as a result of organizing the symposium, that he sees a need for greater international collaboration. Professor Palmer ended by saying that the obligation on those present was well put by Rabbi Tarphon in the first century of the Common Era. ‘The day is short and the work is great. You are not required to complete the work, but neither are you free to desist from it.’



10. Impression of the symposium *Fair and Just Solutions* on 27 November 2012.

³⁸ See section 2.1.

Where are we now?

After the keynote speech the morning session was devoted to the current status of dispute resolution in cases relating to Nazi looted art.

Five European Looted Art Committees

First to speak were the chairmen or vice-chairmen of the five European advisory committees. They were Michel Jeannoutot from France, Eva Blimlinger from Austria, Sir Donnell Deeny from the United Kingdom, Wolf Tegethoff from Germany, and Willibrord Davids from the Netherlands. In interviews with chairman for the day Chazia Mourali, the representatives of these five committees described their work, with a particular focus on the differences between the procedures in each country and the diverse statutory or policy-related assessment frameworks. It emerged from the interviews that all the committees were established in around 2000 as a reaction to the renewed interest in looted art cases that had arisen during the nineteen-nineties. When they set up advisory committees, the governments concerned wanted to offer an alternative to the standard route through the courts, which in most of the countries involved no longer provides a solution in cases of looted art. Michel Jeannoutot tellingly illustrated the importance of the committees’ work by a quote from a letter written by a claimant to the French committee. She explained that to begin with her memory of her family ‘consisted only of ash’, but during the procedure executed by the French committee and the research that was done into the facts, those involved now have faces.



11. Interview with the chairmen and vice-chairmen of the advisory committees by the chairman for the day Chazia Mourali. From left to right Willibrord Davids, Wolf Tegethoff, Eva Blimlinger, Chazia Mourali, Sir Donnell Deeny, and Michel Jeannoutot.

A few special characteristics of the different committees emerged during the interview session.

- The core task of the French committee (*Commission d'indemnisation des victimes de spoliations*, CIVS) is to advise about claims to financial compensation for possessions lost during the Nazi regime, so therefore not so much the return itself (restitution) of works of art or other objects. In theory this can in fact result in a situation where a claim for the loss of an item is submitted in France, while a museum in another country receives a claim for restitution of that same item. So far 977 cases have been laid before the CIVS. It was decided in two cases to reconstitute a work of art.
- The Austrian committee (the *Beirat* of the *Kommission für Provenienzforschung*) advises about works from the federal collection. It is not necessary to submit a claim in Austria. This is because the committee has the power to decide *ex officio* to reconstitute an item if a change of ownership during the Nazi regime has to be considered as void according to the 1998 *Kunstrückgabegesetz* art restitution law. The acquisition of the work of art by the current owner plays no role. So far the Austrian committee has issued advice over 284 cases.
- The German committee (*Beratende Kommission im Zusammenhang mit der Rückgabe NS-verfolgungsbedingt entzogener Kulturguts, insbesondere aus jüdischem Besitz*) advises on claims to works of art from public collections on the grounds of the 1999 *Gemeinsame Erklärung* (united declaration). The committee has issued five recommendations thus far. According to Vice-Chairman Wolf Tegethoff this relatively low number comes from the fact that many disputes in Germany were settled immediately after the war, or are resolved today on a bilateral basis.
- The UK Spoliation Advisory Panel weighs up the interests in each case submitted to it in order to see whether claimed works of art should be restituted. The moral strength of a claim plays an important part in this. This British panel has dealt with eleven cases so far. The audience was interested to hear the Chairman, Sir Donnell Deeny, explain that his panel can also advise on disputes regarding items that strictly speaking come outside the category of Nazi looted art, but were lost in the aftermath of the Second World War, for example 'souvenirs' that were taken by allied soldiers.
- The biggest difference between the Dutch Restitutions Committee and the other committees proved to be that all sorts of disputes about looted art can be submitted to the Restitutions Committee for research and advice. The work of the Dutch Restitutions Committee is thus not exclusively concerned with items in the Dutch National Art Collection or other public collections. The Committee can also act in other cases as the provider of binding opinions or as a mediator. The basis for giving a binding opinion is that the parties declare beforehand that they will accept the result of the procedure. So far the Dutch Restitutions Committee has dealt with 130 restitution claims, the vast majority of which relate to the Dutch National Art Collection.

The United States

After the interview session with the chairmen and vice-chairmen, Ambassador Douglas Davidson, Special Envoy for Holocaust Issues, gave a presentation about the situation in the United States. Davidson explained that governments with a federal organization encounter special problems if they try to establish a committee for alternative dispute resolution, as is being attempted in the United States. It is particularly difficult to set overarching rules because of the limited powers that the individual states transfer to the federal government. The federal government in the United States is still trying to set up a looted art committee, but as Davidson admitted, '*At this point it does not appear that we could ever apply binding arbitration to such disputes—or even that interesting innovation of the Dutch Restitutions Committee, a 'binding opinion'—but, where two or more parties were willing to subject their differences of opinion to a mediator's guiding hand, this might well be the next best thing*'.

The academic's vision

The overview of the current status in the field of settling disputes concerning Nazi looted art was concluded by a presentation by Professor Marc-André Renold from the University of Geneva's *Art-Law Centre*. Renold presented a comparative analysis of international restitution practice. He gave an evocative selection of ad hoc solutions that have been found in recent years in different countries in disputes about looted art. From restitution, with or without conditions, and *ex gratia* payments to loans, co-ownership and sale of the work of art with division of the proceeds. Like Palmer, Renold commented that it was high time to give further substance to international collaboration, for instance by establishing an international platform.

How can we do things better?

The question of how restitution practice can be improved was addressed during the afternoon session.

Against this backdrop Professor Matthias Weller from the *EBS University for Economics and Law* in Wiesbaden gave an answer to the question of whether it is possible to identify starting points that should form the basis for every fair and just solution. He first of all concluded that there is still little agreement about the concept of a fair and just solution. Inconsistent results of disputes about Nazi looted art, of which there are plenty of examples, represent a threat to justice in this area. Weller demonstrated that there is a pressing need for a definition of the elements that should make up a fair and just solution. This task should not be tackled by committees that make recommendations about individual claims, but by independent third parties. Weller stressed that the formal or procedural aspects of handling cases involving looted art are of the greatest possible importance, certainly now when there is no, or not yet, consensus about the norms of a fair and just solution. The examples given by Weller included transparent procedures, clear underpinning of the grounds for a decision, and handling like cases the same way.

Professor Wouter Veraart from the Free University Amsterdam gave a presentation about the passage of time in the field of Nazi looted art. In his view the primary task of the law after a period of injustice that took place in the past is the development of the right legal and other frameworks within which the parties are able to find binding solutions for their disputes on a more voluntary basis. As a result it is possible, with help from the law, to avoid ad hoc solutions being found in every case. Veraart also explained that there are three ways of dealing with past injustices. The first is to *forget* the injustice in the hope that order returns after a period of serious conflicts. The second is to *remember* the injustice, which includes wanting to redress past wrongs as much as possible. Finally there is *reconciliation*. According to Veraart this should be the focus of the approach to issues involving art looted by the Nazis. The contribution that the law can make to the reconciliation process is to offer national and international legal and ethical guidelines and rules that enable a fair process in which parties can deal with one another on an equal level and with mutual respect. Like Weller, Veraart concluded that the importance of a transparent, just and clear procedure cannot be stressed often enough.

Panel discussion between the interested parties

After the contributions from the academics, there was a debate by a panel of eleven people. They came from different countries involved in restitution practice and included lawyers, art history and history experts, a representative of a focus group, museum staff, and delegates from the art trade and major auctioneers. They tackled the following themes and questions.

1. The 'special' status of Nazi looted art.
Is there a fundamental difference between disputes about art stolen by the Nazis and disputes about works of art looted during another period in history, for example items plundered during the Russian Revolution in 1917? If so, what is the basis for this distinction?
2. The concepts of fair and just
Which aspects are determining in searching for a fair and just solution? Does this depend on the status of the current possessor of the claimed item?
3. Factual research
Does independent research into the facts play the key role in reaching a fair and just solution? If so, what requirements should we set for it? Can this research be left to commercial parties?
4. Time limit
Should there be a time limit to the possibility of submitting claims to Nazi looted art? Is a time limit part of a fair and just solution, or on the contrary an obstacle?
5. How can we do things better?
Is there a need to set up an international committee that investigates and assesses claims? If so, what are the principal tasks of such an organization? Should they

be limited to conducting independent research, or should they also include issuing opinions (binding or otherwise), mediation or clearance?

It became clear during the debate that there were many different points of view among the attendees about what the concepts of fair and just mean, and which aspects are important in reaching a just solution.

- Most—but certainly not all—members of the panel thought it right for a distinction to be made between claims to works of art in public collections and claims to works from private ones. For those advocating this distinction, this did not mean per se that the norms of fair and just should not apply to private collections, but—during a just analysis of interests— only as an additional 'plus' on the balance of the work's current owner.
- All panel members agreed on the great weight that should be attached to good faith in a purchase and to proper provenance research beforehand on the part of the current possessor of a work of art. Nevertheless, during the discussion the view was also expressed that, in cases concerning Nazi looted art, the past wrongdoing should be the sole focus. For some panel members this meant that restitution is the only feasible solution. According to them no account needs to be taken of the position of the current possessor of a work of art.
- The members of the panel appeared to agree that any compensation previously received for the loss of a work of art should be taken into account in an arrangement or decision about a dispute concerning the ownership of Nazi looted art.



12. Discussion between panel members and attendees during the *Fair and Just Solutions* symposium.

All panel members recognized the importance of independent factual research in a procedure. Those taking part in the discussion talked about the possibilities and limitations of this research. The participants found it difficult to define what ‘independent’ means in this context. During the debate it became clear that in any event historical research and the identification and analysis of the history of those involved—a history that might not have been known previously—is an important ingredient in its own right for a fair and just solution. As was pointed out earlier in the symposium, the reconstruction of the facts can transform memories that ‘consisted of ash’ into recollections that consist of people with faces. The description and recognition of rights that once existed is a goal, irrespective of the outcome of a claim.

The views of the panel members varied more widely on the question of a time limit. In this regard the panel reflected the opinions of the members of the audience, who were able to express their positions beforehand by completing a questionnaire about the five themes.



13. Impression of the *Fair and Just Solutions* symposium.

An explanation for these differences of opinion might lie in the disparity between the system of *common law* (the UK and the USA) and the *civil law* system. In countries with the latter legal system there are more or less fixed time limits, which provide a certain degree of clarity for the present possessor. This is different in countries with a common law system. It emerged during the debate that some people believe, given the seriousness of the crimes committed, that time limits should never be applied to claims to Nazi looted art. Others said that statutory time limitations should always be respected, since issues concerning plundered art should in the first instance be or have been

cases between those who committed the crimes and those who became victims of those crimes, where the current possessor can be an innocent third party.

At a procedural level, everyone agreed that a solution had to be sought for claims to art looted by the Nazis. There were also clear calls from panel members for reconciliation and closure. It became clear that there is need for greater uniformity. During the discussion the question of how this uniformity should be given substance, for instance by means of an international advisory committee or a clearing institute, remained unanswered. Arguments against an international organization ranged from the contention that such a plan is unrealistic because of the time it would take to the cry of ‘vive la différence’. On the other hand there was considerable enthusiasm in the panel and the audience for an international organization or committee to investigate and assess claims.

International collaboration

In the concluding session Professor Nico Schrijver from Leiden University, an international law expert and a member of the Upper House of the Dutch parliament, discussed the question of how to obtain greater international cooperation. Schrijver referred to a large number of examples, including an international platform where parties and concerned individuals can exchange ideas, an Ombudsman whom these parties and people can consult about research and other questions as well as other problems, an international committee that one can turn to on a voluntary basis for independent research and opinions (binding or otherwise) or mediation, or an institutionalized intergovernmental form, which Schrijver dubbed the *United Nations International Restitutions Organisation* (UNIRO). All these organizations could exist with or without a permanent location and secretariat.

Future publication of symposium proceedings

After a day during which the participants were given much food for thought, the symposium ended with a very generous gesture by the Ministry of OCW. Director General Marjan Hammersma told Chairman Willibrord Davids that the ministry would finance publication in 2013/2014 of the symposium proceedings. The proceedings will contain the themes discussed during the symposium, not in summary form as above, but in detail, including contributions from speakers and panel members.



14. Director General Marjan Hammersma from the Ministry of OCW and Chairman Willibrord Davids during the *Fair and Just Solutions* symposium.

4. Restitutions Committee recommendations

4.1 2002 - 2012 overview

Between January 2002, when the Restitutions Committee took up its duties, and the end of 2012, the Minister of OCW requested advice in over 136 cases. Of these cases, 121 related to items of cultural value from the Dutch National Art Collection, five cases concerned requests for revised advice, and the remaining ten cases involved binding opinions. The data presented in this section relate solely to the first category, namely National Art Collection cases. The revised advice cases will be addressed in section 4.2. Section 4.3 discusses the binding opinion cases.

A few of the 121 National Art Collection cases submitted to the Committee by the end of 2012 were withdrawn before advice could be issued, and some were combined with a restitution application filed later.³⁹ The Committee considered itself to be unauthorized to advise in two cases. By the end of 2012 a total of 109 recommendations had been issued in these cases.⁴⁰ The scope of the cases ranged from one single work of art to claims calling for the return of a few hundred items. Of the 109 recommendations issued, 56 were fully in the applicants' favour, 36 were to reject the claim in full, and 17 were to partly grant and partly reject the claim.



15. *Beech chest; two panels inlaid with a vase of flowers, seventeenth century (NK 3201).*
See S. van Leeuwen recommendation, RC 1.103.

³⁹ See section 4.2 for the revised advice cases.

⁴⁰ During the handling of a few cases, the recommendation was split up into two parts, so there were partial recommendations. See for instance in chapter 6 the recommendations concerning Gutmann IV RC 1.115-B, Arnhold RC 1.61-B, Mautner RC 1.89-B and Katz RC 1.90-B. The recommendations issued by the Committee can be consulted on its website. See appendix 5 for an index by case number of all the recommendations made by the Committee during the 2002-2012 period.

National Art Collection cases per year

Submitted to the RC		Recommendations issued by the RC	
2002	12	2002	5
2003	4	2003	7
2004	9	2004	2
2005	16	2005	7
2006	15	2006	12
2007	35	2007	16
2008	12	2008	15
2009	10	2009	16
2010	3	2010	9
2011	0	2011	13
2012	5	2012	7
Total	121	Total	109

By the end of 2012 the Committee had issued advice about approximately 1,370 claimed items of cultural value. The recommendations relating to 434 items (about 32 %) were to grant the claims, while the Committee recommended the rejection of the claims to the remaining 935 works (some 68 %). Below is an overview of the number of items about which the Committee issued recommendations in the period from 2002 to 2012.

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
2008	12	80
2009	23	107
2010	10	4
2011	10	371 ⁴¹
2012	4	204 ⁴²
Total	434	935

⁴¹ Including 335 items in the case May II, RC 1.112.

⁴² Including 188 items in the case Katz, RC 1.90-B.

4.2 Revised recommendations

Up to the end of 2012 the Committee issued three revised recommendations. These concerned National Art Collection cases about which the Committee had advised previously and in regard to which a request for revised advice had been submitted.⁴³ The Committee issued its first revised recommendation in 2010 and two revised recommendations in the year under review.⁴⁴ Recommendations will be made at a later stage about the two revised advice cases there were still being dealt with at the end of 2012.

Revised recommendations per year

Submitted to the RC		Recommendations issued by the RC	
2010	3	2010	1
2011	2	2011	-
2012	-	2012	2
Total	5	Total	3

4.3 Binding opinions

As explained in chapter 2, the Restitutions Committee was assigned a second task when it was established. Article 2, paragraph 2 of the Decree Establishing the Restitutions Committee provided for the option of also submitting disputes to the Restitutions Committee in relation to cases of looted art in which parties other than the State of the Netherlands are involved. By the end of 2012 the Restitutions Committee had dealt with 10 requests for opinions in the context of this task. The Committee published its first four binding opinions in 2008 and 2010.⁴⁵ It issued its fifth binding opinion during the year under review.⁴⁶ Five binding opinion cases were still being addressed at the beginning of 2013.

⁴³ See section 2.5.

⁴⁴ See in chapter 6 the revised recommendations RC 4.124 (Van Aldenburg Bentinck II) and RC 4.119 (De Vries II).

⁴⁵ See the *Report 2008* and the *Report 2010*.

⁴⁶ See in chapter 6 the binding opinion RC 3.129, *Allegory of Autumn* by Jacob de Wit (Gutmann/Province of Drenthe).

Binding opinion cases per year

Submitted to the RC		Binding opinions issued by the RC	
2006	2	2006	-
2007	1	2007	-
2008	1	2008	3
2009	-	2009	-
2010	-	2010	1
2011	5	2011	-
2012	1	2012	1
Total	10	Total	5

4.4 Status at the end of 2012

In 2012 the Minister of OCW submitted five National Art Collection cases to the Restitutions Committee.

During the year under review the Committee issued nine recommendations about items in the National Art Collection, two of which were revised recommendations (see section 4.2). Of these nine recommendations, three were to grant in full, five were to reject in full, and one was to grant in part and reject in part.⁴⁷

At the beginning of 2013 a further nine National Art Collection cases⁴⁸ were being considered. The time taken to process a request for an opinion varies substantially from case to case. For example, the procedure takes longer if the historical research is time consuming. This can be due to the extent and nature of the research, as well as to the fact that the Committee is regularly dependent on third parties for gathering information, such as archives in the Netherlands and other countries. Procedural reasons, in particular, can also contribute to a longer turnaround time. In some cases there are several claims relating to the same work of art, so a number of response stages are desirable, and cases have to be kept open until the investigation of the various claims has been completed. Applicants also regularly request an extension of their response time or times, for example so they can do some research themselves.

⁴⁷ Recommended to grant: RC 1.103 (S. van Leeuwen), RC 1.61-B (Arnhold: partial recommendation) and RC 1.89-B (Mautner: partial recommendation). Recommended to reject: RC 1.107 (Morpurgo II), RC 4.125 (Van Aldenburg Bentinck II), RC 1.115-B (Gutmann IV: partial recommendation), RC 4.119 (De Vries II) and RC 1.110 (Von Goldschmidt-Rothschild). Recommendation to grant in part and reject in part: RC 1.90-B (Katz: partial recommendation).

⁴⁸ Including revised recommendation cases.

5. Conclusion

In 2012 the restitution question, particularly where it concerns Nazi looted art, remained an ongoing area of attention in the Netherlands and other countries. During the *Fair and Just Solutions* symposium that the Restitutions Committee organized at the end of 2012, speakers and attendees emphasized once again that every case has to be assessed on the basis of its specific facts and circumstances, which emerge from thorough historical and art historical research and legal investigation. No two cases are the same, so a fair and clear procedure is of the utmost importance to those involved. Based on these underlying principles, the Restitutions Committee seeks to continue investigating and assessing the requests for advice it is currently dealing with, and any future cases, to the best of its ability.

6. Recommendations issued in 2012

Below is the full text of all the recommendations issued by the Restitutions Committee in 2012. The recommendations are given in chronological order. The dates given for recommendations are based on when they were finalized.⁴⁹

1. Recommendation regarding Morpurgo II (case number RC 1.107)

In a letter dated 30 October 2008, the Minister for Education, Culture and Science (hereafter referred to as: the Minister) requested the Restitutions Committee (hereafter referred to as: the Committee) to issue a recommendation in an application for restitution made by W.G. of A. (hereafter referred to as: the applicant) on 14 November 2007 for various works of art from the Netherlands Art Property Collection administered by the State (hereafter referred to as: the NK collection). According to G., the objects were the former property of his grandfather, Louis Morpurgo, one of the partners of art dealership Joseph M. Morpurgo. This recommendation concerns the following objects:

- NK 276 A-B: *Two China vases and covers of glazed porcelain with blue and white decor of landscapes and flowers*
- NK 277 A-B: *China vase and cover with blue and white decor of flowering branches and landscapes*
- NK 481: *Glass decanter and stopper in the shape of Kutrolf and painted in brown with a wild boar hunt so-called Hausmalerei*
- NK 955 A-B-C-E-F-G-I: *Seven green rummers*
- NK 2785: painting by P. Codde, *Soldiers ransacking a house*

The procedure

In addition to the above objects, the Ministers request for advice also pertained to the sculpture *Bronze stonemason*, by C.E. Meunier (NK 414). As this sculpture was also part of another application for restitution presented to the Committee, the recommendation on both claims to NK 414 was filed separately under Steenhouwer (RC 1.60), on which application the Committee issued a recommendation on 13 April 2011. In addition, the application for restitution regarding Morpurgo II initially also related to five rummers with inventory numbers NK 955 D, H, J, K and L. However, in a letter dated 28 April 2010, the Minister said that these rummers were no longer part of the national collection. As a result, the Minister has withdrawn his request for a recommendation concerning these five missing objects.

In a letter dated 22 October 2010, the Committee asked the applicant for an explanation of his application for restitution. The applicant submitted documentation in replies dated 28 October and 4 November 2010. The Committee also conducted its own investigation, the results of which were recorded in a draft investigatory report of 15 November 2011. In a letter dated 31 January 2012, the Committee sent this draft investigatory report to the Minister with a request for additional information. The Minister informed the Committee on 14 February 2012 that she did not have any additional information that she wished to bring to the Committees attention. In a letter dated 31 January 2012, the Committee sent this draft investigatory report to the applicant for comment, to which he responded in a letter dated 9 February 2012. This reply has been enclosed as appendix to the draft report.

The investigatory report was adopted on 5 March 2012. The Committee refers to this report for the facts of the case.

Considerations

1. The applicant has stated that he is the heir of his grandfather, Jewish art dealer Louis Morpurgo (1875-1942), and that he is acting on his own behalf and on that of Louis Morpurgos co-heirs, with the exception of A.W.-M. The applicant submitted inheritance documents, on the basis of which the Committee sees no reason to doubt the applicants status as rightful claimant to his late grandfathers inheritance. According to the applicant, the current objects (NK 276 A-B, NK 277 A-B, NK 481, NK 955 A-B-C-E-F-G-I and NK 2785) were in Morpurgo's possession. The applicant wrote the following to the Committee on this subject:
"I am afraid that I cannot answer your question as to whether the claimed objects were part of my grandfathers private collection or his trading stock. As you will realise, I was a child at the time (I was 13 years old in 1945) and I was not informed about this."

⁴⁹ See appendix 5 for an index by case number of all the recommendations made by the Committee during the 2002-2012 period.

2. Morpurgo was an art dealer of Jewish descent. He was married to Naatje van Wijnbergen (1874-1945) and had four daughters, Flora, Selma, Rachel and Susanna, and a son, Lion. The Committee has taken cognisance of an agreement of 1 August 1939 between Louis Morpurgo and his son Lion Morpurgo from which it can be concluded that both were partners of art dealership Joseph M. Morpurgo at Rokin 108 in Amsterdam (hereafter also referred to as: art dealership Morpurgo). On the basis of the deed of partnership concluded between Louis Morpurgo and his son Lion Morpurgo in 1939, and the survivorship clause contained in it, Lion Morpurgo continued the art dealership Morpurgo as sole owner from 1 October 1945 on. A.W.-M., Lion Morpurgo's daughter, is now the sole owner of art dealership Louis Morpurgo.
3. At the start of the war, the occupying forces ordered the closure of art dealership Morpurgo, following which various Verwalters were employed in the company. In 1942, the company was sold to an Austrian art dealer, the occupying forces having ordered the auction of part of the trading stock. Louis Morpurgo and his wife were deported and did not survive the war. After the liberation, Lion Morpurgo returned to Amsterdam from Theresienstadt concentration camp.
4. It can be concluded from the Committee's investigation that the claimed artworks were returned to the Netherlands from Germany after the Second World War. The following has become known about the provenance:
 - a) On the basis of reports by Lion Morpurgo made to the Netherlands Art Property Foundation after the war it was found that three Chinese vases with covers (NK 276 A-B and NK 277 A-B) and a glass decanter (NK 481) were taken from art dealership Morpurgo's trading stock during the war and fell into German hands.
 - b) With regard to the painting by Pieter Codde (NK 2785), it became clear from the investigation that this painting was in art dealership Morpurgo's possession in 1927 but that by 1934 already, it was owned by another art dealership.
 - c) Concerning the seven rummers (NK 955 A-B-C-E-F-G-I), the investigation yielded several conflicting provenance details. The provenance name Morpurgo is uncertain. The Committee concludes that with regard to NK 276 A-B, NK 277 A-B and NK 481, it can be said that in the relevant period these objects belonged to art dealership Morpurgo but that there are no indications that the claimed objects were ever Louis Morpurgo's private property.
5. In a previous recommendation dated 12 March 2007 (RC 1.33) concerning a painting from art dealership Morpurgo's trading stock, the Committee advised returning this work to applicant A.W.-M. as owner of the one-man business Joseph M. Morpurgo. In this recommendation, the Committee also referred to obligations ensuing from a continuation proviso in the partnership contract concluded between Louis Morpurgo and his son Lion Morpurgo in 1939 (see under 2), considering that pursuant to this regulation, art dealership Morpurgo would have been entitled to the restitution of the painting, following a financial settlement for the value of the painting with Louis Morpurgo's heirs. In its recommendation RC 1.33, the Committee was of the opinion that as the sole owner of the one-man business Joseph M. Morpurgo, the applicant was entitled to claim restitution of the painting but that the value of the painting would have to be settled financially with all Louis Morpurgo's heirs.
6. With a judgement of the Court of Amsterdam of 16 December 2009, upheld in appeal in a decree by the Amsterdam Court of Appeal on 28 December 2010, it has been established in a court of law that the claim made by Louis Morpurgo's heirs on A.W.-M. for a financial settlement has been lost on account of lapse of time. The financial settlement obligation arising from the implementation of the continuation proviso cited above under 5, as a result of which an artwork belonging to the company assets of art dealership Morpurgo should be returned to A.W.-M., can now no longer be exercised. In light of the above, the Committee will, in the current case, limit itself to the question whether the applicant's request in his own right and as authorised representative is admissible.
7. With regard to this question, the Committee considers that the current claim has been submitted by and on behalf of the rightful claimants to Louis Morpurgo's estate, with the exception of A.W.-M. The Committee has found no indications that the currently claimed objects were Louis Morpurgo's private property. The possibility that these objects were part of the company assets of Louis Morpurgo and Lion Morpurgo, to which A.W.-M. is exclusively entitled, will need to be seriously taken into account. It follows from this that it is highly probable that the applicant and the persons he represents are among the rightful claimants so that his request is denied, both on his own behalf and in his capacity as authorised representative.

Conclusion

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

Adopted at the meeting of 5 March 2012 by W.J.M. Davids (chair), J.Th.M. Bank, P.J.N. van Os, D.H.M. Peepkorn, E.J. van Straaten, and signed by the chair and the secretary.

(W.J.M. Davids, chair)

(E. Campfens, secretary)

2. Recommendation regarding Van Aldenburg Bentinck II (case number RC 4.125)

In a letter dated 14 June 2011, the (State Secretary for Education, Culture and Science (hereafter referred to as: the State Secretary) requested the Restitutions Committee (hereafter referred to as: the Committee) to issue a revised recommendation on the application for restitution by I.A. O.-V.A.B., of Castle M., D.S. (hereafter referred to as: the applicant) of the painting *Portrait of a married couple* by Pieter Codde which is currently in the Dutch National Art Collection under inventory number NK 2550. The work of art whose return the applicant has requested is in the Mauritshuis in The Hague.

The said application for restitution was rejected in a decision taken by the State Secretary on 13 October 2010, in accordance with the Committee's recommendation of 6 September 2010 (case number RC 1.102). In response, in a letter dated 18 May 2011, the applicant requested the State Secretary to reconsider the decision. Further to this request, the State Secretary requested the Committee to issue a revised recommendation on the basis of the arguments put forward by the applicant in her letter of 18 May 2011.

The procedure

After receiving the request for a revised recommendation, the Committee notified the applicant in writing on 27 July 2011 that it would investigate:

- a) whether there were any new facts, which, had they been known when the recommendation was adopted, would have led to a different conclusion, and/or
- b) whether any mistakes were made during the procedure, as a result of which the applicant's fundamental interests were prejudiced.

The applicant was invited to submit any additional documents she might consider relevant in the light of these assessment criteria. The applicant responded to the contents hereof on 12 September 2011, through her authorised representative, G.L. Maaldrink. The applicant took the opportunity to state that she would like to elucidate her request in person in the presence of her authorised representative and of the manager of castle M., N.W.C. The case was then heard on 24 January 2012 in the presence of the two persons referred to and a delegation of the Committee. On this occasion, the representative's a written pleading was submitted and, on 2 February 2012, the applicant herself also provided additional information and documentation.

On 17 February 2012, the applicant was informed that the Committee would start drafting the revised recommendation. The applicant's explanation, which the Committee included in its assessment, comprises her arguments set out in letters dated 18 May 2011, 12 September 2011, 19 January 2012, 2 February 2012, in an email dated 16 November 2011, a pleading dated 24 January 2012, and the information provided during the hearing on 24 January 2012.

Considerations

1. Within reference to the request for a revised recommendation, the Committee assesses whether the explanation provided by the applicant includes:
 - (a) any new facts, which, had they been known when the recommendation was adopted, would have led to a different conclusion, and/or
 - (b) whether any mistakes were made during the procedure, as a result of which the applicant's fundamental interests were prejudiced.

Procedural mistakes criterion (b)

2. According to her explanation, the applicant feels that she was insufficiently informed about the investigation in the Katz case (RC 1.90-B) in which the same painting is claimed. The applicant has requested the Committee to combine that case with hers so that she can take cognisance of the contributions of the applicants in the Katz case with regard to NK 2550 (letter dated 12 September 2011, points 14-15 in conjunction). As for this, the Committee regards this as not being the case in that there was a sufficient exchange of information because the Katz file contains no other facts about NK 2550 than those mentioned in the Van Aldenburg Bentinck investigatory report (RC 1.102). The Committee has already informed the applicant of this standpoint at the hearing of 24 January 2012.

New facts criterion (a)

3. The Committee holds the conviction that the facts expounded by the applicant in her explanation represent a new interpretation of facts that are already known and weighed or involve aspects that are not of relevance when assessing the loss of possession. For instance, the fact presented by the applicant in an email dated 16 November 2011 stating that N. did not submit a claim after the war, is not a relevant new fact. Similarly, the "white card" in the Netherlands Art Property Foundation archive put forward in a letter

dated 19 January 2012 was already known (investigatory report RC 1.102), section 4.1, p. 8). The other arguments expounded by the applicant, while submitting several pages from a catalogue of the Mauritshuis that was not mentioned in investigatory report RC 1.102, rest on an interpretation of the facts according to which Bentinck lost possession of the work in 1944 (see also letter dated 12 September 2011). However, the applicant also stated that she knew nothing about when her father lost possession nor about the circumstances under which this took place as she was in Germany in connection with the *Arbeitseinsatz in the period from 1942 to 1945*. All she remembers is that her father told her afterwards that the painting had “gone to N.” (hearing on 24 January 2012). In the recommendation on RC 1.102, the Committee already reported that the date and circumstances of Bentinck’s loss of possession of the painting remain unknown due to inconsistent information in the source material. The Committee considers of importance the applicant’s memory that the painting was in her parents’ house (hearing of 24 January 2012) until she left for Germany in 1942. This does not iron out the above-mentioned inconsistencies regarding loss of possession, however.

4. The Committee considers that, apart from the unclarified aspects mentioned above, the applicant’s claim does not satisfy the criterion of involuntary loss of possession (recommendation RC 1.102, consideration 7). Pursuant to current restitutions policy, the question is, after all, if, in the case of the former owner W.F.C.H. Count Van Aldenburg Bentinck (hereafter referred to as: Bentinck) the loss of possession was involuntary due to circumstances directly related to the Nazi regime. In the event of a sale by private persons who did not belong to a persecuted group of people, such as Bentinck, an involuntary loss such as that can only be said to be the case if the seller was directly threatened or coerced by the Nazi regime. The moral obligation Bentinck felt that moved him to give the painting to N. cannot be put on a par with a direct threat or coercion towards Bentinck himself, however admirable such an initiative was (according to the similarly worded consideration 7 referred to above). In this regard, the applicant’s explanation (in her letter of 12 September 2011, point 6 and 11; pleading of 24 January 2012, point 11, and elsewhere) does not contain any new facts, which, had they been known when the recommendation was adopted, would have led to a different conclusion.
5. In light of these considerations, the Committee will advise the State Secretary not to revise the decision in the case RC 1.102.

Conclusion

The Restitutions Committee advises the State Secretary for Education, Culture and Science to maintain the rejection of the applicant’s application for restitution of the painting *Portrait of a married couple* by Pieter Codde (NK 2550).

Adopted at the meeting of 5 March 2012 by W.J.M. Davids (chair), J.Th.M. Bank, P.J.N. van Os, D.H.M. Peepkorn, E.J. van Straaten, and signed by the chair and the secretary.

(W.J.M. Davids, chair)

(E. Campfens, secretary)

3. Recommendation regarding S. van Leeuwen (case number RC 1.103)

In a letter dated 29 October 2008, the Minister for Education, Culture and Science (hereafter referred to as: the Minister) requested the Restitutions Committee (hereafter referred to as: the Committee) to issue a recommendation regarding a request for restitution of 27 November 2007 made by A.v.L of T.H. (hereafter referred to as: the applicant). The request, also submitted on behalf of A.A.H.-v.L., concerns a beech chest that became part of the Netherlands Art Property Collection (hereafter referred to as: ‘NK collection’) under inventory number NK 3201 after it was returned to the Netherlands after the Second World War. The chest is administered by the Ministry of Defence.

The procedure

Following the Minister’s request for advice, the Committee sent the applicant a questionnaire on 10 February 2009 seeking some basic information. After several reminders, the applicant returned the questionnaire to the Committee on 10 March 2011.

The Committee then instigated a fact-finding investigation. The results of the investigation were included in a draft report dated 21 November 2011. In a letter dated 30 November 2011, the Committee sent this draft investigatory report to the applicant for comment, also asking several further questions. The applicant replied in a letter dated 23 December 2011, enclosing relevant documents.

In a letter dated 30 November 2011, the Committee also sent this draft investigatory report to the Minister with a request for additional information. On 19 December 2011, the Minister advised that she had no additional information to provide the Committee. The investigatory report was then adopted on 2 April 2012.

The Committee refers to this report for the facts of the case.

Considerations

1. On the basis of the research data of the Origins Unknown Agency (BHG), the applicant argues that the chest (NK 3201) came from the trading stock of the company of his father, Jewish antiques dealer Salomon van Leeuwen of The Hague. According to the applicant, possession of the chest was lost involuntarily during the occupation. The applicant states that he is the heir of Salomon van Leeuwen and that in this case he is acting on his own behalf and that of his sister A.A.H.-v.L.. The applicant also stated that he inherited the antiques business S. van Leeuwen from his father’s estate, as proof of which the applicant submitted a deed of partition of property of his father’s estate, which was executed on 4 June 1973 in the presence of K. Dijkstra, a civil-law notary in The Hague at the time .
2. Salomon van Leeuwen (hereafter also referred to as: Van Leeuwen) was born in The Hague on 14 September 1885 as son of Sander van Leeuwen and Judith Koekoek. Van Leeuwen married Sophia Maria Josepha Theresia Duncker (1888-1935), who was not Jewish, on 23 June 1926. When she married, Sophia already had a daughter, Sophia Maria Wilhelmina (1910-1987), who was acknowledged by Van Leeuwen and so acquired the status of legitimate child. After the death of his first wife, Van Leeuwen married Antoinette Barendina Sophia Duncker (1905-1990), who was likewise non-Jewish, on 5 July 1939. Two children were born of this marriage, A. on 3 April 1943 and A.A. on 21 July 1948.
3. Salomon van Leeuwen had been conducting the antiques business S. van Leeuwen, with premises at Noordeinde 164-164a in The Hague, as a one-man business since 1914. After the German invasion of the Netherlands, Van Leeuwen, as owner of the antiques business, granted Huybrecht Jobse full power of attorney on 1 February 1941. Shortly after that, on 12 March 1941, the occupying authorities issued what was known as the ‘decree to remove all Jews from the business sector’. Based on this decree, Jewish businesses were put under administration and subsequently wound up by a Liquidationstreuhänder (liquidation trustee) or bought and permanently administered by a Verwaltungstreuhänder (administration trustee), or ‘Verwalter’. Under this decree, the German authorities appointed Dutch merchant J.A. Koppelle as Verwalter of Van Leeuwen’s antiques business on 2 November 1942. Shortly after his appointment, Koppelle forbade Van Leeuwen from entering the business and also refused to pay Van Leeuwen an allowance from the business, leaving Van Leeuwen without income. Koppelle left the running of the business almost completely to attorney-in-fact Jobse, while Koppelle himself received a monthly salary of NLG 750. In addition to Koppelle’s appointment as Verwalter, Van Leeuwen faced the threat of further economic persecution measures. On 13 April 1943, the occupying forces appointed the Niederländische Aktiengesellschaft für Abwicklung von Unternehmen (NAGU) with the aim of expropriating the business.
4. In an attempt to put an end to Koppelle’s office as Verwalter, in 1944 attorney-in-fact Jobse had Van Leeuwen transfer the antiques business by way of a gift to his adult daughter Sophia and her nine-month-old son, A. (the applicant). Because the Nazi authorities did not recognise Van Leeuwen’s children as ‘Jewish as defined in the then prevailing decrees’, it became possible after this transfer to suspend the ‘Aryan management’ of the antiques business. However, Koppelle demanded a buyout sum of NLG 10,000 for his resignation. In the end, Koppelle was paid a sum of NLG 8,000, for fear that he would otherwise make trouble with the German authorities. Jobse’s plan succeeded and on 31 March 1944 the occupying forces discharged Koppelle from his duties as Verwalter and thus the business remained - indirectly - the property of Van Leeuwen.
5. It was during that period that Van Leeuwen went into hiding with his wife and new-born son A. (the applicant). It is not known when this started exactly, but the applicant has stated that this was probably shortly after he was born, on 3 April 1943. The Van Leeuwen family survived the war. The antiques business S. van Leeuwen is still in existence and is run by the applicant.
6. After the war, Salomon van Leeuwen turned to the Jurisdiction Department of the Council for the Restoration of Rights. The Council declared the gift of the antiques business to the children null and void because its sole purpose had been to keep the business out of the hands of the occupying authorities. In addition, Van Leeuwen demanded the annulment of the legal ties that had arisen between him and Koppelle by virtue of the latter’s appointment as Verwalter of his business. Van Leeuwen also requested that Koppelle be ordered to pay damages for the salary that he had received as Verwalter and for the ‘buyout sum’ that Koppelle had demanded from the children. The Council awarded the claim and, in its ruling of 4 August 1948, ordered Koppele to pay Van Leeuwen ‘the sum of NLG 3,949.75 plus NLG 8,000, which comes to NLG 11,949.75’. As far as is known, Van Leeuwen did not report any works of art as missing to the Netherlands Art Property Foundation (SNK) after the war. Nor was any evidence found that the SNK had attempted to get in touch with Van Leeuwen about the chest (NK 3201) that had been returned after the war, although the return of the chest to the Netherlands was connected to the fact that it was purchased from art dealership Van Leeuwen.

The Committee considers that to the extent to which there had been contacts with the Dutch restitution authorities in the past, they certainly did not lead to a final decision regarding the application for restitution of the chest. Hence this is not a case that was settled in the past, which means that the applicant's request is admissible.

7. On the basis of current restitution policy, it is of importance in assessing the current claim that Van Leeuwen's title to NK 3201 is proved with a high degree of probability and that possession of it was lost involuntarily due to circumstances directly related to the Nazi regime.
8. Based on sources found during its investigation, the Committee concludes that the currently claimed chest was most probably bought in The Hague from Van Leeuwen on 31 July 1944 by the German W. Geisler of Wiesbaden for a sum of NLG 500. It has been established, therefore, that the chest was in any case part of Van Leeuwen's trading stock in 1944. The Committee was unable to find out when Van Leeuwen acquired the chest. Seeing as the art dealership was under the Verwalter's administration from 2 November 1942 to 31 March 1944 (see considerations 3 and 4), it is possible that the chest was purchased during the Verwalter's administration and would as such have to be considered 'new trading stock'. The Committee considers the following in this regard. Compared to the entire period during which the chest may have been acquired, from the establishment of the antiques business in 1914 up until shortly before the sale in 1944, 30 years therefore, the seventeen-month period of Verwaltung was so short that, in the Committee's view, the chest was most likely not purchased during that period. Accordingly, the Committee assumes that Van Leeuwen himself purchased the chest, probably before the war already, and that as such it can be regarded as 'old trading stock'.
9. The Committee then asked itself the question whether there is any evidence to suggest that it is highly probable that possession of the chest was lost involuntarily during the war due to circumstances directly related to the Nazi regime. Pursuant to the Ekkart Committee's 2003 Recommendations for the Art Trade, if application forms are missing at the post-war restitution authorities - as is the case here - the required high degree of probability of involuntary loss of possession can also be assumed in the case of theft, confiscation or enforced sale. Recommendation 4 implies that when assessing such evidence, threatening general circumstances with regard to Jewish art dealers must be allowed for.
10. The following is known about the loss of possession. It emerged during the investigation that after the proclamation of the 'Decree to remove all Jews from the business sector', Van Leeuwen's position as Jewish antiques dealer became increasingly perilous. After Koppelle had been appointed Verwalter, Van Leeuwen not only lost the freedom to enter his own business, he also lost his income overnight and, moreover, in mid-1943 the occupying authorities were making further plans to dispossess his business. By gifting the business to his daughter (deemed as non-Jewish) and her son, the Verwaltung of the art dealership was suspended on 31 March 1944. Van Leeuwen felt so threatened during this period that in the course of 1943 he went into hiding with his wife and new-born son. On the basis of these circumstances, the Committee assumes that even if he had been aware of the purchase in July 1944 by the German Geisler (see above), he did not enter into the sale voluntarily. Moreover, it is very doubtful whether as (indirect) owner of a one-man business, Van Leeuwen would have been able to cooperate in the sale from his place of hiding. The whereabouts of Van Leeuwen's hiding place are not known but he stated after the war that he had witnessed the liberation in Nijverdal (province of Overijssel). There are also clear indications that the Van Leeuwen family was in financial difficulties and that these were a direct result of anti-Jewish measures. For example, during the period in which his business was administered by a 'Verwalter', Van Leeuwen had no income from his business (see consideration 3). It can also be concluded from a statement made by Jobse after the war that Van Leeuwen did not receive any allowance from the capital that he had had to transfer to the looting organisation Lippman, Rosenthal & Co, Sarphatistraat, on the orders of the occupying forces. That Van Leeuwen had no access to reserves is demonstrated, for example, by the fact that business manager Jobse had to advance the buyout payment that the Verwalter claimed from Van Leeuwen's children. The Committee concludes that under these circumstances the loss of possession was involuntary and directly related to the Nazi regime.
11. The Committee sees no reason to link its recommendation for restitution to an obligation to repay the consideration received at the time (see consideration 8). The Committee cites as a reason the circumstance that Van Leeuwen would have had to use this money to go into hiding with his family, and that he therefore did not dispose freely of this sum within the meaning of restitution policy. In this context, the Committee refers to the fourth recommendation of the Ekkart Committee of 2001.
12. Finally, with regard to the question to whom restitution is to be made, the Committee considers the following. In this case, the applicant is also acting on behalf of his sister A.A.H.-v.L., while the chest in question (NK 3201) comes from the trading stock of antiques business S. van Leeuwen. The Committee considers that the current NK 3201 should be returned to A.v.L. (the applicant), who, as appears from the deed of partition of property mentioned in consideration 1, had been assigned the antiques business S. van Leeuwen from the estate of his father, Salomon van Leeuwen, which one-man business he continues to this day.

Conclusion

The Restitutions Committee advises the Minister for Education, Culture and Science to return the chest in question (NK 3201) to A.v.L. as owner of the one-man business S. van Leeuwen.

Adopted at the meeting of 2 April 2012 by W.J.M. Davids (Chair), J.Th.M. Bank, P.J.N. van Os, D.H.M. Peeperkorn, H.M. Verrijn Stuart, I.C. van der Vlies (vice-chair), and signed by the chair and the secretary.

(W.J.M. Davids, chair)

(E. Campfens, secretary)

4. Recommendation regarding Gutmann (NK 615) IV-B (*case number RC 1.115-B⁵⁰*)

In a letter dated 9 November 2009, the Minister for Education, Culture and Science (hereafter referred to as: the Minister) requested the Restitutions Committee (hereafter referred to as: the Committee) to issue a recommendation concerning the application for restitution dated 24 February 2009 submitted by N.P., F.F., M.M., C.E.G. and N.M.G. as parties entitled to the estate of Herbert Gutmann (hereafter referred to as: applicants I).

Subsequently, on 6 September 2011, the Minister requested the Committee to issue a recommendation on the application for restitution dated 11 August 2011 submitted by S.G., also on behalf of N.G. and L.V.C.-G. as parties entitled to the estate of Fritz Gutmann (hereafter referred to as: applicants II). Both requests for restitution concern the work of art that is part of the Netherlands Art Property Collection (hereafter referred to as: the NK collection) under inventory number NK 615 and is currently in the depot of the Netherlands Cultural Heritage Agency (RCE).

NK 615 is what is known as a Gubbio dish of glazed earthenware with polychrome decorations with the bust of a woman inscribed 'Maria Bella' (Gubbio, c. 1530) by an unknown artist.

The procedure

Initially, the Committee included the Minister's request for advice of 9 November 2009 concerning applicants I's claim in the RC 1.115 case. This application for restitution included several other works of art in addition to the Gubbio dish (NK 615).

As part of this request for advice, the Committee instigated a fact-finding investigation. During this investigation, the Committee wrote the heirs of Fritz Gutmann (applicants II) a letter dated 11 July 2011 to ask them for information regarding the nature of the loss of possession of the Gubbio dish (NK 615) and other objects. The heirs replied in a letter dated 28 July 2011 that they did not have any information. This prompted applicants II, on 11 August 2011, to also submit a claim to NK 615.

In response to this second (originally competing) claim, the Committee decided to split the RC 1.115 file into two files. The four artworks claimed only by applicants I were included in file number RC 1.115-A, on which the Committee issued a recommendation on 19 December 2011. The advice procedure on the two applications for restitution of NK 615 was included in file number RC 1.115-B, on which the Committee advises as follows.

In a letter dated 19 December 2011, S.G. (applicants II) stated that he would also represent applicants I in the current case. Following questions from the Committee, applicants I confirmed this in a letter dated 14 March 2012 from their representative at the time, O.S. Ossmann of Winterthur, Switzerland. S.G. also explained the matter further in a letter dated 14 March 2012. As such, as of 19 December 2011, S.G. has been acting as the representative of applicants I as well as applicants II (applicants I and II hereafter also jointly referred to as: the applicants) in this procedure.

The Committee set out its investigation in this matter in a draft investigatory report that was sent to applicants I, applicants II and the Minister in letters dated 9 December 2011. Applicants I and II responded to the content of the draft report in a letter dated 17 January 2012. The Minister informed the Committee on 20 January 2012 that she did not have any additional information that she wished to bring to the Committee's attention.

On 20 April 2012, as part of its investigation of the facts, the Committee asked Prof. Dr R.E.O. Ekkart, the director of the Netherlands Institute for Art History (RKD), for his expertise, in response to which he drafted a report. The Committee sent this report to the applicants for their information in a letter dated 1 June 2012, to which the applicants responded in a letter dated 5 June 2012. The investigatory report was adopted on 18 June 2012. The Committee refers to this report for the facts of the case.

⁵⁰ Previous recommendations by the Committee regarding the Gutmann collection are: RC 1.2, RC 1.113, RC 1.114-A, RC 1.114-B and RC 1.115-A. See appendix 5 for an index by case number during the 2002-2012 period.

Considerations

1. Applicants I claim to be heirs of Herbert Max Magnus Gutmann (hereafter referred to as: Herbert Gutmann). As evidence, they provided inheritance documents on the basis of which the Committee sees no reason to doubt the position of applicants I as parties entitled to Herbert Gutmann's estate.
2. Applicants II are parties entitled to the estate of Friedrich Bernhard Eugen Gutmann (hereafter referred to as: Fritz Gutmann), as evidenced by a certificate of inheritance, executed in the presence of M.R. Meijer, notary public in Amsterdam, on 18 March 2005.
3. The applicants stated that the Gubbio dish (NK 615) was part of the undivided estate of Eugen Gutmann, who died in 1925, to which Herbert Gutmann and Fritz Gutmann were also entitled. The applicants also stated that, during the war, the current NK 615 was at art dealership K.W. Bachstiz N.V. in The Hague (hereafter referred to as: art dealership Bachstiz), which, in that capacity, supposedly sold the Gubbio dish in 1942 without the Gutmann family's knowledge or cooperation. The applicants stated that, consequently, they regard the loss of possession as involuntary as a result of the Nazi regime.

Overview of the facts

4. Jewish banker Eugen Gutmann (1840-1925) was co-founder of the Dresdner Bank AG established in Dresden in 1872. He was married to Sophie Magnus (1852-1915), with whom he had seven children, namely Lili, Antonie (Toinon), Walter, Herbert, Kurt, Max and Fritz Gutmann. When the head office of the Dresdner Bank moved to Berlin in 1884, the family followed. Eugen Gutmann built up an art collection that was famed in the art circles of the day. On 4 July 1921, the N.V. Trust & Administratie Maatschappij (Trustenad) was established in Amsterdam to look after the financial interests of Eugen Gutmann's children. At about the same time, part of the Eugen Gutmann collection was given on consignment to art dealership Bachstiz in The Hague. After Eugen Gutmann's death in 1925, his six children jointly inherited his art collection, each being entitled to one sixth (the eldest son Walter had already died in 1917). In subsequent years, there seem to have been several changes in the ownership situation of the art collection and the objects in it. For example, various works of art from the collection were sold soon after Eugen Gutmann's death, while Fritz Gutmann kept part of the collection in a separate safe in his home.
5. Herbert Gutmann, the testator of applicants I, was born on 15 October 1879 as the fourth of Eugen Gutmann's children. He became deputy director of the London branch of the Dresdner Bank in 1903. He had three children with his wife Daisy Stephanie Thekla Anna Bertha Luise von Frankenberg und Ludwigsdorf(f). The family lived alternately in Berlin and Potsdam, where Herbert Gutmann amassed his own art collection. From 1933, the Dresdner Bank, which was under government supervision, fell under the control of the National Socialists. Herbert Gutmann was forced to resign from a number of the bank's advisory bodies and found himself facing financial difficulties. In April 1934, he put his art collection up for auction. He left Germany in October 1936 to settle in London. Herbert Gutmann died on 22 December 1942.
6. Fritz Gutmann, father and grandfather of applicants II, was born on 15 November 1886 as the youngest of Eugen Gutmann's children. He married Baroness L(ouise) E. von Landau, with whom he had two children, B. Gutmann (later: B. Goodman) (1914-1994) and L. Gutmann (born 1919). In 1918, Fritz Gutmann moved to the Netherlands, where he was granted Dutch nationality in 1924. Fritz Gutmann lived with his family in 'Huize Bosbeek', his estate near Heemstede. After the start of the occupation of the Netherlands in 1940, the Gutmann-Von Landau couple planned to escape the country, with a view to which they tried to sell as many works of art as possible. The Gutmann-Von Landaus' escape plan failed and they were arrested in 1943 and taken to the Theresienstadt concentration camp, where Fritz Gutmann died in 1944. His wife Louise von Landau died in Auschwitz that same year. The couple's two children survived the war abroad.

NK 615

7. The current NK 615 was returned to the Netherlands from Germany in 1948. This was based on the fact that, during the German occupation of the Netherlands, this work of art had been sold by The Hague art dealership Bachstiz to the German Dr. H.W. Hupp, then director of the *Kunstsammlungen der Stadt Düsseldorf*.
8. The investigation of the sources shows that NK 615 was part of the collection of Eugen Gutmann in 1912. The Gubbio dish, for instance, is mentioned in the 1912 catalogue *Die Kunstsammlung Eugen Gutmann* by Otto von Falke. The applicants have stated that the dish was given on consignment to art dealership Bachstiz around 1921. This appears to be confirmed by the listing of the Gubbio dish in a catalogue published around 1921 entitled *The Bachstiz Gallery collection* by art dealership Bachstiz, which mentions the Eugen Gutmann collection as provenance, and the listing of the dish in the 1925 *Bulletin of the Bachstiz Gallery*, which also refers to the Eugen Gutmann collection (and art dealership Bachstiz) as provenance. However, a 1934 exhibition catalogue from the Stedelijk Museum in Amsterdam only mentions the following provenance for the current NK 615: *'Kunsthandel K.W. Bachstiz, 's-Gravenhage'* [Art

dealership Bachstiz, The Hague]. During the investigation, this prompted the question of whether, after having taken it on consignment, art dealership Bachstiz purchased the current NK 615 at a later date. Evidence for this can be found on the inventory card for the current NK 615 that was found during the investigation in the records of art dealership Bachstiz at the Netherlands Institute for Art History (RKD). On this card, art dealership Bachstiz states the following provenance names: *'1897 Coll: Tollin'* and *'Kollektion: E-Gutmann 212'*. The card also bears the following annotation: *'Kommissionspreis lt. Brief 3.10.25 £mss'*. The *'Kommissions'* (consignment) part of the word has been deleted by hand, and the word *'Einstand'* (purchase) handwritten above it. The letter dated 3 October 1925 was not found during the investigation. Among the information written on the back of the card are the amounts NLG 568.30 in *'Gesamtspesen'* and NLG 184.17 in *'weitere Spesen b. 1930'*. A second indication is the 'internal declaration form' that the SNK completed for the current NK 615 after the war on the basis of information from art dealership Bachstiz. This states that the Gubbio dish was originally *'in bezit'* [owned by] art dealership Bachstiz. In this context, it is also important to draw attention to post-war correspondence between the SNK and Elisa Emma Bachstiz-Hofer, widow of the owner of art dealership Bachstiz, who died in 1949. Responding in 1950 to a request from the SNK to advise whether a number of works of art, including the current NK 615, were owned by the art dealership prior to the German occupation, she stated that the art objects *'allen uit onze collectie [zijn]*, and that they *'daarin reeds sedert 1920, 1931 resp. 1937 [bevonden]* (were all from our collection and have been so since 1920, 1931 and 1937, respectively).

Assessment of the claim

9. The Ekkart Committee's eighth recommendation (2001) states as a condition for restitution that the title to the claimed objects is proved with a high degree of probability, and that there are no indications to the contrary. Therefore, when assessing the current claim, it is important to first consider whether the co-ownership rights of Herbert Gutmann and/or Fritz Gutmann to the currently claimed NK 615 can be proved with a high degree of probability and whether there are no indications to the contrary. In this respect, it is important to determine that these ownership rights can be dated to the moment relevant to the application for restitution, viz. the moment of sale to Dr. Hupp (19 August 1942).
10. As outlined above in the overview of the facts in consideration 8, the current NK 615 was part of the Eugen Gutmann collection in 1912 and was on consignment to art dealership Bachstiz from around 1921. Moreover, the Gubbio dish appears to have been purchased by the Gutmann family at a certain point in time. The investigation uncovered the following indications for this acquisition (see also consideration 8):
 - the alteration of the word *'Kommissionspreis'* on the inventory card to *'Einstandspreis'*;
 - a listing in a 1934 catalogue in which only the name *'Kunsthandel K.W. Bachstiz, 's-Gravenhage'* is given for the Gubbio dish;
 - a post-war statement by Mrs Bachstiz-Hofer that the current NK 615 was owned by art dealership Bachstiz long before the war.
11. The applicants state that the current NK 615 was never sold to art dealership Bachstiz and that the object was still on consignment to the art dealership at the time it was sold to Dr. Hupp in 1942. In this context, they claim that the annotation *'Einstandspreis'* on the inventory card does not necessarily mean that the object was actually purchased by art dealership Bachstiz. According to the applicants, a final 'purchase price' would have been called *'Einkaufspreis'* and a purchase date given on the card, which is not the case here. The applicants also state that there are no indications whatsoever that the *'Gesamtspesen'* listed on the back of the inventory card were paid to the Gutmann family. According to the applicants, there is no reason why Bachstiz would have wanted to pay for an object for which he had not yet found a buyer.
12. With a view to the correct interpretation of the data on the inventory card for the current NK 615 in the records of art dealership Bachstiz, the Committee submitted a request for information to Prof. Dr R.E.O. Ekkart, director of the RKD, because of his art-historical expertise and familiarity with the archive of art dealership Bachstiz in the RKD. In his reply, Ekkart pointed out that the back of the inventory card states an amount in costs until 1930 of NLG 568.39. According to Ekkart, this amount indicates that art dealership Bachstiz made a payment to the Gutmann family. Ekkart compared this fact to two other Bachstiz inventory cards that mention the word *'Einstandspreis'*. The backs of these cards also state fairly high amounts in costs, which, according to Ekkart, indicates that the objects in question were purchased/taken over by art dealership Bachstiz. Ekkart draws the following conclusion with regard to the current NK 615:
'Aangezien bovendien de zo nadrukkelijke correctie van Kommissionspreis in Einstandspreis er op wijst dat er sprake moet zijn van een andere status dan die van een commissie en bovenstaande gegevens er op wijzen dat het begrip Einstandspreis bij Bachstiz inderdaad gehanteerd werd om een inkoopsprijs aan te duiden, acht ik het in hoge mate waarschijnlijk dat Bachstiz deze schaal in oktober 1925 van de familie Gutmann in eigendom heeft verworven.' [Moreover, in light of the explicit correction from Kommissionspreis [commission price] into Einstandspreis [cost price], this must be a different status than that of a consignment and that the above information indicates that Bachstiz did indeed use the term Einstandspreis [cost price] to indicate a purchase price, I consider it highly probable that Bachstiz acquired possession of this dish from the Gutmann family in October 1925.]

13. Based on the indications given above in considerations 8, 10 and 12, the Committee is of the opinion that ownership of the Gubbio dish in the relevant period is uncertain to such an extent that it has to be concluded that it has not been proved with a high degree of probability that the Gubbio dish (NK 615) was still owned by the Gutmann family at the time it was sold to Dr. Hupp on 19 August 1942.

Conclusion

The Restitutions Committee advises the Minister for Education, Culture and Science to reject the claim by applicants I and II to NK 615.

Adopted at the meeting of 18 June 2012 by W.J.M. Davids (Chair), J.Th.M. Bank, P.J.N. van Os, D.H.M. Peepkorn, E.J. van Straaten, H.M. Verrijn Stuart, I.C. van der Vlies (vice-chair), and signed by the chair and the secretary.

(W.J.M. Davids, chair)

(E. Campfens, secretary)

5. Binding opinion on the dispute regarding restitution of the grisaille Allegory of autumn by Jacob de Wit from the property of F.B.E. Gutmann, currently owned by the Province of Drenthe

Case number: RC 3.129

Date of binding opinion: 3 September 2012

Binding opinion

in the dispute between:

S.G., N.G. and L.V.C.-G.

of Beverly Hills (US), Valley Village (US) and Florence (Italy) respectively, represented by S.G. (hereafter also referred to as: the applicants),

and:

The Province of Drenthe,

represented by the Drents Museum in Assen (hereafter also referred to as: the Museum),

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

1. The dispute

Friedrich Bernhard Eugen Gutmann (1886-1944) (hereafter also referred to as: Fritz Gutmann) and his wife L(o)uise Erika von Landau (1892-1944) owned a grisaille entitled *Allegory of autumn*. This work of art, currently owned by the Province of Drenthe, was created by the artist Jacob de Wit in c. 1751 as an overdoor for above the entrance to the drawing room of the Huize Bosbeek country estate in Heemstede. At a certain point in time, the grisaille was removed from its place above the door in the country house – the question when this occurred exactly is part of the Committee’s investigation – and was purchased by the Province of Drenthe in 1964. The item is currently part of the Drents Museum collection under inventory number P1964-4. The applicants are the heirs to Fritz Gutmann’s estate and claim restitution of the grisaille on account of what they adduce was involuntarily loss of possession due to circumstances directly related to the Nazi regime. The Museum informed the applicants that “*the painting was [...] not illegally obtained from your family*”.

2. The procedure

The parties have submitted a joint request to the State Secretary for Education, Culture and Science (hereafter also referred to as: the State Secretary) to have their dispute settled by the Committee. The State Secretary submitted a written request to the Committee on 16 September 2011, asking the Committee to advise the parties on the dispute in accordance with the procedure laid down in Article 2, paragraph 2 of the Decree establishing the Restitutions Committee of 16 November 2001 (hereafter referred to as: the Decree). In letters of the same date, the State Secretary informed the parties of his request for advice to the Committee, in which he underlined that his intervention was motivated by pragmatic considerations, and that at no time would the

State become party to the dispute.

In letters dated 18 October 2011 and 21 November 2011 respectively, the Museum and the applicants declared that they deferred to the regulations established by the Committee concerning the binding opinion procedure and that they would consider the Committee’s opinion to be binding. The Committee has verified the identities of the parties and has received a power of attorney from the Museum attesting to its authority to represent the Province of Drenthe in this procedure. The applicants have submitted a notarial certificate of inheritance showing that they are the heirs to Fritz Gutmann’s estate. The Committee has also received a power of attorney from S.G. showing that he is representing the applicants in this procedure.

The Committee has taken cognisance of all documents submitted by the parties and has conducted further research of its own. The parties have been advised of the results of this research in letters dated 22 March 2012. Both parties replied to this in a letter dated 29 April 2012. This binding opinion includes the relevant information from the research and the parties’ replies.

3. The facts

The following facts can be assumed in this procedure.

- 3.1. Fritz Gutmann was a German-born banker and art collector of Jewish descent who moved to the Netherlands in 1918. He was one of seven children of Eugen Gutmann, co-founder of the Dresdner Bank AG established in Dresden in 1872. Fritz Gutmann was granted Dutch nationality in 1924. From 1924, he and his family lived on the Bosbeek country estate near Heemstede (hereafter also referred to as: Huize Bosbeek), where he accumulated an extensive art collection. From 1939, the increasingly ominous international situation forced the Gutmann-Von Landau couple to sell or transfer abroad as many of their works of art as possible. For instance, in three transactions, Fritz Gutmann sold a significant number of art objects to German art dealers Böhler and Haberstock during the occupation. On 26 May 1943, the Gutmann-Von Landau couple were escorted out of Huize Bosbeek by the SS, on a journey to Berlin. They were made to believe that this journey would continue “*nach dem Süden*” (possibly Italy). They were, however, transferred to the Theresienstadt concentration camp, where Fritz Gutmann was killed in 1944. His wife perished the same year in Auschwitz. The couple’s two children, Bernhard Eugen Friedrich Wilhelm Gutmann (later: Bernard Goodman, 1914-1994) and L.V.G. (born in 1919, one of the applicants), survived the war. After the war, they endeavoured for years to trace and recover the lost family property.
- 3.2. In 1751, painter Jacob de Wit was commissioned to decorate the drawing room, i.e. the great hall, of Huize Bosbeek in Heemstede. Apart from painting the ceiling with images of Bacchus and Ceres on clouds, he produced the currently claimed grisaille as an overdoor for the entrance to the drawing room. The ceiling painting can still be seen in Huize Bosbeek, as opposed to the overdoor, which at a certain point in time was removed from the wall panelling.
- 3.3. During the Second World War (until the confiscation by the Nazis), Huize Bosbeek was owned by Fritz Gutmann. In relation to the grisaille, the applicants referred to an inventory that came with a contract of sale dated 24 March 1942, under which Fritz Gutmann sold several numbered works of art to Böhler and Haberstock. This list includes, under the heading ‘*Grosser Saal*’, under number 64, the objects ‘*1 grosses Deckengemälde von De Wit*’ and ‘*1 Grisaille von De Wit*’. The following is written by hand after the first item mentioned above: “*gestr. lt. Bf 5/10/42*”. The following is written after the last item mentioned above, which is probably the currently claimed artwork: “*da, soll zurück*”. The number 64 is also crossed out by hand. Another document relating to the contract of sale of 24 March 1942 states the following about number 64 on the list: “*Gestrichen von der Liste*”. This suggests that the disputed grisaille was not ultimately sold to Böhler and Haberstock in 1942.
- 3.4. Documentation from the archives of the lawyer K.F. Mannheimer in the Netherlands Institute for War Documentation (NIOD) suggests that the currently claimed grisaille was still present in Huize Bosbeek at the time the Gutmann-Von Landau couple left the Netherlands on 26 May 1943. Mannheimer represented Bernard Goodman and L.V.G. in the actions for damages after the war in Germany, for which, on 29 November 1957, L.V.G. sent him, among other things, “*verschillende brieven van de heer Westerbeek, die destijds bij mijn vader op kantoor was*”. In a letter dated 1 October 1945, J.E. Westerbeek stated that he had been associated with the N.V. Trust & Administratie Maatschappij (Trustenad) in Amsterdam since 1942 – this was a company set up in 1921 to serve the commercial interests of Fritz Gutmann and his brothers and sisters – through which he came into close contact with the Gutmann-Von Landau couple. In this letter, Westerbeek stated that, after the Gutmann-Von Landau couple’s departure for Berlin on 26 May 1943, he had ventured to remove “*de Grisaille en de plafondschildering in de Grote Zaal van de gebr. van Eyck*” from Huize Bosbeek. He apparently did this because he was afraid that these works of art would otherwise have been “*weggesleept*”. The Committee assumes that Westerbeek was mistaken in the attribution of the artworks to these artists and that the grisaille he mentioned is the currently claimed work of art. In his letter dated 1 October 1945, Westerbeek also wrote that in the process of removing the ceiling painting and the grisaille, he was disturbed by “*een der hoogste figuren van de N.S.V.*” [National Sozialistische Volkswohlfahrt, Committee], after which the ceiling painting had to be put back in place. One of the things Westerbeek

wrote in his letter about the condition of Huize Bosbeek after liberation was that the “*beschilderingen van de Gebr. van Eyck*” were still there.

- 3.5. On 11 August 1941, the occupying forces enacted Regulation 154/1941, under which measures were taken to liquidate Jewish immovable property and mortgages. Pursuant to this regulation, all Jewish immovable property and mortgages were registered with the Niederländische Grundstückverwaltung (NGV), which assumed control of these goods. Once verified by the Vermögensverwaltung- und Rentenanstalt (Office of Property Administration and Pensions, VVRA), the rental income and sales amounts were transferred to the Liro bank. Huize Bosbeek came under administration of the NGV on 6 August 1942. On 14 February 1944, the NGV sold the country estate for NLG 135,000 to the social welfare company National Sozialistische Volkswohlfahrt eingetragener Verein (NSV) in Berlin. Of the sale price, an amount of NLG 65,000 was allocated to settle the revolving mortgage on one of the immovable properties on behalf of the Trustenad in Amsterdam. The Committee did not find any specific information on the grisaille in the documentation from the National Archives of the Netherlands concerning the (post-war administration of the capital of) the NGV and the NSV.
- 3.6. A day report by the Haarlem municipal police dated 4 June 1945 in the Noord-Hollands Archive states that Huize Bosbeek was in a state of neglect and that the wall and ceiling paintings had disappeared. Further details on the paintings that had disappeared were not given. The Westerbeek letter to L.V.G. dated 1 October 1945, outlined here under 4, does however indicate that the currently claimed grisaille was still in Huize Bosbeek after the war. In this letter, Westerbeek outlines, among other things, the fate of “*de Grisaille en de plafondschildering in de Grote Zaal*” during the war (which, the Committee assumes, he erroneously attributes to “*de gebr. van Eyck*” instead of De Wit). He then writes: “*Het huis is er niet beter op geworden, is n.l. flink verwaarloosd, evenals de tuin. De beschilderingen van de Gebr. van Eyck zijn nog aanwezig*”. In a letter from Westerbeek to L.V.G., dated 17 November 1945, he refers to “*Uw schrijven van 14 October*”. This latter letter by L.V.G. (the contents of which the Committee is not familiar with) is probably a reply to Westerbeek’s letter dated 1 October 1945.
- 3.7. In a summary of a July 1945 day report from the Haarlem municipal police, it is mentioned that at that time there was a boarding school for children of NSB parents at Huize Bosbeek. This boarding school apparently lasted a few years. The heirs of Fritz Gutmann were given (formal) control of Huize Bosbeek again on 5 May 1945. Together with the Trustenad (i.e. the company that administered certain interests of the Gutmann family, see under 4), the heirs then concentrated on regaining their rights of ownership in relation to the country estate. In its ruling of 7 January 1950, the Afdeling Rechtspraak van de Raad voor het Rechtsherstel [Jurisdiction Department of the Council for the Restoration of Rights] considered that, apart from a few minor points, the claims of the Gutmann party and the Trustenad could be awarded and it reinstated their ownership rights to the country estate. To this end, the Council for the Restoration of Rights nullified the agreement the NGV had used to sell Huize Bosbeek to the NSV, as well as the settlement of the Trustenad’s mortgage claim and the mortgage cancellation carried out by the Treuhänder (administrator) of the Trustenad. The ruling also states that an agreement has been reached between the parties “*dat de N.S.V. “ter algehele verrekening van huren en lasten zomede van tijdens de bezetting aan het onroerend goed toegebrachte schade” aan partij Gutmann zal betalen een bedrag van f. 19.669,48*”. No reference was found during the research to (an entry that specifically related to) the currently claimed grisaille.
- 3.8. On 29 December 1950, Fritz Gutmann’s heirs sold Huize Bosbeek to the Saint Hieronymus Aemilianus foundation in Amsterdam (Congregation of the Sisters of Providence). The deed of sale makes no separate reference to De Wit’s grisaille or ceiling painting nor to any other works of art destined for Huize Bosbeek.
- 3.9. The archive of the Rijksdienst voor het Cultureel Erfgoed [Netherlands Cultural Heritage Agency] (RCE) contains a note dated 26 March 1954 from D.F. Lunsingh Scheurleer, Government Inspector for movable monuments, from which it can be ascertained that the grisaille was found in the basement of Huize Bosbeek during the inspection. According to Lunsingh Scheurleer, the work of art was severely damaged, but could still be saved with immediate restoration. Apparently, the Sisters of Providence handed over the grisaille to the Dutch State via Lunsingh Scheurleer.
- 3.10. According to documentation in the archives of the RCE and the Museum, the currently claimed grisaille was loaned to the Provincial Museum of Drenthe by the *Dienst voor ’s Rijks Verspreide Kunstvoorwerpen* [Service for Dispersed Government-owned Art Objects, DRVK] in The Hague in the 1950s. In 1964, the Province of Drenthe finally purchased the currently claimed work of art from the State of the Netherlands for the museum in question and the *Ontvangershuis* in Assen. The purchase price for the grisaille was NLG 800.
- 3.11. In a letter dated 7 May 2010, the Holocaust Claims Processing Office in New York sent the Museum a letter from the applicants dated 5 May 2010. The letter said that the applicants would like to receive a proposal from the Museum for the restitution of the work of art to them as rightful owners. The subsequent correspondence between the Museum and the applicants led to an August 2011 joint request to the Committee for binding advice.

4. The applicants’ position

The applicants declare that L.V.G. (one of the applicants) lived in Huize Bosbeek until the beginning of the Second World War, and that she remembers the grisaille and its position above the door to the drawing room very well. The applicants claim that the Gutmann-Von Landau couple then lost possession of the currently claimed work of art when, on 26 May 1943, they were deported by the occupying forces, and that this loss of possession was a direct result of the Nazi occupation of the Netherlands. Their position is that when Huize Bosbeek was sold in 1950, the grisaille was not considered part of the property, and that both parties involved in this sale assumed that the work of art in question was no longer there. In connection with this, the applicants state, among other things, that:

- after visiting Huize Bosbeek in November 1945, Bernard Goodman informed his family that there were no possessions of his parents in the house anymore, and that bare walls were all that remained;
- children of members of the Dutch National Socialist Movement who were housed in Huize Bosbeek after the war testified that when they arrived at Huize Bosbeek, only the “*boilers and brooms in the basement*” had not been stolen or destroyed during the war;
- the grisaille was not mentioned in the 1950 Huize Bosbeek deed of sale;
- Mgr. J.A.A. Starrenburg, priest and superior of the Congregation of the Sisters of Providence, believed that the grisaille had been stolen by the Germans, and testified that the work of art was not in Huize Bosbeek;
- the grisaille was hidden in the basement and that it was not found by the Congregation of the Sisters of Providence until 1954;
- despite the purchase of Huize Bosbeek in 1950, the Congregation of the Sisters of Providence did not regard the grisaille as its property, but transferred it to the DRVK.

The applicants also point out that the grisaille cannot be considered as part of the Huize Bosbeek property, as the work of art was movable and was in fact moved.

According to S.G., his family had assumed that this work of art had been stolen by the occupying forces until he discovered the grisaille in the Museum in 2010. The applicants note that in the 65 years that they have been dealing with the Dutch authorities, they have never been told that the grisaille was in their [the Dutch authorities’] possession. The Government Inspector for movable monuments was believed to have been cognisant of the fact that the grisaille was part of the Gutmann collection, but not to have made any attempts to inform the family of this or offer compensation. According to the applicants, on discovering the grisaille, the Congregation of the Sisters of Providence did not make any attempts to return it to the Gutmann family either.

With regard to the aforementioned letter from J.E. Westerbeek dated 1 October 1945, the applicants also claim that the motives for writing this letter were at best self-serving and that the veracity of this letter is doubtful. Furthermore the applicants state that it is unclear whether the letter was actually sent at all. According to S.G., his aunt L.V.G. told him during a telephone conversation that she could not remember having received this letter. His aunt also told him that the grisaille never came up for discussion when she met Westerbeek in 1946.

Furthermore, the applicants questioned the Museum’s legal position and stated that the Museum’s right of ownership is not inviolable.

5. The Museum’s position

The Museum states that the grisaille was still in Huize Bosbeek when this house was sold to the Congregation of the Sisters of Providence by Fritz Gutmann’s heirs in 1950, and that – like Jacob de Wit’s ceiling painting – it was considered part of the property at the time. Its position is that the painting was legally acquired by the State from the Congregation of the Sisters of Providence, and that it was subsequently acquired legally and in good faith by the Museum from the State in 1964. The Museum has informed the Committee that it will hold the State liable for loss of the grisaille, if a decision is made to return the artwork.

The Museum states that it is unknown whether the provenance of the currently claimed work was researched before it was acquired.

About the importance of the work of art to the grisaille’s owner/keeper, the Museum declares that the work of art is part of the permanent exhibition. The work currently hangs in a period gallery of the *Ontvangershuis*, one of the Museum’s buildings, where it is incorporated in a wall above a door.

6. The task of the Committee

Under Article 2, paragraph 2 of the Decree, the Committee has the task of providing a binding opinion to parties concerning disputes over the restitution of items of cultural value between the original owner who relinquished possession involuntarily as a consequence of circumstances directly related to the Nazi regime or their heirs and the current owner, other than the State of the Netherlands. In accordance with Article 2, paragraph 5 of the Decree, the Committee will make a recommendation in accordance with the requirements of reasonableness and fairness. This opinion is binding within the meaning of Section 7:900 of the Dutch Civil Code.

7. Assessment of the dispute

- 7.1. In accordance with Article 3 of the Regulations on the binding opinion procedure, the Committee firstly states that to form its binding opinion, she can take into consideration deliberations that concern the circumstances in which the possession of the work was lost, the extent to which the party requesting restitution has made an effort to retrieve the work, as well as the period and circumstances in which the current owner acquired the work and the investigation carried out by the current owner before the work was acquired. In addition, the respective importance of the work for both parties and for the public art collection can be taken into consideration. Internationally and nationally accepted principles such as the *Washington Principles* and the government's line of policy concerning the restitution of stolen works of art can be considered in so far as the Committee believes that they apply by analogy to the case in question.
- 7.2. The Committee has ascertained that the dispute between the applicants and the Museum has not already been settled definitely. In this case, the Committee has found no evidence of legal proceedings or a legal ruling in relation to the current dispute. Nor have the applicants at any point in the past relinquished their rights to the grisaille. As such, the Committee considers both parties' cases admissible.
- 7.3. As already stated above, the applicants claim that the Museum's right of ownership is not inviolable. They have claimed, among other things: "*There is no provision under common law to justify the Dutch State's assumption of 'good title' [...] and: 'Accordingly 'good title' was not transferred to the Rijksinspecteur voor Roerende Monumenten nor ultimately to the Drents Museum*". The Committee rejects this argument, whatever its accuracy, because the Dutch legal system is based on other principles than those of *common law*. According to Dutch law, it must be assumed that the Museum (the Province of Drenthe) is the current owner of the grisaille.
- 7.4. First and foremost, the Committee notes that this case rests on the question when and how the Gutmann family ultimately lost possession of the current work of art. The additional circumstances stated under 1 do not need to be addressed here, if the loss of possession does not prove involuntary as a consequence of circumstances related to the Nazi regime.

The investigation has shown that the overdoor *Allegory of autumn* was the property of Fritz Gutmann during the occupation, as a part of Huize Bosbeek, and that the country estate was seized by the occupying forces in 1942 and then sold in 1944 and transferred to a Nazi institute, the NSV.

The applicants have claimed that the grisaille was removed during the occupation and that it is unclear where it was between 1942 and 1954. However, the Committee notes that the research has found that, after being dismantled, the grisaille remained in the house.

The ruling by the Jurisdiction Department of the Council for the Restoration of Rights on 7 January 1950 nullified the sale and transfer of Huize Bosbeek to the NSV, as a result of which the Gutmann heirs' right of ownership to Huize Bosbeek was restored after the war. As such, the grisaille, which was still present in the house, came to be in the Gutmann heirs' possession once more.

According to a notarial deed of transfer, the Gutmann heirs transferred Huize Bosbeek to the Saint Hieronymus Aemilius foundation on 29 December 1950.

As regards this transfer, the applicants claim that the heirs assumed that the work of art had been lost. However, the Committee notes that from the Westerbeek letter to L.V.G. dated 1 October 1945 it can be ascertained that the Gutmann heirs were aware or, in all reasonableness, could have been aware of the fact that the grisaille was still in the house.

As such, the Committee concludes that the Gutmann heirs lost possession of the grisaille five years after the liberation by selling Huize Bosbeek to the Saint Hieronymus Aemilius foundation on 29 December 1950.

- 7.5. The Committee deems in all reasonableness and fairness that the Museum does not have to return the grisaille *Allegory of autumn* by Jacob de Wit to the applicants. The Committee has taken into account:
- that it is very likely that, after the liberation, the grisaille was still present in Huize Bosbeek (probably in the basement);
 - that it has to be assumed that Fritz Gutmann's heirs were aware of this or, in all reasonableness, could have been aware of this;
 - that in 1950 the Council for the Restoration of Rights restored the rights of the heirs of Fritz Gutmann to Huize Bosbeek, as a result of which the grisaille present there fell back into their possession;
 - that the Gutmann family ultimately lost possession of the grisaille as a result of the transfer of Huize Bosbeek to the Saint Hieronymus Aemilius foundation on 29 December 1950;
 - that this loss of possession cannot be considered an involuntary loss of possession directly related to the Nazi regime.
- 7.6. On the basis of the above-mentioned information, the Committee issues the following binding opinion.

BINDING OPINION

The Museum is not obliged to return the grisaille *Allegory of autumn* by Jacob de Wit to the applicants or to pay them any compensation.

This binding opinion was given on 3 September 2012 by W.J.M. Davids (Chair), J.Th.M. Bank, P.J.N. van Os, D.H.M. Peeperkorn, E.J. van Straaten, I.C. van der Vlies (vice-chair), and signed by the chair and the director.

(W.J.M. Davids, chair)

(E. Campfens, director)

6. Revised recommendation regarding De Vries II (case number RC 4.119)

In a letter dated 23 April 2010, the State Secretary for Education, Culture and Science (hereafter referred to as: the State Secretary for OCW) requested the Restitutions Committee (hereafter referred to as: the Committee) to issue a revised recommendation regarding a previously rejected application for restitution filed by A.K. of C. (hereafter referred to as: the applicant) concerning the following ten paintings from the Netherlands Art Property Collection (hereafter referred to as: NK collection).

- 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 2380: J. Ekels I, *The Haarlemmer sluis and the Haringpakkerstoren in Amsterdam*
- NK 2508: F. de Braekeleer I, *A farm yard*
- NK 2727: J.H. Steen, *Fortune teller*
- NK 2933: K. Dujardin, *Horse and two cows in a hilly landscape*
- NK 3303: H. van Streek, *Interior of the Oude Kerk in Amsterdam*

The previous application for restitution of the above paintings was rejected by order of the Minister for OCW on 8 February 2008, in accordance with the recommendation of the Committee of 3 December 2007 (RC 1.50).⁵¹

Procedure

The reason for the request for a revised recommendation is a letter from the applicant to the Minister for OCW dated 29 March 2010, in which, based on alleged new factual material, he requests the Minister to reconsider his decision to reject the application for restitution in accordance with the recommendation RC 1.50. Further to this request, the Minister requested the Committee to issue a revised recommendation based on the information put forward by the applicant in his letter of 29 March 2010.

In response to alleged new facts put forward by the applicant, the Committee has prepared a summary of the source material included in the applicant's letter of 29 March 2010, some of which was not yet on record. This summary has been included in a draft report of 20 June 2011, which on 6 July 2011 was sent to the applicant for comment and to the State Secretary with a request to provide additional factual material. The latter responded on 14 July 2011 that he had no additional facts to bring to the Committee's attention. On 25 November 2011, after the response term had been extended four times, the applicant replied through his representative, G.J.T.M. van den Bergh, supporting his request with a relevant explanation. This response has been included as an appendix to the final report on RC 4.119. Whilst handling this case, the Committee also conducted research of its own, in particular at the Netherlands Institute for War, Holocaust and Genocide Studies, NIOD (hereafter referred to as: NIOD), the relevant results of which were reported to the applicant, most recently in a letter dated 22 June 2012. The Committee also consulted documents provided by the applicant in previous restitution cases (RC 1.1.8 and RC 1.50).

The case was heard on 25 April 2012 in the presence of the applicant, his wife, art dealer E.J.M. Douwes (in part), the applicant's representatives G.J.T.M. van den Bergh and E.S. Wagner as well as a delegation of the Committee. On this occasion, E.J.M. Douwes provided an explanation concerning documents from his archive and the applicant clarified his views. Various additional documents were also submitted during the hearing of the case, including a statement dated 17 April 2012 by Mr P. Knolle, head of collections of Rijksmuseum Twenthe (consideration 4k). In connection with the investigation of the facts, the chair announced at the hearing that the Committee would be talking to Dr M. de Keizer, senior researcher at the NIOD, about the significance of a document submitted by the applicant (consideration 4g).

⁵¹ See also the recommendation RC 1.18 of 18 May 2004, in which, further to a previous claim from the applicant, the Committee recommends the restitution of three paintings.

Subsequently, on 3 and 4 May 2012, the applicant submitted further documents plus an explanation, including a statement concerning the document in question drawn up by Dr De Keizer in consultation with the applicant's representative on 3 May 2012.

On 4 May 2012, the discussion between the Committee and Dr De Keizer took place, on which occasion she provided additional information and an explanation of the statement given to the applicant. A report was made of this discussion which, after it was approved by Dr de Keizer, was sent to the applicant in a letter dated 7 June 2012 together with the results of the further investigations conducted by the Committee following the discussion. The applicant responded to this in a letter dated 14 June 2012, in response to which the Committee sent him additional investigation results on 22 June 2012. On 1 August 2012 the applicant commented on this information and included several new documents.

The applicant's explanation, taken into consideration in the Committee's assessment, includes the information he provided in a letter dated 29 March 2010, an email dated 8 July 2011, a letter dated 25 November 2011, a letter dated 3 May 2012, an email dated 4 May 2012, the information and supplementary documents submitted during the hearing on 25 April 2012, and his letters dated 14 June and 1 August 2012. The relevant responses of the applicant and the detailed investigation results of the Committee were included as appendices to the initial investigatory report in this case, following which the report was adopted on 6 September 2012.

NK 1756 and NK 2727 are also part of an application for restitution regarding art dealership Katz (RC 1.90-B). If necessary, the Committee weighs up double claims. In light of the following considerations, such an assessment does not appear relevant to this recommendation.

Considerations

1. The current revised recommendation relates to case RC 1.50 concerning paintings belonging to Jewish businessman Marcus de Vries (hereafter referred to as: De Vries), the applicant's father. Regarding case RC 1.50, the Committee advised the Minister for OCW on 3 December 2007 to grant the request for restitution for one work (NK 3072) and to reject it for the above ten paintings.
2. In his explanation the applicant states that after receiving the Minister's decision on the application for restitution RC 1.50, he conducted further research. The applicant claims that during this research he found new, relevant factual material indicating that the ten paintings in question were part of the private collection of De Vries. The applicant argues that his claim should be assessed in accordance with the standards of the restitution policy for private art property and not, as in RC 1.50, according to the – far stricter – guidelines of the art dealership policy. With regard to the loss of possession, the applicant states that eight of the claimed paintings were stolen on 16 April 1941 or in the days after 8/9 June 1942. According to the applicant, his brother-in-law, M.L.J. Lemaire, was forced to sell paintings NK 1756 and NK 3303, one of the reasons being to ensure the livelihood of De Vries's next of kin who had gone into hiding.

Review criteria

3. The Committee assesses the request for a revised recommendation by applying two review criteria, namely:
 - a. whether there are any new facts, which, had they been known when the recommendation on RC 1.50 was rendered, would have led to a different conclusion, and/or
 - b. whether any errors were made during the procedure in case RC 1.50 as a result of which the applicant's fundamental interests were prejudiced.

Seeing as the applicant's explanation does not concern procedural objections but is based on alleged new facts, the current revised recommendation is limited to a review of criterion a.

4. As regards the question whether these are indeed new facts, the Committee first finds that the various sources submitted by the applicant in the current procedure were already part of the file in case RC 1.50. These documents were also used as a basis for the summary of the facts as included in the RC 1.50 investigatory report of 1 October 2007 and, insofar as relevant for assessing the application for restitution, were described and considered in the recommendation on RC 1.50. The following documents now submitted by the applicant can be regarded as new:
 - a. notes made by the applicant on pages of his diary of 1998 (letter from the applicant dated 25 November 2011, Appendix 3);
 - b. a letter from E.J.M. Douwes Sr. of Douwes Fine Art B.V. dated 24 September 2009 (ibid., Appendix 5);
 - c. the cash book summary "M.F. de Vries, here" from the archive of Douwes Fine Art B.V. (ibid., Appendix 10);
 - d. a letter from RBZ Recherche, a private detective agency, dated 22 October 2009 (ibid., Appendix 12);
 - e. a letter from P.L. Zevenbergen Schrift- en Documentonderzoek, a document research company, dated 24 November 2008 (ibid., Appendix 13);
 - f. a letter from the Amsterdam Municipal Archives dated 17 October 2011 (ibid., Appendix 15);
 - g. a copy of a letter written in pencil and dated 14 October 1986 and sent by Mietje Lemaire-de Vries, and a copy of an envelope (ibid., Appendix 17);
 - h. copies of the "Guidelines for levies on income and capital" and the corresponding letter from the Jewish Council with handwritten notes (ibid., Appendices 19 and 21);

- i. a letter from P.P.M. de Boer of art dealership P. de Boer B.V. dated 30 September 2009 (ibid., Appendix 22);
 - j. a "1941 cash register overview 1941" concerning M.F. de Vries from the archive of Douwes Fine Art B.V. (ibid., Appendix 24);
 - k. a statement by P. Knolle, head of collections of Rijksmuseum Twenthe concerning painting NK 2380 (presented by the applicant during the hearing on 25 April 2012);
 - l. two documents concerning art dealership Katz from the Netherlands Art Property Foundation (hereafter referred to as: SNK) (ibid.);
 - m. a written statement by Dr M. de Keizer, senior researcher at NIOD, dated 3 May 2012 (enclosure in letter from the applicant dated 3 May 2012);
 - n. a statement signed by the applicant and dated 31 July 2012 (enclosure in letter from the applicant dated 1 August 2012);
 - o. a signed letter to the applicant from G.J.T.M. van den Bergh dated 18 August 2008 (ibid.);
 - p. a statement signed by Marina Lemaire and dated 25 July 2012 (ibid.).
5. In the opinion of the Committee, the documents cited under 4 a, d, e, f, h, and l do not contain any information relevant for the questions at issue. Based on these documents the applicant merely provides a new interpretation of facts that are already known and have already been weighed up, or the documents in question merely concern aspects that are not relevant to the recommendation process. Said documents therefore do not contain any new facts, which, had they been known when the recommendation was adopted, would have led to a different conclusion.
 6. The substantial part of the applicant's argumentation is based on the letter written in pencil and referred to in consideration 4 g. This letter was written to M. de Keizer and is dated 14 October 1986. Given as sender is 'Wed. Mvr. M. Lemaire de Vries', which must be the sister of Marcus de Vries and the widow of M.L.J. Lemaire, who died on 26 October 1986 at the age of 98. The letter reads as follows:

Source: Netherlands Institute for War, Holocaust and Genocide Studies, NIOD, archive 185c Het Parool newspaper, inventory number 214

7. According to the applicant, the letter concerns a *'novum ten opzichte van RC 1.50 aangezien daarin alle zeven werken worden genoemd terzake waarvan de Restitutiecommissie in RC 1.50 de eigendom van De Vries niet aannemelijk heeft geacht'*. The applicant states that it follows from the letter that *'een aantal met name genoemde schilderijen behoorden tot de privé-collectie van De Vries'*. The applicant is of the opinion that in the letter *'een duidelijk onderscheid [is] gemaakt tussen werken die behoorden tot de kunstverzameling van De Vries enerzijds, en werken die De Vries bij Lemaire voor eventuele verkoop had ondergebracht anderzijds'*. The applicant's representative has stated that the applicant has not had this letter for very long and that it was written by his aunt in connection with De Keizer's research. This research was part of De Keizer's dissertation, which was published in 1991 under the title *Het Parool (1940-45). Resistance paper in time of War*.

However, during the hearing of the case, the applicant stated that he did not consider it likely that his aunt wrote this letter herself seeing as it was dated twelve days before she died and she was seriously ill at the time. The applicant suggested that the text was dictated to her son Frits Lemaire, but also stated that he had no further information about this at all. In his response dated 1 August 2012 and supported by a statement of Marina Lemaire, a granddaughter of Mietje Lemaire-de Vries, the applicant then stated that the handwriting was not that of Frits Lemaire or his sister Trees Lemaire, but that someone else close to Mietje Lemaire-de Vries helped her draft it, such as an employee of the care home where she lived in 1986.

8. The Committee noticed several spelling mistakes in the letter, such as two occasions on which the name "Lemaire" would seem to have been spelled as "Lamaire", the inconsistent spelling of the name "Marcus" and "Markus", and the incorrect spelling of Joseph de Vries, the brother of Marcus and Mietje, who is referred to as "Josef". Moreover, the well-known Amsterdam auction house Mak van Waay is also referred to as "Mak en van Waay".

This makes it unlikely that the letter was written by a member of Mietje Lemaire-de Vries's family, or by someone well versed in the Amsterdam circle of art and antiques, of which the Lemaire family was a part. The applicant's assumption that someone close to Mietje Lemaire-de Vries assisted her in writing the letter is therefore too vague to be deemed significant. There is, after all, insufficient certainty that Mietje Lemaire-de Vries instigated the writing of the letter herself. The Committee observes that in terms of the content and the actual writing, the authorship of the letter remains unexplained.

9. As well as the authorship issue discussed above, the letter also contains some ambiguities and raises some questions that remained unexplained and unanswered during the investigation. This concerns the following points.

- It is not clear what is meant by: *'Rest gestolen: zegt dochter en zoon in begin april 1941'*.
- The purport of the remark that paintings that were *'verkocht door mijn man Lamaire in opdracht van Markus de Vries, eigendom [zijn] van Josef de Vries in Australië.'*
- During the hearing, the applicant stated that Mietje Lemaire-de Vries's letter has nothing to do with the documents of the Jewish Council described in 4 h. The applicant stated that he himself found the letter in the NIOD archive and the document from the Jewish Council in a family archive. However, when investigating the NIOD archive, the Committee found that the original letter from Mietje Lemaire-de Vries was written on the back of a copy of the Jewish Council's 'Guidelines'. In his letters dated 14 June 2012 and 1 August 2012, the applicant's representative gave an explanation for this that differs in key points from what the applicant said during the hearing. This explanation is not supported by any factual information and is merely based on assumptions.
- During the conversation that the Committee had with Dr De Keizer, she stated that she did not remember actually receiving the letter in 1986 and explained what she meant by her statement drafted by Van den Bergh on 3 May 2012, as evident from the email dated 4 May 2012, which appeared to deviate from this. With regard to the contents of the letter, Dr De Keizer indicated that information about paintings was of no relevance to her research in 1986, given that it focused exclusively on the newspaper Het Parool. She has never spoken to Mrs Lemaire-de Vries.
- Regarding the copy of an envelope which was said to have contained Mietje Lemaire-de Vries's letter to Dr de Keizer as sent on 14 October 1986 and which the applicant presented during his explanation (consideration 4 g; hereafter referred to as: copy A), the Committee investigated the original envelope as last seen by the Committee on 10 May 2012, at the NIOD archive. It was found during the investigation that the original envelope had been visibly sealed and reopened at the top, which differs from copy A presented by the applicant, the top edge of which is intact. Given some striking identical details such as a few stains, creases and some specific damage, the Committee has the impression that this is one and the same envelope. The Committee also observed that in October 2006, during the procedure in case RC 1.50, the applicant also presented a copy of an envelope featuring the same spots, creases and damage (hereafter referred to as: copy B). Copy B from 2006 is, however, an open envelope. On the basis of the above, the Committee observes that copy B would also seem to have been made of the same envelope but that it has remained unexplained why and by whom changes were made to the envelope in which Mietje Lemaire-de Vries's letter was said to have been sent after 24 October 2006, at a time when there was no mention of a letter from her.

10. Given the uncertainty about the said envelope, about who wrote the letter, and about the question from whom the information contained in the letter came, the Committee is insufficiently able to judge the reliability of the information contained therein. This, and the unresolved ambiguities regarding the contents of the letter, leads the Committee to the conclusion that the letter cannot be deemed a source of new, relevant information which, had it been known when the recommendation concerning RC 1.50 was being drafted, would have led to a different conclusion. The applicant's response on 1 August 2012 and the appendices it contained, as described in considerations 4 n to p, have not resolved these ambiguities.

11. The documents described in 4 c and j originate from the accounts of Amsterdam-based art dealership *Douwes Fine Art B.V.* During the hearing, art dealer E.J.M. Douwes gave an explanation of the documents in question, repeating the point of view set out in his letter of 24 September 2009 (cited in consideration 4 b) that as far as he knew, Marcus de Vries was an art collector and not an art dealer. In the context of Douwes' statement, the Committee also refers to the letter from art dealer P.P.M. de Boer of 30 September 2009 (cited in consideration 4 i), in which the latter states that based on an inventory card contained in his archive, there is no reason to assume that De Vries was a dealer. With regard to the said documents and statements, the Committee finds that the way in which both art dealers describe De Vries's activities is not inconsistent with the opinion expressed in case RC 1.50 that De Vries was an occasional dealer. As set out in consideration 4 of the recommendation in case RC 1.50, the recommendations of the Ekkart Committee regarding the art trade state that *'naast de reguliere kunsthandelaren, die voor het merendeel reeds lang voor het begin van de oorlog gevestigd waren, in de jaren vanaf 1940 een groeiend aantal "gelegenheidshandelaren" werkzaam was, zowel joodse als niet-joodse personen, die zich niet hadden gevestigd als kunsthandelaar, maar zich op meer of minder intensieve wijze bezig hielden met de in- en verkoop van kunstwerken'*. The Committee points out that from the perspective of renowned art dealerships with a long tradition, it is perhaps not easy to consider occasional dealing a professional form of art dealing. In the Committee's opinion, neither statement affects the conclusion in RC 1.50 that the archive material found demonstrates that De Vries was active as occasional art dealer during the war years.

12. All in all, the Committee concludes that the applicant has not provided or otherwise put forward sufficient new facts that would merit a revised recommendation to the State Secretary for OCW to reconsider the rejection of the application for restitution RC 1.50.

13. In this matter, the Committee therefore reiterates the following considerations:

- firstly, that if attention is paid to what would appear to be sufficiently clear from the letter (cited in 4 g.), the letter does not support the argument that Marcus de Vries was exclusively an art collector and not an "occasional dealer" and
- furthermore, that, as considered in the RC 1.50 recommendation, insufficient information has come to light regarding the property situation of the claimed works and the involuntary nature of the loss of possession by Marcus de Vries.

14. With regard to the painting by J. Ekels I, *The Haarlemmersluis and the Haringpikkerstoren in Amsterdam* (NK 2380), Mr P. Knolle, head of collections at Rijksmuseum Twenthe, stated in his letter dated 17 April 2012 (consideration 4 k) that the applicant visited the museum with his wife on 9 and 10 October 2004 in connection with a loan of a painting that had previously been returned to him. In one of the museum galleries, the applicant saw a townscape by Jan Ekels the Elder entitled *Haarlemmersluis and the Haringpikkerstoren in Amsterdam*, about which *'hij aangaf dat het vroeger in het huis van zijn vader had gehangen'*.

During the hearing, the applicant spoke of his memories of that painting. Following that, the Committee conducted further investigations in various archives to determine its origin, which did not result in additional information about its ownership, however. The Committee considers that on the basis of the statements referred to above and the statements made in the context of RC 1.50 alone it cannot be concluded that in the relevant period NK 2380 was still the property of Marcus de Vries and separate from his trading stock. Insufficient information has come to light about the circumstances surrounding a possible loss of property to be able to meet the conditions for restitution. In connection with this, the Committee also notes that the applicant's memories date from the period of his last visit to his father's house, which took place well before the occupation of the Netherlands (see also the recommendation in case RC 1.50).

Conclusion

The Restitutions Committee advises the State Secretary for Education, Culture and Science to uphold the rejection of the application for restitution of paintings NK 1756, NK 2047, NK 2059, NK 2160, NK 2251, NK 2380, NK 2508, NK 2727, NK 2933 and NK 3303.

Thus rendered on 6 September 2012 by W.J.M. Davids (chair), J.Th.M. Bank, P.J.N. van Os, E.J. van Straaten and H.M. Verrijn Stuart and signed by the chair and the secretary.

(W.J.M. Davids, chair)

(E. Campfens, secretary)

7. Recommendation regarding Von Goldschmidt-Rothschild

(case number RC 1.110)

In a letter dated 16 February 2009, the Minister for Education, Culture and Science (hereafter referred to as: the Minister) requested the Restitutions Committee (hereafter referred to as: the Committee) to issue a recommendation regarding the application dated 14 March 2007 by the ‘*Erbengemeinschaft nach Albert-Max von Goldschmidt-Rothschild*’ (hereafter referred to as: the applicants) for the restitution of two alabaster sculptures. This concerns the set of sculptures *Annunciation* by the artist Tilman Riemenschneider dating from the last quarter of the 15th century. The claimed objects are, under inventory numbers NK 124 and NK 125, part of the Netherlands Art Property Collection, which is administered by the Dutch government. They are currently in the Rijksmuseum in Amsterdam.

The procedure

The applicants were prompted to submit a claim by the mention of the name ‘*M. Goldschmidt-Rothschild*’ in the provenance history of the two sculptures in question on the website of the Origins Unknown Agency (BHG).

Following the Minister’s request for a recommendation, the Committee instigated a fact-finding investigation, the results of which were included in a draft report dated 11 April 2011. The Committee sent this draft report to the applicants for comment in a letter dated 2 May 2011, to which they replied in a letter dated 17 June 2011. In a letter dated 2 May 2011, the draft investigatory report was also sent to the Minister for additional information, who replied by email on 17 November 2011 that there was no additional information that he wanted the Committee to consider.

Given the numerous uncertainties concerning the circumstances of the loss of possession, the Committee decided that further investigation was necessary. As such, the Committee sent a letter dated 25 May 2012 to the applicants asking them further questions, to which they replied by letter dated 27 July 2012. The director of the Netherlands Institute for Art History (RKD), prof. dr. R.E.O. Ekkart, was also asked for his expertise, while a further investigation of German archives was conducted as well. Furthermore, numerous requests for information were sent to (research) institutions and individuals in the Netherlands and abroad. The results of this investigation were sent to the applicants. The Committee sent the revised version of the investigatory report to the Minister and the Rijksmuseum in Amsterdam for their information in a letter dated 4 September 2012. The investigatory report was revised to include the new research findings, and the report was finalised on 6 December 2012. During the procedure with the Committee, the applicants were represented by dr. S. Rudolph from Dresden, Germany.

Considerations

1. The applicants are requesting restitution of two alabaster sculptures that together form the *Annunciation* (NK 124 and NK 125). The objects were created in the last quarter of the 15th century by German sculptor Tilman Riemenschneider, one of the most important German sculptors of the Late Gothic and early Renaissance period. The applicants state that they are the heirs of Albert Maximilian von Goldschmidt-Rothschild (1879-1941), a son and co-heir of Maximilian Benedikt Hayum Freiherr von Goldschmidt-Rothschild (1843-1940) (the latter hereafter also referred to as: Max Goldschmidt or Max von Goldschmidt-Rothschild). In this context, the Committee took cognisance of a number of inheritance documents, based on which it has no reason to doubt the status of the applicants as the rightful claimants in this case. The applicants state that Max von Goldschmidt-Rothschild lost possession of these sculptures at an unknown point in time and in an unknown manner before 1938, but that it can be assumed that this loss of possession was the result of persecution measures by the Nazi regime.
2. The relevant facts are included in the investigatory report dated 6 December 2012. The following considerations will summarise these facts.
3. Max Goldschmidt was a Jewish banker and art collector. He was born in Frankfurt am Main (hereafter referred to as: Frankfurt) on 20 June 1843. Together with his brother, he ran the B.H. Goldschmidt bank set up by their father, until this bank closed its doors in 1893. In 1878, Max Goldschmidt married Minna Caroline (Minka) von Rothschild (1857-1903), a descendent of a prominent Jewish family from Frankfurt. The couple had five children, including Albert, to whose estate the applicants are entitled. After the death of his wife, Max Goldschmidt added her surname to his. In 1903, he was elevated to Prussian nobility and in 1907 he became a Prussian *Freiherr*. In 1920, Von Goldschmidt-Rothschild and his two sons Albert and Erich acquired the bank A. Falkenberger in Berlin, which he renamed Goldschmidt-Rothschild & Co. The bank was sold in 1932.

4. After the National Socialists assumed power on 30 January 1933, the Von Goldschmidt-Rothschild family increasingly had to deal with anti-Semitic measures. The documentation found during the investigation does not provide a complete picture of the persecution measures with which Max von Goldschmidt-Rothschild and his children were faced, but it is clear that the family were increasingly confronted with prohibitive measures. A general picture of the family’s fate is given below. In the late 1930s, the family had decreased access to its assets and was obliged to pay excessive taxes, including RM 942,500 for so-called *Judenvermögensabgabe*. According to a post-war statement by the family’s solicitor, Albert von Goldschmidt-Rothschild sold his stately home Grüneburg and neighbouring park in 1935 to Frankfurt city council within the context of the flight that he had already started planning shortly after 30 January 1933. In September 1938, Max von Goldschmidt-Rothschild also sold his house, the Goldschmidt-Rothschild-Palais at Bockenheimer Landstraße 10, to Frankfurt city council. Two months later, Frankfurt city council, headed by NSDAP mayor Friedrich Krebs, used the *Reichskristallnacht* as a means of appropriating Jewish art property under the pretext of providing protection (*Sicherheitsstellung*). After this, Max von Goldschmidt-Rothschild was forced to sell his valuable art collection of approximately 1,394 objects to Frankfurt city council on 11 November 1938. Max von Goldschmidt-Rothschild’s two sons, Rudolf and Albert, fled Germany in 1938 and 1939, respectively, for which a sum of hundreds of thousands Reichsmarks had to be paid from the family capital as flight tax (*Reichsfluchtsteuer*). A very old Max von Goldschmidt-Rothschild remained in Frankfurt, where he rented part of his former house from the city. He died there on 15 March 1940, aged 96.
5. After the war, the heirs of Von Goldschmidt-Rothschild submitted an application for restitution to Frankfurt city council regarding the art collection sold by Von Goldschmidt-Rothschild in 1938. The negotiations led to the restitution of these works of art in 1948, insofar as they were still in the city of Frankfurt. The family also instigated a number of other restoration of rights procedures for, among others, the property sold and the flight tax paid. In the investigation, no documentation was found that suggests that the heirs of Von Goldschmidt-Rothschild applied to the Dutch or German authorities for restitution of or compensation for the currently claimed sculptures NK 124 and NK 125 after the war.
6. Pursuant to current national policy, restitution can be made if the title to the claimed objects is highly likely and the original owner thereof lost possession involuntarily as a result of circumstances that were directly related to the Nazi regime. Therefore, in assessing the application for restitution, the first and foremost question that should be addressed is whether the claimed sculptures were owned by Max von Goldschmidt-Rothschild in the relevant period.
7. The research first of all showed that the currently claimed sculptures were not part of Max von Goldschmidt-Rothschild’s art collection that was sold in 1938 in Frankfurt under the pressure of Nazi measures, but that they were already owned, several years before that, by the Jewish banker and art collector Fritz Mannheimer, who resided in Amsterdam. A mention of these works in a catalogue of the Fritz Mannheimer art collection dated November 1935 – March 1936 suggests this. Provenance data for the sculptures in question notes: ‘*Aus der Sammlung Max. v. Goldschmidt-Rothschild*’. Mannheimer died in 1939. After his estate was declared bankrupt, his art collection, including the claimed sculptures, was sold to the occupying forces by the bankruptcy administrator during the occupation of the Netherlands, after which the works of art were transported to Germany. Given this Dutch provenance, the sculptures were recuperated after the war from Germany to the Netherlands, where they became part of the Dutch National Art Collection.
8. The abovementioned information does not, however, provide any clarity as to the question until when Max von Goldschmidt-Rothschild owned the currently claimed sculptures, and whether he lost possession of these during the Nazi regime in Germany (1933-1945) or before. To be able to determine this, the Committee carried out an exhaustive further investigation, which included the archive of the Rijksmuseum in Amsterdam. This investigation led to the following findings. The sculptures of Tilman Riemenschneider, one of the most important German sculptors of the Late Gothic and early Renaissance period are frequently described in art history literature because of their unique character. During the research, publications from 1925, 1931 and 1934 were found in which reference is made to the Max von Goldschmidt-Rothschild collection in relation to the provenance of the current works of art. The 1934 publication is particularly important when it comes to answering the question of whether Max von Goldschmidt-Rothschild lost possession of the currently claimed sculptures during the Nazi regime in Germany or before. This publication concerns an entry by art historian and Riemenschneider expert Justus Bier, in Part 28 of the Thieme-Becker artists’ encyclopaedia, which refers to Max von Goldschmidt-Rothschild as being the owner of the currently claimed sculptures. To answer the question of how up-to-date this provenance data was in 1934, the Committee sent a request for information to prof. dr. R.E.O. Ekkart, director of the RKD. In his reply, he noted that the entry in question includes references to publications that appeared in the first few months of 1934, from which it can be deduced that Bier revised the entry in the first few months of 1934. Ekkart also states that, given the constant involvement of Justus Bier in the Riemenschneider investigation, it is likely that he would have been aware of a sale that Von Goldschmidt-

Rothschild would have made before 1934. Ekkart concluded ‘*dat de vermelding van de naam Goldschmidt-Rothschild als eigenaar van de twee beelden van Riemenschneider in het 28ste deel van Thieme-Becker het waarschijnlijk maakt dat de beide beelden in het begin van 1934 nog tot deze collectie behoorden*’. Documentation concerning the Mannheimer collection (see also consideration 7) supports this conclusion. On 25 June 1934, Mannheimer assigned his collection as security to Artistic, a company under English law. The lack of an Artistic inventory number and evaluation information for the currently claimed works on the inventory lists of the Mannheimer collection is another indication that Mannheimer probably acquired these sculptures after the first few months of 1934. Given that the works were included in the catalogue of the Mannheimer collection dated November 1935 – March 1936 (see consideration 7), loss of possession by Von Goldschmidt-Rothschild can be dated to the period between 1934 and March 1936.

9. Since Von Goldschmidt-Rothschild was a Jewish private owner, the reversal of the burden of proof, as applicable under relevant policy for Jewish private owners for sales during the Nazi regime, is of paramount importance for assessment of this case. The third recommendation of the Ekkart Committee determines in this respect that any sales by Jewish private owners in the Netherlands from 10 May 1940 onwards are to be considered involuntary unless expressly proven otherwise. The same principle should be applied to sales by Jewish private owners in Germany and Austria from 1933 and 1938 onwards, respectively. Given that Max von Goldschmidt-Rothschild’s loss of possession seemed to have occurred at an early stage in the Nazi regime in Germany (in the period 1934 until March 1936) and practically nothing is known about how he came to lose possession, the Committee decided to investigate this point further.
10. During this further research, indications were found that Max von Goldschmidt-Rothschild lost possession of the works of art in question because of an exchange with the Fritz Mannheimer mentioned in consideration 7. These indications are the following. A letter dated 6 July 1946 from Hans Bräutigam, Max von Goldschmidt-Rothschild’s private secretary and later executor of his estate, to Alfred Wolters, the director of the Städtische Galerie in Frankfurt, was found in the archive of the Städel Museum in Frankfurt. In this letter, Bräutigam writes the following about the Riemenschneider sculptures: ‘*Frau Inge Strassfeld, geb. Moessner, die lange Jahre Gesellschafterin bei Herrn Baron Max von Goldschmidt-Rothschild war, erinnert sich, dass die beiden Alabaster-Engel von Riemenschneider einige Zeit vor Kriegsausbruch durch Vermittlung von Hackenbroich im Tausch an den bekannten Sammler Mannheimer in Amsterdam gegangen sind*’. There is no further information on Inge Strassfeld, but based on the quote, the Committee assumes that she was one of Max von Goldschmidt-Rothschild’s business associates. A letter dated 13 December 1947 from the above-mentioned Alfred Wolters to the Hessisches Staatsministerium in Wiesbaden was also found in the archive of the Städel Museum in Frankfurt. In this letter, Wolters states that the Riemenschneider sculptures in question can be removed from the list of protected works of art (*Liste der national wertvollen Kunstwerke*) because they are already abroad. By way of an explanation, Wolters mentions that there was an exchange with Mannheimer (*Die Gruppe wurde durch Vermittlung von Hackenbroch in Ffm im Tausch an Herrn Mannheimer in Amsterdam abgegeben*).
11. During the investigation, the Committee found no further details with respect to the terms and conditions of the exchange between Mannheimer and Max von Goldschmidt-Rothschild, or with respect to the object given in return. No indication was found that this exchange was involuntary in nature. In the Committee’s view, the facts would rather suggest the contrary:
 - The name Hackenbro(i)ch stated in the above-mentioned letters probably refers to the Jewish-German art dealer Zacharias Max Hackenbroch (1884-1937) from Frankfurt, who regularly did business with Von Goldschmidt-Rothschild.
 - Max von Goldschmidt-Rothschild and Fritz Mannheimer were both of Jewish descent and both were bankers as well as art collectors. It is known that they regularly changed and expanded their collections, and that they both were advised in this by the (Jewish) art dealership Firma I. Rosenbaum, which in turn was in contact with Hackenbroch, the broker of the current exchange.
 - The transaction concerning the currently claimed sculptures is not an isolated one. Von Falke’s Mannheimer catalogue mentions seven other works of art originating from the Max von Goldschmidt-Rothschild collection.
12. The Committee also refers to the following. If the exchange had been involuntary, it would have been obvious for Max von Goldschmidt-Rothschild’s private secretary and later executor, Hans Bräutigam, to have mentioned this in his letter of 6 July 1946 (see consideration 10). He did not do so, however. It would also be logical that if the exchange had been involuntary in nature, the Von Goldschmidt-Rothschild family would have submitted an application for restitution of or compensation for the sculptures after the war, as they did for the works of art that were sold in 1938 under the pressure of the Nazi authorities. As regards the currently claimed sculptures, neither the applicants nor the Committee found any indication of a post-war application for restitution or compensation (see consideration 5).
13. The Committee concludes that Max von Goldschmidt-Rothschild lost possession of the currently claimed sculptures in the period 1934 - March 1936 as a result of an exchange with Fritz Mannheimer. In light of indications to the contrary, as already outlined above, such a loss of possession cannot be regarded as involuntary loss of possession as a result of circumstances directly related to Nazi regime.

Conclusion

The Restitutions Committee advises the Minister for Education, Culture and Science to reject the application for restitution of the two sculptures *Annunciation* by Tilman Riemenschneider (NK 124 and NK 125).

Adopted on 6 December 2012 by W.J.M. Davids (chair), J.Th.M. Bank, P.J.N. van Os, D.H.M. Peeperkorn, E.J. van Straaten, H.M. Verrijn Stuart, and I.C. van der Vlies (vice-chair), and signed by the chair and the secretary.

(W.J.M. Davids, chair)

(E. Campfens, secretary)

8. Recommendation regarding Arnhold

(*case number RC 1.61-B*)

In letters dated 28 February 2007 and 9 June 2009, the Minister of Education, Culture and Science (OCW) asked the Restitutions Committee (hereinafter referred to as the Committee) for recommendation about an application for restitution by ‘die Erbgemeinschaft nach Adolf Arnhold’ (the community of heirs of Adolf Arnhold, hereinafter referred to as Applicants I). In letters dated 20 March 2008 and 29 April 2011, the authorized representative of Applicants I informed the Committee that it is not the said community of heirs (Erbgemeinschaft) that is entitled to apply for restitution but the firm X.X. (hereinafter referred to as Applicant II), for whom she is also acting (Applicants I and Applicant II are hereinafter also referred to as the Applicants).

The application concerns four paintings that are in the Netherlands Art Property Collection (hereinafter referred to as the NK Collection) in the custody of the State of the Netherlands. The Committee gave recommendation previously with regard to three of the claimed works (RC 1.61-A). The current recommendation relates solely to the application for restitution of the painting *Interior with Card Players* by Q.G. van Brekelenkam (NK 2924).

The procedure

In letters dated 4 December 2006 and 7 December 2007, the Applicants asked the Minister of OCW for the return of a total of four paintings from the NK Collection. The works involved are registered under the inventory numbers NK 1532, NK 1747, NK 1750 and NK 2924. Pursuant to the requests for recommendation, the Committee investigated the facts. The preliminary results of the research into the facts of the admissible claim (NK 1747 and NK 2924) were recorded in a draft report dated 7 January 2008. The Committee submitted this draft report to the Minister and the Applicants. The Minister responded by email on 7 February 2008 and the Applicants replied in a letter dated 20 March 2008. The preliminary results of the research into the supplementary claim (NK 1532 and NK 1750) were combined with the earlier research results in a draft report dated 6 December 2010. This report was sent for comment to the Applicants, who responded substantively in a letter dated 29 April 2011. At their request, the Committee gave the Applicants the opportunity to conduct additional provenance research with regard to the works of art being claimed. In a letter of 1 July 2011, the Committee furthermore informed the Applicants about supplementary investigation data on its part. On 14 October 2011 the Applicants told the Committee that the provenance research conducted on their instructions had not generated any new information.

On 21 November 2011 the Committee then issued recommendation about three (NK 1532, NK 1747 and NK 1750) of the four paintings (RC 1.61-A) to the effect that the application for restitution should be rejected because these works could not be identified as works from the Arnhold collection. The Committee put and has kept the present recommendation with regard to NK 2924 in a separate file (RC 1.61-B) because this painting is also the subject of an application for restitution concerning the D. Katz gallery of Dieren (RC 1.90-B). The Committee gave the Applicants the opportunity to take cognizance of the relevant facts found in the Katz investigation that relate to NK 2924.

After completion of the investigation concerning the Katz claim, with respect to the present application for restitution of NK 2924 the Committee approved the investigation report RC 1.61-B on 17 December 2012.

Applicants I and Applicant II were represented in the present procedure by Dr Sabine Rudolph, a lawyer of Dresden, Germany.

Considerations

1. The Applicants request the restitution of the painting *Interior with Card Players* by Q.G. van Brekelenkam (NK 2924), which is said to have been the property of the German banker Adolf Arnhold. The Applicants contend that Adolf Arnhold (1884-1950) lost possession of NK 2924 as a result of anti-Jewish measures taken by the Nazi regime.
2. According to a communication from Applicants I, under German law they are the Erbengemeinschaft (community of heirs) of Adolf Arnhold. In principle an Erbengemeinschaft can act as such in law and submit a restitution claim such as the present one. Initially the application for restitution was made only in the name of this Erbengemeinschaft. However, in letters dated 20 March 2008 and 29 April 2011, it was argued on behalf of Applicants I among others that it is not they who are entitled in respect of the requested restitution but Applicant II, to whom the heirs of Adolf Arnhold among others have transferred their right to restitution of works of art. On the grounds of documents that have come to the attention of the Committee in this regard, the Committee has no reason to doubt the status of Applicant II as transferee/right holder to the restitution claim. In view of the content of the letters from the applicants' authorized representative as referred to above, the Committee assumes that the present application for restitution is deemed to have been made by Applicant II and to have been withdrawn by Applicants I.
3. According to the applicants, the Arnhold family took action after the Second World War to track down the art formerly owned by Arnhold. However, the applicants have also stated that after the war no loss was reported to the Stichting Nederlands Kunstbezit (Netherlands Art Property Foundation, SNK). During its investigation the Committee furthermore found no indications that Arnhold or the Arnhold family requested restitution of NK 2924 and/or other works of art from the Dutch restoration of rights authorities. In so far as there were contacts with the Dutch restoration of rights authorities in the past, the Committee finds that in any event they did not lead to a definitive ruling with regard to NK 2924. It is therefore clear that this is not a case that was dealt with in the past, so Applicant II is admissible in its application for restitution of NK 2924.
4. The relevant facts have been described in the investigation report. The following summary is sufficient here. Adolf Arnhold came from a prominent German Jewish banking family and was a partner in the bank Gebr. Arnhold, with branches in Dresden and Berlin. In 1931 this bank entered into an Interessengemeinschaft mit Gewinnpooling (community of interests with profit sharing) with the S. Bleichröder bank of Berlin, which at that time was having financial problems. After Hitler seized power, members of the Arnhold family were persecuted because of their Jewish descent and their influence in financial, industrial and political circles. In 1933 Adolf Arnhold stepped down from the management of Gebr. Arnhold. The bank was Aryanized during the 1935-1937 period. In order to facilitate the departure of the Arnhold family from Germany, a fund was set up for the benefit of all family members. Substantial sums were paid from it to the German State. From 1937 Arnhold and his wife often stayed abroad on account of the Nazi regime. They finally found a safe refuge outside Germany after 1938.
5. A condition for restitution under the current restitution policy is that the ownership rights are very plausible and that there are no indications to the contrary. It has been established on the grounds of the research that the painting NK 2924 was originally the property of Dr P.H. von Schwabach, partner in the S. Bleichröder bank, and that in 1931 he transferred it, together with many other works in his collection, to Gebr. Arnhold as security for his debt to that bank. In 1937 Adolf Arnhold (in his private capacity) acquired the ownership of NK 2924 and many other works of art in Von Schwabach's collection from Gebr. Arnhold for a total purchase price of 500,000 Reich marks, which sum was offset against Von Schwabach's debt to Arnhold's bank. The Applicants have stated that this transaction took place against the backdrop of the Aryanization of Gebr. Arnhold in Berlin. It was done in order to prevent the partners from being compelled to hand over the works of art together with the other assets of the bank to the Dresdner Bank, which had taken over the Dresden branch of Gebr. Arnhold in 1935 under pressure from the Nazi regime. The Applicants also declared and made it plausible that the transfer of ownership was made to Adolf Arnhold in person for practical reasons, but that the interest in the capital of Gebr. Arnhold and consequently in the works of art belonged to the members of the Arnhold family.
6. The transfer of ownership to Arnhold involved a number of works that Schwabach and his wife had placed with the Rijksmuseum in Amsterdam (hereinafter referred to as RMA) in 1934. These items were specified in a statement of receipt dated 20 July 1934 from the director of the RMA (hereinafter referred to as the RMA list of 20 July 1934). In September 1938 Mr and Mrs von Schwabach informed the RMA that Arnhold had become the owner of the works of art in the RMA's custody. On 6 December 1938 in his place of residence in Morcote, Switzerland, Arnhold gave a power of attorney to F.H. Brunner to take possession of the paintings at the RMA and to dispose of them ('verhandeln und verfügen'). Brunner was a representative of both Gebr. Arnhold and S. Bleichröder, and he played a leading role in the S. Bleichröder bank in Berlin. He stated in writing on 16 December 1938 that he had received the paintings concerned in good order from the RMA. Brunner's statement referred to a list of works of art dated 16 December 1938, apparently prepared by the RMA, which was virtually identical to the RMA list of 20 July 1934. These pictures were also listed in the same order on an appendix to a statement of assets, which was obligatory for Jews, made by Arnhold on 29 July 1938 to the Nazi authorities in Germany. The Committee was able to take cognizance of all these documents. The reconstruction of the facts given above justifies the conclusion that Adolf Arnhold, acting in person on behalf of the members of the Arnhold family, acquired ownership of the works of art from the former collection of Von Schwabach, which were physically present in the RMA, in 1937 and that he had them collected by his authorized representative Brunner at the end of 1938.
7. It has been established on the grounds of the investigation that the painting NK 2924 claimed by the Applicants was one of these pictures. On both of the RMA lists referred to above, item number 28 is a painting with the title 'Interieur, kaartspelers' (Interior, card players) by the painter Van Brekelenkam. Both lists also give the number 1975, which the Committee found on the back of the present NK 2924 during its investigation. On the basis of these facts the Committee deems it highly likely that NK 2924 is the painting specified on the RMA lists as 'Interieur, kaartspelers' by Van Brekelenkam and that this work had therefore been the property of Arnhold.
8. The Committee's research found no concrete indications as to what Brunner did with NK 2924 after 16 December 1938. In view of the power of attorney that Arnhold gave Brunner to take possession and dispose ('verhandeln und verfügen') of them, it makes sense to assume that Brunner sold or consigned one or more of them on behalf of Arnhold after he received them from the RMA. It also appears to have been the intention to send works to Arnhold in Switzerland, as can be concluded from a letter that Brunner wrote on 15 December 1938 to Dr A.B. de Vries of the RMA in which he mentioned that the works that were in the custody of the RMA 'Herrn Adolf Arnhold zwecks Verbringung in die Schweiz herausgegeben werden' ('were returned to Mr Adolf Arnhold for the purposes of shipment to Switzerland'). It can be deduced that this did not happen to at least some of the works of art from the fact that NK 2924 and a few other items specified on the RMA lists were sold by the Dutch D. Katz art gallery in Dieren after the German invasion of the Netherlands.
9. It is not known how NK 2924 came into the possession of the Katz gallery. It is possible that Brunner sold NK 2924 directly to Katz, but he could also have sold it to a third party, after which the picture ended up with Katz. This is a possibility that the Applicants have also referred to. It is similarly not clear in which capacity the Katz gallery obtained the Van Brekelenkam painting – as consignee or as owner. The Applicants have declared that Y.Y. – who was very active after the war in regard to restitution of Arnhold family assets, including works of art – believed that the NK paintings, the return of which was requested by the Applicants in 2006, were given to Katz on consignment and that the family did not receive the proceeds of the sale. Like the Applicants, the Committee will assume that Arnhold sold or consigned the present NK 2924 because there are no indications that Arnhold ceased to have possession of NK 2924 in any other way, for instance donation, exchange, theft or confiscation.
10. The Committee now comes to answering the question of whether Arnhold's loss of possession of NK 2924 as a result of selling it – in the context of an authorization (consignment) to the Katz gallery or a third party – has to be considered as involuntary loss of possession as a result of circumstances directly associated with the Nazi regime. The Committee advises in the spirit of the more liberal restitutions policy, which is based on recommendations of the Ekkart Committee. The third recommendation, dating from 2001, states that sales of works of art by Jewish private individuals in the Netherlands on or after 10 May 1940 are to be considered as forced sales unless there is express evidence to the contrary, and that the same principle should be applied to sales by Jewish private individuals in Germany from 1933 onwards.
11. The present application for restitution concerns a German Jewish private individual who fled from Germany in 1933 as a result of the Nazi regime, his family, a number of whose members were in Germany at the time of the loss of possession, and a claimed object that was in the Netherlands at that time. On the grounds of this account of the facts, the Committee notes that the moment at which Adolf Arnhold lost legal possession, and consequently also the economic interests of the Arnhold family, is not known, but it has to have been between 16 December 1938, the date on which F. H. Brunner stated that he had received NK 2924 and other works of art from the RMA, and 14 August 1940, the date on which NK 2924 ended up in the Goudstikker-Miedl gallery via the Katz gallery. In view of the above, the Committee takes the view that the current application should be assessed as a true case of sale during or after 1933 by a Jewish private individual in Germany. This means that involuntary loss of possession is assumed, unless there are express indications to the contrary.
12. The Committee has asked itself whether there are express indications that this was *not* a case of a forced sale. This is specified in the third recommendation of the Ekkart Committee as a requirement for departing from the assumption of involuntary loss of possession (see consideration 10). The Committee answers this question in the negative, so that the loss of possession of NK 2924 can be designated as involuntary in the context of the restitution policy for NK works. In this regard it refers to the following circumstances. The present NK 2924 was collected from the RMA on 16 December 1938, approximately a month after Kristallnacht (the Night of Broken Glass), when it must have been clear to Arnhold that a return to Germany was no longer possible. During this period a brother of Arnhold escaped from Germany by illegally crossing the Dutch border. In December 1939 Adolf Arnhold himself tried unsuccessfully to acquire Haitian citizenship. The Committee deduces from a statement of assets that Adolf Arnhold submitted to the German authorities in July 1938 that while Arnhold was very wealthy, it is very plausible that in December 1938

and thereafter he no longer had control of a large part of his assets in Germany as a result of the increasing restrictions imposed by the Nazi regime. The Committee takes into account that Adolf Arnhold kept the paintings for and on behalf of the members of the Arnhold family, and that selling the paintings must have been a straightforward way to acquire liquid assets, including for the benefit of family members who were still in Germany or were fleeing from the Nazis. The Committee judges that Adolf Arnhold's sale of *Interior with Card Players* by Q.G. van Brekelenkam (NK 2924) has to be considered in this light and should be seen against the backdrop of his own flight and that of members of his family.

13. The Committee then raises the question as to whether a payment obligation should be specified in regard to restitution of NK 2924 in connection with the consideration received when the work of art was sold. Under the present restitution policy, repayment is only addressed if and in so far as the former vendor or his heirs actually had free control of the proceeds of the sale, where he or his heirs should be given the benefit of the doubt. Such a doubt exists in this case. As described above, an Arnhold family member, who was involved in the postwar restitution of works of art, has asserted that Arnhold never received the proceeds from the sale of NK 2924 (see consideration 9). As described above, the Committee finds that no particulars about the transaction relating to NK 2924 are known in respect of either a sale or consignment, or about the magnitude of any selling price. The Committee moreover deems it plausible that, if Arnhold received the proceeds of the work of art, they were used wholly or in part in the context of his flight and that of his family. A payment obligation on the Applicants in return for the Restitution of NK 2924 is therefore not applicable.
14. There is also a claim on the present NK 2924 in regard to the application for restitution relating to the Katz gallery (RC 1.90-B). It emerges from the investigation that the present NK 2924 was sold on or around 14 August 1940 by or through the Katz gallery to the Goudstikker-Miedl gallery. In the opinion of the Committee, in this case the Applicants' claim to NK 2924 in respect of Arnhold is the only one eligible for a positive recommendation. Arnhold's property rights have become highly plausible, but the investigation relating to the Katz gallery has not been able to show whether Katz mediated in its sale or owned it. In any event it would seem that any title to the work was acquired after Arnhold.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to reconstitute the painting *Interior with Card Players* by Q.G. van Brekelenkam (NK 2924) to X.X..

Adopted at the meeting of 17 December 2012 by W.J.M. Davids (chair), J.T.M. Bank, P.J.N. van Os, D.H.M. Peeperkorn, E.J. van Straaten, H.M. Verrijn Stuart, I.C. van der Vlies (vice-chair) and signed by the chair and the secretary.

(W.J.M. Davids, chair)

(E. Campfens, secretary)

9. Recommendation regarding Mautner-B (case number RC 1.89-B)

In a letter dated 13 June 2007, the Minister of Education, Culture and Science (hereinafter referred to as the Minister) asked the Restitutions Committee (hereinafter referred to as the Committee) for recommendation about the application for restitution dated 4 April 2007 from X.X. in A. (USA) and Y.Y. in A. (USA) (hereinafter referred to as the Applicants). The application for restitution related to a number of items in the Netherlands Art Property Collection (hereinafter referred to as the NK Collection) that might have belonged to their respective uncle and great-uncle Wilhelm M. Mautner during the Second World War. The present recommendation concerns the painting *River Landscape with Figures and a Wagon by a Tower* by Jan Steen (NK 2655). The painting is currently in the repository of the Rijksdienst voor het Cultureel Erfgoed (Netherlands Cultural Heritage Agency), hereinafter referred to as the RCE.

The procedure

The original request for recommendation of 13 June 2007 related to five paintings in the NK Collection (inventory numbers NK 1655, NK 1783, NK 2216, NK 2297 and NK 2655) and was registered by the Committee under file number RC 1.89.

The Committee decided to divide the advisory activities into two sub-cases because NK 2655 is also involved in an application for restitution relating to the D. Katz gallery in Dieren (RC 1.90-B). The Minister and the Applicants were informed of this in letters dated 20 October 2009. The claim relating to items NK 1655, NK 1783, NK 2216 and NK 2297 were dealt with under file RC 1.89-A, for which the recommendation was given on 12 October 2009. The claim concerning NK 2655 was addressed under file RC 1.89-B, and the

recommendation concerning it is given below.

The Committee investigated the facts in the context of the request for recommendation. The results of this investigation were sent for comment to the Applicants in letters of 23 February 2009 and 11 January 2011 and submitted to the Minister on 23 February 2009 for additional information. The Applicants sent their comments in letters dated 23 March 2009, 25 May 2009, 30 June 2009, 31 January 2011, 5 April 2011 and 20 October 2011. The Minister replied on 9 March 2009. On 7 October 2010, the investigation results in regard to Katz (RC 1.90-B) were also submitted to the Applicants, and they responded to them. The responses have been incorporated in the final investigatory report in the case of RC 1.89-B, which was approved on 17 December 2012.

The Applicants were represented during the procedure by Dr H. Kahmann, lawyer of Berlin, Germany.

Considerations

1. The Applicants request the restitution of a painting by the artist Jan Steen, entitled *River Landscape with Figures and a Wagon by a Tower* and dating from the third quarter of the seventeenth century (NK 2655). The Applicants contend that Dr Wilhelm M. Mautner (1889-1944, hereinafter referred to as Mautner) lost possession of the painting during the war '*due to Nazi persecution during the German occupation of the Netherlands*'. The Applicants are X.X. and Y.Y., a daughter and granddaughter respectively of Franz Heinrich Mautner, a brother of Mautner. According to information from the Applicants they form '*the community of heirs after Dr. Wilhelm Mautner*'. On the basis of the documents relating to inheritance law that have been submitted, the Committee deems it plausible that they belong to the circle of entitled parties in the context of this application.
2. The Committee has investigated whether the application concerns a case that was dealt with in the past. According to the recommendations of the Ekkart Committee in 2001 and the government response to it, this is so '*door de Raad voor het Rechtsherstel of een andere bevoegde rechter een vonnis is gewezen*' or if '*de vordering tot teruggave bewust en weloverwogen heeft geresulteerd in een schikking dan wel claimant expliciet van de vordering tot teruggave heeft afgezien*'. [if the Council for the Restoration of Rights or another competent court has issued a ruling] or if [the claim for restitution has resulted in a conscious and measured settlement or the claimant has explicitly abandoned the claim for restitution]. The investigation did not reveal that Mautner's surviving relatives made a declaration after the war to the Stichting Nederlands Kunstbezit (Netherlands Art Property Foundation, SNK) in connection with the loss of the painting *River Landscape with Figures and a Wagon by a Tower*. Similarly no information was found to indicate that after the war this painting was the subject of a decision or a judicial ruling. The Committee therefore judges that this is not a case that was dealt with in the past and that the Applicants' application for restitution is admissible.
3. The relevant facts have been described in the investigatory report of 17 December 2012. The following summary is sufficient here. Mautner was born in Vienna and was an economist of Jewish descent. He settled in the Netherlands in 1919, where for years he worked at the Rotterdamse Bank. Between 1929 and August 1943 he lived at Haringvlietstraat 13 II in Amsterdam. He then moved to Tugelaweg 147 II, also in Amsterdam. During the war Mautner attempted unsuccessfully to escape from the Nazi regime. This emerges from the documentation in the archives of the Zentralstelle für jüdische Auswanderung (Central Office for Jewish Emigration) and the archives of the Ministry of Justice in London, from which it can be deduced that Mautner tried to get an exit visa for the United States with the help of his brother, who lived in New York. In December 1943 Mautner was removed from his home in Amsterdam during a raid and transported to Westerbork transit camp and from there to Theresienstadt concentration camp. Mautner died on or around 29 September 1944 in Auschwitz concentration camp.
4. Mautner owned a collection of paintings that included works by Dutch old masters. He is said to have continued purchasing and selling works of art during the war. After the war his friend Hans Alfred Wetzlar (hereinafter referred to as Wetzlar) declared that '*... dat de Heer Mautner nogal het een en ander in schilderijen deed. Vanaf 1941 kon hij dit niet meer op zijn eigen naam doen*' [because he was Jewish, RC], *en heb ik daarom verschillende schilderijen voor hem op mijn naam gekocht*' [Mr Mautner dabbled in paintings. After 1941 he could no longer do this in his own name [because he was Jewish, RC], and so I purchased various paintings for him in my name]. With regard to the sale of paintings during the war, the Applicants contend that there was no conduct of trade in art. Mautner is said to have intended to retain his collection and even to have expanded it during the occupation of the Netherlands. With regard to possible sales by Mautner during the war, the Applicants state that, '*It is evident that he did so only to maintain himself during his racial persecution*'. During the war various people furthermore received works of art and/or other property from Mautner for safekeeping. The Applicants assert that Mautner lost a substantial part of his art collection, including the claimed paintings, as a result of persecution during the Nazi regime. During its investigation the Committee found postwar correspondence from the *Stichting Bewindvoering Afwezig en Onbeheerde Nalatenschappen* [Foundation for the Supervision of Absentee and Unmanaged Estates] from which it can be deduced that during the war '*funds*' belonging to Mautner were confiscated by occupying forces. The name of Mautner is also referred to in an overview from the archives of the managers-liquidators of the Liquidatie van Verwalting Sarphatistraat [Liquidation of Property Administration Sarphatistraat,

LVVS], also known as the 'looting organization' Liro (the 'robber bank' Lippmann, Rosenthal & Co., from which it emerges that valuables belonging to Mautner were looted during the 1941-1945 period. It can also be inferred from documentation from the Central Office for Jewish Emigration that during the war Mautner probably handed over valuables in order to obtain (temporary) exemption from being transported. This may have happened in or after June 1943. The research did not lead to any overviews of the confiscations or of the valuables that were handed in.

5. It can be inferred from information in the files of the P. de Boer gallery in Amsterdam that this gallery probably purchased the painting now being claimed in September 1934 and subsequently sold it to 'Minken' in November 1934. 'Minken' may be the firm of antique dealers J.F. Minken of Amsterdam, which was wound up in January 1936. It is also known that the present NK 2655 was in all likelihood in Mautner's possession in 1938. This emerges from three annotated photograph cards in the Rijksbureau voor Kunsthistorische Documentatie (Netherlands Institute for Art History, RKD) and an inventory card in the SNK, which bear the name 'Dr. W. Mautner' and the date 1938. When, how and from whom Mautner acquired the claimed painting cannot be established because no relevant documentation has been found. The Applicants deem it plausible that the gallery they refer to as 'F.H. Minken' sold the painting to Mautner when the business closed down in 1936.
6. No information has been found regarding the whereabouts of the work in the 1939 to 1942 period. It is therefore not known how and when the present NK 2655 left Mautner's possession. The research did, though, discover a postwar statement by the P. de Boer gallery referred to in 5. In the context of an exhibition organized by the restitution authorities in 1950 with the aim of tracing the owners of works recovered from Germany, the gallery stated in regard to the present NK 2655 that this painting 'is or in any event was the property of Dr. Mautner, who died in the war'.
7. The research into the facts turned up the following information about the provenance of the painting from 1943 onwards.
 - a) According to information on the RKD photograph cards, in 1943 the present NK 2655 was with 'Kunsthandel D. Katz, Den Haag' [art dealership D. Katz, Den Haag]. The SNK inventory card for the work likewise states as its provenance 'D. Katz, Den Haag'. The references relate to the D. Katz gallery in Dieren, known from 1941 onwards as N.V. Schilderijen en Antiquiteitenhandel v/h D. Katz (hereinafter referred to as the Katz gallery). This gallery had a branch in The Hague. The Committee's research did not discover the sources on which the references to the Katz gallery are based. Other indications were, though, found for the possible involvement of the Katz gallery in the provenance of the painting. For instance, a database compiled by the Deutsches Historisches Museum concerning the collection destined for the Führer Museum that was to be set up in Linz lists as 'Vorbisitzer' [previous owner] of the present NK 2655: 'Nathan und Benjamin Katz, Hoflieferant Katz / Dieren (Kunsthandel Niederlande)'. A postcard from the caretaker of the Katz gallery dated February 1943 was also found; it reads: '[Nu] mijnheer ik ben afgelopen week aan het handelen geweest. Ridder had van iemand een goed schilderij wat wij mochten verkopen nu heb ik dat voor mijn doen met succes aan Bandertje verkocht het was een vroege J. Steen (...). Het heeft 50 mil opgebracht dit was voor ons een buitenkansje'. [[Well] Sir, I have been doing some business this past week. Ridder had got a good painting from someone that we were allowed to sell; well, I sold it successfully, considering, to Bandertje, it was an early J. Steen (...). It fetched 50 mil, it was a real stroke of luck for us. It cannot be ruled out that the 'vroege J. Steen' [early J. Steen] referred to in the postcard is the painting now being claimed, but the minimal description on the postcard and the absence of any other details means that nothing could be established either way.
 - b) There are indications of the involvement of an otherwise unidentified painter called 'Keisinga' or 'Keizinga' of The Hague or Antwerp, Belgium. It would seem that the present NK 2655 was viewed while in the possession of this artist by Dr Göpel, who was engaged in making acquisitions for the planned Führer Museum in Linz. The Committee's research uncovered no further information about 'Keisinga' or 'Keizinga' and any role he might have played in the provenance of the painting.
 - c) Lastly, it would seem that the painting was purchased on 5 January 1944 by or through the Bernhard Böhmer gallery in Güstrow, Germany, for the collection of the planned Führer Museum in Linz. When and how the present NK 2655 came into the Böhmer gallery's possession has not been established.

Assessment of the claim

8. Since the research did not discover any indications that Mautner was in business as an art dealer, the Committee is of the opinion that the claim should be assessed in accordance with the restitution policy relating to the private ownership of works of art. On this basis, restitution can be recommended if the probability of ownership is high and the original owner lost possession of the work of art involuntarily as a result of circumstances directly related to the Nazi regime. Pursuant to the third recommendation of the Ekkart Committee of 2001, sales by Jewish private individuals in the Netherlands on or after 10 May 1940 are to be regarded as forced sales unless there is express evidence to the contrary.
9. The Committee concludes that the present NK 2655 was in Mautner's possession in 1938, but precisely when and how he came to lose possession of the painting remains unknown. With regard to the ownership situation, the Committee refers to the postwar statement by the P. de Boer gallery described in 6 above, which it judges to be an important indication that Mautner still had the work in his possession during the Occupation. De Boer's statement, after all, appears in the context of an attempt by the restitution

authorities specifically to trace the people who owned the exhibited works of art *during the war*. Over and above this, the Committee attaches importance to the fact that, even after extensive historical and art historical research, no indication has been found that Mautner, a private art collector, sold the painting before the Occupation or that the work was in the possession of another person or art gallery before 1943. On these grounds, the Committee deems it highly likely that Mautner still had the present NK 2655 in his possession during the early part of the Occupation and lost possession of it at some time prior to his transportation to Westerbork in December 1943.

10. With regard to the loss of possession, the Applicants contend that it is plausible that in 1943 Mautner sought a buyer for the painting being claimed, and that because of his Jewish origins he did this with the help of third parties, for example Wetzlar as referred to in 4 above. The Committee finds that this method, where Wetzlar sold paintings on Mautner's behalf, was used on a number of occasions in the sale of works of art from Mautner's collection, as described in the recommendation RC 1.89-A issued on 12 October 2009. The Committee also points to Mautner's attempt, described in 3 above, to escape to the United States, for which he would have had to get the money together. In view of this fact, the Committee deems a sale of NK 2655 in the wartime period, possibly with Wetzlar's help, very likely. Since Mautner belonged to a persecuted section of the population, a sale of NK 2655 during the war would have been of an involuntary nature under the terms of the restitution policy. The research did not lead to indications that would contradict this assumption.
11. The Committee further finds that even if NK 2655 was not sold by or on the instructions of Mautner, there was nonetheless an involuntary loss of possession. Mautner was a private art collector who was persecuted because of his Jewish descent. He felt that his freedom was severely curtailed during the Nazi regime. Among other things, he placed parts of his collection of paintings with friends and acquaintances and attempted to escape to the United States. In the end he was taken from his home during a raid in 1943 and was deported via Westerbork and Theresienstadt to Auschwitz, where he died in 1944. As found under 4 above, the research shows that confiscations of Mautner's property took place on the orders of the Nazi authorities and that he probably surrendered valuables to obtain a (temporary) exemption from deportation. The Committee considers it likely that, if Mautner still had the painting NK 2655 in his possession when he was arrested in 1943, it would have been confiscated by the occupying forces. On the grounds of the foregoing, the Committee judges that all the conditions for the restitution of the present NK 2655 to Mautner's heirs have been met, taking into account the matters considered separately under 12 and 13 below.
12. There is another claim to the present NK 2655 in connection with the request for restitution in respect of the Katz gallery (RC 1.90-B). The research reveals that the present NK 2655 may have reached Germany in 1943/1944 by way of the Katz gallery and others. The Committee finds that the research has not provided any clarity about the role of the Katz gallery in the provenance of NK 2655. It remains unclear as to whether the 'vroege J. Steen' [early J. Steen] mentioned on the postcard referred to under 7 above relates to NK 2655. Moreover, it follows from the text of the postcard that the Katz gallery acted as an intermediary in respect of the sale of this Steen. This tallies with the findings of the Committee's research into the Katz gallery, from which it emerges that this gallery often acted as middleman in the sale of works of art for other owners. In the Committee's opinion, in this case only the claim to NK 2655 by the Applicants in regard to Mautner may be considered for a positive recommendation. After all, Mautner's title to the painting has been largely demonstrated, but the research into the Katz gallery was unable to establish whether there was a question of mediation or ownership. Furthermore, the Applicants in regard to the Katz gallery (RC 1.90-B) stated that '[T]here is no strong documentation for Katz involvement' where NK 2655 is concerned.
13. Finally, the Committee considered whether there should be a financial obligation in return for the restitution of NK 2655 in connection with a consideration that may have been received in the event that the painting was sold. Pursuant to the prevailing restitution policy, a repayment obligation only exists if and in so far as the then vendor or his heirs genuinely had free use of the proceeds. In this regard, the Committee finds first of all that no details, such as the selling price, of any sale of NK 2655 by Mautner are known. According to recommendation 5 of the Ekkart Committee of 2001, the Applicants should be given the benefit of the doubt for this reason alone. To this the Committee adds that Mautner would have to have used any proceeds of sale that he might have received to fund his attempt to escape the Nazi regime described under 3 above, so that there is no question of a consideration which the owner had freely at his disposal. On the grounds of the foregoing, the Committee judges that there need be no payment obligation in this case.

Conclusion

The Restitutions Committee advises the Minister of Education, Culture and Science to restitute the painting *River Landscape with Figures and a Wagon by a Tower* by Jan Steen (NK 2655) to the heirs of Wilhelm M. Mautner.

Adopted at the meeting of 17 December 2012 by W.J.M. Davids (voorzitter), J.T.M. Bank, P.J.N. van Os, D.H.M. Peepkorn, E.J. van Straaten, H.M. Verrijn Stuart, I.C. van der Vlies (vice-chair) and signed by the chair and the secretary.

(W.J.M. Davids, chair)

(E. Campfens, secretary)

10. Recommendation regarding art dealership Katz

(case number RC 1.90B)

This document presents the Restitutions Committee's recommendation to the Minister for Education, Culture and Science on a claim by X.X. and Y.Y., also on behalf of other family members, to 189 works of art from the National Art Collection. They request restitution of these works of art, which they believe belonged to the trading stock of art dealership Firma D. Katz of Dieren (or N.V. Schilderijen en Antiquiteitenhandel v/h D. Katz) and were lost *involuntarily* during the Second World War. Firma D. Katz of Dieren had belonged to the brothers Nathan and Benjamin Katz, father and grandfather of X.X. and Y.Y., respectively, since 1930. The claimed 189 objects from the National Art Collection, enumerated in **lists I to IV** that are part of this recommendation, are on loan to a large number of Dutch museums and government bodies.

Under article 2 (paragraph 1 in conjunction with paragraph 4) of the Decree establishing the Restitutions Committee, the Committee's task is to advise the Minister for OCW concerning decisions on 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. In this connection, the Committee must have regard for the relevant government policy based on the recommendations of the Ekkart Committee of 2001 and 2003.⁵²

This recommendation is structured as follows:

- A) The procedure
- B) Historical overview
 - a. Introduction
 - b. After the German invasion
 - c. Buyer Alois Miedl
 - d. *Führermuseum* in Linz: Buyer Hans Posse
 - e. Buyer Hermann Göring
 - f. Aryanisation of the art dealership
 - g. Travels to Switzerland
 - h. Departure plans
 - i. After Nathan Katz's departure
 - j. The Katz family's departure
 - k. Family members who remained behind
 - l. After the war
 - m. Investigation into economic collaboration
 - n. Request for restitution of recovered art
 - o. SNK affair
- C) Considerations
 - 1: The applicants
 - 2: Art dealership Katz
 - 3: Items of cultural value involved
 - 4: Admissibility
 - 5 to 8 inclusive: Ownership
 - 9 to 37 inclusive: Loss of possession
 - 9 to 14 inclusive: Sales to Alois Miedl / kunsthandel v/h J. Goudstikker N.V.
 - 15 to 24 inclusive: Sales to the *Sonderauftrag Linz*
 - 25 to 31 inclusive: Transactions with Hermann Göring
 - 32 to 40 inclusive: Other works of art

D) Conclusion

A. The procedure

In letters dated 1 December 2004, 13 June 2007 and 15 January 2010, the Minister for Education, Culture and Science (hereafter referred to as: the Minister) requested the Restitutions Committee (hereafter referred to as: the Committee) for advice about the applications for restitution by X.X. dated 13 September 2004 and 29 March 2007 as well as about the application for restitution by Y.Y. dated 14 December 2009. The Committee examined the relationship between these applications, combining them in RC file 1.90.

(RC 1.21) The first application for restitution by X.X. (hereafter referred to as: the applicant) concerned the painting NK 1789 and was submitted to the Committee on 1 December 2004. The Committee registered the application under case number RC 1.21 and contacted the applicant in a letter dated 9 December 2004, which was followed by a response from the applicant in a letter dated 5 August 2005. The Committee then instituted an investigation of the facts, the results of which were laid down in a draft investigatory report dated 21 August 2006. This report was sent to the applicant for comment. The applicant then requested various extensions of the response term, the last until 25 August 2007.

(RC 1.90) Meanwhile, in a letter dated 29 March 2007, the applicant submitted a second application for restitution to the Minister, relating to other works of art. This second claim was registered under case number RC 1.90. In consultation with the applicant, the Committee then decided to merge case RC 1.21 into case number RC 1.90 and instituted a fact-finding investigation of the provenance of these works, the circumstances surrounding the loss of possession during the war and the post-war handling of the claims.

During this investigation it emerged that various objects were also being claimed in other cases that have been brought before the Committee. The recommendations in these claims have been deferred and the claims were investigated in conjunction with each other. Partly in connection with the delay in other cases, the Committee decided on 18 August 2008 to split RC file 1.90 into two sub-files, viz. RC 1.90A and RC 1.90B.

The Committee closed RC file 1.90A with a negative recommendation dated 1 July 2009. This recommendation concerned 31 works of art, which, after investigation, were found not to have belonged to art dealership Firma D. Katz or N.V. Schilderijen en Antiquiteitenhandel v/h D. Katz during the occupation years. The Committee refers for this to its recommendation regarding Katz with file number RC 1.90A.

During the procedure, the Minister withdrew his request for advice concerning a number of works of art in connection with the fact that it had emerged that they are no longer part of the National Art Collection due to a previous restitution, theft or loss. The current recommendation, RC 1.90B, thus concerns the remaining 189 claimed objects, enumerated in **lists I to IV** inclusive. These lists include two paintings that are also claimed by other applicants. These are NK 2655, also claimed by Mautner (RC 1.89B) and NK 2924, also claimed by Arnhold (RC 1.61B). These cases were investigated in conjunction with each other. During the procedure, the applicants in the different cases were able to mutually take cognisance of the relevant facts established by the Committee or the respective other parties. The recommendations regarding Mautner and Arnhold will be adopted at the same time as the current recommendation.

In letters dated 22 October 2008 and 25 November 2008, the applicant stated that she would henceforth be acting on behalf of the other heirs of her father Nathan Katz and on behalf of the heirs of Benjamin Katz. She also reported that these persons are represented by her lawyers Tina Talarchyk and Philip ter Burg. In response to this statement and in connection with the position held thus far by the applicant that the works of art should be regarded as Nathan Katz's private property, the Committee indicated in a letter dated 20 August 2009 that the heirs of Benjamin Katz could submit an independent application for restitution to the Minister. On 14 December 2009, Y.Y. of V. (hereafter also referred to as: the applicant), grandson of Benjamin Katz, stated that he wished to be included as applicant in the RC 1.90B case. The minister submitted this request to the Committee for advice in a letter dated 15 January 2010, after which the Committee included it in the current RC file, 1.90B.

On 22 January 2010, lawyer Thomas Kline (Andrews Kurth LLP) of Washington DC informed the Committee that he had taken over the representation from the previous lawyers and would henceforth be acting on behalf of the joint heirs of the two owners of art dealership Katz, Benjamin and Nathan Katz. He also stated that he no longer held the position that the claimed works of art were Nathan Katz's private property. In a letter dated 30 June 2010, Thomas Kline then submitted copies of powers of attorney given to Y.Y. by sixteen persons referred to by Kline as Benjamin Katz's heirs.

Both the applicants and the Committee conducted extensive (archival) research in the Netherlands and abroad. Research was rendered more difficult because of the lack of administrative information about the Firma D. Katz. In connection with the investigation, an interview took place on 12 October 2011 with Z.Z., Nathan Katz's son, who was born on xx yy 1919 and who experienced the events during the war. **List V**, which is part of this recommendation, contains a justification of the investigation conducted and an overview of the main archives and sources consulted.

On 7 October 2010, the Committee sent a preliminary version of its investigatory report on RC 1.90B to the applicants for comment, specifically requesting more information about the ownership of the claimed works of art. After postponement had been requested and granted, the applicants responded to the draft investigatory report in a letter dated 29 April 2011, in which they provided more information, including a memorandum by Lynn Nicholas and a report by Dr Willi Korte. In part on the basis of this information, the Committee instigated a further investigation. The Committee included the details in a revised version of the investigatory report, which was sent to the applicants in a letter dated 21 October 2011. On 16 December 2011, after postponement had been requested and granted, the applicants responded and submitted further documents, including a second memorandum by Lynn Nicholas. The applicant's responses are part of the Restitutions Committee's RC file 1.90B. After 16 December 2011, the Committee again conducted further investigation of a number of points, the results of which were sent to the applicants, most recently in a letter dated 25 September 2012.

⁵² The recommendations can be consulted via <http://www.herkomstgezocht.nl>

The investigatory report on which this recommendation is based was adopted on 17 December 2012. Under B below is an overview of the established relevant facts. This overview is a summary of the Committee's investigatory report, which will not be published in connection with privacy-sensitive information and the Committee's duty of confidentiality with regard to data from various non-public archives.

R. Herrmann assisted the Committee in this case as advisor.

B. Historical overview

a. Introduction

At the beginning of the twentieth century, David Katz ran an antiques business in Dieren, a village near Arnhem. His four sons were also active in the art and antiques business. According to information in the 1930 trade register, two of them, Nathan and Benjamin Katz, continued their activities as a general partnership using the name of their father's business, which was said to have been discontinued by then. During the 1930s, this art dealership, Firma D. Katz, was established at various addresses in Dieren. Two other brothers, Abraham Katz and Simon Katz, were also active in the art and antiques business. As far as the Committee has been able to ascertain, they were not partners of Firma D. Katz of Dieren, but traded under their own name in Apeldoorn, Dieren and The Hague in the 1930s.

The brothers Nathan and Benjamin were very successful and the reputation of their flourishing business grew. Nathan was the driving force behind the trade in paintings, and the perspective moved beyond national borders. Paintings were purchased in England and other countries, such as works from the Cook collection, and there were intensive collaborations with art dealers in the United States. Nathan Katz also bought works on the instructions of collectors, such as in 1940 for example, when he bought various works from the Cook collection on behalf of the Rotterdam dock magnates D.G. van Beuningen, W. van der Vorm and others. Just before the German invasion in May 1940, the firm opened a branch at Lange Voorhout 35 in The Hague.

b. After the German invasion

In the years after the German invasion, the Dutch art market once again became an important market for German buyers due to the gradual abolition of trade and currency restrictions. Having had to deal for years with virtually unsaleable stocks as a consequence of the economic crisis of the 1930s, the art trade received an enormous boost. The art trade flourished and the price of paintings exploded. Both Adolf Hitler and Hermann Göring attached great importance to building a top-quality art collection and sent their representatives to Dutch art dealers. As far as is known, the first contact between these German buyers and the Katz brothers took place in the first weeks and months after the occupation. After the war, Benjamin Katz said about the mood at the time: *'Na de inval van de Duitsers waren wij angstig voor het verloren gaan van ons bezit omdat wij Joden waren. In sommige gevallen werden wij verplicht, maar dat was niet direct, om belangrijke stukken aan de Duitsers te verkopen'* [After the German invasion, we feared losing our property because we were Jews. In some cases we were forced, but not immediately, to sell key pieces to the Germans.]

The majority of the works of art that are the subject of the current claim were acquired by representatives of Adolf Hitler and Hermann Göring, and by Alois Miedl, a German speculator and trader with close ties to Göring.

c. Buyer Alois Miedl

In June or July 1940, the Katz brothers came into contact with Alois Miedl, who was involved in taking over art dealership J. Goudstikker N.V. in Amsterdam at the time. Miedl had informed Katz that he was interested in buying paintings and it appeared that the brothers were prepared to sell. The ensuing negotiations were held in Utrecht, with Nathan Katz acting as chief negotiator on behalf of Firma D. Katz. After the war, his brother Benjamin said the following about the progress of the discussions: *'Mijn broer heeft met de Heer Miedl altijd prettig onderhandeld en, toen wij in begin Augustus 1940 het definitieve contract sloten, hadden wij geen bijzondere vrees voor enige actie zijnerzijds.'* [My brother always had pleasant dealings with Mr Miedl, and when we concluded the final contract at the beginning of August 1940, we were not particularly worried that he would take any action]. On 2 August 1940, Miedl and the brothers concluded an agreement under which over 500 paintings, probably the bulk of the trading stock of Firma D. Katz, was purchased by Miedl for NLG 1,822,500. It can be concluded from a post-war investigation that this sum was credited to the business's account a few weeks later.

After the war, Benjamin Katz said: *'In het begin dachten mijn broer en ik, dat de Heer Miedl onze heele zaak leeg wilde kopen en naderhand is mij gebleken, dat dit niet het geval was, want dat Miedl slechts een deel van mijn voorraad wilde hebben. Het is dus niet zoo, dat de Heer Miedl onze heele voorraad wilde kopen en daardoor ons als Joden de mogelijkheid wilde ontnemen om verder onze kunsthandel te drijven'*. [Initially, my brother and I thought that Mr Miedl wanted to buy everything we had in the business and it later turned out this was not the case and that Miedl only wanted to buy some of my stock. So I cannot say that Mr Miedl wanted to buy up all our stock in order to rob us Jews of the opportunity of running our art dealership.] Benjamin Katz also stated

that Miedl had indeed paid the purchase price of the transaction on 2 August 1940 and that the sum had been received: *'De koopprijs van de groote partij schilderijen, die wij op 2 Augustus 1940 aan Miedl verkochten, is ons betaald via de Amsterdamsche en Rotterdamsche Bank. Wij kregen bij die banken dus een bedrag van ruim f. 1.800.000.- op ons saldo bijgeschreven'*. [The purchase price of the large batch of paintings we sold to Miedl on 2 August 1940 was paid to us via the Amsterdamsche and Rotterdamsche Bank. In other words, our accounts with those banks were credited with more than NLG 1,800,000.]

After the war, Benjamin Katz said the following about whether any force was exerted during the sales: *'De Heer Miedl heeft op mij en mijn broer nooit dwang uitgeoefend om schilderijen te verkopen, die mijn broer en/of ik niet wilde verkopen. De Heer Miedl heeft ons nooit bedreigd met de overigens wel door de Duitsers tegen de Joden genomen maatregelen'*. [Mr Miedl never coerced either me or my brother into selling any paintings we did not want to sell. Mr Miedl never threatened us with the measures which the Germans had indeed put into place with regard to the Jews.] The circumstances of the occupancy did, however, play a part in the decision whether to sell a large batch of paintings in one go. Benjamin Katz said about this: *'Ik wil nog opmerken, dat ik - wanneer er in Nederland geen Duitse bezetting was geweest en wanneer er een willekeurige koper was gekomen - mijn broer en ik er niet over gedacht zouden hebben een zoo groote partij schilderijen bij één transactie te verkopen'*. [I would like to note that if the Netherlands had not been occupied by the Germans and a random buyer had contacted us, neither my brother nor I would even have considered selling such a large batch of paintings in a single transaction.] He also remarked: *'Wij waren er meer in het algemeen van overtuigd, dat er voor ons niets anders opzat dan te verkopen aan de Duitsers wat zij verlangden'*. [More in general we were convinced that we had little option but to sell to the Germans what they wanted.]

After the large transaction of August 1940, Nathan Katz and Miedl stayed in touch with one another. After the war, Benjamin Katz said that he himself had spoken to Miedl only a few times, but that his brother Nathan talked to him regularly. Benjamin Katz said that he had the impression *'dat Miedl en Nathan goede zakenvrienden van elkaar waren'* [that Miedl and Nathan were good business associates]. Nathan Katz concluded various smaller transactions with Miedl, about which Benjamin Katz said after the war: *'Ook bij deze latere, veel kleinere, transacties, heeft de Heer Miedl voor zoover ik weet nooit pressie op mijn broer uitgeoefend of bedreigingen geuit'* [To my knowledge, in the case of these later, far smaller transactions, Mr Miedl also never brought any pressure to bear on my brother or uttered any threats.] In 1941, Miedl was said to have helped Nathan Katz and his family escape during a raid. Miedl allegedly hid them in his house until it was safe to return to Arnhem. Benjamin Katz said about this after the war: *'In 1941 heeft de Heer Miedl zelfs eens mijn broer Nathan met vrouw en kinderen, toen zij door de Duitsers achterna gezeten werden bij een Jodenrazzia in den Haag, helpen ontvluchten'*. [In 1941, Mr Miedl even helped my brother Nathan and his wife and children escape when they were being pursued by the Germans during a round-up of Jews in The Hague.]

d. Führermuseum in Linz: Buyer Hans Posse

At about the same time as Katz came into contact with Miedl, in the months after the German invasion, Dr Hans Posse made his first visit to the art dealership. Posse was a famous art historian and became director of the *Staatliche Gemäldegalerie Dresden* in 1910. In 1939, Posse had been given a special assignment by Adolf Hitler to assemble the collection for the *Führermuseum* which was to be set up in Linz. This assignment and the (informal) organisation set up to accomplish this were called the *Sonderauftrag Linz*. In the Netherlands, Posse was initially assisted by an employee of the *Auswärtiges Amt*, Felix Wickel. In the course of 1942, he also received assistance from a German art historian, Dr Erhard Göpel. Both were employed by the *Referat Sonderfragen*, a department of the *Generalkommissariat zur besonderen Verwendung*, headed by NSDAP delegate Fritz Schmidt. In practice, the department was engaged in influencing the relations between the Netherlands and Germany in the field of culture and in gathering information, such as for the *Sonderauftrag Linz*. Research has shown that the Nazi authorities regarded Nathan Katz as one of their chief contacts on the Dutch art market. It also emerged that the brothers were used as intermediaries for acquiring works of art from persons unwilling to trade (directly) with the occupying authorities, out of principle or for other reasons, but who were prepared to sell to a Jewish art dealer (see also below, under i).

On his first visit to art dealership Katz, Posse showed an interest in several dozens of works. On 29 June 1940, Katz sent Posse a quotation listing 25 paintings, and he wrote: *'Bezugnehmend auf Ihren geschätzten Besuch an unsere Filiale in Haag danken wir Ihnen noch sehr für die grosze Ehre, die Sie uns damit erwiesen haben'*. Posse decided to actually purchase 17 of the 25 works of art. On 19 July 1940, Katz confirmed the purchase worth NLG 358,000, stating that he hoped for more business: *'Wir danken Ihnen sehr für die Tätigkeit dieses Geschäftes und hoffen recht gern, dass solchens einen Anlass zu weiteren Geschäften geben wird'*. On 24 July 1940, Posse told Martin Bormann, Hitler's private secretary, that he expected that the *'neu angeknüpften Beziehungen [in the Netherlands] fortlaufend weitere Erwerbungs-möglichkeiten von bedeutenden Stücken ergeben werden'*.

More purchases did indeed follow. Until it was wound up in February 1941, the art dealership Firma D. Katz sold works worth over NLG 1.1 million to Posse for the *Führermuseum*. It can be concluded from post-war documents that the sales sums were transferred to and received by the firm. It can also be concluded from archival documents found that in the months following the winding-up of the firm, Posse and his assistants continued to make active use of the services of Nathan Katz for their assignment. Nathan Katz was expected, for instance, to provide information if he came across any interesting works of art, or to immediately buy such

works for Posse. In October 1940, Nathan Katz had been instructed by Wickel to immediately notify Posse by telegram if he found anything special and to do so he was permitted to use the facilities at Wickel's office. In addition, Posse was bent on purchasing the collection that belonged to Prof. Dr Otto Lanz, a surgeon of Swiss descent, who had died in Amsterdam in 1935. In the course of 1940, Nathan Katz was closely involved in negotiations about the possible sale of Lanz's collection to Posse.

e. Buyer Hermann Göring

Reichsmarschall Hermann Göring also bought works of art from Firma D. Katz, albeit fewer than Miedl and Posse. Most transactions with Göring probably went through the latter's purchasing agent, Walter Andreas Hofer, an art dealer who was very familiar with the Dutch art market, as he had been director of the The Hague art dealership of his Jewish brother-in-law, Kurt Walter Bachstitz, for some time in the 1920s. Hermann Göring visited the branch of Firma D. Katz in The Hague at least once in person, on which occasion he bought three valuable works from the collection of H.E. ten Cate of Almelo, with Nathan Katz acting as agent. This probably took place on or around 27 September 1940. In a conversation with the Committee, Nathan Katz's son stated that the tension surrounding Göring's visit had made his father feel unwell.

f. Aryanisation of the art dealership

In September 1940, rumours started circulating that the occupational administration was to start expropriating Jewish businesses. Posse and his assistants did, however, express their satisfaction with the services Firma Katz had rendered thus far. So as not to impede the delivery of paintings for Hitler's collection, Posse saw to it that Firma D. Katz was registered with the *Wirtschaftsprüfstelle*, a department of the *Generalkommissariat für Finanz und Wirtschaft*, whose responsibilities included the registration of Jewish businesses, and that he was to be treated with restraint when the restrictive measures were introduced.

On 22 October 1940, Regulation 189/1940 was imposed, obligating all Jewish firms to register their businesses with the *Wirtschaftsprüfstelle* by 30 November 1940. On 12 March 1941, this regulation was followed by regulation 48/1941, the so-called '*Wirtschaftsentjüdungs* regulation. Shortly before this regulation came into force, the art dealership was aryanised on the orders of the *Wirtschaftsprüfstellen*. As a result, Firma D. Katz went into liquidation on 17 February 1941. The liquidator was the brothers' lawyer, Cornelis de Kempnaer from Arnhem. The firm was wound up on 1 June 1943. At the same time as the firm was wound up, a new 'aryan' business was set up, the N.V. Schilderijen- en Antiquiteitenhandel v/h Firma D. Katz. On 19 May 1941, the establishment of the N.V. was announced in the supplement to the Netherlands Government Gazette. The N.V. was headed by the directors, Dr J.L.A.A.M. van Rijckevorsel and H.E. Tenkink, who had probably been approached for that reason by the brothers. The German Dr H.O. Behrens was appointed as supervisory director, who, as it emerged from documentation found, worked for the *Referat Sonderfragen*. Nathan and Benjamin Katz continued to work against payment as advisors to the company. One of the requirements of the *Wirtschaftsprüfstelle* was that the share of the Katz brothers in the profits of Firma D. Katz was to be placed in a blocked account at the *Vermögensverwaltungs- und Renten-Anstalt*.

Regulation 148/1941, known also as the first Liro regulation, took effect on 8 August 1941. This regulation stipulated that Jews had to make bank assets in excess of NLG 1,000 payable to the looting organisation Lippmann, Rosenthal & Co, Sarphatistraat in Amsterdam. Through the intercession of Posse, Nathan, Benjamin and Abraham Katz were temporarily exempted from this duty, initially for a one-month period.

g. Travels to Switzerland

To give fresh momentum to the discussions with the Lanz family in connection with the purchase on Posse's behalf of the Lanz collection as referred to under d, it was decided at the end of 1940 that Nathan Katz would have to go to Switzerland, where Lanz's widow lived. Wickel organised a visa for him at Posse's request. It was said that there was no danger that Nathan Katz would not return from Switzerland, because '*Das Vermögen von Katz sowie seine Frau und Kinder bleiben hier und befinden sich unter deutschem Zugriff*'. In early March 1941, two weeks after Firma D. Katz had gone into liquidation, Nathan Katz stayed in Basel for a week. It is possible that the brothers considered permanently fleeing the Netherlands, as the applicants sent the Committee a copy of a letter said to have been sent to a lawyer in the United States by one of the brothers on 1 March 1941 which reads: '*(...) if the situation with us becomes still worse, we have plans to come to America; in fact this might happen quite soon*'.

Shortly after Nathan Katz had returned to the Netherlands, Posse thought it desirable that Nathan Katz visit Switzerland again. In May 1941, thanks to the intervention of Hitler's right-hand man Martin Bormann and the head of the *Reichssicherheitshauptamt* (RSHA) Reinhard Heydrich, permission was granted. It took a while to get the formalities completed, but on 18 July 1941, Nathan Katz again left for Switzerland, where he stayed for a good two weeks. It can be concluded from correspondence that he was busy exploring the Swiss art market, amongst other things. He also attempted to have his son admitted to Basel University. Back in the Netherlands, on 9 August 1941, Nathan Katz reported his findings about the Swiss art market to Posse, including photos of paintings that were of possible interest to Posse. Among these was a painting by Rembrandt, described at the time as *Portrait of Raman*, in which Posse was greatly interested but which he could not buy because of an acute shortage of Swiss money.

h. Departure plans

Nathan Katz probably informed Posse or his staff in August or September 1941 that he wished to leave the Netherlands permanently (the formal emigration ban for Jews dates from October 1941). Whether Nathan Katz should be granted permission for that depended, according to Wickel, mainly on the extent to which Posse still needed him. On 19 September 1941, Wickel wrote to Posse, asking him to decide '*ob bzw. inwieweit und wie lange Sie N.K. [Nathan Katz, RC] hier noch nötig haben*'. Wickel noted that the most recent regulations of the Nazi administration were a substantial tightening-up of anti-Jewish measures so that Nathan Katz would need to be granted a further exemption to enable him to continue his work on Hitler's behalf in a more or less normal manner. However, repeated requests submitted by Wickel on Posse's orders caused resentment in parts of the Dutch occupation administration. This left Wickel in a vulnerable position seeing as he was of part Jewish descent himself. On 8 October 1941, Posse wrote to Wickel: '*Sicherlich ist es weder für Sie noch für mich ein reines Vergnügen. Aber wir brauchen die Leute vorläufig noch im Interesse unseres Auftrags*'. Wickel suggested to Posse that Nathan Katz be allowed to leave the country within three to four months. His brothers Benjamin and Abraham were to be presented with a similar proposal and if they rejected this, they would be fully subject to the anti-Jewish regulations from 15 October 1941, according to Wickel. The first deportation trains left Vienna, Prague, Luxembourg and Berlin at around the same date.

The brothers probably agreed to the proposal. In November 1941, Nathan Katz tried to obtain a transit visa for Switzerland, aiming to travel from there via Cuba to the United States. As security, a guarantee requested by the Swiss authorities that he would not be a burden on the authorities, he transferred several large sums of money to Switzerland. On 13 November 1941, Nathan Katz wrote to Posse about his possessions in the Netherlands, '*das Ergebnis einer harten und mühevollen Lebensarbeit*'. He expected that he would have to leave most of his possessions behind in the Netherlands, but in his letter he asked if he were allowed to take a sum of money and various goods, varying from jewels to paintings, with him so that he could build a new existence. According to Nathan Katz the '*mir Ihrerseits stets erwiesene Hilfsbereitschaft*' had given him the courage to personally ask Posse to have his proposal looked upon favourably by the authorities in question. Nathan Katz argued that he assumed that '*meine Dienste auch in der Zukunft für Sie von Nutzen sein und von Ihnen in Anspruch genommen worden können*', on the basis of which he hoped that Posse would manage to obtain permission from the responsible authorities.

A few days after receiving Katz's letter, Posse discussed the matter with *Generalkommissar* Schmidt, suggesting that Nathan Katz's departure be made as simple as possible. It was expected of Benjamin Katz, who remained behind in the Netherlands for the time being, that he continue to work for Posse. The completion of the formalities was held up a few times in the bureaucracy, but despite these setbacks, Posse continued his efforts to support the emigration plans of Nathan Katz and his family. After a request for an entry visa was rejected by the Swiss authorities on 16 January 1942, permission for a temporary stay was granted after all on 2 February 1942, initially for two weeks. Before he left, Nathan Katz had his household effects, which included paintings, put in storage at furniture warehouse De Gruyter in Arnhem. His family probably arrived in Switzerland on 11 February 1942, after a train journey Nathan Katz's son described as 'frightening'. A few weeks later, Posse visited Nathan Katz and the director of the Netherlands Institute for Art History (RKD), Dr Hans Schneider, who had meanwhile also travelled to Switzerland, reporting to Wickel on 30 March 1942 that Nathan Katz was working for him in Switzerland: '*Ich habe in der Schweiz eine ganze Menge sehr schöne dinge erworben. N.K. [Nathan Katz, RC] bin ich zweimal begegnet; er arbeitet für uns*'.

i. After Nathan Katz's departure

After Nathan Katz had left the Netherlands, his brother Benjamin took on work on Posse's behalf. On 10 April 1942, he reported to his brother: '*Ik heb nog eenige zeer belangrijke schilderijen kunnen krijgen voor Dr. P. en verwacht hem dan ook spoedig. Dus alles loopt goed*' [I have been able to get some very important paintings for Dr P. and expect him shortly. So everything is going well.] Meanwhile, Posse was found to be suffering from a serious form of cancer. In support of his assignment, he was assisted by Dr Erhard Göpel, who was to monitor the art trade in the Netherlands. Posse welcomed this because he considered the Dutch art market to be of key importance: '*Es wäre tief bedauerlich, wenn eine unserer schönsten Weiden infolge des Abflusses von NK [Nathan Katz, RC] trockengelegt und unsere Kühe infolgedessen keine Milch mehr geben würden*'. However, Benjamin Katz's room to manoeuvre was very restricted by the anti-Jewish measures. Wickel reported to Posse '*daß Juden keine Personenvagen mehr gebrauchen dürfen, sein Verfügungsrecht über sein Vermögen läuft demnächst ab; seine Erlaubnis zur Besichtigung von Ausstellungen, Museen etc. ist bereits abgelaufen, er benötigt seinen Sohn, da er die eine und andere Verbindung nicht allein aufrecht erhalten kann, und dieser braucht dann auch wieder Ausweise*'. Wickel also noted that on top of that, Jews were also obliged to wear a star. Because Posse had been unable to lend his support to attempts to get the required exemptions because of his illness, Wickel had been unable to ensure that they were in place on time.

On 17 May 1942, Benjamin Katz wrote to his brother in Switzerland that things were going as planned, '*maar veel zorgen in deze tijd. Dat begrijp je wel. Dat ik overal alleen voor sta als er wat te regelen is, valt dit niet mee. Het wordt natuurlijk slimmer en dat drukt (...) Ik hoop dat ik je spoedig de hand kan drukken, want ik ben erg moe, maar zal proberen door te zetten*' [but this is a worrying time. You'll understand that. It's not easy for me that when it comes to organising things, as I'm on my own. It's obviously getting worse and that weighs me down (...) I hope I will be able to shake your hand soon, because I'm very tired but I will try to persevere.] On

26 June 1942, a friend of Nathan Katz's wrote him a letter in which he said about Benjamin Katz: '*Gisteren was je oudste broer even bij me, om eens bij te praten. Hij ziet er beter uit, maar vindt de geregelde reizen naar het Haagje [Den Haag, RC] niet bijzonder prettig. Hij kan zich nu beter begrijpen, dat jij daar een moeilijke tijd hebt gehad*' [Your eldest brother dropped in yesterday to catch up. He is looking better but does not like the regular trips to The Hague. He's now better able to understand that you had a hard time there.] The first major deportations started in the Netherlands in the weeks following that. The first transport from Westerbork to extermination camp Auschwitz-Birkenau took place on 15 July 1942.

It can be concluded from documentation found that Benjamin Katz obtained various exemptions from the German administration to enable him to work, including an exemption from the obligation to wear a star. However, repeatedly securing exemptions for Benjamin Katz became increasingly difficult. In June 1942, *Generalkommissar* Schmidt was aiming to obtain an extension for an indefinite period but *Reichskommissar* Seyss Inquart only permitted a month's extension of the dispensation. The brothers also had to submit a detailed specification of assets within a few weeks. Based on this, Seyss-Inquart decided in August 1942 that they had to hand in a quarter of their assets to the looting organisation Lippmann, Rosenthal & Co, Sarphatistraat (analogous with the original regulation concerning payment of *Reichsfluchtsteuer* in Germany). It was only with a great deal of difficulty that Göpel was eventually able to extend the exemptions until 1 October 1942. In a letter, Göpel elucidated this objective: '*Die Privatmittel von Herrn B. Katz dienen vorläufig noch immer zu Vorfinanzierungen gewisser Ankäufe, die diskret erfolgen müssen, und ohne daß die Holländer erfahren, wer hinter diesen Käufen steht. Die Erfahrungen des letzten Monats haben leider bestätigt, daß dieser Umweg immer noch eingeschlagen werden muß.*'

j. The Katz family's departure

On 5 August 1942, Göpel wrote that the emigration of all 25 Katz family members was envisaged and that this proposal had, in principle, been approved but that the practical implementation of the plans would probably prove to be quite complex. In this period, various people, including those linked to art dealership Katz, were attempting to enable Jews to emigrate to or via Switzerland in exchange for paintings. Among the people who wished to leave the country in this way was probably Dr A.B. de Vries, the later director of the Stichting Nederlands Kunstbezit (the Dutch Art Heritage Foundation, SNK) and his family (see below under n). Members of the Lanz family and Dr Hans Schneider were presumably involved in the plans, which were probably changed on countless occasions and about which it is not known whether they were actually carried out in the end.

At the end of September 1942, Benjamin Katz presumably promised Posse Rembrandt's *Portrait of Raman* that Nathan Katz had shown Posse earlier in Switzerland and which he wished to have (see under g), if he and his family could leave the country safely. Eventually, an exchange did indeed take place (see for the post-war restitution of the *Portrait of Raman* under n).

The wholesale deportations and raids where Jews were picked up and taken from their houses were meanwhile in full swing. It can be concluded from letters that Benjamin Katz was under heavy pressure at this stage: '*Mijn kop zit totaal vol. Zoveel komen bij mij om te helpen, maar dat kan niet allemaal*' [My head's completely full. So many people come to me for help but I can't do it all]. On 23 September 1942, Martin Bormann's assistant wrote Posse a letter saying that Benjamin Katz and 25 members of the family had been allowed to travel to Switzerland, but urgency was called for because the situation could change rapidly. Meanwhile, the brothers' lawyer tried to arrange for the emigration of various friends and acquaintances and a request was made to Nathan Katz to make funds available and to organise visas. In addition to Benjamin Katz, this also caused great tension and uncertainty among other members of the family. On 13 October 1942, Schneider said the following about Nathan Katz to Wickel: '*Die Sorge um seine Verwandten setzt ihm furchtbar zu und hofft er, dass diese und namentlich seine Schweigereltern inzwischen geschützt wurden und davon auch Kenntnis erhalten haben.*'

Although they were initially to emigrate to Switzerland, the group with Benjamin Katz eventually travelled by train to Spain on 20 October 1942. Nathan Katz had arranged for the necessary visas from Switzerland. Like his brother, Benjamin Katz also put his household effects in storage with the firm of De Gruyter in Arnhem. The group was accompanied on their journey to Spain by the deputy head of the *Zentralstelle für Jüdische Auswanderung* in Amsterdam, Ferdinand Hugo Aus der Fünten, and the head of the SD in Amsterdam, Willy Lages, two of the most important individuals in charge of implementing the deportation of Jews from Amsterdam. Their presence was probably meant as a guarantee and intended to ensure that the family did indeed reach their intended destination, otherwise the painting would not be released in Switzerland. From Spain, the group took a boat to Jamaica. In the course of 1943 and 1944, some of them returned to Great Britain to join the army or work for the Dutch government. On 9 November 1942, Schneider wrote a letter to Posse thanking him on behalf of Nathan Katz for his support. After the brothers' departure, the *Referat Sonderfragen* used the The Hague branch of the art dealership for the storage and transit of works of art.

k. Family members who remained behind

Nathan Katz had also requested permission for his parents-in-law to come to Switzerland. However, it emerged that they had not been included on the list of individuals who had been given permission by the German authorities to leave the Netherlands. Schneider subsequently attempted to arrange for this permission via

Posse. From August 1942, Posse's condition continued to deteriorate and he communicated more and more through telegrams with Wickel and Göpel from the *Landhausklinik* in Berlin. He died on 8 December 1942. After several anxious months, Nathan Katz's parents-in-law joined their family in Switzerland, probably in mid-December 1942. During his stay in Switzerland, Nathan Katz offered financial support to stateless refugees.

After the group with Benjamin Katz had left the Netherlands, a few family members remained behind, among whom was Eva Katz-Franken, the brothers' mother. A brother of Nathan and Benjamin, Simon Katz, also stayed behind in the Netherlands, with his wife Roosje. As agreed, they initially received protection against deportation but at the end of 1943 they were arrested on the orders of the SD and taken to Westerbork. On 18 October 1943, *Reichskommissar* Seyss-Inquart, *Generalkommissar zur besonderen Verwendung* Ritterbusch, envoy Otto Bene, commander of the *Sicherheitspolizei* and the SD Erich Naumann, the head of *Gestapo Referat IV B 4* in The Hague Wilhelm Zöpf, head of the *Referat Sonderfragen* Ruoff and Dr Erhard Göpel convened in a meeting about the Katz family. After a lengthy discussion, Seyss Inquart and Naumann eventually agreed to exempt Nathan and Benjamin's aged mother from wearing the Star of David and allow her to stay in Dieren. The four remaining members of the family stayed in Westerbork but '*werden jedoch wie die Frederiks-Juden behandelt, vom Abtransport zurückgestellt*'. They would be given permission to emigrate '*wenn die Einreise für ein anderes Land beschafft worden ist*'. As Nathan Katz had stated that in that event he was prepared to make a painting available, further negotiations about the family members' emigration were conducted by Posse's successor, Prof. Hermann Voss.

It can be concluded from correspondence found in the *Bundesarchiv Koblenz* that as late as 1944, while he was in Switzerland, Nathan Katz had attempted to get his family freed by making works of art available to the *Sonderauftrag Linz*. The elderly mother of the brothers, Eva Katz-Franken, probably died in the Netherlands on 9 November 1944. Family members who had been interned at Westerbork were deported later after all, to concentration camp Bergen-Belsen. When the Germans evacuated this camp ahead of the Red Army advance, they ended up in the so-called 'lost transport', a packed train that drifted in between enemy lines for weeks. Benjamin and Nathan Katz's eldest sister did not survive this and she died in April 1945, near Schipkai in Germany.

l. After the war

After the liberation, Benjamin Katz returned to the Netherlands and continued the art dealership in Dieren. His brother Nathan remained in Switzerland with his family. In 1946, the Dutch government awarded Nathan Katz the silver *Erkentelijkheidsmedaille* [Medal of Appreciation] for his support of refugees.

Shortly after the liberation, an employee of art dealership Katz visited the De Gruyter furniture warehouse in Arnhem, where the brothers had stored their respective household effects before leaving the country. Much had been destroyed and stolen: '*maar er zit nog aardig wat, ook van Heer Bey [Benjamin Katz, RC], veel lijkt er door elkaar, panelen ingetrapt, sloten opengebroken, schilderijen zijn er bij waar zij dwars door het doek hebben geslagen*' [there is still quite a bit, also of Mr Bey's (Benjamin Katz, RC), a lot seems jumbled up, panels kicked in, locks forced, there are some paintings whose canvasses have been hit right through the middle]. Benjamin submitted a request for damages to the German authorities via Stichting JOKOS, which was granted. However, due to a misunderstanding between Nathan Katz's widow and her civil-law notary, the request for damages for the loss of Nathan Katz's very valuable household effects was not submitted until after the statutory term had lapsed, so that only a fraction of the total claimed amount could be paid out.

m. Investigation into economic collaboration

After the liberation, the fact that art dealership Katz had supplied large quantities of art to the Germans during the occupation caused quite a stir. The Political Intelligence Department launched an investigation into the art dealership on suspicion of trading with the enemy or economic collaboration. In December 1947, the investigators reported on the attitude and activities of Benjamin and Nathan Katz. They concluded that the brothers had indeed supplied paintings to the Germans. Nathan Katz was said to have acted as '*Sachverständiger*' for the Germans, for which he received a salary. It was not possible to ascertain whether these activities were conducted voluntarily. Within the Special Criminal Jurisdiction this was regarded as a complicated case. The investigation should therefore focus on the period before the liquidation of Firma D. Katz in February 1941. It would be difficult to prove that there had been no duress on account of the brothers' Jewish origins after this period. The case was eventually dismissed.

n. Request for restitution of recovered art

After the war, several hundred works of art that the brothers Katz had supplied to the Germans were recovered from Germany and Austria. No declaration forms completed by Kunsthandel Katz for paintings that the art dealership had lost possession of during the war were found in the SNK archive. SNK director Dr A.B. de Vries, a good acquaintance of Nathan Katz's from his Swiss period, was said to have granted the art dealership exemption because the administration of art dealership Katz was no longer available.

The brothers submitted a first application for restitution relating to two paintings on 15 May 1946, through their lawyer, Cornelis de Kempnaer. According to the brothers' lawyer, he himself had been obliged to transfer the profits of the works to Lippmann, Rosenthal & Co, Sarphatistraat (Liro). Two paintings were returned

in exchange for assignment of a debt of NLG 127,000 owed to the former Liro bank. The Rembrandt, which had been given to Posse in exchange for Benjamin Katz and his family leaving the country (see under j), was returned too. On 19 February 1947, Katz's lawyer then requested the return of 26 other paintings, in respect of which advance talks had probably been held between SNK director De Vries, the Katz brothers and their lawyer. To support this application for restitution, Katz's lawyer submitted, amongst other things, statements by the former director of the RKD, Dr Hans Schneider, and by art historian Prof. Dr J.G. van Gelder, both of whom said that the Germans had coerced the brothers, also naming Posse by name. Van Gelder stated that:

Bij alle moeilijke gevallen is ondergeteekende vaak te hulp geroepen; telkens weer moest hij vaststellen, dat tegen overmacht niets te doen was en dat onder pressie kunstwerken moesten worden verkocht, wilde het leven van de familie Katz niet in gevaar komen. (...) De leiding had aanvankelijk Dr. Posse, Dr. Voss met zijn vertegenwoordiger Dr.E.Göpel en ambtenaren van diens bureau. Alleen onder grooten druk zijn een aantal kunstwerken verkocht; een zeer grote rol heeft hierbij gespeeld de angst voor het wegvoeren van familieleden. Van een vrijwillige verkoop is nooit sprake geweest, temeer niet, daar tegenover verkoop van goederen elke mogelijkheid voor inkoop van goederen ontbrak. Achteraf kan worden geconstateerd, dat de tactiek van de Heeren Katz juist is geweest, wat nooit van tevoren kon gezegd worden; zoals bekend zijn ruim 30 familieleden uiteindelijk gered door vertrek naar het buitenland.

[I was called in to assist in all difficult cases, and each time, I was forced to conclude that there was nothing you could do about a situation of force majeure and that the paintings had to be sold under duress if the lives of the Katz family were not to be endangered. (...) Initially, Dr Posse, Dr Voss with his representative Dr E. Göpel and officials from his office were in charge. It was only under considerable duress that a number of works of art were sold. The fear that members of the family would be deported played a major part in this. This was never a voluntary sale, especially not since the sale of goods was never matched by the purchase of goods. With hindsight it can be concluded that Mr Katz's tactics were right, something that you never know beforehand. As we know, over 30 members of the family were saved by going abroad.]

Schneider stated:

Destijds kon ik alles zeer van nabij volgen, omdat ik bij de inval der Duitschers de gebroeders Katz behulpzaam ben geweest bij het verbergen van hun belangrijke schilderstukken. Toen zij later door den genoemden opkoper Posse in 't nauw werden gedreven, kwamen zij telkens bij mij het hart lichten. Ik heb hen aangeraden alle transactie's zoo veel mogelijk te traineeren en er vooral naar te streven, dat zij aan eventuele verkoop hunner stukken de conditie van "loskoop" voor hun zelf en hun familieleden annex konden maken. In dien zin heb ik dan ook persoonlijk bij den heer Posse gepleit - en succes ermee gehad.

[At the time I was able to follow everything from close by because I had helped the Katz brothers to hide their most important works of art when the Germans invaded. Every time they were cornered by the said buyer Posse, they came to me to pour out their woes. I advised them to delay all transactions wherever they could, and especially to attach to the sale of any of their works the condition of a "ransom" for themselves and their family members. I also argued that personally with Mr Posse, and was successful.]

SNK director De Vries's opinion about the paintings for which an application for restitution had been submitted was that while duress certainly did play a part, it was still unclear whether there had been a quid pro quo. Because of this unclarity, Katz's lawyer had suggested paying a sum of money and donating some important paintings to Dutch museums in reciprocation of the return of the work, an uncommon regulation in those days. With the consent of such authorities as the Netherlands Property Administration Institute (NBI) and the Ministry of Education, Arts and Sciences, 25 works of art were returned to the Katz brothers on payment of a sum of NLG 289,000 and the donation of three of the works - what were at the time called the Bicker portraits by Maarten van Heemskerck and a Rubens oil sketch - to the State of the Netherlands.

o. SNK affair

In the course of 1948, a judicial investigation was launched into the activities of the director of the SNK, seeing as there was a suspicion that various irregularities had occurred at the foundation. During this investigation, the works returned to Katz were also looked into. The suspicion arose that De Vries had given undue preference to the Katz brothers when returning the paintings. On 8 July 1948, Dr A.B. de Vries and Benjamin Katz were arrested in connection with this and interrogated for several days. The public prosecutor charged with corruption cases, W.H. Overbeek, formally opened the investigation on 12 July 1948. The arrest caused quite a stir in the press. Some newspapers conducted a fierce campaign against De Vries and certain issues were greatly magnified. Various witnesses were heard in the following years, including the German Alois Miedl, who had fled to Spain just before the liberation. At the request of the Dutch authorities, who provided him with a letter of safe-conduct and a reimbursement of expenses, Miedl visited the Netherlands from the end of August to mid-September 1949 in order to give evidence against De Vries and Katz. Action was also brought against Katz's lawyer, C. de Kempnaer, after it emerged that the debt of NLG 127,000 with Liro had not come about as a result of the sale of paintings, as he had previously claimed. Nathan Katz died in Switzerland on 29 August 1949, before he could be interviewed.

The investigation dragged on for a while and was wound up on 10 January 1951. Public prosecutor Overbeek recorded his findings in a detailed final report, in which he concluded that De Vries had acted out of personal

sympathy for the Katz brothers and with a view to Dutch museological interests, and that he had not been motivated by any personal gain. Overbeek saw Katz's lawyer as the driving force behind the largest of the contested claims, and he doubted the latter's good faith on certain points. Overbeek also reported on Nathan and Benjamin Katz's activities during the occupation. In his view, compared to other Jews in the Netherlands, the brothers were in a very privileged position and the firm had greatly benefitted from the flourishing of the art market at the beginning of the war due to the German's interest in buying art. As to the extent to which coercion had been at issue, Overbeek considered the following: *'Het zal moeilijk zijn precies een onderscheid te maken tussen de hierbij gebleken koopmansgeest en het begrijpelijke gevoel van angst, dat bij hen tegenover de bezetters bestond'*. [It will be difficult to distinguish exactly between the business sense that was in evidence and the understandable feeling of fear they would have felt with regard to the occupying authorities].

Because in De Vries's case the investigated facts were on the *'grens van het strafrechtelijke en de beleidssfeer'* [border between what was criminal and what was policy] and the lingering case had caused considerable suffering, Overbeek regarded further action against De Vries not desirable. As the charges against Benjamin Katz could not be proved, and his brother Nathan had meanwhile died, Overbeek recommended not prosecuting Benjamin Katz any longer either. The public prosecutor followed the advice with regard to Benjamin Katz, who *'inmiddels een volslagen wrak [is] geworden, zo zelfs, dat zijn verhoor nog nauwelijks heeft kunnen plaats grijpen'* [has meanwhile become such a wreck that an interrogation has hardly been possible at all] but on 28 February 1951, Dr A.B. de Vries was handed a notice to the effect that prosecution would be continued. On 18 April 1951, by order of the district court, De Vries was granted immunity from further prosecution because of insufficient evidence of guilt.

Once the decision was taken to drop the case against Benjamin Katz, the Ministry of Finance did investigate whether it was possible and desirable to annul the return of paintings to Katz or else claim sums of money from him. The state advocate investigated the case but concluded that various difficulties would first have to be overcome. After all, the element of uncertainty with regard to the quid pro quo received had deliberately been included in the equation when concluding the agreement (of amical restoration of rights) between Katz and the SNK, and the element of 'force' in the sale to the Germans was not easy to refute, in part because in a previous case concerning the sale made by a private Jewish individual to Miedl, the Council for the Restoration of Rights had decided that this had been an enforced transaction. Nonetheless, negotiations took place between the State of the Netherlands and the Katz family, which eventually resulted in payment to the State of the Netherlands of NLG 183,250.20 plus interest by way of a settlement, thus bringing the case to a close.

Finally, in connection with a supposed embezzlement of money and mismanagement, the Katz family instituted a further action against their former lawyer, De Kempnaer. On 11 December 1952, the district court of Arnhem sentenced him to render account of his actions, as the Katz family demanded. The district court refrained from passing judgement on any sum he might have to pay. The proceedings dragged on until 1958, when the High Court decided that the lawyer was not obliged to pay a sum to Katz. Benjamin Katz died in 1962. The family continued the art dealership for a while, after which it was wound up and discontinued on 1 January 1974.

C. Considerations

The applicants

1. Applicant X.X. of B., United States, stated that she is the heir of her father Nathan Katz (1893-1949) and that she is acting on her own behalf and that of three other heirs of Nathan Katz, viz. Z.Z. of B., Switzerland, A.A. of T., France, and B.B. of S., France. Applicant Y.Y. of V. states that he is entitled to the estate of his grandfather, Benjamin Katz (1891-1962). He acts on his own behalf and that of sixteen other descendants of Benjamin Katz, viz. C.C., D.D., E.E., F.F., G.G., all of C., Venezuela, H.H. of H., I.I. of A., J.J. of H., K.K. of A., L.L. of L., United Kingdom, M.M. of N., United Kingdom, N.N. of A., France, O.O. of A., P.P. of D., Q.Q. of A. and R.R. of D..
The Committee sees no reason to doubt the status of applicant X.X. as person (partly) entitled to the estate of Nathan Katz, nor that of Y.Y. as person (partly) entitled to the estate of Benjamin Katz.

Art dealership Katz

2. Nathan and Benjamin Katz, of Jewish descent, were the only partners in the partnership set up by them in 1930, Firma D. Katz of Dieren, in name a continuation of the art dealership set up by their father. From 1940 on, the firm also had a branch in The Hague.
In connection with anti-Jewish measures, Firma D. Katz went into liquidation on 17 February 1941 and was formally wound up on 1 June 1943. In order to enable continued trading, the occupying authorities ordered the establishment of N.V. Schilderijen en Antiquiteitenhandel v/h D. Katz on 19 May 1941. Non-Jewish business relations were appointed directors. After the war, these directors stepped down and Benjamin Katz continued the business. According to the applicants, the shares were distributed to Benjamin and Nathan Katz (50% each), on the basis of which the applicants stated that Benjamin and Nathan Katz were in actual fact the owners of N.V. Schilderijen en Antiquiteitenhandel v/h D. Katz.
As a result of bogus constructions in connection with the occupation, it is now no longer possible to reconstruct what the actual legal and financial relationship was between the brothers, Firma D. Katz and N.V. Schilderijen en Antiquiteitenhandel v/h D. Katz during and after the war. Based on the available data, the Committee deems that Nathan and Benjamin Katz should be regarded as the economic stakeholders in

Firma D. Katz and the aforementioned N.V., both of which will be jointly referred to in this recommendation as 'art dealership Katz'.

Items of cultural value involved

3. The applicants have in mind the return of **189** works of art, primarily paintings, of which it is stated that they were part of the trading stock of art dealership Katz, as included in **lists I to IV inclusive** which are appended to this recommendation. The majority of these works were returned to the Netherlands from Germany after the Second World War, following which the State of the Netherlands incorporated them in their national art collection. The works do not include any of the works stored at De Gruyter in the Netherlands during the war (see the Historical overview under l).
In 2012, the majority of the works were on loan to various Dutch museums and government bodies under NK inventory numbers.

Admissibility

4. The first question the Committee has to answer is whether the applicants are admissible in their application, or are not as a result of a previous definitive settlement of the claim.
In its recommendations to the government in 2001, the Ekkart Committee restricts the notion of a 'settled case' to those cases 'in which the Council for the Restoration of Property Rights or another competent court has pronounced judgment or in which a formal settlement was made between the lawful owners and the bodies which in hierarchy rank above the SNK.' In response to this, the government stated that the notion of a 'formal settlement' can lead to uncertainty and decided that a case will be considered settled 'if the claim for restitution has intentionally and deliberately resulted in a settlement or the claimant has explicitly withdrawn the claim for restitution.'
In this context, the Committee refers to the factual account as summarised under n and o of the Historical Overview. This suggests that while the Katz brothers and the Dutch restitution authorities reached an amicable settlement after the war whereby the brothers received some thirty works of art against payment of a sum of money, that this arrangement only pertained to the works in question. With regard to the currently claimed paintings, the contact between the Katz brothers and the Dutch restitution authorities did not lead to a judicial ruling or a settlement. Nor can it be concluded that after the war, the Katz brothers explicitly waived their claim to the return of the works as included in this case. During its investigation, the Committee has not found any such explicit statement.
The Committee notes that in part due to the actions of the Dutch restitution authorities, the settlement of the procedure was so confused that it would not seem opportune to regard this post-war handling in the current procedure as an impediment to launching an investigation in the current claim.

The Committee decides that the applicants' claim is admissible and will investigate the claim in more detail below.

Ownership

5. The next question the Committee has to answer is whether the title to the claimed works of art has been proved with a high degree of probability and there are no indications to the contrary. The Ekkart Committee's eighth recommendation from 2001 includes this as a condition for restitution. The question of whether loss of possession of the claimed objects was *involuntary* cannot be addressed until it has been ascertained that art dealership Katz was owner of these works. The Committee found no indications that there were paintings among the claimed works that belonged to Nathan or Benjamin Katz's private collection.
6. The investigation into the ownership of the works of art was made more difficult by the fact that the applicants were not able to submit the chief source of information, i.e. the records of Firma D. Katz up until aryansisation in March 1941, nor was this administrative data found elsewhere. As a result, the Committee has had to base its judgement on the provenance investigation into individual works in the Netherlands Art Property Collection by the Origins Unknown Agency (BHG) and more secondary on documentation found during the Committee's and the applicants' investigation. A great many sources were consulted, including exhibition and auction catalogues, invoices of buyers from and sellers to art dealership Katz, statements of accounts and information gathered by the Allied Forces after the war and now kept in various national and international archives (see for an overview of the chief sources consulted **list V**). Due to the absence of the art dealership records themselves, it has proven extremely difficult, if not impossible, to establish ownership of art dealership Katz in the relevant period.
7. Moreover, when assessing the ownership issue, the fact alone that the Katz brothers sold a work of art does not automatically indicate that they owned the object in question. In this context the Committee refers to the following circumstances:
 - Art dealership Katz, in particular Nathan Katz, regularly acted as agent in the sale of paintings on behalf of *other* owners. The Katz brothers also regularly purchased works of art on behalf of third parties (sometimes from their own funds) to then pass them on to their clients. After the art dealership had sold a major part of its trading stock to German entrepreneur Alois Miedl in August 1940, and was no longer able to draw from a large stock of its *own*, this role became even more important.

- During the war, Nathan and Benjamin Katz were called in by the *Sonderauftrag Linz* to monitor the Dutch art market and buy works of art for the *Führermuseum* that was to be set up. Irrespective of whether or not, and if so, the extent to which the Katz brothers had freedom of choice when it came to working for the *Sonderauftrag Linz*, it must be concluded that they were, in a sense, employed as an extension of the occupation authorities' acquisition policy. Even after the 'aryansisation' of the company in February 1941, the Katz brothers remained active on the art market, during which they enjoyed temporary protection from anti-Jewish measures so that they could continue their work for the occupying authorities.

This way of dealing meant that there was often just a short window between the acquisition of a work, either in their own name or on behalf of a third party, and the sale or resale by the Katz brothers.

In light of the above, the Committee concludes that with regard to most of the claimed works nothing *more* has been ascertained than that art dealership Katz was *involved* in their sale during the occupation. That involvement does not, as a matter of course, prove that art dealership Katz did in actual fact own the works in question.

8. All things considered, with regard to the claimed individual works of art in the current case, the Committee is of the opinion that it can only be said that '*the title to the claimed works has been proved with a high degree of probability and there are no indications to the contrary*' is the case if:
 - convincing indications have been found that works were already owned by Firma D. Katz before the German invasion; and that in addition
 - there are convincing indications that at the time of the loss of possession during the war, art dealership Katz was (still) the owner of the works in question.

Loss of possession

Sales to Alois Miedl / kunsthandel v/h J. Goudstikker N.V.

9. Among the claimed works of art are **101** objects that were sold during the German occupation of the Netherlands by or through art dealership Katz to Alois Miedl or to the art dealership v/h J. Goudstikker N.V. run by him. The largest transaction with Miedl took place on 2 August 1940, but transactions did take place after that too. In the context of this recommendation, the Committee regards the works in question as a single category. These works will hereafter be referred to as 'Miedl works' and have been included in **list I**. The Committee refers to the Historical Overview under c. for the relevant facts.
10. With reference to considerations 5 to 8 inclusive, the Committee concludes that insufficient information was found about the majority of these objects to be able to determine that art dealership Katz's title to them has been proven with a high degree of probability. In view of the following opinion about the nature of the loss of possession, a detailed specification of this category is not necessary.
11. Pursuant to restitution policy regarding the art trade, as laid down in the Recommendations for the art trade by the Ekkart Committee in 2003, loss of possession is in any case involuntary if objects were stolen, confiscated or sold under duress. The Committee concludes that the Katz brothers sold works of art to Miedl and that there was no question of theft or confiscation with regard to any of the Miedl works. The most important transaction concerned a sale by Firma D. Katz of over 500 paintings at a sale price of NLG 1,822,500 on 2 August 1940.
12. To assess the nature of the loss of possession, it is essential to explain recommendation 5 of the Ekkart Committee of 2003, which states the following: *Generally, it is hard to determine when sales of artworks by art dealers during the war were voluntary or involuntary. The fact that decades have passed and the information can now only be obtained from people who were not actually present at the time makes it necessary to in any case make optimum use of that which those involved or their immediate surviving relatives recorded immediately after the war.* With regard to the latter, the Ekkart Committee refers in particular to the SNK declaration forms filled in by the art dealer or their heirs themselves. Declaration forms such as these are missing in the current case (see the Historical Overview under n). Post-war statements by Benjamin Katz relating to the sales to Miedl were found, however (see Historical Overview under c).
13. When it comes to assessing the nature of the loss of possession, the Committee considers Benjamin Katz's post-war statements of importance:
 - '*De Heer Miedl heeft op mij en mijn broer nooit dwang uitgeoefend om schilderijen te verkopen, die mijn broer en/of ik niet wilde verkopen. De Heer Miedl heeft ons nooit bedreigd met de overigens wel door de Duitsers tegen de Joden genomen maatregelen.*' [Mr Miedl never coerced either me or my brother into selling any paintings we did not want to sell. Mr Miedl never threatened us with the measures which the Germans had indeed put into place with regard to the Jews.]
 - '*Mijn broer heeft met de Heer Miedl altijd prettig onderhandeld en, toen wij in begin Augustus 1940 het definitieve contract sloten, hadden wij geen bijzondere vrees voor enige actie zijnerzijds.*' [My brother always had pleasant dealings with Mr Miedl, and when we concluded the final contract at the beginning of August, we were not particularly worried that he would take any action].
 - '*De kooprijzen van de groote partij schilderijen, die wij op 2 Augustus 1940 aan Miedl verkochten, is ons*

betaald via de Amsterdamsche en Rotterdamsche Bank. Wij kregen bij die banken dus een bedrag van ruim f. 1,800,000.- op ons saldo bijgeschreven. [The purchase price of the large batch of paintings we sold to Miedl on 2 August 1940 was paid to us via the Amsterdamsche and Rotterdamsche Bank. In other words, our accounts with those banks were credited with over NLG 1,800,000.]

- During an interrogation, Benjamin Katz confirmed that after the major transaction, his brother had concluded various other deals with Miedl during which there was also no question of his having been coerced by Miedl: *‘Ook bij deze latere, veel kleinere, transacties, heeft de Heer Miedl voor zoover ik weet nooit pressie op mijn broer uitgeoefend of bedreigingen geuit*’ [To my knowledge, in the case of these later, far smaller transactions, Mr Miedl also never brought any pressure to bear on my brother or uttered any threats].
 - Benjamin Katz also stated that Miedl and his brother had been on good terms: *‘Voor zoover ik weet sprak mijn broer Nathan de Heer Miedl nogal eens en mijn indruk was, dat Miedl en Nathan goede zakenvrienden van elkaar waren. Ik heb hem zelf maar een paar keer gesproken*’. [As far as I know, my brother talked to Mr Miedl fairly often and my impression was that Miedl and Nathan were good business associates. I myself spoke to him only a few times].
14. With regard to the nature of the loss of possession of the Miedl works, the Committee considers that in the case of a sale by an art dealer, the single fact that the purchasing party was part of the Nazi regime or had close dealings with them, such as Miedl, does not suffice to conclude that the transaction was involuntary, especially not if these were transactions for which prices that were in line with the market would seem to have been paid, as with the Miedl works. In addition, no indications of direct threat or force were found in this category. As Benjamin Katz himself said after the war, although the Katz brothers had to work under pressure as a result of the general exigencies of war, Miedl did not bring any pressure to bear on them during these transactions (see above, consideration 13, and Historical Overview under c). The Committee concludes that the Miedl works were the subject of business transactions appropriate to the point of departure of policy for the art trade formulated by the Ekkart Committee *‘that the art trade’s objective is to sell the trading stock so that the majority of the transactions, even at the Jewish art dealers’ in principle constituted ordinary sales’*, and will recommend rejecting the claim to this category of works.

Sales to the Sonderauftrag Linz

15. It appears that **65** of the currently claimed works of art ended up via sales through the agency of art dealership Katz in the collection of the *Führermuseum* in Linz that was to be established. Art dealership Katz probably started supplying works to the *Sonderauftrag Linz* in July or August 1940. Various German officials, in particular the director of the *Gemäldegalerie Dresden*, Dr Hans Posse, purchased the paintings referred to in the Netherlands. The Committee is handling these works of art as a single category. They will henceforth be referred to as ‘Linz works’ and are enumerated in **list II**. The Committee refers to the Historical Overview under d, f, g, h, i, j and k for the relevant facts.
16. With regard to the title to the Linz works and with reference to considerations 5 to 8 inclusive, the Committee considers that for the majority of these objects insufficient information has come to light to be able to determine that art dealership Katz’s title to them has been proved with a high degree of probability, so that in this regard the required criteria for restitution have not been met. As for those Linz works with regard to which art dealership Katz’s title has been proved with a high degree of probability, the fact that loss of possession occurred as a result of consequences directly related to the Nazi regime must likewise be proved with a high degree of probability. In light of the following, a detailed discussion of the title to the individual works can be omitted, except for what is stated under 22 and 23.
17. The documentation found during the investigation indicates that after the German invasion of the Netherlands, the Katz brothers remained very active on the art market. One of their chief customers besides Alois Miedl was Dr Hans Posse, director of the *Gemäldegalerie* in Dresden, who Hitler had made responsible for building the collection of the planned *Führermuseum*. In order to acquire interesting new works on the Dutch art market, Posse frequently called on the expertise of the Katz brothers, who in return were given temporary protection from anti-Jewish measures for themselves and members of their family. Thanks to this temporary protection, the Katz brothers were still able to trade on the art market with a relative degree of freedom, even after the introduction of anti-Jewish measures. On various occasions, Nathan Katz also travelled to Switzerland from the Netherlands in order to act in the interests of the *Sonderauftrag Linz*. The Committee finds that although there was a disproportionate balance of power between the Katz brothers and Posse, it can be concluded from documentation found that over time, a working relationship was established with some of the staff of the *Sonderauftrag Linz*. Although the pressure on the brothers and their family built up steadily during the occupation as a consequence of increasing anti-Jewish measures by the Nazi regime, the Katz brothers enjoyed a special position as long as they continued supplying art to Posse.
18. The Committee is convinced that the occupation authorities linked the uninterrupted protection of the Katz brothers and their families to their willingness to continue putting their expertise at the disposal of the *Sonderauftrag Linz*. The Committee notes that as time went on, the brothers have to be regarded not so much as independent traders, as they were increasingly restricted by the dictates of their clients, but that they operated more as intermediaries. In other words, they bought art in order to pass it on to Posse, and
- did less and less business with their own stocks. As a result of the deterioration of circumstances as the war continued, and the increasing threat that their protection would come to an end, both Nathan Katz and Benjamin Katz at some point made it known that they wished to leave the Netherlands, an aim which was endorsed by Posse and his assistants. Eventually, Nathan Katz left with his family for Switzerland in February 1942, while his brother Benjamin left Europe via Spain for South and North America with a group of 24 family members in October 1942. Nathan Katz’s parents-in-law left for Switzerland in December 1942. This could not have been done without the intervention of Posse and his assistants.
19. Considering the results of the investigation as summarised under B, the Committee finds that it is difficult to determine the dividing line between normal business activities in a flourishing art market and involuntary sales. For this purpose, reference is made to the ruling of public prosecutor W. Overbeek, who conducted intensive investigations into the sales of Firma D. Katz to German buyers shortly after the occupation, in connection with possible fraud concerning the post-war restitutions to the firm, voicing his opinion in his final report: *‘Het zal moeilijk zijn precies een onderscheid te maken tussen de hierbij gebleken koopmansgeest en het begrijpelijke gevoel van angst, dat bij hen tegenover de bezetters bestond*’ [It will be difficult to distinguish exactly between the business sense that was in evidence and the understandable feeling of fear they would have felt with regard to the occupying authorities] (see the Historical Overview under o). Although the Committee does take into account the fact that the Katz brothers entered into transactions with or on behalf of the *Sonderauftrag Linz* at some point under the influence of the circumstances of war, so that they could count on protection from anti-Jewish measures and eventually leave the Netherlands with a large number of family members, it does not regard the transactions in question - except for what is stated under 22 and 23 - as involuntary loss of possession within the framework of restitution policy.
20. The Committee considers the following in this regard. In this case, declaration forms as referred to in recommendation 6 of the Recommendations for the restitution of artworks of art dealers are missing. Hence for restitution to take place according to that recommendation, there must be indications proving with a high degree of probability that sales took place under duress. Where appropriate in this case, such indications would, in any case, include threats with reprisals and promises to supply passports or letters of safe conduct as part of the transaction. The Committee has not found any indications of this nature, also not in relation to the currently claimed works sold for the *Sonderauftrag Linz* after the introduction of anti-Jewish measures. Moreover, with regard to several of these works, art dealership Katz’s title has also not been proved with a high degree of probability. The Committee has also taken into consideration the premise formulated in the restitution policy that the point of departure for the art trade is to sell the trading stock so that the majority of the transactions even at the Jewish art dealers’ in principle constituted ordinary sales. Furthermore, on the basis of source material found, it is likely that the Katz brothers received prices for their deliveries to the *Sonderauftrag Linz* that were, by and large, in line with market prices. In the case of the art trade, the single fact that the purchasing party was part of the Nazi regime does not suffice to conclude that transactions were involuntary.
21. As such, the required high degree of probability of involuntary sales has not been sufficiently established. The statements made by Dr Hans Schneider, Prof. J.G. van Gelder and Benjamin Katz quoted under B, letter n, do not hold enough weight to conclude otherwise.
22. The Committee does, however, see reason to depart from the above in one case. This concerns the painting *Man with high cap* by F. Bol (NK 1668), which art dealership Katz sold to the *Sonderauftrag Linz* on 19 November 1941. Nathan Katz acquired this work before the war, in March 1940, from the Cook collection, via art dealership Thomas Agnew & Sons of London (see Historical Overview under a). This art dealership’s administrative records show that this transfer of title took place and this was also confirmed to the Committee in an interview with the son of the London art dealer. There are no indications that Nathan Katz purchased the current NK 1668 on behalf of a third party or that he had again lost possession of the work in the intervening period. The ownership criterion as set out in considerations 5 to 8 has therefore been met. The Committee believes that the sale of NK 1668 is directly connected to the Katz family’s departure, in respect of which it considers the following circumstances to be of overriding importance:
- From the autumn of 1941, Nathan Katz had been making preparations to leave the country, for which he was trying to arrange a transit visa. In order to enter Switzerland, the authorities required him to transfer large sums of money as security.
 - The goodwill towards the Jewish family Katz, on the basis of the brothers’ usefulness, threatened to come to an end on 15 October 1941. This is evidenced in a letter dated 19 September 1941 from Felix Wickel of the *Referat Sonderfragen* to Posse (see Historical Overview under h). In this letter, Wickel asked Posse to decide *‘ob bezw. inwieweit und wie lange Sie N.K. [Nathan Katz, RC] hier noch nötig haben*’. Wickel noted that the most recent orders of the Nazi administration were a substantial tightening-up of anti-Jewish measures, so that Nathan Katz would need to be granted a further exemption to enable him to continue his work on Hitler’s behalf in a more or less normal manner. In his letter, Wickel also wrote about Nathan’s brothers Benjamin and Abraham Katz. The brothers were given the opportunity to leave the Netherlands, but they were also issued with a clear ultimatum. If they stayed in the Netherlands, they would be fully subjected to persecution measures from 15 October 1941 onward.

- As background to this, the Committee refers to the general emigration ban for Jews that was to take effect in the Netherlands from October 1941, and to the first deportations of Jews in central Europe from October 1941.

23. NK 1668 was sold to Posse on or about 19 November 1941. In the Committee's opinion, there are indications that make it highly probable that this sale took place under duress. These indications include first of all the fact that the anti-Jewish measures that had now come into force threatened to apply in full to the brothers, leaving them in a very vulnerable position. Also, in order to leave the country, the brothers were entirely dependent on Posse and his assistants. In addition, they could not leave without financial means required for exit visas, funds and securities to facilitate and pay for dozens of members of the Katz family to travel. In contrast to NK 1668, which has been established as having been the property of the art dealership before the war, the title to the other works that the art dealership Katz sold to Posse from the end of September 1941 has not been established. The Committee will recommend the restitution of NK 1668.

24. The Committee has considered whether restitution should be subject to an obligation to pay. It can be concluded from an invoice found during the investigation that the Katz brothers received a sum of NLG 60,000 for the current NK 1668. Under the fourth recommendation of the Ekkart Committee of 26 April 2001, the obligation to repay a sum received only applies if the former seller was able to freely dispose of the proceeds. Pursuant to government policy, there are no grounds for repayment if it is likely that the sum was used in attempts to escape Nazi persecution.

The Committee considers that it is unlikely that the Katz brothers or their heirs could actually dispose of the sums freely. However, the Committee does take into account the fact that the Katz brothers had to pay large sums of money to leave the Netherlands with their family, not only for exit visas and the required transfer of significant funds to Switzerland, but also because in the end, the Nazi authorities forced the brothers to credit a quarter of their capital to an account with the looting bank Liro controlled by the occupying authorities. For this reason, the Committee does not consider it justified to impose a payment obligation in return for NK 1668.

Transactions with Hermann Göring

25. It has been established that 14 of the claimed works ended up in Hermann Göring's art collection via art dealership Katz. These works will hereafter be referred to as 'Göring works' and have been included in **list III**. The Committee refers to the Historical Overview under e for the relevant facts.

26 With regard to the title to the Göring works and with reference to considerations 5 to 8 inclusive, the Committee considers that insufficient information has come to light about the majority of these objects to be able to determine that ownership by art dealership Katz has been proved with a high degree of probability. With regard to the Göring works, the title to which can be considered proven to a high degree, the Committee must decide whether the loss of possession of these works was involuntary as a result of circumstances directly related to the Nazi regime.

27. The following categories apply to the Göring works:

- a) The works NK 1600, NK 1824, NK 1825 were sold on or about 28 July 1940. This applies in all likelihood to NK 2716 too.
- b) The works NK 1695, NK 1751, NK 2465 and NK 2608 were sold on or about 27 September 1940.
- c) The work NK 1890 was sold in January 1941.
- d) The works NK 2575, NK 2777, NK 2826, NK 2923 and NK 3103 were part of a group of paintings for which Göring paid by delivering a painting by Meindert Hobbema to Nathan Katz in Switzerland.

28. The Committee considers the following with regard to the paintings under the categories a and c. Based on the documentation found, which includes invoices and receipts from art dealership Katz to art dealer W.A. Hofer, who acted as Hermann Göring's buyer, the Committee assumes that these works were acquired for Göring on the said dates. The sales took place during the first eight months of the German occupation of the Netherlands when the Katz brothers were active on the art market and were doing a lot of business, as outlined in the Historical overview. With regard to the sale of these works, no indications were found during the investigation to suggest financially unbalanced business transactions or a situation in which Hofer directly threatened or coerced art dealership Katz.

The Committee therefore concludes with regard to these works of art that an involuntary loss of possession is not probable to a high degree. In this regard, the Committee again refers to the point of departure of the art trade policy *'that the art trade's objective is to sell the trading stock so that the majority of the transactions even at the Jewish art dealers' in principle constituted ordinary sales'*.

The Committee concludes that the claim to the works in the categories a and c cannot be allowed.

29. The works in category b were sold by or through art dealership Katz for Hermann Göring's art collection on or about 27 September 1940. Because the note *'Betrag dankend erhalten'* was found on an invoice from Firma D. Katz addressed to W.A. Hofer, and because no indications were found that the works were not paid for, the Committee assumes that art dealership Katz received the money for the paintings in question.

30. The Committee concludes that Hermann Göring personally visited art dealership Katz in The Hague at the same time as the current works were sold. In an interview with the Committee, Nathan Katz's son described

this visit, remembering in particular the tension and the fact that his father was unwell for a while as a result.

The following is stated about the above visit in an American intelligence agency's post-war document: *'KATZ, Nathan – Dieren bei Arnheim, The Hague, Lange Voorhout 35 (...) GOERING went to KATZ's shop on one occasion when pictures were being bought through him from ten CATE. During the investigation, the Committee found invoices for the paintings in question 'from ten Cate' showing that Göring bought three works of art, including the currently claimed NK 2608, which belonged to the art collection of H.E. ten Cate, an industrialist from Almelo. During an interrogation, Göring himself referred to the aforementioned visit: 'For instance, art dealer Katz, from whom I once purchased three pictures (...).'*

Although the above sources mention the purchase of three paintings from the Ten Cate collection (not property of the art dealership Katz) during Göring's visit, the Committee does not deem it impossible that the other paintings in category b were also sold during Göring's visit. Should a sale of that kind have taken place, with Göring actually purchasing work from a Jewish dealer in person, an involuntary loss of possession would not be unlikely. The Committee cannot, however, decide on this seeing as no indications were found that make it probable to a high degree that all the works in category b were owned by art dealership Katz.

31. With regard to the paintings in category d, a report written by the American intelligence agency was found during the investigation which suggests that these works were part of a transaction agreed with Nathan Katz on 22 March 1941, which would seem to have elements of an exchange. This concerns the delivery of nine works of art by art dealership Katz for which at some point, probably 1942, Nathan Katz received compensation in the form of a painting by Meindert Hobbema from Göring's art collection. It can be concluded from documentation found that a German diplomatic courier delivered the Hobbema painting to Nathan Katz in Switzerland in 1942. No indications were found during the investigation that would suggest that any form of coercion was exercised on Nathan or Benjamin Katz by Hofer or on his behalf.

Other works of art

32. Under the claimed works of art are nine (9) objects that cannot be classified in the above transactions or concerning which special circumstances existed. These works are enumerated in **list IV**. The Committee considers it advisable to describe the individual works of art in this category in more detail. These works are NK 2603, NK 2823, NK 1815, NK 2633, NK 2172, NK 2207, NK 2655, NK 2711 and NK 3292.

33. During the investigation it became clear that the paintings with inventory numbers NK 2603, NK 2823 and NK 1815 were (possibly) sold by art dealership Katz to the Amsterdam art dealership P. de Boer. In the BHG's provenance reconstruction of NK 2603, the name 'Katz' and the year 1940 were found next to the painting. P. de Boer of Amsterdam was said to have bought the work, possibly from art dealership Katz, in December 1941. Art dealership Katz sold NK 2823 and NK 1815 to art dealership P. de Boer in September 1940. It has not been proved to a sufficiently high degree that any of the three works were owned by art dealership Katz. In addition, the Committee assumes that the sale to the Dutch art dealership P. de Boer was an ordinary sale in the context of the normal business activities of art dealership Katz.

34. The Committee considers the following with regard to the work with the current inventory number NK 2633. Documentation consulted suggests that this work was delivered for transport to the The Hague branch of art dealership Katz in October 1940, as part of a sale by a third party to the Sonderauftrag Linz. The applicants state the following about NK 2633: *'There seems essentially no connection to Katz. It is possible that this work was taken to the Katz premises to be shipped to Posse along with other items leaving Holland at this time'*. No indications were found that suggest that art dealership Katz was in any other way involved in the sale of the painting so that the criteria for restitution as worded in the restitution policy have not been met.

35. The investigation of NK 2172 has not provided any certainty as to it being owned by art dealership Katz nor as to the circumstances of the loss of possession. The name 'N. Katz' and the year 1941 were found in the BHG's provenance reconstruction. The investigation into the provenance of the work was complicated by the fact that, during the occupation, several paintings whose description is very similar to NK 2172 changed hands. Nor was any information found as to who the owner of the work was, when and in what way it was lost and to whom. The applicants were also unable to provide the Committee with any relevant information on this. Given that it is not clear how art dealership Katz was involved in this painting, the restitution criteria have not been met.

36. With regard to NK 2207, the Committee considers that provenance information found suggests that Firma D. Katz sold this painting to art dealership Malmedé of Cologne in March 1941. Documentation found also suggests that the purchase price owed was paid to Firma D. Katz in liquidation. However, during the investigation, no indications were found that prove to a high degree that art dealership Katz owned NK 2207, nor were any indications found that indicate enforced loss of possession. The criteria for restitution have therefore not been met.

37. The current NK 2655 is also part of an application for restitution in the Mautner case (RC 1.89B). Investigations have shown that NK 2655 ended up in Germany in 1943/1944, but it is not clear whether art dealership Katz was involved in this. In response to the Committee's investigation of NK 2655, the

applicants agreed on this conclusion, saying that '[T]here is no strong documentation for Katz involvement'. The criteria for restitution have therefore not been met. As such, a more detailed assessment of the respective applications for restitution in the Katz and Mautner cases is not necessary. With regard to NK 2655, the Committee refers to its recommendation regarding Mautner (RC 1.89-B) that was adopted at the same time as the current recommendation.

38. With regard to NK 2711, the Committee concludes that there is insufficient proof that art dealership Katz owned NK 2711 and for that reason alone, the restitution requirements have not been met. All that is known about this painting is that it was taken to the Frederik Muller auction house in Amsterdam, after which it came into the possession of Dr H. Posse. The name Katz is mentioned in the BHG's provenance reconstruction for the period between when the work went to auction and when Posse was said to have bought it. It has not become clear what role Katz may have played in this, however.

39. With regard to NK 3292, indications were found during the investigation suggesting that art dealership Esher Surrey in The Hague sold the work to Alois Miedl on 26 July 1940. Although the BHG provenance reconstruction mentions the name Katz and links it to the date 11 September 1940, based on its own investigation findings, the Committee believes that this reference is a mistake.

40. As such, there are no works in this category that qualify for restitution.

D. Conclusion

The Restitutions Committee advises the Minister for Education, Culture and Science to return the painting *Man with high cap* by Ferdinand Bol (NK 1668) to the rightful heirs of Benjamin Katz and Nathan Katz and to reject the rest of the claim.

Adopted at the meeting of 17 December 2012 by W.J.M. Davids (chair), J.Th.M. Bank, P.J.N. van Os, D.H.M. Peepkorn, E.J. van Straaten, H.M. Verrijn Stuart, I.C. van der Vlies (vice-chair), and signed by the chair and the secretary.

(W.J.M. Davids, chair)

(E. Campfens, secretary)

An explanation of the lists of works of art

The objects enumerated below in lists I, II, III and IV are the subject matter of recommendation RC 1.90B. The lists have been compiled using a list of 227 objects that the former Netherlands Institute for Cultural Heritage sent to the Minister for OCW on 14 August 2007. In the RC 1.90A case, the Committee has already recommended rejecting the restitution of 31 works of art. In letters dated 15 January 2010 and 22 September 2010, the Minister withdrew the request for advice on several works because the list also included missing and stolen works. The Minister informed the applicants about this. The remaining objects itemised below were included in the investigation and the relevant investigation details were incorporated into the draft investigatory report that was sent to the applicants for comment.

The lists I, II and III concern works of art that were in all likelihood purchased from art dealership Katz by the said person or organisation. List IV concerns objects that were hard to classify in the above categories. Each object has been given a date. These dates come from a range of different sources dating from before and after the occupation, such as invoices, receipts, inventory books and correspondence. Seeing as each of these documents had a different purpose, e.g. the registration of payment, delivery or stock, the date given should be regarded as being no more than an indication of a point in time in a period during which a transaction took place. The starting point taken is the last date that the Origins Unknown Agency (BHG) mentions in the provenance history of a particular work of art at art dealership Katz. If information has been found following additional investigations conducted by the Committee that makes another date more plausible, then that date has been noted. '00' has been used if information about the month or the day is missing. If, for instance, '00-00-1942' is noted, nothing more about the work is known except that a sale probably took place in 1942.

List I - Works of art that came into the possession of Alois Miedl / kunsthandel v/h J. Goudstikker N.V.

- 001 - 14-05-1940 – NK 2426 – M.J. van Mierevelt, *Maerten Harpertsz. Tromp (1598-1653)*
- 002 - 08-07-1940 – NK 2467 – A. van Borssum, *Interieur van de Pieterskerk in Leiden*
- 003 - 08-07-1940 – NK 2634 – J.I. van Ruisdael, *Rotslandschap met waterval*
- 004 - 08-07-1940 – NK 2544 – J.J. van Goyen, *Gezicht op Rhenen*
- 005 - 08-07-1940 – NK 2574 – Onbekend (Meester van de Verloren Zoon), *Elia door de raven gevoed*
- 006 - 15-07-1940 – NK 2601 a-b – *Meester van de Aanbidding te Antwerpen, De presentatie van Christus in de tempel (binnenzijde) en de Annunciatie (buitenzijde)*
- 007 - 02-08-1940 – NK 1508 – F. de Hulst, *Strandtafereel bij Scheveningen*
- 008 - 02-08-1940 – NK 1536 – Onbekend, *Romeinse capriccio*
- 009 - 02-08-1940 – NK 1590 – J. de Wit, *Allegorie van jacht en muziek*
- 010 - 02-08-1940 – NK 1625 – A. van Dijck, *Oude vrouw in de bijbel lezend*
- 011 - 02-08-1940 – NK 1626 – H.W. Wieringa, *Portret van een man, mogelijk Jan de Stomme, genaamd Voogelesang (1615-1657/58)*
- 012 - 02-08-1940 – NK 2196 – A. van der Neer, *Een vergezicht bij maanlicht*
- 013 - 05-08-1940 – NK 1738 – A. Cuyp, *Heuvelachtig landschap met reizigers, herders en vee*
- 014 - 05-08-1940 – NK 2004 – P. Claesz; R. Koets I, *Stilleven met zalmoot en fruitmand*
- 015 - 05-08-1940 – NK 1620 – I. Jouderville, *Judas brengt de zilverlingen terug*
- 016 - 05-08-1940 – NK 3294 – J.J. van Goyen, *Winterlandschap met schaatsers op ijsvlakte*
- 017 - 05-08-1940 – NK 2613 – G.Dou, *Een astroloog*
- 018 - 05-08-1940 – NK 2195 – E.L. van der Poel, *Astronoom met armillairsfeer*
- 019 - 05-08-1940 – NK 2694 – S. Koninck, *Oude man met baard*
- 020 - 05-08-1940 – NK 2427 – M.J. van Mierevelt, *Jonkvrouwe Cornelia Teding van Berkhout (1614-1680)*
- 021 - 06-08-1940 – NK 1531 – P. van Dijk, *Cornelia Boddaert (gest. 1747). Echtgenote van Samuel Radermacher*
- 022 - 06-08-1940 – NK 1416 – P. Coecke van Aelst, *Drieluik: Aanbidding der wijzen (midden); Maria in aanbidding voor het Christuskind (links); presentatie van Christus in de tempel (rechts)*
- 023 - 06-08-1940 – NK 1862 – J.F. van Douven, *Jachtgezelschap rustend aan de zoom van een bos*
- 024 - 06-08-1940 – NK 1864 – P. Mulier I, *Zeilschepen op een woelige zee*
- 025 - 06-08-1940 – NK 1909 – A. de Gelder, *Edna zegent Tobias en Sara*
- 026 - 06-08-1940 – NK 1910 – H. Goltzius, *Diana en haar nimfen ontdekken de zwangerschap van Callisto*
- 027 - 06-08-1940 – NK 1911 – P. de Molijn, *Landschap met een wolfabriek*
- 028 - 06-08-1940 – NK 1933 – G. Hainz, *Stilleven met vaas bloemen in nis*
- 029 - 06-08-1940 – NK 2583 – J.J. van Goyen, *IJsgezicht met schaatsers bij een dorp*
- 030 - 06-08-1940 – NK 2824 – Meester van 1518, *Aanbidding der koningen*
- 031 - 06-08-1940 – NK 3276 – J. Liss, *Een schilderes schildert het portret van een vrouw in haar atelier*
- 032 - 06-08-1940 – NK 1967 – J. Victors, *Lot en zijn dochters*
- 033 - 06-08-1940 – NK 2091 – P.F. de Hamilton, *Stilleven met dood wild*
- 034 - 06-08-1940 – NK 1968 – Onbekend, *Deftig gezelschap in een slotpark*
- 035 - 06-08-1940 – NK 2000 – J. van de Cappelle, *Schepen op de Merwede bij Dordrecht*
- 036 - 06-08-1940 – NK 1903 – Navolger van C. van Mander I, *Christus aan het kruis met Maria, Johannes en Maria Magdalena*
- 037 - 06-08-1940 – NK 1584 – G. van Berleborch, *Stilleven met druiventrossen en roemer*
- 038 - 06-08-1940 – NK 1586 – M. van Musscher, *Een schilder in zijn atelier*
- 039 - 06-08-1940 – NK 1534 – S. Scott, *Piazza San Marco in Venetië*
- 040 - 06-08-1940 – NK 1598 – F. Granacci, *De Heilige Familie en Johannes de Doper*
- 041 - 06-08-1940 – NK 1642 – J. Spilberg II, *De verafgoding van Koning Salomo*
- 042 - 06-08-1940 – NK 1718 – T. Heeremans, *IJstafereel aan de rand van een dorp*
- 043 - 06-08-1940 – NK 1768 – A. Cuyp, *Rotsachtig landschap met de vlucht naar*
- 044 - 06-08-1940 – NK 1657 – M. Simons, *Stilleven met kreeft op een schaal, fruit en roemer*
- 045 - 06-08-1940 – NK 1832 – M.J. van Miereveld (kopie naar), *Frederik Hendrik (1584-1647), Prins van Oranje*
- 046 - 07-08-1940 – NK 1506 – C.G. Decker, *Huisje aan het water*
- 047 - 07-08-1940 – NK 1509 – B. Fabritius (navolger van), *Man met baard*
- 048 - 07-08-1940 – NK 1510 – F. Bol, *Vrouw zittend in stoel met boek*
- 049 - 07-08-1940 – NK 1535 – Kopie naar P.H. Subleyras, *Maria Magdalena zalft de voeten van Christus*
- 050 - 07-08-1940 – NK 1587 – F. van Mieris I, *Man in oosters kostuum*
- 051 - 07-08-1940 – NK 1588 – P. van Dijk, *Samuel Radermacher (1693-1761)*
- 052 - 07-08-1940 – NK 1550 – J. van der Ulft, *Het Colosseum te Rome*
- 053 - 07-08-1940 – NK 1582 – N. Maes, *Johanna van den Brande (1668-1691). Echtgenote van Daniël Radermacher II*
- 054 - 07-08-1940 – NK 1595 – N. Maes, *Daniël Radermacher II (1664-1708)*
- 055 - 07-08-1940 – NK 1638 – J. van Bijlert, *De verleiding*
- 056 - 07-08-1940 – NK 1682 – E. Vonck, *Jongen met dode vogel en haas*
- 057 - 07-08-1940 – NK 1812 – J. van de Velde III, *Stilleven met roemer, bierglas en oesters*
- 058 - 07-08-1940 – NK 1761 – C. Bonavia, *Romeins landschap met grafmonument*
- 059 - 07-08-1940 – NK 1877 – N. Knüpfer, *Gyges doodt Kandaulus*
- 060 - 07-08-1940 – NK 1907 – J.A. Berckheyde, *Straattaferaal*
- 061 - 07-08-1940 – NK 2311 – G. van den Eeckhout, *Christus voor de schriftgeleerden*
- 062 - 07-08-1940 – NK 2332 – J. van Rossum, *Godard Adriaen (1621-1691), baron van Reede van Amerongen te paard*

063 - 07-08-1940 – NK 2383 – H. van Streek, *Interieur van de Oude Kerk te Delft*
064 - 07-08-1940 – NK 1908 – Onbekend, *Portret van twee kinderen van de familie De Potter*
065 - 07-08-1940 – NK 2075 – Kopie naar Rembrandt van Rijn, *Oude man in een fantasievol kostuum met een stok*
066 - 07-08-1940 – NK 2090 – A. van Ostade, *Een dorpsfeest*
067 - 07-08-1940 – NK 2167 – J.H. Steen, *Ruziënde boeren voor een herberg ("Het krakeel")*
068 - 07-08-1940 – NK 2429 – W. van Nieulandt II, *Romeinse capriccio met het Septizodium, de Tombe van Porsenna en de Tempel van Vesta*
069 - 07-08-1940 – NK 2499 – J.H. Steen, *De kwakzalver*
070 - 07-08-1940 – NK 2516 – M. de Hondecoeter (school van), *Vogelconcert*
071 - 07-08-1940 – NK 2542 – F. Bol (stijl van), *Portret van een jonge man*
072 - 07-08-1940 – NK 2543 – P. van Dijk, *Portret van een man*
073 - 07-08-1940 – NK 2629 – N. Maes, *Everhard Ruytenbeek (gest. 1716)*
074 - 07-08-1940 – NK 2772 – F. van Mieris I, *De vioolspeler*
075 - 07-08-1940 – NK 2650 – P.D. van Santvoort, *Heuvelachtig landschap met een zandweg*
076 - 07-08-1940 – NK 2654 – E.L. van der Poel, *Interieur van een schuur met een boer die een vrouw het hof maakt*
077 - 07-08-1940 – NK 2657 – J. Verkolje I, *Interieur met een man die een vrouw het hof maakt*
078 - 07-08-1940 – NK 2878 – A. Houbraken, *Portret van een meisje*
079 - 07-08-1940 – NK 2910 – H.G. Pot, *Portret van een vrouw*
080 - 07-08-1940 – NK 3106 – J.G. Cuyp, *Adriana Passier (geb. circa 1591)*
081 - 07-08-1940 – NK 3388 – J. de Momper II, *Rotslandschap met ruiters*
082 - 13-08-1940 – NK 2873 – R. Carriera, *Een muze*
083 - 13-08-1940 – NK 2874 – R. Carriera, *Een muze*
084 - 14-08-1940 – NK 2924 – Q.G. van Brekelenkam, *Interieur met kaartspelers*
085 - 14-08-1940 – NK 3105 – B.G. Cuyp, *Man met globe*
086 - 14-08-1940 – NK 1517 – J.J. van Goyen, *Gezicht op Rhenen*
087 - 14-08-1940 – NK 1518 – J.J. van Goyen, *Gezicht op het Valkhof te Nijmegen*
088 - 14-08-1940 – NK 1621 – Anoniem, *Landschap met Jozef verkocht door zijn broeders*
089 - 21-08-1940 – NK 2403 – N. Maes, *Portret van een man, mogelijk Herpert Tromp (1627-1691)*
090 - 06-09-1940 – NK 2773 – J. van Kessel (navolger), *Dorp op heuvel in de winter*
091 - 11-09-1940 – NK 683 – Onbekend, *Tapiserie van wol met voorstelling van Bathseba in het bad*
092 - 11-09-1940 – NK 687 – Onbekend, *Tapiserie van wol met voorstelling van de dood van Lucretia*
093 - 19-09-1940 – NK 1479 – J.P. Schoeff, *Landschap*
094 - 09-11-1940 – NK 1513 – J. van Son, *Stilleven met verguld zilveren beker, oester en een geschilderde citroen*
095 - 23-12-1940 – NK 2855 – Onbekend, B. van Orley, *Maria met het Christuskind aan de borst*
096 - 00-00-1941 – NK 2305 – Onbekend, *Lezende man*
097 - 06-12-1941 – NK 1511 – A. van Dyck (in de stijl van), *Maria Henriëtte Stuart (1631-1661), Koningin van Engeland weduwe van Willem II, Prins van Oranje*
098 - 06-12-1941 – NK 2490 – M. de Hondecoeter, *Hoenderhof*
099 - 06-12-1941 – NK 1544 – J.H. Steen, *De verdrijving uit de tempel*
100 - 23-04-1942 – NK 1974 – Onbekend, *Een gezelschap in een interieur*
101 - 23-04-1942 – NK 2261 – School van Rembrandt, *Opwekking van Lazarus (fragment)*

List II - Works of art that came into the possession of the Sonderauftrag Linz

01 - 00-00-1940 – NK 2580 – G.A. Berckheyde, *Landgoed Elswout te Overveen nabij Haarlem*
02 - 00-00-1940 – NK 2685 – E. de Witte, *Interieur met een vrouw die op een virginaal speelt*
03 - 19-07-1940 – NK 2479 – Navolger van J. H. Steen, *Een Roker*
04 - 19-07-1940 – NK 1678 – S.J. van Ruysdael, *Riviergezicht met kanaalschip en zeilboten*
05 - 19-07-1940 – NK 1669 – D. van Tol, *Een oude vrouw in een venster geeft een plant water*
06 - 22-07-1940 – NK 2453 – J. van Streek, *Stilleven met fruit, Chinese schaal en andere objecten*
07 - 08-08-1940 – NK 1650 – J.I. van Ruisdael, *Boslandschap met vijver*
08 - 08-08-1940 – NK 1651 – A. van Ostade, *Een hierdraaier*
09 - 08-08-1940 – NK 1789 – S.J. van Ruysdael, *Rivierlandschap met veerboot*
10 - 13-08-1940 – NK 2591 – Kopie naar J.I. van Ruisdael, *Strandtafereel bij Egmond*
11 - 13-08-1940 – NK 2549 – G. A. Berckheyde, *Interieur van de St. Laurenskerk, Rotterdam*
12 - 04-09-1940 – NK 2276 – G. van den Eeckhout, *De edelmoedigheid van Scipio*
13 - 17-09-1940 – NK 1647 – Kopie naar Rembrandt van Rijn, *Oude man met Baard*
14 - 17-09-1940 – NK 2714 – N. Knüpfer, *De prediking van Johannes de Doper*
15 - 27-09-1940 – NK 2445 – N. Maes, *Een straatmuzikant speelt de draailier voor een huisdeur*
16 - 27-09-1940 – NK 2359 – J. van de Velde III, *Stilleven*
17 - 27-09-1940 – NK 2696 – J.M. Molenaer, *Musicerende kinderen*
18 - 27-09-1940 – NK 2621 – G. Horst, *Genezing van de blinde Tobias*
19 - 27-09-1940 – NK 1746 – A. van der Neer, *Een zandweg met valkenier en kasteel in de verte*
20 - 27-09-1940 – NK 1680 – D. Mijntens II, *Meleager geeft de kop van het zwijn aan Atalanta*
21 - 27-09-1940 – NK 1701 – F. Bol, *Portret van familie in gedaante van Venus, Mars en Cupido*
22 - 05-10-1940 – NK 1809 – D. Maas, *Jachtstoet passeert een fontein*
23 - 31-10-1940 – NK 2388 – J. van Son, *Stilleven met kreeft en fruit*
24 - 08-11-1940 – NK 1705 – M. van Musscher, *Portret van vrouw en haar dochter met een papegaai*
25 - 08-11-1940 – NK 2616 – S.J. van Ruysdael, *Paardenmarkt te Valkenburg (Zuid-Holland)*
26 - 08-11-1940 – NK 1720 – G. J. Sibilla, *Bathseba badend*
27 - 05-12-1940 – NK 1750 – D. Teniers II, *Rustende veehoeder met vee bij een taveerne*
28 - 05-12-1940 – NK 1793 – Onbekend, *De Heilige Verwantschap*
29 - 05-12-1940 – NK 1811 – W. van Mieris, *Interieur met man die een pijp stopt en vrouw met kan*
30 - 05-12-1940 – NK 1747 – P. de Neyn, *Boerderij aan het water*
31 - 00-00-1941 – NK 2367 – W. van de Velde II, *Zeeslag tussen een Hollandse en een Franse vloot*
32 - 24-01-1941 – NK 2450 – Ph. Wouwerman, *Een schimmen met rustende boeren voor een school*
33 - 06-02-1941 – NK 1659 – In de stijl van A van Dyck, *Aanbidding door de herders*
34 - 06-02-1941 – NK 1660 – G. Hainz, *Stilleven met bierkan met deksel, schaal en borden met citroen en suiker*
35 - 06-02-1941 – NK 2722 – J. Cornelisz van Oostsanen, *Aanbidding der herders*
36 - 06-02-1941 – NK 1666 – A.J. Klomp, *Kudde bij een boerderij*
37 - 06-02-1941 – NK 2452 – J.J. van Goyen, *Gezicht op de Merwede bij Dordrecht; gezicht op de Batsentoren, Zeeland*
38 - 10-02-1941 – NK 1652 – W. van Mieris, *De Poelier*
39 - 13-02-1941 – NK 2422 – H. van der Burgh, *Moeder en kind bij een raam*
40 - 22-03-1941 – NK 1926 – Onzekere toeschrijving I. van Ostade, *Interieur van een stal met boer en een paard*
41 - 23-04-1941 – NK 2727 – J.H. Steen, *De waarzegster*
42 - 23-04-1941 – NK 1688 – H. de Fromantou, *Stilleven met bloemen in een vaas, oosters tapijt en eekhoorn*
43 - 23-04-1941 – NK 2589 – H.G. Pot, *Vanitas*
44 - 25-04-1941 – NK 2523 – C. Netscher, *Portret van een man en vrouw*
45 - 23-04-1941 – NK 1810 – Kopie naar G. ter Borch, *Willem Everwijn (1617-1673)*
46 - 28-04-1941 – NK 1794 – Onbekend, *De Visitatie*
47 - 06-05-1941 – NK 2631 – Brusselse meester van 1520, *Lamentatie over de dode Christus door Maria, Johannes en Maria Magdalena*
48 - 25-06-1941 – NK 2393 – S.J. van Ruysdael, *Stad aan een rivier*
49 - 25-06-1941 – NK 2560 – N. Maes, *De Luistervink*
50 - 29-09-1941 – NK 2738 – P.C. van Slingeland, *Familie in een interieur*
51 - 29-09-1941 – NK 1648 – Kopie naar Rembrandt van Rijn, *Christus als hovenier*
52 - 29-09-1941 – NK 1716 – D. Teniers II, *Landschap met twee reizigers en huizen langs rivier*
53 - 18-11-1941 – NK 1725 – M. de Hondecoeter, *Pluimvee*
54 - 18-11-1941 – NK 1691 – Navolger van A. van Beijeren, *Stilleven met rode kreeft en zilveren kan*
55 - 18-11-1941 – NK 1756 – G. Lundens, *Interieur van een herberg met jagers en andere figuren*
56 - 18-11-1941 – NK 2083 – T. de Keyser, *Anna Hunthums (1595-1639)*
57 - 19-11-1941 – NK 1729 – R. Brakenburg, *Vrolijk gezelschap in een herberg*
58 - 19-11-1941 – NK 1668 – F. Bol, *Man met hoge baret*
59 - 28-11-1941 – NK 1654 – G. Flegel, *Stilleven met kazen, glaswerk en speelkaarten*
60 - 28-11-1941 – NK 1662 – Anoniem, *Dorpsstraat met muzikant (de hiereman)*
61 - 23-02-1942 – NK 2468 – R. Brakenburg, *Vrolijk gezelschap*
62 - 30-03-1944 – NK 2519 – C.H.J. Leickert, *Gezicht op Nijmegen*
63 - 30-03-1944 – NK 2309 – A.J. van der Croos, *Landschap nabij Alkmaar*
64 - 30-03-1944 – NK 2550 – P. Codde, *Paar in interieur*
65 - 30-05-1944 – NK 2365 – A. Storck, *Imaginaire haven aan de Middellandse Zee*

List III - Works of art that came into the possession of Hermann Göring

- 01 - 00-00-1940 – NK 2716 – P. Koninck, *Vergezicht met wandelaar*
02 - 28-07-1940 – NK 1600 – A. van Beyeren, *Stilleven met schotel, bokaal, Chinese kom en andere voorwerpen*
03 - 28-07-1940 – NK 1824 – Kopie naar A. van Dyck, *Mary Feilding (1613-1638), Markiezin van Hamilton*
04 - 28-07-1940 – NK 1825 – Kopie naar A. van Dyck, *James Stuart (1612-1655), Hertog van Lenox en Richmond*
05 - 25-08-1940 – NK 2465 – B. van Orley, Drieluik
06 - 27-09-1940 – NK 1695 – J.G. Cuyp, *Michiel Pompe van Slingelandt (1643-1685) op zesjarige leeftijd, met een valk, geplaatst tegen een landschap*
07 - 27-09-1940 – NK 1751 – N.E. Pickenoy, *Elisabeth Cobbault (1588-1655). Echtgenote van Pieter de Schilder*
08 - 27-09-1940 – NK 2608 – Atelier van Rembrandt van Rijn, *Saskia van Uylenburch (1612-1642). Echtgenote van de schilder*
09 - 00-01-1941 – NK 1890 – J.J. van Goyen, *IJstafereel bij Dordrecht*
10 - 22-03-1941 – NK 2575 – Onbekend, *Triptiek met Christus aan het kruis*
11 - 22-03-1941 – NK 2923 – P. Aertsen, *Christus voor Pontius Pilatus*
12 - 22-03-1941 – NK 3103 – J.C. Vermeyen, *Portret van een man*
13 - 22-03-1941 – NK 2826 – J. Cornelisz. Van Oostanen, *Calvarieberg*
14 - 22-03-1941 – NK 2777 – C.C. van Haarlem, *Fruitoogst (herfst; Pomona ontvangt de fruitoogst)*

List IV - Other works of art

- 01 - 00-00-1940 – NK 2603 – J.S. Mancadan, *Rotsachtig landschap met Ruiter*
02 - 00-09-1940 – NK 2823 – P. Wouwerman, *Paardenmarkt te Valkenburg*
03 - 00-09-1940 – NK 1815 – Q.G. van Brekelenkam, *Interieur met man en vrouw*
04 - 00-10-1940 – NK 2633 – P.P. Rubens, *Jan Neyen (1568-1612)*
05 - 26-07-1940 – NK 3292 – N. Molenaer, *IJsgesicht met schaatsers bij een stadsmuur*
06 - 00-00-1941 – NK 2172 – Meester van de Jaren Veertig, *Portret van een man*
07 - 28-03-1941 – NK 2207 – Navolger van J.G. Cuyp, *Portret van een meisje met een geit*
08 - 00-10-1941 – NK 2711 – J.D. de Heem, *Stilleven met glas, glasstandaard en muziekinstrumenten*
09 - 00-00-1943 – NK 2655 – J.H. Steen, *Rivierlandschap met figuren en een wagen voor een toren*

List V - Archives and literature consulted

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Federal Archives in Berlin:

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The Federal Archives in Koblenz:

B323, inv. nos: 39, 102, 110, 111, 112, 113, 114, 145, 146, 151, 152, 156, 164, 574, 575, 1213, 1214, 1215

Archive of the Dutch province of Gelderland:

Trade Register of the Chamber of Commerce and Industries in Arnhem

File numbers 1312, 11234

Trade Register of the Chamber of Commerce and Industries in Deventer

File 2693

National Archives of the Netherlands:

Trade Register of the Chamber of Commerce and Industries in The Hague 1921-1969 (entry 3.17.13.03)

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Inv. nos. 277, 278

Swiss Legation (entry 2.05.49)

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Inv. no. 8063

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Inv. no. 2392

Archive of the Public Prosecution Service at The Hague Court of Justice (entry 3.03.89)

Inv.no. 503 (old inventory number: VI 419)

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Inv. nos. 851-883 ('Goldsticker Miedl')

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Decree issued by the State Secretary for Education, Culture and Science, F. van der Ploeg, establishing a committee to advise the government on the restitution of items of cultural value of which the original owners involuntarily lost possession due to circumstances directly related to the Nazi regime and which are currently in the possession of the State of the Netherlands (Decree establishing the Advisory Committee on the Assessment of Restitution Applications)

Reference
WJZ/2001/45374(8123)

Zoetermeer
16 November 2001

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

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

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

Herewith decrees as follows:

Article 1

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

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

Article 2

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

Article 3

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

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

Article 4

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

Article 5

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

Article 6

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

Article 7

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

Article 8

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

Article 9

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

Article 10

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

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

Article 11

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

Article 12

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

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

The State Secretary for Education, Culture and Science

[signed]

F. van der Ploeg

Explanatory notes

General

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

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

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

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

Based on its own experience, the Ekkart Committee currently expects that the Advisory Committee will be asked to consider 30 to 50 cases relating to objects currently held by the State. There are no indications as yet about the number of applications that might be submitted to the Advisory Committee by private individuals, nor is it clear how many years the Committee is going to need to fulfil its tasks. The figures mentioned seem to point to a term of 3 to 5 years.

Explanatory notes on each article

Article 2

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

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

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

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

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

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

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

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

Articles 3 and 4

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

The Advisory Committee is composed in such a way that at least the legal, historical and art history expertise required for the assessment of a restitution application is represented. The requirement that the chairman and deputy chairman be legal experts stems from the fact that in spite of the choice for a moral policy-oriented approach, legal expertise obviously remains indispensable in the assessment of the laws and regulations involved in applications for restitution. The availability of legal expertise is ensured in all cases, given that no opinion is formulated without the involvement of either the chairman or the deputy chairman.

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

Article 5

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

Article 6

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

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

Article 10

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

The State Secretary for Education, Culture and Science,

[signed]

(F. van der Ploeg)

Unofficial English translation

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

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

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

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

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

Herewith decrees as follows:

Article 1

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

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

Article 2

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

Unofficial English translation

Article 3

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

Article 4

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

Article 5

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

Article 6

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

Article 7

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

Unofficial English translation

Article 8

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

Article 9

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

Article 10

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

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

Article 11

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

Article 12

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

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

The State Secretary for Education, Culture and Science,

F. van der Ploeg

Policy framework of the Restitutions Committee

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

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

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

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

Definition

Article 1

The terms used in these regulations are defined as follows:

- 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);
- the Minister: the Minister for Education, Culture and Science;
- the Ministry: the Ministry of Education, Culture and Science;
- the work: the item(s) of cultural value, as referred to in Article 2, paragraph 2 of the Decree, that is/are the subject matter of the dispute.
- the applicant: the person applying for restitution of items of cultural value;
- the owner: the current owner, other than the State of the Netherlands;
- the parties: the applicant and the owner.

Task

Article 2

- At the request of the Minister, the Committee has the task of rendering an opinion to the parties about disputes concerning the return of the work.
- The Committee does this by issuing a binding opinion within the meaning of Section 7:900 of the Netherlands Civil Code (settlement agreement) or by promoting a settlement or the formation of a mediation agreement between the parties.

Article 3

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

- internationally and nationally accepted principles such as the Washington Principles and the government's line of policy concerning the restitution of stolen works of art in so far as they apply by analogy;
- the circumstances in which possession of the work was lost;
- the extent to which the applicant has endeavoured to trace the work;
- the circumstances in which the owner acquired the work and the inquiries the owner made prior to acquiring the work;
- the significance of the work for the applicant;
- the significance of the work for the owner;
- the significance for the public art collection.

Admissibility

Article 4

The Committee can deny a party's application if:

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

The hearing of disputes

Article 5

1. Both parties request the Minister to submit their dispute to the Committee in accordance with Article 2, paragraph 3 of the Decree.
2. After the Minister has presented the dispute to the Committee, it will hear the dispute after the parties have stated in writing that they accept these regulations, that they accept the opinion at issue as binding and that they will comply with the outcome of any mediation.
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 terms.

Article 6

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

Article 7

1. Should the Committee decide that oral proceedings are to take place, it sets the place, day and time and informs the parties accordingly.
2. The Committee may allow the parties to bring witnesses or experts and have them heard. The names and addresses of such persons are to be given to the Committee at the latest ten days before the hearing.
3. Parties may send documents to the Committee until ten days before the oral proceedings.

Article 8

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

Article 9

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

Article 10

If the parties reach a settlement, the Committee will lay down the contents thereof in the form of a binding opinion.

Opinion

Article 11

The Committee may recommend that:

- a. the work be returned to the applicant;
- b. the work be returned by way of a set consideration from the applicant to the owner ;
- c. the work be returned to the applicant subject to further provisions;
- d. settlement of a set consideration by the owner to the applicant, while the work 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 12

1. The chairman or vice-chairman and the secretary of the Committee sign the opinion 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 opinion, either of his or her own accord or in response to a written request from one of the parties submitted no later than two weeks after the opinion was sent.
3. The parties are informed in writing of any changes or corrections.

Article 13

Any costs incurred by the parties themselves with regard to handling of the dispute and the preparation of the opinion are payable by the parties, unless the Committee decides otherwise.

Mediation

Article 14

1. Should both parties let it be known that they wish the dispute to be resolved by means of mediation, the Committee will take preparatory steps to reach an agreement to that effect. This agreement will include the appointment of the mediator and the stipulation that the mediator inform the Committee of the result of the mediation.
2. Should the mediation not lead to a resolution of the dispute, the Committee will resume its handling thereof.

Confidentiality, objection and exemption

Article 15

Without prejudice to the provisions referred to in articles 12 and 17, the Committee is obligated to maintain confidentiality with regard to all information relating to the parties of which it has 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 an opinion.
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.

Publication

Article 17

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

Liability

Article 18

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

Reversal

Article 19

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

Unforeseen

Article 20

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

Transitional and final provisions

Article 21

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

Article 22

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

Index recommendations Restitutions Committee by case number (2002 to 2012)

RC case no.	Recommendation regarding:	Date recommendation
1.1	<i>Paschal Lamb</i> by J. Beuckelaer	25 March 2002
1.2	The Gutmann collection	25 March 2002
1.3	<i>Venus in Vulcan's Smithy</i> after F. Boucher	22 April 2002
1.4	<i>Portrait of a man with a greyhound</i> by Thomas de Keyser and <i>The sleeping innkeeper</i> after Nicolaas Maes	7 April 2003
1.5	<i>Portrait of a woman with a little dog</i> and <i>View of Binnen-Amstel and the Blauwbrug</i>	23 September 2002
1.6	The Koenigs collection	3 November 2003
1.7	<i>Portrait of Don Luis de Requessens y Zuñiga</i>	28 October 2002
1.8	<i>Still life with kippers, oysters and smokers' accessories</i> by Floris van Schooten	24 April 2003
1.9	<i>Still life with fish on trestle table</i> by Van Beyeren	18 September 2003
1.10	Art dealership J. Stodel	18 April 2005
1.11	<i>The Rhine near Coblenz</i> by Gerard Battem	18 September 2003
1.12	18th century Frankfurts cupboard	18 September 2003
1.13	Herri met de Bles	29 June 2005*
1.14	Three paintings by Troost and Van der Mijn owned abroad	7 February 2005
1.15	Goudstikker	19 December 2005
1.16	<i>Elegant company making music on a terrace</i> by Dirk Hals	15 December 2003
1.17	<i>Fisherman on horseback</i> by Jozef Israëls	22 March 2004
1.18	Four nineteenth-century landscapes	18 May 2004
1.19	Art dealership Vecht	30 March 2005
1.20	Three paintings by Troost and Van der Mijn owned abroad	7 February 2005
1.22	<i>Family portrait</i> by J.M. Quinckhard	6 March 2006
1.24	<i>Venus and Adonis with Amor</i> by J.A. Uytewael	7 September 2005
1.25	<i>Landscape with river and windmills</i> by J.M. Graadt van Roggen	27 June 2005
1.26	<i>Charles, Prince de Rohan Soubise</i> by J.F. Voet and four 18th-century Louis XV armchairs	3 July 2006
1.27	A saucer and the painting <i>Woman and child at a cradle</i> by J.S.H. Kever	12 March 2007
1.28	<i>Poultry</i> by M. d'Hondecoeter and <i>Saint Peter repentant</i> by G. Reni	24 April 2006
1.29	<i>Three men in a boat on turbulent water</i> by A.H. Lier and <i>Mountain landscape with castle</i> by T. le Feubure	12 June 2006
1.30	A ceremonial Kiddush cup	3 April 2006
1.31	<i>Wooded landscape with shepherd and cattle</i> by B.C. Koekkoek	3 July 2006
1.32	Drawing by Hendrick Goltzius on the back of a playing card	15 May 2006
1.33	<i>A girl in a pastoral dress holding a basket</i> by J. van Noordt	12 March 2007
1.34	<i>Still life with fruit and dead fowl</i> by J. Fyt	14 May 2007
1.36	<i>Portrait of a man</i> by N. de Largillière	31 July 2006
1.37	Art dealership Mozes Mogrobi	12 February 2007
1.38	Estate of Anne Frank	24 April 2006
1.39	Von Marx-May	25 June 2007
1.41	<i>Wooded landscape with herd near a pond</i> by J.S. van Ruysdael	27 November 2006
1.42	Hakker/Anholt	12 March 2007
1.43	<i>Couple in an Interior</i> after A. van Ostade	14 May 2007
1.44	The circumcision, anonymous, previously attributed to Meester van Kappenburg	18 December 2006
1.46	Kaufmann	18 December 2006
1.47	Four gilded silver chalices and a fifteenth-century silver crosier	14 May 2007
1.49	Art dealership Stodel (II)	7 April 2008
1.50	Marcus de Vries	3 December 2007

* no substantive advice

RC case no.	Recommendation regarding:	Date recommendation
1.51	Art dealership Mossel	7 January 2008
1.52	An eighteenth-century commode in the style of Louis XVI	12 February 2007
1.53	Van Brabant	4 February 2008
1.54	<i>Unloading the hay wagon</i> by Isaac van Ostade	1 October 2007
1.55	Reclining Nude by J.C.B. Sluijters	11 June 2007
1.56	A bamboo quiver and an oak three-door milk cupboard	12 March 2007
1.57	Van Messel	4 February 2008
1.58	An eighteenth-century Savonnerie carpet	16 April 2007
1.59	Letowski	6 August 2007
1.60	A bronze statue Stonemason by C.E. Meunier	13 April 2011
1.61-A	Arnhold (A)	21 November 2011
1.61-B	Arnhold (B)	17 December 2012
1.62	Art dealership Staal	7 April 2008
1.63	China 'Famille Rose' plate with flower vase decor	7 January 2008
1.64	Art dealership Rubens	6 May 2008
1.65	Nardus	6 April 2009
1.66	Lachmann	3 March 2008
1.67	Oppenheimer	4 February 2008
1.68	Weijers	1 December 2008
1.69	A tin Maccabee lamp	3 December 2007
1.70	Larsen	1 July 2009
1.71	Behrens	3 July 2008
1.72	Dotsch	3 July 2008
1.73	Von Podwinetz	2 June 2008
1.75	Semmel	1 July 2009
1.76	May	10 November 2008
1.77	Proehl	9 February 2009
1.78	Bachstitz	14 September 2009
1.79	Heppner	9 March 2009
1.80	Von Pannwitz	6 April 2009
1.81	Schönemann	12 October 2009
1.82-A	Rosenbaum	31 January 2011
1.82-B	Rosenbaum	19 December 2011
1.84	Cassirer	6 April 2009
1.86	Wassermann	1 December 2008
1.87	Art dealership Van Lier	6 April 2009
1.88	Bachstitz (II)	12 January 2009
1.89-A	Mautner (A)	12 October 2009
1.89-B	Mautner (B)	17 December 2012
1.90-A	Art dealership Katz (A)	1 July 2009
1.90-B	Art dealership Katz (B)	17 December 2012
1.91	Adelsberger	9 March 2009
1.96	Stern	3 May 2010
1.97	Hollander	12 October 2009
1.99	Glaser	4 October 2010
1.100	Zadick	3 May 2010
1.101	Wolf	9 November 2009
1.102	Van Aldenburg Bentinck	6 September 2010
1.103	S. van Leeuwen	2 April 2012
1.104	A persian medallion carpet (Wolf/Van den Bergh)	29 March 2010
1.105	Rosenberg	3 May 2010
1.106	De Haan	13 October 2011
1.107	Morpurgo (II)	5 March 2012

RC case no.	Recommendation regarding:	Date recommendation
1.108	Mathiason	31 January 2011
1.109	Joseph Stodel	7 June 2010
1.110	Von Goldschmidt-Rothschild	6 December 2012
1.111	Mayer	7 March 2011
1.112	May (II)	19 September 2011
1.113	Gutmann (II)	29 June 2010
1.114-A	Gutmann (III)	6 December 2010
1.114-B	A sculpture in Fritz Gutmann's collection	11 April 2011
1.115-A	Gutmann (IV)	19 December 2011
1.115-B	A Gubbio dish from the Gutmann collection (Gutmann IV-B)	21 June 2012
1.116	Hiegentlich	14 November 2011
1.117	Jonas	19 December 2011
4.118	Weijers (II)	6 September 2010
4.119	De Vries (II)	6 September 2012
1.120	A bronze sculpture Hercules (Oppenheimer II)	7 June 2011
4.125	Van Aldenburg Bentinck II	5 March 2012
RC case no.	Binding recommendation regarding:	Date binding recommendation
3.45	<i>A Prayer Before Supper</i> by Jan Toorop (Flersheim I)	7 April 2008
3.48	<i>Thames at London</i> by Jan Toorop (Flersheim II)	3 March 2008
3.93	<i>The Marriage of Tobias and Sarah</i> by Jan Steen (Von Saher/The Hague Municipal Council)	6 October 2008
3.95	<i>Road to Calvary</i> , Brunswijker monogrammist	3 May 2010
3.129	<i>Allegory of autumn</i> by Jacob de Wit (Gutmann/Province of Drenthe)	3 September 2012

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