



Schweizerische Eidgenossenschaft
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Swiss Confederation

Federal Department of Home Affairs FDHA

Federal Department of Foreign Affairs FDFA

FDHA/FDFA Report
on the status of work
of the Swiss Confederation
in the field of Nazi-looted art
in the period from 2011 to 2016

Summary

Between 1933 and 1945, both in Germany and in countries annexed and occupied by the Germans, a great many works of art were systematically confiscated by the Nazis and thus stolen from their original owners. During the Nazi period and thereafter, Nazi-looted art was often conveyed into other countries, including Switzerland. Dealing with the issue of Nazi-looted art remains an important priority for Switzerland, as the Federal Council reiterated in its Message on the Promotion of Culture in the Years 2016 to 2020 of 28 November 2014. Cases like that of the bequest of Cornelius Gurlitt, for example, have shown how this issue can occupy centre stage in terms of topicality.

In December 1998 Switzerland joined 43 other states in adopting the *Washington Conference Principles on Nazi-Confiscated Art* (the Washington Conference Principles) These are regarded internationally as constituting a model of 'best practice' for dealing with art looted by the Nazis. In adopting the Washington Conference Principles, Switzerland has publicly shown that it sees the transparent processing of issues relating to Nazi-looted art, and the achievement of just and fair solutions in this respect, as matters of the highest importance.

In 2011 the Swiss Confederation published its *FDHA/FDFA Report of 24 November 2010 on the state of work on Nazi-looted art, in particular on the subject of provenance research*. Whereas the provenance of works owned by the Confederation had already been scrutinised in 1998 and the results published accordingly, the report noted in particular that a great majority of third-party museums (i.e. museums not managed by the Confederation) had not examined the provenance of their collections or had not done so with sufficient thoroughness. The report concluded that further action in this respect was required.

The present report summarises the work of the Confederation in connection with Nazi-looted art in the period from 2011 to 2016. In the areas where a need for action was seen in 2010, the Confederation has continued its work of implementing declarations with relevance to looted art and has achieved progress. It has encouraged the spread of information and raised consciousness of the problems of Nazi-looted art in responsible circles on the basis of various measures. In the period 2016 to 2020, the Confederation will be funding provenance research by museums and third-party collections and the publication of research results, both with financial assistance and with the help of a central government internet portal for Nazi-looted art. Cooperation at national level between the FDHA and FDFA (Federal Departments of Home Affairs and Foreign Affairs) and with cantonal and municipal governments and museum associations has been further encouraged with a view to the implementation of the Washington Conference Principles

The report then defines the following areas where action is needed. (1) The provenance of art works must be systematically examined by institutions with the aim of establishing changes of ownership in the period from 1933 to 1945. (2) The results of provenance research must be published and the relevant archives made more accessible. (3) In cases where art has been looted by the Nazis, just and fair solutions must be achieved as prescribed by the Washington Conference Principles.

The report closes by defining the main priorities of the work of the Confederation in connection with Nazi-looted art from 2016 onward. These include (1) supporting the provenance research of museums and third-party collections, (2) supporting the publication of the results of the provenance research of museums and third-party collections and measures for making archival records more accessible, and (3) further developing the Confederation's advisory services to encourage the achievement of just and fair solutions.

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I Initial position

1 Mandate

The present report of the Federal Department of Home Affairs (FDHA) and Federal Department of Foreign Affairs (FDFA) is the result of a mandate from the Federal Council. The Federal Council took note of the report on 19 October 2016.

2 Structure of the report

Systematically and thematically the report follows the needs for action defined by the *FDHA/FDFA Report of 24 November 2010 on the status of work in the field of art looted by the Nazis, especially in the area of provenance research* (FDHA/FDFA Report 2010), as shown below:¹

1. Implementing international declarations having relevance to looted art (II.1 below);
2. Encouraging the spread of information and raising awareness in relation to the problems of Nazi-looted art (II.2 below);
3. Intensification of provenance research in relation to existing collections and new acquisitions by the museums (II.3 below);
4. Making the results of provenance research more accessible (II.3 below);
5. Continuing the work of the Working Group of the Confederation, the Cantons and the Museum Associations (II.4 below).

3 Background conditions

The work of the Confederation in the field of Nazi-looted art is based on the internationally recognised *Washington Conference Principles on Nazi-Confiscated Art* (the Washington Conference Principles). These were ratified by Switzerland in 1998 together with 43 other states (see **Appendix 1**). The Washington Conference Principles call in particular for the identification of art looted by the Nazis, the dissemination of information and opening of relevant archives, and the achievement of just and fair solutions for cases of Nazi-looted art.

The Washington Conference Principles are regarded, nationally and internationally, as constituting a model of 'best practice' for dealing with issues relating to Nazi-looted art. They are understood as being definitive but not directly enforceable guidelines (thus coming under the heading of '*soft law*'), such that the encouragement of their implementation in all the relevant circles is of particular importance. Consequently it is an objective of the endeavours of the Confederation to support third parties in their implementation of the Washington Conference Principles.

On the occasions of the two international follow-up conferences in Vilnius (2000) and Prague/Terezin (2009), there was a renewed affirmation of the need existing worldwide for action in implementation of the Washington Conference Principles. Switzerland attended the conferences and was among the countries that adopted the declarations that emerged.²

¹ The 2010 FDHA/FDFA Report drawn up on the instructions of the Federal Council and dated 24 November 2010 contains the result of Switzerland's contribution to the work of the international *Holocaust Era Asset Conference*, held in the year 2009 in Prague/Terezin, as well as the summary of an FDHA/FDFA survey on the status of provenance research circulated to 551 museums in Switzerland. The report was published on 17 January 2011. See www.bak.admin.ch/rk > EN.

² For the Declaration of Vilnius of 5 October 2000, see www.lootedart.com; for the Declaration of Terezin (Theresienstadt) of 30 June 2009 see www.holocausteraassets.eu.

By adopting the Washington Conference Principles in 1998 the Confederation committed itself to identifying works of art which had been confiscated during the Nazi period and might possibly be among its own collections, searching for their rightful owners and endeavouring to bring about just and fair solutions. The crucial issue in the eyes of the Confederation, based on the principles of the Washington Conference Principles, is the question whether a change of ownership in the years between 1933 and 1945 was in effect a confiscation.

The Confederation has lived up to its responsibilities, and has investigated its collections with reference to the issue of Nazi-looted art, publishing the results in 1998 in the report *Kulturgüter im Eigentum der Eidgenossenschaft – Untersuchung zum Zeitraum 1933–1945* (see also in connection to this *Milestones in the Confederation's handling of the issue of Nazi-looted art in the period 1945–2016*, **Appendix 2**).³

In its cultural message for the years 2016 to 2020 of 28 November 2014,⁴ the Federal Council stated that in museums and collections belonging to the cantons, the municipalities or to private individuals there continues to be gaps in clarification of the provenance of works of art in their possession, and/or that the results of provenance research that has been carried out have not yet been published or given sufficient prominence. In this connection it should be observed that in the Swiss museum scene only a very small proportion of museums are institutions belonging to the Confederation. The great majority of them are public museums belonging to cantonal or municipal councils, or are private institutions.

II Work of the Swiss Confederation in the period from 2011 to 2016

1 Implementation of international declarations having relevance to looted art

The implementation of international declarations of intent by all groups affected (the Confederation, the cantons and municipalities, and private institutions) is a matter of great importance, as the problem of art looted by the Nazis touches all levels of governmental activity as well as private institutions. Against this background, the efforts of the Confederation to date in connection with Nazi-looted art first of all serve the objectives of the Confederation directly, and at the same time support third parties in implementing the relevant international declarations.

The aim of the work of the Confederation, in this connection, is that the Washington Conference Principles must be acknowledged and implemented by all affected groups and institutions, both public and private, as constituting a model of 'best practice'.

1.1 Work on international level

1.1.1 Multilateral cooperation

Multilateral cooperation between states contributes to the networking of information and to the recognition and solution of problems. This makes it possible gain an overview of the status of developments in dealing with Holocaust issues and Nazi-looted art in an international context and in the relationship of Switzerland to other nations.

Since the multilateral conference in Prague/Terezin in 2009 (see I.3 above) there have not been any further initiatives at multilateral level which might have led to an analogous follow-up conference in

³ See www.bak.admin.ch/rk > EN.

⁴ Message on the Promotion of Culture in the Years 2016 to 2020 of 28 November 2014, Swiss Federal Gazette 2015 497, p. 556.

relation to Nazi-looted art. In 2018, the Washington Conference Principles will have been in existence for 20 years.

On the multilateral level, in 2004, Switzerland became a member of the *International Holocaust Remembrance Alliance* (IHRA) and has been working since then in conjunction with this body.⁵ The IHRA has three principal areas of activity: research into the Holocaust, preservation of the memory of its victims and education relating to the Holocaust.⁶ In the area of academic research, the IHRA works to bring about maximum freedom of access to informational materials, for example by calling for the opening of Holocaust-related archives. This is of great importance for provenance research in the field of Nazi-looted art. The Swiss delegation is headed by the Secretary General of the FDFA, and also includes representatives of the FDFA and of the cantons who are members of the Working Group of the Confederation, Cantons, Municipalities and Museum Associations (see II.1.2.2.b). In view of the fact that the heads of certain delegations forming part of the IHRA (for example the United States, France, Austria) and representatives of organisations like the *Conference on Jewish Material Claims Against Germany* (the Claims Conference) happen to be in charge of the looted art dossier, meetings of the IHRA also offer a platform for formal and informal exchanges on the subject of looted art. In 2015, Switzerland published a national report⁷ that summarises recent efforts by Switzerland in the IHRA's fields of activity. Based on decisions by the Federal Council and the IHRA, Switzerland will assume the presidency of the organisation in 2017 and will organise two plenary assemblies.⁸

In 1978, UNESCO set up the international *Committee for Promoting the Return of Cultural Property to Its Countries of Origin or Its Restitution in Case of Illicit Appropriation*, thereby establishing an institutional framework for the treatment of cases of restitution between states.⁹ In order to encourage alternative methods dispute resolution, i.e. as an alternative to court proceedings, in 2005, the activities of the committee were expanded with the addition of two further fields of activity, Mediation and Conciliation. The Confederation lends its support to these projects. With the Confederation participating in the project, the procedural rules for mediation and conciliation were formulated in 2010.¹⁰ The UNESCO Mediation and Conciliation forum can in principle only be brought into play for restitution claims between UNESCO member states. The member states can, however, also in this context represent the interests of private or public institutions from their national territory, or of private nationals, in this context. In the area of Nazi-looted art, private restitution claims are particularly relevant, which is why such alternatives to the judicial resolution of disputes are of importance (see II.1.1.3 below).

1.1.2 Bilateral cooperation

On the bilateral level, the Confederation (FDFA and the Contact Bureau on Looted Art of the Federal Office of Culture [FOC]/FDHA) has maintained regular contacts, especially with Germany, France and the United States of America.

In the period from 2011 to 2013, there were exchanges with the German authorities in connection with preparatory work for the establishment of a new internet portal of the Confederation for Nazi-looted art (see II.2.1 below). Furthermore these discussions led to the result that the central Lost Art online database¹¹ for documentation of looted and expropriated art in the time of National Socialism was made open to access by Swiss museums. In 2014, a representative of the FOC/FDHA was the only foreign

⁵ See www.holocaustremembrance.com. The IHRA currently counts 31 member states, 10 observer countries and 7 permanent international partners, like the UN, the OSCE and the Council of Europe.

⁶ Apart from matters related to the Holocaust, the IHRA is also active in fighting antisemitism, in the study of genocide perpetrated against the Roma people and the comparison with other cases of genocide.

⁷ For the report *International Holocaust Remembrance Alliance Country Report of Switzerland (2015)* See www.holocaustremembrance.com/sites/default/files/ihra-crch-final.pdf.

⁸ The meetings will be held in June 2017 in Geneva and in November 2017 in Bern. FDFA Media Communication of 5 November 2015 on www.eda.admin.ch/eda/de/home/aktuell/informationen-deseda.html/content/eda/de/meta/news/2015/11/5/59357.

⁹ See www.unesco.org/new/en/culture/themes/restitution-of-cultural-property/mediation-and-conciliation/.

¹⁰ *Rules of Procedure for Mediation and Conciliation in accordance with Article 4, Paragraph 1, of the Statutes of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation*, See www.unesco.org/new/en/culture/themes/restitution-of-cultural-property/mediation-and-conciliation/.

¹¹ See www.lostart.de.

member of the external group of experts for the evaluation of the work of the *Koordinierungsstelle für Kulturgutverluste Magdeburg* (today known as German Lost Art Foundation).¹² Partly in connection with the Gurlitt case, from 2014 onward there were regular exchanges with representatives of the German authorities.

Several meetings between representatives of the Confederation and the French and/or authorities from the United States of America followed, with the aim of encouraging exchanges in the context of issues relating to Nazi-looted art.

Representatives of the German and French authorities actively took part in the International Conference for the Exchange of Information on Nazi-Looted Art, organised by the Confederation (FDHA/FDFA) and held in Bern in June 2013 (see II.2.2 below).

Bilateral governmental cooperation between the Confederation and the authorities of third nations has lent international prominence to the efforts of the Confederation, as well as promoting the ongoing exchange of knowledge.

1.1.3 Cooperation with non-governmental organisations

The Confederation (the FOC/FDHA Contact Bureau on Looted Art) has maintained contact with various non-governmental organisations and worked together with them on a regular basis. In particular, the FOC/FDHA Contact Bureau on Looted Art has supported the work of the *Art and Cultural Heritage Mediation Programme* of the International Council of Museums (ICOM), in cooperation with the *Arbitration and Mediation Center* of the World Intellectual Property Organization (WIPO)¹³ – this with a view to bringing about just and fair solutions by alternative methods of dispute resolution. In the framework of the services offered by ICOM and WIPO, parties have access to a list of selected mediators. They can also benefit from standardised procedural rules for disputes involving cultural assets, which likewise incorporate the ICOM Code of Ethics for Museums. WIPO can draw on experience in connection with forms of alternative dispute resolution, like mediation, arbitration and adjudication by expert reviewers.

The FOC/FDHA Contact Bureau on Looted Art then has actively supported the work of ICOM Switzerland for the implementation of ICOM's Code of Ethics for Museums in Switzerland. These guidelines expressly dictate (in section 2.3) that the provenance of works of art must be completely elucidated, especially if there is any prospect of their ownership changing.¹⁴

Likewise regular exchanges have been conducted with the *Commission for Looted Art in Europe*.¹⁵

1.1.4 Participation in symposiums and workshops

In the international context, numerous symposiums in the field of Nazi-looted art held in the period 2011 to 2016 have shown that there is continuing dynamic momentum in dealing with these issues. Since 2011, the FOC/FDHA Contact Bureau on Looted Art has actively taken part in five international symposiums and workshops in the field of Nazi-looted art.¹⁶

¹² Founded on 22 January 2015, the Centre sees itself as a central partner and point of contact at national and international level for questions involving the unlawful expropriation of cultural assets in Germany in the 20th century. See www.kulturgutverluste.de.

¹³ *World Intellectual Property Organization WIPO*. See <http://icom.museum/press-releases/press-release/article/art-and-cultural-heritage-mediation/L/12/> and www.wipo.int/amc/en/center/specific-sectors/art/icom/.

¹⁴ See www.museums.ch/publicationen/standards/ethische-richtlinien.html. In section 2.3, this Code of Ethics for Museums contains the following standard requirement: 'Every effort must be made before acquisition to ensure that any object or specimen offered for purchase, gift, loan, bequest, or exchange has not been illegally obtained in, or exported from its country of origin or any intermediate country in which it might have been owned legally (including the museum's own country). Due diligence in this regard should establish the full history of the item since discovery or production.'

¹⁵ See www.lootedartcommission.com.

¹⁶ Overview of the symposiums and workshops:

- 2011: International Symposium of the Committee for Provenance Research of the Austrian Federal Ministry of Education, Art and Culture, *Kunst sammeln – Kunst handeln*, Vienna/Austria;
- 2012: International Symposium of the *Dutch Restitution Committee*, *Fair and just solutions? Alternatives to Nazi-looted art disputes: status quo on new developments*, Den Haag/Netherlands;

These symposiums and workshops reflect the dynamism with which the issue of Nazi-looted art is being internationally addressed, especially in a western European context.

1.1.5 Evaluation of the implementation of the Washington Conference Principles in Switzerland at international level

Based on investigations conducted in 50 countries in 2014, the non-governmental organisations the *Conference on Jewish Material Claims Against Germany* (Claims Conference)¹⁷ and the *World Jewish Restitution Organization* (WJRO)¹⁸ drafted the report *Holocaust-Era Looted Art: A Current World-Wide Overview* (10 September 2014).¹⁹

The report offers an overview of the worldwide implementation of the Washington Conference Principles from 1998 and the Declaration of Terezin of 2009 in 50 countries. The report pays tribute to the substantial progress of work in this field in Switzerland, counting Switzerland, in its implementation of the Washington Conference Principles, among the leading states in this respect in the group of states where the Holocaust did not take place.

On the international scale of comparison, Switzerland thus enjoys a reputation as being somewhat progressive in its implementation of the Washington Conference Principles. In order to live up to this standard, on the other hand, further efforts are necessary.

1.2 Work at national level

1.2.1 Federal Council

In the period from 2011 to 2016, the Federal Council responded to eight parliamentary questions relating to Nazi-looted art. These were the following items of parliamentary business:²⁰

- Interpellation no. 13.4027 by Aubert, “Raubkunst”;
- Motion no. 14.3480 by Reynard, “Raubkunst. Verbindlichkeit der Washingtoner Richtlinien international stärken”;
- Motion no. 14.3497 by Tschäppät, “Raubkunst. Provenienzforschung wirksam fördern”;
- Question no. 14.5602 by Tschäppät, “Moralische Verpflichtung des Bundes bei der Aufarbeitung des Gurlitt-Erbes”;
- Question no. 14.5664 by von Graffenried, “Raubkunst”;
- Interpellation no. 14.4157 by Comte, “Kunstsammlung Gurlitt. Zwischen Recht und Moral”;
- Interpellation no. 15.3067 by Aebischer, “Stärkung und Koordination von Provenienzforschung in der Schweiz”;
- Question no. 15.5110 by Reimann, “Untätige Anlaufstelle Raubkunst im Bundesamt für Kultur und Hodlers ‘Stockhornkette mit Thunersee’“.

Furthermore, in 2012, the Federal Council authorised further strategic proceedings in the only two cases since 1945 involving restitution claims with respect to two works of art in the possession of institutions belonging to the Confederation (for the particulars of these cases, see II.1.2.3.a below).

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- 2012: International Workshop of the *European Shoah Legacy Institute ESLI, Provenance Training Research Programme*, Magdeburg/Germany;
 - 2013: 5. International Conference of the *Czech Documentation Centre for Property Transfers of Cultural Assets of WW II Victims, ‘The West’ versus ‘The East’ or The United Europe? The different conceptions of provenance research, documentation and identification of looted cultural assets and the possibilities of international cooperation in Europe and in the world*, Prodebrady/CZ;
 - 2015: Conference of the Munich Central Institute for History of Art / Evan Akademie Tutzing, *Raubkunst – Kunstwerke im langen Schatten der Vergangenheit*, Tutzing/Germany.

¹⁷ See www.claimscon.org.

¹⁸ See www.wjro.org.il.

¹⁹ See www.claimscon.org.

²⁰ See the CURIA VISTA database of parliamentary proceedings www.parlament.ch/de/ratsbetrieb/curia-vista.

With reference to the Gurlitt case in 2014, in which the private-law *Stiftung Kunstmuseum Bern* (Bern Art Museum Foundation) was affected, the Federal Council actively made it known that it welcomed the fact that an agreement between the Foundation and the German authorities included an explicit acknowledgement of the Washington Conference Principles. It expects the prompt achievement of just and fair solutions for cases of art looted by the Nazis. The case was given support by the Confederation, based on the scope of its responsibilities (see II.1.2.2.a and II.1.2.3.b below).

1.2.2 Working bodies of the Confederation

a) FDHA/FDFA Coordination Group

In connection with work relating to the Gurlitt case, in 2014, a Coordination Group at Confederation level (FOC/FDHA; General Secretariat/FDFA) was set up to coordinate joint efforts. It is headed by the General Secretary of FDFA and the Director of FOC/FDHA. With a view to the coherent, credible and effective implementation of the activities of the Confederation, the FDHA/FDFA Coordination Group has met regularly for the purposes of mutual exchange and cooperation. Regular meetings will continue in future.

b) Working Group of the Confederation / Cantons / Municipalities and Museum Associations

Based on the resolution of the Federal Council from 11 January 2007, a cooperative network involving FOC/FDHA and FDFA (FDFA Historic Service under the auspices of Political Direction, which became the General Secretariat [GS] in 2013) as well as the cantons (Swiss Conference of Cantonal Ministers of Education [EDK]) and the museum associations (Swiss Museums Association [VMS] and Swiss Art Museums Association [VSK]) was set up in 2007 to deal with issues relating to Nazi-looted art. Since 2015, the Municipalities' Culture Conference (SKK) has also been a member of the organisation. The aim of their cooperative efforts is to continue the handling of problems relating to art looted by the Nazis on the different state levels and in conjunction with the groups affected, so that just and fair solutions may be brought about.

The cooperative efforts of the Working Group over the period from 2011 to 2016 led to the following results:

- Launch of the internet portal of the Confederation on Nazi-looted art by FOC/FDHA for access by the general public, 2013 (see II.2.1 below);
- International conference for the exchange of information on Nazi-looted art, with an emphasis on the theme of provenance research, 2013 (see II.2.2 below);
- Evaluation of the internet portal of the Confederation on Nazi-looted art based on a survey of 551 Swiss museums and collections, 2014/2015 (see II.2.3 below);
- Redesign, improvement and updating of the internet portal of the Confederation on Nazi-looted art, 2016 (see II.2.4 below).

1.2.3 FOC/FDHA Contact Bureau on Looted Art

With a view to implementing the Washington Conference Principles, a Contact Bureau on Looted Art was set up by the Federal Council in 1999 under the auspices of the Federal Office of Culture. Its activities embrace the following three areas:

a) Queries and cases falling under the remit of the Confederation

The FOC/FDHA Contact Bureau on Looted Art is directly responsible for queries and cases that fall within the sphere of responsibility of the Confederation, i.e. for queries that affect museums and collections of the Confederation and other federal institutions.

The Confederation investigated the provenance of its collections in 1998, and published the results in the report *Kulturgüter im Eigentum der Eidgenossenschaft – Untersuchung zum Zeitraum 1933–1945*.²¹

²¹ The report has been published on the FOC/FDHA internet portal on Nazi-looted art, see www.bak.admin.ch/rk.

In the period from 2011 to 2016, the FOC/FDHA Contact Bureau on Looted Art dealt with the following two cases involving restitution claims relating to art works owned by the Confederation, and submitted them to the Federal Council for approval. These are the only two cases of restitution demands on the Swiss Confederation since 1945.

- i) *View of Les Saintes-Maries-de-la-Mer*, Vincent Van Gogh, 1888,
in the Oskar Reinhart *Am Römerholz* collection

In 2010, a restitution claim was brought against Switzerland by a private individual before a court in New York. The plaintiff called for the return of a drawing by Vincent Van Gogh (*View of Les Saintes-Maries-de-la-Mer*, 1888), which formed part of the Oskar Reinhart *Am Römerholz* collection, in the possession of the Confederation. The collector Oskar Reinhart had donated the collection to the Confederation, along with the Villa am Römerholz, in 1958.

After careful examination of the material and legal facts of the case, the claim was rejected by the Confederation. Provenance research had yielded the conclusion that the work could not be seen as Nazi-looted art in the sense understood by the Washington Conference Principles. The collector Oskar Reinhard had acquired the work under the auspices of a business relationship existing since 1928, purchasing it fairly directly from the vendor, at an appropriate market price, in November 1933. The collector had already purchased a similar drawing at a comparable price from the lady in question in 1928.

The claim was subsequently denied by the courts in New York, both in the first (2011) and in the second instances (2012). The court judgment in favour of Switzerland is legally effective (see FOC/FDHA Media Communication of 23 February 2012, **Appendix 3**).²²

- ii) *Lerber Lark*, Nicolas Matthey, 1670/80,
in the Swiss National Museum

In 2012, the Swiss National Museum (SNM) handed over a silver drinking vessel in the form of a lark, dating from the 17th century (known as the 'Lerber Lark'), from its collection to the estate of the Jewish collector Emma Budge.

Based on provenance research, the SNM had already established in 1998 that it had acquired the drinking vessel at a public auction of the collection of Emma Budge in Berlin in 1937. This conclusion had been published by the SNM in 1998 in the FOC/FDHA report *Kulturgüter im Eigentum der Eidgenossenschaft: Untersuchung zum Zeitraum 1933–1945* in order to make it known to the general public. Further provenance research by the SNM and the FOC/FDHA Contact Bureau on Looted Art, in conjunction with representatives of the executor of the heirs of Emma Budge, showed that the profits from the public auction of the drinking vessel were never passed on to the heirs of Emma Budge, but were transferred to a blocked account controlled by the Nazis. At no time were the profits from the sale ever made available to the lawful heirs.

In light of the proven facts that had emerged in the interim (involving confiscation, the auction and its consequences) and in the interest of a just and fair solution as understood by the Washington Conference Principles, the Federal Council gave permission for the work to be handed over to the heirs without compensation (see FOC/FDHA Media Communication of 7 June 2012, **Appendix 4**).²³

- b) Queries and cases in the sphere of responsibility of third parties

Queries that do not fall in the sphere of responsibility of the Confederation, but in that of other institutions or private individuals, are forwarded by the FOC/FDHA Contact Bureau on Looted Art to the responsible institutions and persons. Where necessary, the Contact Office is available to give general information to interested parties.

²² See www.bak.admin.ch/rk > EN > News / Media releases.

²³ See www.bak.admin.ch/rk > EN > News / Media releases.

As in the context of Nazi-looted art, various forms of alternative dispute resolution (e.g. mediation, conciliation or arbitration) can bring about a just and fair solution, the FOC/FDHA Contact Bureau on Looted Art likewise informs interested parties about the possible options in this area. It also accompanies the negotiations of third parties in controversial cases and acts as a mediator – provided this is desired by all parties involved – with a view to helping bring about just and fair solutions as understood by the Washington Conference Principles.

In the period covered by this report, particular significance attaches to the Confederation's involvement in the Gurlitt case. The Bern Art Museum, a foundation under private law, had been designated by Cornelius Gurlitt as the sole heir of his estate, in 2014. The museum then concluded an agreement, in the same year, with the Federal Republic of Germany and the Free State of Bavaria with reference to the art works in the estate of Cornelius Gurlitt. In this agreement the parties expressed their intention of adhering to the Washington Conference Principles and declared that they wished to bring about just and fair solutions for any possible cases of Nazi-looted art.

The art collection originated from the father of the testator, the art dealer Hildebrand Gurlitt. In November 2013, the German authorities discovered a large collection of works of art, which were presumed to have disappeared in the period of National Socialism, at the residence of Cornelius Gurlitt and another property. In this context, the question arose whether and to what extent the art works from the estate constituted Nazi-looted art.

The Confederation was not a party to the agreement, as the Bern Art Museum is a foundation under private law. It therefore acts independently and is not affiliated with the Confederation. Representatives of the Confederation (FDHA/FDFA) did, however, attend selected negotiations between the parties. At Confederation level, the project was handled by the FDHA/FDFA Coordination Group (see II.1.2.2.a above). The FOC/FDHA Contact Bureau on Looted Art was involved in its role as the Competence Centre of the Confederation for Nazi-looted art.

The Confederation openly expressed its expectation that the Washington Conference Principles are to be applied with regard to the incorporation of the works in the museum's collection, and that research into the provenance of works in the Gurlitt estate be continued. Only in this way can it be ensured that just and fair solutions are being found for works that can be classified as Nazi-looted art (see FOC/FDHA communication of 13 May 2014, **Appendix 5**, FDHA/FDFA communication of 24 November 2014, **Appendix 7** and Federal Council Media Communication of 24 November 2014, **Appendix 6**).²⁴

c) Competence Centre

The FOC/FDHA Contact Bureau on Looted Art is available as a Competence Centre for general enquiries relating to the subject of Nazi-looted art. It maintains contacts with Swiss and foreign institutions and organisations concerned with the problems of looted art, and encourages the sharing of general information. In this way it contributes to the networking of information and to the identification and resolution of problems.

Since 2011, the number of enquiries in the area of Nazi-looted art and provenance research received by the FOC/FDHA Contact Bureau on Looted Art has increased significantly. The Contact Office handled 17 enquiries in 2011, 11 enquiries in 2012, 23 enquiries in 2013, 75 enquiries in 2014 and 45 enquiries in 2015 (including questions from the media). By contrast, the years 2009 and 2010 saw just 2 and 6 enquiries respectively.

In connection with the exhibition *Moderne Meister "Entarteter" Kunst im Kunstmuseum Bern* (April to August 2016), which took place under the patronage of the head of the FDHA and the Federal Government Delegate for Culture and the Media, the FOC/FDHA Contact Bureau on Looted Art made its specialist knowledge available to the museum for the compilation of background material in relation to the exhibition. The FOC/FDHA Contact Office also assists other third parties, like art dealers and private individuals, by providing general information on a regular basis.

²⁴ See www.bak.admin.ch/rk > EN > News / Media releases.

2 Encouraging the exchange of information and raising third-party awareness

Work towards the implementation of the Washington Conference Principles by museums and collections falls generally under the individual responsibility of the institutions involved. In support of this, the Confederation has intensified its work on networking, consulting and providing information for the benefit of museums and the collections of third parties.

The objective of the efforts of the Confederation in this area is systematically to raise the awareness of public and private museums and third-party collections and provide them with information in relation to the issue of Nazi-looted art.

2.1 Launch of the internet portal of the Swiss Confederation on Nazi-looted art, 2013

In June 2013, in consultation with GS/FDFA (Historic Service) and the cantons (Swiss Conference of Cantonal Ministers of Education [EDK]) and the museum associations (VMS, VSK), the Confederation launched an internet portal on Nazi-looted art (www.bak.admin.ch/rk).²⁵

This online portal is the central source of up-to-date information in Switzerland on the subject of Nazi-looted art. It supports museums and third-party collections with a view to 'helping them to help themselves' in dealing with problems relating to art looted by the Nazis. In particular, it offers support to museums and collections in relation to provenance research. To this end, it provides various documents, including a set of guidelines for provenance research, an associated checklist and overviews of archives in Switzerland and listings of national and international online portals and catalogues relating to Nazi-looted art.

In addition, the internet portal offers institutions the possibility of making their results in the field of provenance research generally accessible via a link on the portal, as recommended by the Washington Conference Principles.

The launch of the Nazi-looted art portal was met with a positive response both within Switzerland and abroad. The central internet portal of the Confederation on Nazi-looted art is a direct result of the need for action formulated in the FDHA/FDFA report of 2010.

Since the launch of the portal in June 2013, around 67,000 hits have been registered.²⁶

2.2 International conference of the FOC/FDHA on Nazi-looted art, 2013

On the occasion of the launch of the portal for art looted by the Nazis, FOC/FDHA together with GS/FDFA organised an international conference for the exchange of information in connection with Nazi-looted art in Bern, in June 2013, with a special emphasis on the theme of provenance research.²⁷ Along with contributions from speakers representing foreign government departments and coming from museums and universities and the international art market, a discussion round took place in which all parties in the affected groups were involved.

²⁵ See www.bak.admin.ch/rk.

²⁶ Status: as at 8 June 2016.

²⁷ www.bak.admin.ch/rk. *International Conference for the Exchange of Information on Nazi-looted Art and Provenance Research: Launch of the New Internet Portal of the Federal Office of Culture*, 17 June 2013, Bern.

The conference was attended by interested groups coming from within Switzerland and abroad. It was successful in contributing to the networking of information and to the recognition and solution of problems in the area of Nazi-looted art.²⁸

2.3 Evaluation of the internet portal of the Confederation on Nazi-looted art, 2014/2015

With a view to improving the internet portal on Nazi-looted art which had been launched in 2013, in 2014/2015 the FOC/FDHA and GS/FDFA joined with the cantons (EDK), the municipalities (SKK) and the museum associations to carry out a voluntary survey of 551 Swiss museums. The survey related to patterns of use and the way the internet portal was viewed, as well as touching on general questions of provenance research.

383 of the 551 museums approached responded to the questionnaire, amounting to a response rate of 70 percent. The evaluation report from 21 December 2015 summarised the findings of the survey and presented conclusions concerning the need for action on this basis.

In the light of this, future efforts should be focused on art museums particularly affected by the issue of Nazi-looted art. On the other hand, there is also a need to continue the dissemination of information and raising awareness generally, in order to increase the number of users of the portal in the long term, which the survey indicated is presently unsatisfactory. Furthermore, the online portal should be constantly kept up to date and expanded where necessary.

It then emerged that the great majority of the art museums principally affected by the issue of Nazi-looted art were prepared to link the findings of their provenance research with the internet portal of the FOC/FDHA Contact Bureau on Looted Art. At the same time, however, the majority of the art museums expressed the opinion that they were lacking in resources for provenance research. Accordingly, there is also a need for measures in support provenance research and the publication of research findings, possibly by linking them to the Nazi-looted art internet portal (see the report "Evaluation of the survey on the use of the FOC internet portal on Nazi-looted art and provenance research", www.bak.admin.ch/rk from 21 December 2015, **Appendix 8**).

Subsequent work took into account the need for action established by this evaluation. On the one hand, the evaluation led to a redesign of the internet portal (see II.2.4 below). At the same time there have been continuing and unremitting efforts to disseminate information and raise levels of awareness, especially in relation to the art museums particularly affected by the issue (see II.2.5 and III.3.1.1 below). With reference to support for provenance research and publication of the results, since 2016, the Confederation has been providing financial assistance to third-party museums for measures associated with the clarification and publication of the provenance of works of art (see II.3 below).

2.4 Redesign of the internet portal of the Confederation on Nazi-looted art, 2016

On the basis of the evaluation report from 21 December 2015 and the individual suggestions submitted to FOC/FDHA, the FOC/FDHA Contact Bureau on Looted Art redesigned the internet portal in 2016. The supportive literature provided for provenance research in Switzerland was expanded and updated (provenance research guidelines [**Appendix 9**], provenance research checklist [**Appendix 10**], overview of archives in Switzerland and listings of national and international online portals and catalogues relating to Nazi-looted art). As a new feature, a glossary explaining selected terms in the context of the Washington Conference Principles was included (**Appendix 11**).²⁹

²⁸ The proceedings of the conference were published on the internet portal of the FOC (www.bak.admin.ch/rk).

²⁹ See www.bak.admin.ch/rk > EN > Provenance Research in Switzerland.

Finally, further results emerging from the provenance research of third-party museums were linked to the internet portal. Based on access via links on the portal, the research results have been made transparent and accessible to the general public, as recommended by the Washington Conference Principles. These links are continually updated.

2.5 Dialogue with third parties

As a measure for the raising of awareness and dissemination of information, FOC/FDHA has maintained regular dialogue with various interest groups.

In March 2016, on the occasion of a meeting of the Swiss Conference of Cantonal Ministers of Education [EDK], FOC/FDHA informed this body about the current work of the Confederation in the area of Nazi-looted art, especially in connection with the support given to provenance research and publication of the results (see 3 below). The Confederation expects from the cantons that their museums and collections conduct thorough provenance research as a matter of priority and publish the results, and likewise expects the cantons to provide the necessary financial resources.

In 2015, the FOC/FDHA invited the 12 art museums that in 1998 had signed the *Declaration by the signatory art museums of Switzerland in respect of cultural assets looted under the Nazi regime and during the Second World War*³⁰ (the 'Looted Art Declaration') to two discussion meetings on the subject of provenance research in connection with the problem area of Nazi-looted art. It emerged from the resulting dialogue that while many institutions have come a long way in scrutinising the provenance of their art works, there is a wide range of differences when it comes to making the results accessible, not least because of the considerable outlay involved. At the same time the museums identified a difficulty in the context of their provenance research, based on the fact that the results of provenance research are still, generally speaking, insufficiently networked. In light of the interest in a general exchange of information, the group of participants for the first meeting in 2016 was expanded to include other interested museums. Further meetings are planned for the future.

Since 2011, the FOC/FDHA has been keeping art-market and auctioneers' associations informed about developments in the field of Nazi-looted art. For instance, these groups were notified about the new internet portal on Nazi-looted art and the subsequent evaluation report. In 2016, the FOC/FDHA also engaged in a dialogue with the trade associations on the subject of information about the new financial subsidies made available by FOC/FDHA to third-party museums for the purposes of provenance research and publication of the results (see II.3 below), as well as the necessity of provenance research with the aim of achieving just and fair solutions. It urged the trade associations to open their archives to the fullest possible extent with the aim of encouraging further provenance research efforts.

Talks have also taken place in 2014/2016 between the FOC/FDHA, the GS/FDFA and the Swiss Federation of Jewish Communities (SIG), and these will be continued in the future.

3 Intensification of provenance research, and making the results of provenance research more accessible

Although the Confederation had investigated its collections in the light of the issue of Nazi-looted art in 1998, the Federal Council concluded, in its Cultural Message for the years 2016–2020,³¹ that museums and collections belonging to the cantons and municipalities or in the hands of private individuals continue to suffer from gaps when it comes to the clarification of the provenance of their art works. There is also inadequate publication of the results of provenance research in appropriately transparent form.

³⁰ See www.bak.admin.ch/rk > EN > Provenance Research in Switzerland.

³¹ Message on the Promotion of Culture in the Years 2016 to 2020 of 28 November 2014, Swiss Federal Gazette 2015 497, p. 556.

The objective of the efforts of the Confederation in this area is to encourage museums and collections to proactively and systematically scrutinise their collections for cases of Nazi-looted art, and to publish the results transparently on the internet. Such scrutiny, incidentally, is also consistent with the procedure dictated by the ICOM Code of Ethics for Museums (see II.1.1.3).

3.1 Inviting applications for subsidies and planning financial support to third-party museums and collections for provenance research and publication of the results

Since 2016, the FOC/FDHA has been giving financial support to third-party museums and collections in connection with provenance research and publication of the results, based on article 10 of the Promotion of Culture Act³² and the *Verordnung des EDI über das Förderungskonzept 2016–2017 für die Unterstützung von Museen, Sammlungen und Netzwerke Dritter zur Bewahrung des kulturellen Erbes [FDHA Ordinance on the 2016–2017 financial assistance scheme for the support of third-party museums, collections and networks for the preservation of cultural heritage]* (the FDHA Financial Assistance Scheme).³³ For the period 2016 to 2020, two million Swiss francs have been earmarked for this project. FOC/FDHA subsidies may be directed to projects relating to works of art, or they may equally be dedicated to work on the archive materials that have relevance to provenance research.³⁴

For the period 2016 to 2017, 15 applications for financial contributions to projects were submitted to the FOC/FDHA, coming to a value of CHF 1,099,615 altogether. Twelve of these projects have received support, to a total value of CHF 907,833.

3.2 FOC/FDHA standards for project support

Museums and collections that receive financial assistance, based on the Subsidies Scheme, from the FOC/FDHA for provenance research and publication of the results, are obliged to adhere to certain standards in carrying out their work.

The supported institutions commit themselves to fundamentally observe the Washington Conference Principles in their museum activities. A standard reference for provenance research is the *Leitfaden für Museen zur Durchführung von Provenienzrecherchen [Guidelines for Museums Conducting Provenance Research]*, published on the internet platform of the Confederation for Nazi-looted art (**Appendix 9**), along with the accompanying checklist (**Appendix 10**).³⁵ The FOC/FDHA is particularly insistent that the results of provenance research should be made generally publicly available by way of the internet, and linked to the online portal of the Confederation on Nazi-looted art. When indications of Nazi-looted art are found, there is a basic recommendation that the work should be registered on the central Looted Art Database www.lostart.de.³⁶ Contact should then immediately be initiated with any concerned groups, with a view to finding a just and fair solution.

The standard requirements defined by the FOC/FDHA should ensure that the Washington Conference Principles are implemented for the scrutiny of the collections of supported institutions with reference to Nazi-looted art.

³² Bundesgesetz über die Kulturförderung of 11 December 2009, SR 442.1.

³³ 25 November 2015, SR 442.121.

³⁴ See www.bak.admin.ch/rk > EN > Provenance research in Switzerland.

³⁵ See www.bak.admin.ch/rk > EN > Provenance research in Switzerland.

³⁶ The official German Lost Art Database is the central database for the documentation of looted and expropriated art from the time of National Socialism. It includes cultural assets which were removed, displaced or stolen from their owners (in particular, Jewish owners) by reason of persecution, or in relation to which provenance gaps exist, in such a way that this kind of history of loss cannot entirely be ruled out. The database is maintained by the German Foundation for the Loss of Cultural Assets, also known as the Lost Art Foundation in Magdeburg.

4 Ongoing projects of the Working Group of the Confederation / Cantons and Museum Associations

The efforts of the Working Group of the Confederation / Cantons and Museum Associations (which, since 2015, has also included the SKK) have been continued in the period from 2011 to 2016. The objective of the cooperation is a broadly based and coordinated scrutiny of Nazi-looted art and the implementation of the Washington Conference Principles on all levels. For the work of the Working Group of the Confederation, Cantons and Museum Associations since 2011, see the observations in section II.1.2.2.b).

III Conclusion, and the need for further action

1 Conclusion

In relation to the need for action established by the FDHA/FDFA report from 2010, in the period from 2011 to 2016, progress has been made in all areas:

- The Confederation has continued its efforts to encourage the implementation of the Washington Conference Principles, so that these shall be acknowledged and applied by the groups concerned. The Washington Conference Principles are regarded today, both internationally and within Switzerland, as constituting a standard of 'best practice' for the investigation of the problems of Nazi-looted art.
- The Confederation has implemented various measures to inform third-party museums and collections of the problems connected with art looted by the Nazis. These include an intensification of advisory services made available to third parties, the creation of the internet portal of the Confederation on Nazi-looted art, the organisation of an international conference for the exchange of information, a survey involving 551 museums and ongoing dialogue with various interest groups. In this context, it has emerged that increasing numbers of third parties are also showing interest and commitment in relation to the investigation of Nazi-looted art.
- The objective of further intensification of provenance research, and wider publication of the results of research, has been a particular priority for the Confederation – as evidenced by the mention of provenance research in connection with Nazi-looted art in the Federal Council's Message on Culture for the period 2016 to 2020. The possibility for third-party museums and collections to receive financial assistance for provenance research and publication of such research, from 2016, has accordingly been established. As a practical research tool, an internet portal on Nazi-looted art has also been set up. This forms a basis for supporting the provenance research activities of museums and collections with information and auxiliary resources, as well as networking the results of their provenance research with the help of online links.
- The ongoing further development of cooperative efforts between FDHA and FDFA, based on the Working Group of the Confederation, the Cantons and the Museum Associations, has led to significant results, and likewise to a broad base of support and acceptance of the need to address the issue of Nazi-looted art in accordance with the Washington Conference Principles.

Although the work carried on hitherto represents further progress by Switzerland in connection with addressing the issue of Nazi-looted art, it must nonetheless be stated that third-party museums and collections continue to suffer from gaps in the clarification of the provenance of art works in their possession. In particular, there is often a lack of the corresponding transparent publication of the results of provenance research.

2 Further need for action

On the basis of the Washington Conference Principles and the insight from the work carried out to date that the processing of Nazi-looted art in Switzerland has not yet been completed, the following need for action for the future, in the form of a recommendation, can be ascertained.

2.1 Investigation of provenance for changes of ownership in the period from 1933 to 1945

Looted art from the period 1933–1945 has in the past, and may still today, make its way into the collection of an institution via purchase, deed of gift, legacy, loan or permanent loan. The crucial factor in the eyes of the Confederation, in the light of the Washington Conference Principles, is the question whether a change of ownership took place between 1933 and 1945, and whether this amounted to an effective confiscation.

Continuing efforts, thus, need to be made, with museums and collections systematically investigating the works in their possession to see if a change of hands took place in the period from 1933 to 1945, and considering the possibility that an effective confiscation might have taken place.

2.2 Publication of research results, and improved archive accessibility

The publication of the results of research serves to raise standards of transparency, encouraging a responsible attitude to history and the proactive clarification of any open questions. Therefore, for this work to be continued, the transparent publication of the results of provenance research on the internet is essential.

Crucial for provenance research, moreover, is access to archives. The public archives are in general accessible to all. Private archives on the other hand, like museum archives, archives of auction houses, dealers' and collectors' estates etc., are likewise a source of valuable information in relation to the research issues in this field. Thus, making the relevant archives accessible in digital form by way of the internet will simplify the task of provenance research to a considerable degree.³⁷

2.3 Achievement of just and fair solutions in connection with Nazi-looted art in accordance with the Washington Conference Principles

When, on the basis of provenance investigations, indications of Nazi-looted art are found, the original owners (or their heirs) must be identified, on the one hand, in order to obtain further information and, on the other hand, in cases of Nazi-looted art, to bring about just and fair solutions in accordance with the Washington Conference Principles. In this connection, various paths for alternative dispute resolution – like mediation, conciliation or arbitration – may offer support to such solutions.

³⁷ An overview of archives in Switzerland with potential relevance to the conducting of provenance research, especially in connection with Nazi-looted art, may be found on the internet portal for Nazi-looted art of the FOC/FDHA. See www.bak.admin.ch/rk > Provenance research in Switzerland.

IV Priorities of the Confederation for further action

Based on the need for action that has been established above, from 2016 onward the Confederation aims to encourage the further implementation of the Washington Conference Principles based on the priorities described below.

1 Support of the provenance research of museums and collections

On the basis of Article 10 of the Promotion of Culture Act, in the period 2016 to 2020 the Confederation (FOC/FDHA) will be providing financial assistance for projects of third-party museums and collections that investigate provenance for a change of ownership in the years from 1933 to 1945. Together with the financial support for the publication of the results of provenance research, as mentioned below, this will amount to a budget of two million francs for this purpose over the next five years.

The Confederation's internet portal on Nazi-looted art provides a content-based contribution to the work of third-party museums and collections in connection with provenance research. This contains the essential relevant information and is continuously updated and adapted to the needs of users.

The Confederation (FOC/FDHA) will then continue to engage in dialogue with third-party museums, especially with art museums particularly affected by this issue.

2 Support of the publication of the results of provenance research by museums and collections, and improvement of archive accessibility

With the financial subsidies referred to in IV.1 above, the Confederation also supports the publication of the results of provenance research by third-party museums and collections. In order for an institution to be able to receive financial assistance, it must commit itself to publication of the results of its provenance research.

The supported institutions must, furthermore, link the results of their provenance research with the internet portal of the Confederation for Nazi-looted art. This should enhance the valuable networking of research findings.

The Confederation will, moreover, maintain active exchanges and contacts with the relevant museum associations, art market bodies and collectors' organisations, with the aim of encouraging the publication of research results and improved archive accessibility on an institutional basis.

3 Further development of advisory work for the encouragement of just and fair solutions

The Confederation will continue to engage actively in advisory work and will expand the advisory services it offers. Through the intensification of its advisory and networking operations to the benefit of third parties, especially third-party museums and collections, the Confederation supports the latter in their implementation of the Washington Conference Principles. In this context the Confederation will likewise recommend recourse to the various forms of alternative dispute resolution, with the aim of achieving just and fair solutions for cases of Nazi-looted art within the meaning of the Washington Conference Principles.

Bern, 19 October 2016 FDHA (FOC), FDFA (GS)

List of Abbreviations

FOC	Federal Office of Culture of the Federal Department of Home Affairs
Claims Conference	Conference on Jewish Material Claims Against Germany
FDFA	Federal Department of Foreign Affairs
FDHA	Federal Department of Home Affairs
EDK	Swiss Conference of Cantonal Ministers of Education
FDHA Financial Assistance Scheme	Ordinance on the 2016–2017 Financial Assistance Scheme for the Support of Third-Party Museums, Collections and Networks for the Preservation of Cultural Heritage, SR 442.121
GS / FDFA	General Secretariat of the Federal Department of Foreign Affairs
ICOM	International Council of Museums
IHRA	International Holocaust Remembrance Alliance
KFG	Federal Act for the Promotion of Culture of 11 December 2009, SR 442.1
SIG	Swiss Federation of Jewish Communities
SKK	Municipalities' Culture Conference
SNM	Swiss National Museum
UNESCO	United Nations Educational, Scientific and Cultural Organization
VMS	Swiss Museums Association
VSK	Swiss Art Museums Association
Washington Conference Principles	Washington Conference Principles on Nazi-Confiscated Art – approved on the occasion of the Washington Conference on assets dating from the time of the Holocaust, Washington DC, 3 December 1998
WIPO	World Intellectual Property Organization
WJRO	World Jewish Restitution Organization

Appendix 1: Washington Conference Principles on Nazi-Confiscated Art

In developing a consensus on non-binding principles to assist in resolving issues relating to Nazi-confiscated art, the Conference recognizes that among participating nations there are differing legal systems and that countries act within the context of their own laws.

- I. Art that had been confiscated by the Nazis and not subsequently restituted should be identified.
- II. Relevant records and archives should be open and accessible to researchers, in accordance with the guidelines of the International Council on Archives.
- III. Resources and personnel should be made available to facilitate the identification of all art that had been confiscated by the Nazis and not subsequently restituted.
- IV. In establishing that a work of art had been confiscated by the Nazis and not subsequently restituted, consideration should be given to unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era.
- V. Every effort should be made to publicize art that is found to have been confiscated by the Nazis and not subsequently restituted in order to locate its pre-War owners or their heirs.
- VI. Efforts should be made to establish a central registry of such information.
- VII. Pre-War owners and their heirs should be encouraged to come forward and make known their claims to art that was confiscated by the Nazis and not subsequently restituted.
- VIII. If the pre-War owners of art that is found to have been confiscated by the Nazis and not subsequently restituted, or their heirs, can be identified, steps should be taken expeditiously to achieve a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case.
- IX. If the pre-War owners of art that is found to have been confiscated by the Nazis, or their heirs, can not be identified, steps should be taken expeditiously to achieve a just and fair solution.
- X. Commissions or other bodies established to identify art that was confiscated by the Nazis and to assist in addressing ownership issues should have a balanced membership.
- XI. Nations are encouraged to develop national processes to implement these principles, particularly as they relate to alternative dispute resolution mechanisms for resolving ownership issues.



Appendix 2: Milestones in the Confederation's handling of the issue of Nazi-looted art in the period from 1945 to 2016

(The following chronological listing gives an overview of the essential activities of the Confederation in dealing with the issue of Nazi-looted art in the period from 1945 to 2016.)

1945 and 1947: passing of the Looted Art Resolutions by the Federal Council

Shortly after the end of the Second World War, the Federal Council passed two resolutions (the 'Looted Art Resolutions'), time-limited to 31 December 1947. The resolution of the Federal Council from 10 December 1945 gave robbed owners the right to call for the restitution of objects of value even from persons who had acquired them in good faith. The Federal Council resolution from 22 February 1946 made it mandatory for all inhabitants of Switzerland to declare any looted art in their possession, with penal sanctions being prescribed for non-compliance. These resolutions led to the return of 72 works of art.

1998: publication of the Federal Office of Culture's report *Kulturgüter im Eigentum der Eidgenossenschaft – Untersuchung zum Zeitraum 1933–1945 [Cultural Property Owned by the Confederation – Investigation of the Period 1933–1945]*

In preparation for the Washington Conference, the Confederation reviewed the collections in its possession and published its findings in *Kulturgüter im Eigentum der Eidgenossenschaft – Untersuchung zum Zeitraum 1933–1945 [Cultural Assets Owned by the Confederation – Investigation of the Period 1933–1945]*. The report can be accessed online on the FOC/FDHA website.

1998: commissioning and publication of the study 'Raubkunst-Kunstraub: Die Schweiz und der Handel mit gestohlenen Kulturgütern zur Zeit des Zweiten Weltkriegs' ['Looted Art / Art Theft: Switzerland and the Trade in Stolen Cultural Property at the time of the Second World War']

In 1998, the FOC/FDHA and the Nationale Informationsstelle für Kulturgüter-Erhaltung (NIKE) [National Information Office for the Preservation of Cultural Assets] jointly commissioned and published a study by historian Thomas Buomberger, on Switzerland as an art trading centre in the period from 1933 to 1945.

The study came to the conclusion that trade in looted art had flourished in Switzerland; at the same time, it appeared unlikely that Swiss museums still had great quantities of looted art works in their collections.

1998: ratification of the *Washington Conference Principles on Nazi-Confiscated Art*

In December 1998, Switzerland along with 43 other states ratified the *Washington Conference Principles on Nazi-Confiscated Art* (the Washington Conference Principles), a trailblazing document in the field of Nazi-looted art. Switzerland thereby indicated the great importance it attaches to dealing with problems associated with Nazi-looted art and to the achievement of just and fair solutions.

The Washington Conference Principles are internationally regarded as constituting a standard of 'best practice' for handling issues relating to Nazi-looted art. They are dedicated in particular to the objective

of identifying confiscated works of art, and subsequently finding just and fair solutions in connection with them.

From 1999: work of the Contact Bureau on Looted Art at federal level

In the context of the implementation of the Washington Conference Principles, in 1999 the Federal Council set up the Contact Bureau on Looted Art at the FOC/FDHA. This is the competence centre at federal level for questions in connection with Nazi-looted art, and is directly responsible for dealing with enquiries within the remit of the Confederation. Enquiries falling within the sphere of responsibility of other institutions are forwarded by the office to the responsible institutions and persons. Where necessary, the Contact Office is likewise available to enquiring parties for the provision of general information, and it can also act as a mediator in cases of conflict.

The objective is to give interested groups a first point of contact at federal level, and in cases of dispute to help bring about just and fair solutions as understood by the Washington Conference Principles. The Contact Office then also maintains contacts with institutions and organisations both within Switzerland and abroad which concern themselves with problems relating to looted art.

2000: participation in the *Vilnius Forum on Holocaust Era Looted Cultural Assets* and ratification of the Vilnius Declaration

The *Vilnius Forum on Holocaust Era Looted Cultural Assets* was held in October 2000, under the patronage of the General Secretary of the European Council and the Lithuanian government. The conference followed on from the Washington Conference from 1998, and was aimed at drawing up an interim balance on the implementation of the Washington Conference Principles.

The Swiss delegation played a significant part in formulating the Declaration of Vilnius, which fundamentally reaffirmed the importance of the Washington Conference Principles.

2000-2009: support of UNESCO projects relating to guidelines for cultural assets that had been displaced in connection with the Second World War

From the year 2000 onward, guidelines were formulated under the auspices of UNESCO relating to cultural assets that had been displaced in connection with the Second World War. Switzerland played an active part in the drafting of these guidelines, reiterating its commitment, in this context, to the concerns voiced in the Washington Conference Principles.

A UNESCO conference of experts in the spring of 2009, which was partially financed by the Confederation, resulted in a *Draft declaration on principles relating to cultural objects displaced in connection with the Second World War*, proposed by the majority of the participants. This draft declaration on principles was duly noted in the form of a resolution on the occasion of the 35th meeting of the General Conference of UNESCO in April 2009.

2001: publication of the report of the Bergier Commission: *Flight Assets – Looted Assets. The Transfer of Cultural Assets to and through Switzerland from 1933 to 1945, and the Problem of Restitution*

In 1996, the Federal Assembly and Federal Council set up an *Independent Commission of Experts on Switzerland in the Second World War* (also known as the Bergier Commission), and gave them the task of conducting historical and legal investigations into the transfer of cultural property to Switzerland before, during and immediately after the Second World War.

In 2001 the Bergier Commission published its volume on Nazi-looted art (*Flight Assets – Looted Assets. The Transfer of Cultural Assets to and through Switzerland from 1933 to 1945, and the Problem of Restitution*). This came to the conclusion that Swiss museums overall had followed a cautious and careful policy of acquisition, which was, however, not always the case with private collectors. The report was unable to confirm the assertion that a copious amount of looted art could still be found in Switzerland.

From 2004: membership to the *International Holocaust Remembrance Alliance*

Since 2004, Switzerland has been active member of the *International Holocaust Remembrance Alliance (IHRA)*, along with 31 other states. This international body is dedicated in particular to matters such as raising awareness recollection and research in connection with the Holocaust. In the area of academic research, the IHRA works to increase access to informational materials with a minimum of restriction, for example by calling for the opening of Holocaust-related archives, a matter of major importance for provenance research in connection with Nazi-looted art. Switzerland will assume the presidency of the IHRA in 2017.

From 2005: membership of the *Mediation and Conciliation Platform of the UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property to Its Countries of Origin or Its Restitution in Case of Illicit Appropriation*

In 1978, UNESCO created the intergovernmental *Committee for Promoting the Return of Cultural Property to Its Countries of Origin or Its Restitution in Case of Illicit Appropriation*, as an institutional framework for dealing with restitution claims between states. In 2005, the activities of the Committee were broadened to include mediation and conciliation.

With a view to encourage alternative dispute resolution between countries, the Confederation supports the *UNESCO Mediation and Conciliation* platform, believing that in the context of Nazi-looted art this can help to bring about just and fair solutions in accordance with the Washington Conference Principles.

2009: participation in the *Holocaust Era Assets Conference in Prague/Terezin*, and ratification of the *Declaration of Terezin*

In order to measure the progress of work in the field of Nazi-looted art and other areas since the Washington Conference Principles from 1998, a follow-up conference was held in 2009 under the aegis of the Czech government. This was the *Holocaust Era Assets Conference*, at which the 46 participating states, including Switzerland, joined in putting their names to the Declaration of Terezin. This reaffirmed the still existing worldwide need for continuing the work to implement the Washington Conference Principles.

2009: assessment of Switzerland in an international comparison in the report of the *Conference on Jewish Material Claims against Germany und World Jewish Restitution Organization*

On the occasion of the *Holocaust Era Asset Conference* in Prague/Terezin (2009), two non-governmental organisations, the *Conference on Jewish Material Claims Against Germany* (Claims Conference) and the *World Jewish Restitution Organization* (WJRO), presented for the first time an intermediate report on the implementation of the Washington Conference Principles in some 50 states.

The report states that in an international comparison Switzerland figures among those states which have made substantial progress in the field of Nazi-looted art since 1998.

From 2011: support of the *Mediation and Conciliation Platform of Art and Cultural Heritage Mediation of the International Council of Museums (ICOM) and the World Intellectual Property Organization WIPO*

With a view to the resolution of restitution disputes between private individuals, and to the encouragement of just and fair solutions, the International Council of Museums (ICOM) joined with the *World Intellectual Property Organization* in creating a procedure for alternative dispute resolution.

The Confederation supports these activities, which have always been capable of contributing to the resolution of disputes relating to Nazi-looted art.

2011: publication of the report by EDI/FDHA and EDA/FDFA on the status of work in the area of Nazi-looted art, especially with reference to provenance research

The year 2011 saw the publication of the *Bericht des EDI/EDA über den Stand der Arbeiten im NS-Raubkunstbereich, insbesondere im Bereich Provenienzforschung* [Report of the FDHA/FDFA on the status of work in the area of Nazi-looted art, especially with reference to provenance research] on the instructions of the Federal Council. The report was drawn up by FDHA/FDFA in partnership with the cantons (Swiss Conference of Cantonal Ministers of Education [EDK]) and the museum associations (Swiss Museums Association [VMS] and Swiss Art Museums Association [VSK]), and contains the results of the work of the international *Holocaust Era Asset Conference* in 2009 in Prague and the summary of a survey by FDHA/FDFA on the status of provenance research involving 551 museums in Switzerland.

2012: resolution of two cases involving restitution claims on Switzerland

In reliance on the Washington Conference Principles, and taking into account the principles of transparency, legality and appropriateness, the Federal Council came to a decision, in 2012, on the only two cases of restitution claims since 1945 relating to two objects in the Confederation's collections.

In the first case, after careful consideration of the objective and legal position, Switzerland turned down a restitution claim in relation to a drawing from Oskar Reinhart's *Am Römerholz* collection (*View of Les Saintes-Maries-de-la-Mer*, Vincent Van Gogh, 1888) in a hearing before a New York court. The suit was subsequently rejected by the New York court both in the first instance (2011) and in the second (2012) (FOC/FDHA Media Communication from 23 February 2012). In the second case, a valuable Baroque silver cup (known as the *Lerber Lark*, Nicolas Matthéy, 1670/80) in the collection of the Swiss National Museum was returned to the original owner's heirs, with no compensation being claimed (FOC/FDHA Media Communication of 7 June 2012). There are no further cases of restitution claims against the Confederation still outstanding today.

2013: launch of the internet portal on Nazi-looted art www.bak.admin.ch/rk, together with an international conference on looted art

In consultation with the General Secretariat of FDFA (Historic Service), the cantons (Swiss Conference of Cantonal Ministers of Education [EDK]) and the museum associations (VMS, VSK), FOC/FDHA launched an internet portal on the subject of Nazi-looted art (www.bak.admin.ch/rk) in 2013. This online portal is the central source of up-to-date information in Switzerland on the subject of Nazi-looted art. It supports museums and third-party collections by 'helping them to help themselves' in dealing with problems relating to art looted by the Nazis, especially in connection with provenance research and the publication of research results. For purposes of provenance research it provides various documents, including a set of guidelines, a checklist, overviews of archives in Switzerland and listings of national and international online portals and catalogues relating to Nazi-looted art.

On the occasion of the launch of the internet portal, an international conference for the exchange of information on Nazi-looted art was held by FOC/FDHA, in conjunction with GS/FDFA, in Bern.

2014: renewed assessment of Switzerland in an international comparison in the report of the Conference on Jewish Material Claims against Germany and World Jewish Restitution Organization, 2014

In 2014, based on investigations in 50 states, the *Conference on Jewish Material Claims Against Germany* (Claims Conference) and the *World Jewish Restitution Organization* (WJRO) drew up the report *Holocaust-Era Looted Art: A Current World-Wide Overview*. The report gives a worldwide overview of the implementation of the Washington Conference Principles from 1998 and the Declaration of Terezin of 2009 in 50 states. The report pays tribute to the substantial progress made by Switzerland in this area, and classes Switzerland, in its implementation of the Washington Conference Principles, as being among the leading nations in the group of states where the Holocaust did not take place.

2014/2015: evaluation of the internet portal on Nazi-looted art

With a view to improving the internet portal on Nazi-looted art, launched by FOC/FDHA in 2013, FOC/FDHA joined with the General Secretariat / FDFA, the cantons (Swiss Conference of Cantonal Ministers of Education [EDK]), the municipalities (Municipalities' Culture Conference [SKK]) and the museum associations (VMS, VSK) to conduct a voluntary survey involving 551 Swiss museums in 2014/2015. The survey related to patterns of use, the way in which the internet portal was viewed and general questions of provenance research. The Evaluation Report from 21 December 2015 summarised the results of the survey and accordingly presented the need for action.

From 2015: discussions between FOC/FDHA and the art museums

In order to continue to bring this issue to the attention of the museums, since 2015, FOC/FDHA, led by its Director Isabelle Chassot, has been conducting active discussions with the art museums. The objective of these is to arrive at a common understanding in relation to the problems associated with Nazi-looted art, the associated provenance research and publication of results. The Confederation expects that third-party museums and collections in Switzerland implement the Washington Conference Principles by thoroughly clarifying the origin of their collections and publishing the results in adequate form. Only in this way can they actively observe their individual responsibility in relation to this issue.

2016: redesign of the internet portal on Nazi-looted art (www.bak.admin.ch/rk)

Based on the conclusions of the evaluation of the internet portal on Nazi-looted art and individual suggestions received by FOC/FDHA, the internet portal has been radically redesigned and updated. The new website went online in May 2016.

From 2016: inviting applications for financial assistance and planning financial support to third-party museums and collections for improved access to the archives, provenance research and publication of the results

Since 2016, the FOC/FDHA has been able to give financial support to third-party museums and collections in connection with provenance research and publication of the results, based on the Kulturförderungsgesetz [Promotion of Culture Act] and the *Verordnung des EDI über das Förderungskonzept 2016–2017 für die Unterstützung von Museen, Sammlungen und Netzwerke Dritter zur Bewahrung des kulturellen Erbes* [FDHA Ordinance on the 2016–2017 Financial Assistance Scheme for the Support of Third-party Museums, Collections and Networks and Preservation of the Cultural Heritage] (SR 442.121). This is a new thematic focal point for project contributions from FOC/FDHA over the years 2016 to 2017, which will be continued in 2018–2020. Over the period 2016–2020, two million Swiss francs have been earmarked for the Financial Assistance Scheme.

Bern, 1 June 2016



Appendix 3: FOC/FDHA Media Communication of 23 February 2012*

Van Gogh's "View of Les Saintes-Maries-de-la-Mer" remains in the Oskar Reinhart Collection "Am Römerholz" in Winterthur

The United States Court of Appeals for the Second Circuit affirmed the dismissal of a complaint filed by the heir of Margarethe Mauthner against the Swiss Confederation for the recovery of possession of a drawing by van Gogh. The decision is final.

Margarethe Mauthner's heir filed a complaint before the *United States District Court, Southern District of New York*. It was officially served on the Swiss Confederation on February 15, 2010. The plaintiff sued to recover the pen and ink drawing by Vincent van Gogh of "View of Les Saintes-Maries-de-la-Mer" which is part of the federal government owned Oskar Reinhart collection "Am Römerholz" in Winterthur. The collector Oskar Reinhart donated the collection as well as the Villa am Römerholz to the Swiss Confederation in 1958.

The Federal Council subsequently rejected the claim by the plaintiff in New York after a careful review of the facts of the case and the law and in due consideration of the principles of transparency, legality and adequacy.

An enquiry by the Contact Bureau on Looted Art and the Oskar Reinhart Collection "Am Römerholz" of the Federal Office of Culture determined that Oskar Reinhart acquired the pencil and ink drawing in 1933 as part of a longstanding business relationship from the Jewish collector Margarethe Mauthner at standard market conditions and acquired valid title of ownership to it. It was established that the drawing is not considered looted art in terms of the "Washington Conference Principles on Nazi-Confiscated art" (1998). The enquiry further determined that U.S. Courts lacked jurisdiction to decide the case.

In its March 11, 2011 decision, the *United States District Court, Southern District of New York* as the court of first instance dismissed the complaint against the Swiss Confederation. The Court based its decision on a lack of subject matter jurisdiction. The plaintiff filed an appeal before the *United States Court of Appeals for the Second Circuit* which affirmed the judgment of the district court in favor of the Swiss Confederation. The decision is final.

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* See www.bak.admin.ch/rk > News / Media releases.



Appendix 4: FOC/FDHA Media Communication of 7 June 2012*

National Museum hands over a silver drinking vessel to the estate of a Jewish art collector

On 6 June 2012, the Swiss National Museum (SNM) handed over a silver drinking vessel, dating from the 17th century, from its collection to the estate of the Jewish collector Emma Budge. This was a case where the Washington Conference Principles from 1998 were applied in the interest of bringing about a just and fair solution.

In the course of investigations into the provenance of the work, the SNM came to the conclusion, in 1998, that the silver drinking vessel in the form of a lark (known as the 'Lerber Lark') had been acquired at an auction of the Emma Budge collection in Berlin in 1937. This conclusion was published by the SNM in the same year in the report of the Federal Office of Culture (FOC) 'Cultural Property Owned by the Confederation – Investigation of the Period 1933–1945', in order to bring it to the attention of the general public.

It subsequently proved possible, on the basis of provenance research by the SNM and the FOC's Contact Bureau on Looted Art, in cooperation with the representative of the executor of the heirs of Emma Budge, who had been appointed in 2007, to clarify the exact circumstances in which the work came to be acquired.

A detailed external report from 2011, based on original sources, finally came to the conclusion that the profits from the sale at auction of the Budge art collection in Berlin in 1937 must have been transferred to a trust account or blocked account subject to governmental control. The legitimate heirs had at no point been transferred the profits from the sale, which thus clearly amounted to a confiscation.

The Washington Conference Principles from 1998

The acquisition of the 'Lerber Lark' falls within the scope of the Washington Conference Principles on Nazi-Confiscated Art from 1998 (the Washington Conference Principles), in the drafting and ratification of which Switzerland actively participated along with 43 other states.

These guidelines set a trailblazing international standard in the context of Nazi-looted art. They do not merely consider the formal legality of an acquisition, but call for the achievement of just and fair solutions, especially in connection with art works confiscated by the Nazis. Because they were formulated as 'soft law', the Guidelines are not mandatory, but nonetheless appeal to states to act in accordance with the principles they embody.

* See www.bak.admin.ch/rk > News / Media releases.

In adopting the Washington Conference Principles from 1998, the Confederation made a public declaration of the great importance it attaches to dealing with the problems associated with art looted by the Nazis. In the field of looted art, it accordingly bases its activities on the three pillars of transparency, legality and appropriateness.

In reliance on the Washington Conference Principles, and taking into account the confiscatory effect of the auction of the 'Lerber Lark' (in the light of the facts now proven), the Swiss Confederation, as proprietor of the collections in question, has decided, in conjunction with the Swiss National Museum, to return the work of art to the heirs without requiring any compensation, in the interest of bringing about a just and fair solution.

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Appendix 5: FOC/FDHA information of 13 May 2014:*

Kunstmuseum Bern – a foundation independent of the Swiss Confederation – appointed sole heir of Cornelius Gurlitt

General considerations

As the Kunstmuseum Bern confirmed in its media release dated 7 May 2014, it has been appointed as the sole heir of Cornelius Gurlitt. In the media release, it also notes that a large number of questions still remain to be answered in connection with the Gurlitt estate.

The Kunstmuseum Bern is a private-law foundation and as such is independent of the Swiss Confederation.

The decision whether or not to accept the estate of Cornelius Gurlitt lies with the Kunstmuseum Bern foundation.

The Washington Conference Principles on Nazi-Confiscated Art of 1998, which Switzerland has also adopted, provide that the provenance of all artworks linked to the issue of Nazi-looted art must be investigated in order that just and fair solutions can be achieved.

The role of the Swiss Confederation

The Swiss Confederation will ensure that any further steps taken are in line with international and national standards. It is in contact with the bodies concerned at the specialist level. In Switzerland, the responsibilities of the Contact Bureau on Looted Art of the Federal Office of Culture FOC are regulated as follows (www.bak.admin.ch/rk):

- Cases within the federal scope of competence:

The FOC is directly responsible only in cases that fall within the federal scope of competence (museums and collections of the Swiss Confederation as well as federal institutions).

- Enquiries within the scope of competence of other institutions or private individuals:

The Bureau stands ready to provide general information in respect of enquiries that fall within the scope of competence of other institutions or private individuals. It aims to offer an initial point of contact at federal level and to contribute toward a satisfactory solution in case of disputes.

- Centre of competence:

The FOC maintains contact with foreign institutions and organisations that deal with the issue of looted art. It promotes the exchange of general information, thereby contributing to the networking of information, the identification of issues, and their resolution.

Bern, 13 May 2014, FOC

* See www.bak.admin.ch/rk > News / Media releases.



Appendix 6: Federal Council Media Communication of 24 November 2014:*

Agreement on Gurlitt estate respects international principles on looted art

The Federal Council acknowledges that the foundation Kunstmuseum Bern, a foundation under Swiss private law, has said it accepts the estate of Cornelius Gurlitt. It welcomes the fact that the agreement concluded expressly recognises the Washington Principles of 1998, and thus allows to continue the investigation of the provenance of the art of the Gurlitt estate. These Principles, which have been recognised by Switzerland and 43 other states, are crucial for the resolution of issues in the field of looted art. The federal government considers it to be extremely important that looted art is quickly returned to the original owners.

The foundation Kunstmuseum Bern, a foundation independent of the federal government, has concluded an agreement with Germany and the state of Bavaria regarding the estate of Cornelius Gurlitt. The agreement provides for the application of the Principles, which Switzerland and 43 other states adopted in 1998.

Only works that are not suspected of being looted art, based on an inspection by a task force established in Germany, will pass into the possession of the foundation Kunstmuseum Bern. The federal government considers it to be extremely important that possible cases of looted art are handled swiftly and transparently, in accordance with the Principles, in order to reach a just and fair outcome.

The federal government acknowledges that the foundation Kunstmuseum Bern, in close cooperation with Germany and the state of Bavaria, is committed to respecting the principles and ensuring that the liquidation of the estate is carried out in an organised framework.

Washington Principles (1998)

In December 1998 Switzerland and 43 other states adopted the Washington Principles (Washington Conference Principles on Nazi-confiscated art). In so doing, the Swiss Confederation declared that it attached great importance to addressing the issue of Nazi-confiscated art and to reaching fair solutions with regard to looted art. The Washington Principles are considered internationally to be a model of 'best practice' in addressing the issue of looted art.

* See www.bak.admin.ch/rk > News / Media releases.

In advance of the Washington Conference in 1998, twelve Swiss art museums - including the Bern Museum of Fine Arts - drafted a joint declaration stating how they would address the issue of cultural property confiscated during the Nazi period and the Second World War.

Link: www.bak.admin.ch/rk



Appendix 7: FDHA/FDFA Information of 24 November 2014:*

The Kunstmuseum Bern Foundation has agreed to accept the estate of Cornelius Gurlitt

General considerations

The Kunstmuseum Bern Foundation (hereinafter referred to as “the Foundation”) is a private-law foundation that is independent of the Swiss Confederation. It is the Foundation Board that decided to accept the estate of Cornelius Gurlitt. The Foundation is not linked in any way with the Confederation.

Investigation of cases potentially involving looted art

The Foundation has agreed to accept the estate of Cornelius Gurlitt. It has signed an agreement with the Federal Republic of Germany and the Free State of Bavaria relating to works of art in which the parties explicitly refer to the Washington Principles of 1998 and declare their intention to achieve a just and fair solution in cases potentially involving looted art.

- The Washington Conference Principles on Nazi-Confiscated Art of 1998 (the Washington Principles), which have been adopted by Switzerland and 43 other nations, call on states to undertake research into the provenance of any work of art which may have been confiscated during the Nazi period, with a view to achieving just and fair solutions.
- Prior to the Washington Conference of 1998, the Foundation and 11 other Swiss art museums had already drawn up a joint declaration governing the treatment of cultural assets that were confiscated under the Nazi regime and during the Second World War. In so doing, the museums established a framework for dealing with potentially looted art that is in line with the Washington Principles (see www.bak.admin.ch/rk).
- The agreement concluded by the Foundation with the Federal Republic of Germany and the Free State of Bavaria concerning the Gurlitt estate provides that only works which are not suspected of having been looted will pass to the Foundation. The parties thereby contribute to ensuring that the Gurlitt estate will be handled within an internationally recognised and ordered framework.

What role has the Confederation played in the agreement reached?

The Confederation is not a party to the agreement, which was concluded by the Foundation with the Federal Republic of Germany and the Free State of Bavaria. The Confederation is particularly concerned to ensure that the Washington Principles are implemented. Representatives of the Confederation attended the discussions.

What is the Confederation’s position on the agreement reached between the Foundation, the Federal Republic of Germany and the Free State of Bavaria?

* See www.bak.admin.ch/rk > News / Media releases.

The Federal Council welcomes the fact that the agreement concluded is based on the Washington Principles of 1998 and thus allows work on establishing the provenance of the works that make up the Gurlitt estate to continue. These Principles, which have been recognised by Switzerland and 43 other states, govern the handling of issues related to looted art. The Confederation believes it is essential that any works which may have been looted should be swiftly returned to their rightful owners.

Does this decision impose any obligations on the Confederation?

The Kunstmuseum Bern Foundation is a foundation under private law and is independent of the Confederation. Acceptance of the Gurlitt estate by the Kunstmuseum Bern does not impose any obligations on the Confederation.

Have the holdings of the museums and collections of the Confederation been investigated with regard to the issue of Nazi-looted art?

The Confederation has already taken action in this regard. It investigated the provenance of the holdings in its museums and collections in 1998 and published a report which is available online: www.bak.admin.ch/rk.

How is the Confederation assisting the museums and collections of third parties (cantons, municipalities, private individuals) in Switzerland in the task of provenance research related to Nazi-looted art?

In June 2013 the Confederation, in collaboration with the cantons (Swiss Conference of Cantonal Ministers of Education) and the museum associations (Swiss Museums Association, Swiss Art Museums Association), jointly launched an internet portal designed to assist the museums and collections of Switzerland in carrying out provenance research by “helping them to help themselves”: www.bak.admin.ch/rk.

The costs of provenance research are borne by the third-party museums and collections themselves. This also applies in cases where the costs are incurred through the acceptance of an inheritance or donation.

Competences of the Confederation with regard to looted art

In Switzerland, the competences of the Confederation with regard to looted art fall within the remit of the Contact Bureau on Looting Art (Federal Office of Culture FOC). These are regulated as follows:

- Cases within the federal scope of competence: The FOC is directly responsible only in cases that fall within the federal scope of competence (museums and collections of the Confederation as well as federal institutions).
- Enquiries within the scope of competence of other institutions or private individuals: The FOC stands ready to provide general information in respect of enquiries that fall within the scope of competence of other institutions or private individuals. It aims to offer an initial point of contact at national level and to contribute toward just and fair solutions in case of disputes.
- Centre of competence: The FOC also maintains contact with foreign institutions and organisations that deal with the issue of looted art. It promotes the exchange of general information, thereby contributing to networking among the parties concerned.

At the international level, in December 1998 the Swiss Confederation, along with 43 other states, was actively involved in drafting and approving the Washington Conference Principles on Nazi-Confiscated Art (the Washington Principles). In so doing, the Confederation confirmed that it attaches great importance to addressing the issue of Nazi-looted art and to achieving just and fair solutions in relation to looted art.

The Confederation also participated in two international follow-up conferences (Vilnius 2000 and Prague-Terezin 2009) and adopted the resulting declarations. The two conferences reaffirmed the need to make further progress in the implementation of the Washington Principles.

Link: www.bak.admin.ch/rk



Appendix 8: Evaluation of the survey on use of the FOC internet portal on Nazi-looted art and provenance research from 21 December 2015

Summary

The present report summarises the results of the voluntary survey addressed to 551 Swiss museums on the use of the internet portal of the Federal Office of Culture on Nazi-looted art and provenance research ('the internet portal' – at www.bak.admin.ch/rk). The internet portal is a platform for the provision of information relating to Nazi-looted art and auxiliary resources for provenance research.

The survey related to patterns of use, the way the internet portal is viewed and general questions relating to provenance research, and was conducted by the Working Group of the Confederation, Cantons, Municipalities and Museum Associations in the period from mid-2014 to 2015.

The Working Group has determined a need for action in the following areas:

- A focused approach to art museums particularly affected by this issue*
- Improvement in use of the internet portal*
- Updating and expansion of the information on the internet portal for Nazi-looted art*
- Linking of provenance research results with the internet portal for Nazi-looted art*

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I. Starting position

In June 2013, on the occasion of a well attended international conference of experts in Bern, the Federal Office of Culture of the Federal Department of Home Affairs (FOC/FDHA) launched a new internet portal as a platform for information on Nazi-looted art, in order to support Swiss museums and collections in the execution of provenance research, based on an approach of 'helping others to help themselves' (www.bak.admin.ch/rk).

FOC/FDHA created the internet portal in consultation with the members of the Working Group set up in 2007, consisting of the Historic Service of the Federal Department of Foreign Affairs (transferred by the Political Administration Office to GS-FDFA in 2013), the cantons (Swiss Conference of Cantonal Ministers of Education, EDK), the Municipalities' Culture Conference (SKK – this body joined the Working Group in 2015) and the museum associations (Association of Swiss Museums [VMS], Association of Swiss Art Museums [VSK]).

To further improve the facilities of the internet portal, FOC/FDHA, in consultation with the members of the Working Group, developed a questionnaire on the use and evaluation of the portal. The questionnaire was sent out by the Director of FOC/FDHA, Isabelle Chassot, and the General Secretary of FDFA, Benno Bättig, at the end of May 2014, as a broadly conceived voluntary survey addressed to 551 Swiss museums and collections for response (see Appendices III and IV, Letter with Questionnaire).

The 551 museums approached were the same ones that had taken part in 2008 in a survey organised by FDHA and FDFA on the status of provenance research in Swiss museums. A sub-group of these comprises the 12 Swiss art museums that in 1998 signed the 'Declaration relating to cultural property that was looted during the reign of the National Socialists and the Second World War' (see Appendix II).¹

By signing this Looted Art Declaration, these art museums bound themselves to the contained obligation. The museums are committed to clarifying the provenance of their cultural property with regard to identifying Nazi-looted art, and to achieving an amicable solution in cases where the existence of Nazi-looted art is confirmed.² The declaration is consistent with the 'Washington Conference Principles on Nazi-Confiscated Art' from 1998, ratified shortly thereafter. The survey results relating to these 12 art museums is therefore given separate treatment below.

¹ The address list of publicly accessible museums in Switzerland was made available by the Arbeitsgruppe vom Verband der Museen Schweiz [Working Group of the Swiss Museums Association].

² In Article 1 of the Declaration states: 'The undersigned museums are conscious of the problem and are endeavouring to the best of their ability to bring about clarification and consciousness-raising in relation to cultural assets plundered during the time of National Socialist supremacy and the Second World War.'

II. Summary of survey results on use of the internet portal on Nazi-looted art and Provenance research

1. Survey results without comment

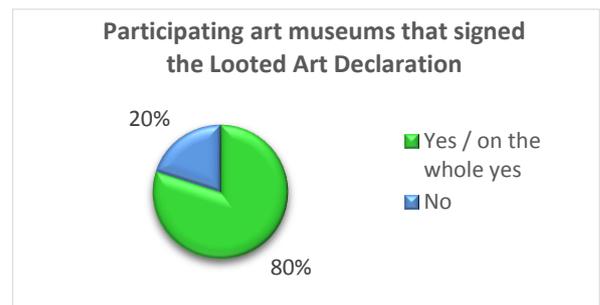
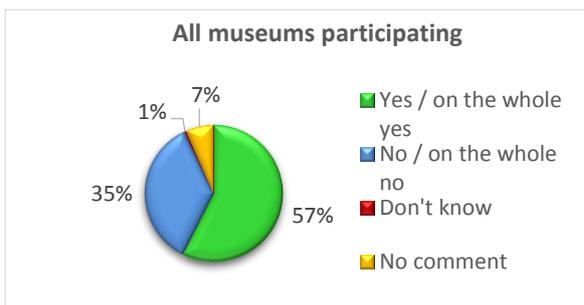
383 of the 551 museums addressed responded, amounting to a response rate of 70 percent.³ Due the unambiguous answers to the multiple choice survey and the high response rate, the survey may be regarded as representative.

Out of the 12 art museums that had signed the *Declaration relating to cultural property that was looted during the reign of the National Socialists and the Second World War* in 1998, 10 institutions, or 83%, responded ('art museums that signed the Looted Art Declaration'). 168 museums (30%) did not respond to the survey.

1.1. Results to general questions

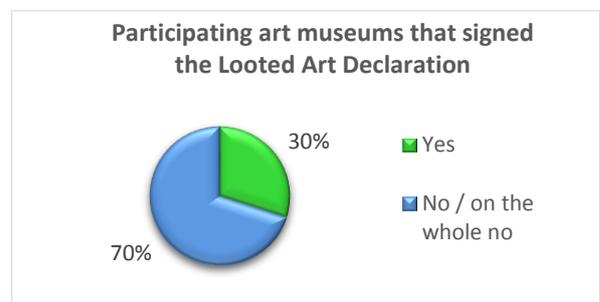
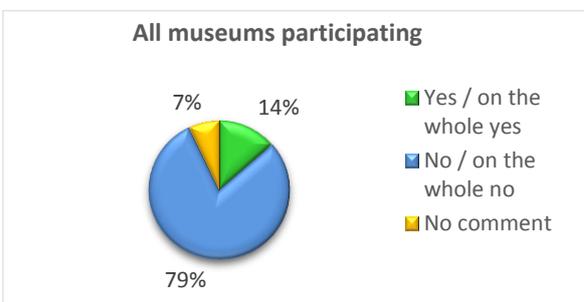
a) Public awareness of the internet portal

'Did you know of the existence of the internet portal of the Federal Office of Culture (FOC) for the provision of information on Nazi-looted art and provenance research?'



b) Use of the internet portal

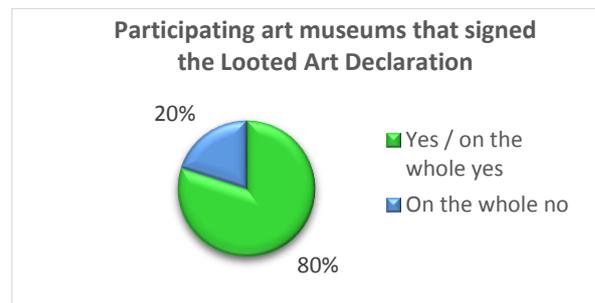
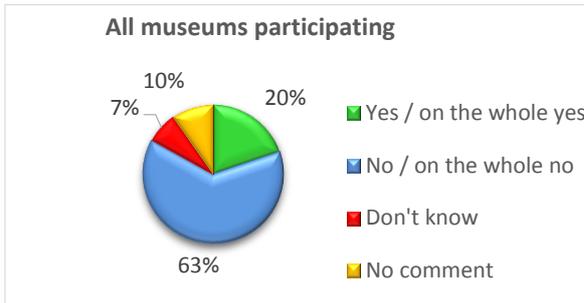
'Have you already made use of the internet portal on Nazi-looted art?'



³ Percentage values have, as a rule, been rounded to whole numbers (i.e. < 0.5 rounded down, > 0.5 rounded up).

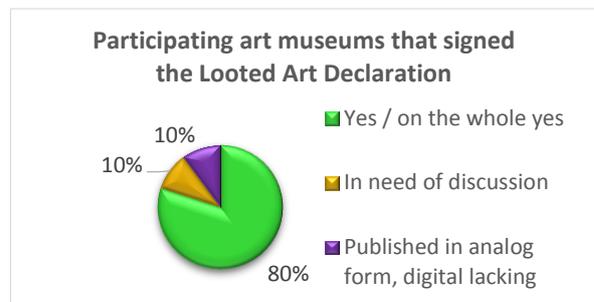
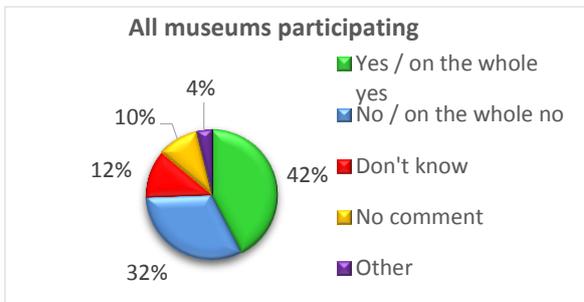
c) Relevance of the information on the internet portal

'Is the information provided by the internet portal on Nazi-looted art relevant to you?'



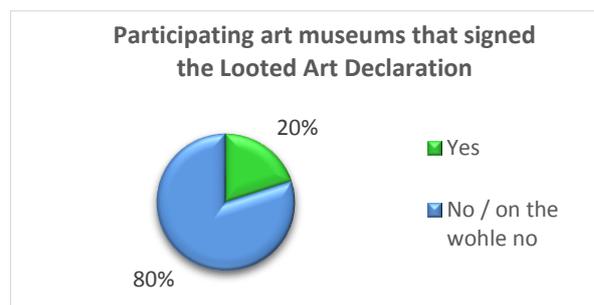
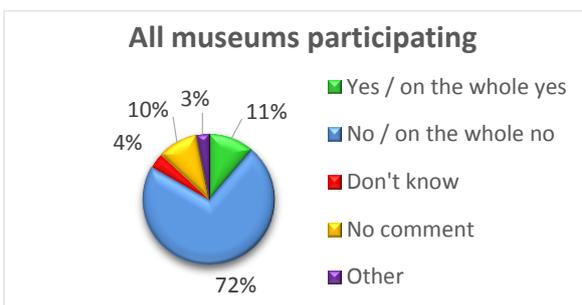
d) Readiness of the institution to link provenance research results to the internet portal

'In principle, is your institution prepared to link the results achieved by its provenance research to the FOC internet portal on Nazi-looted art?'



e) Resources for provenance research and linking results to the internet portal

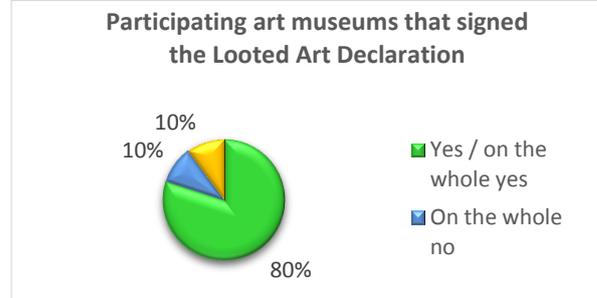
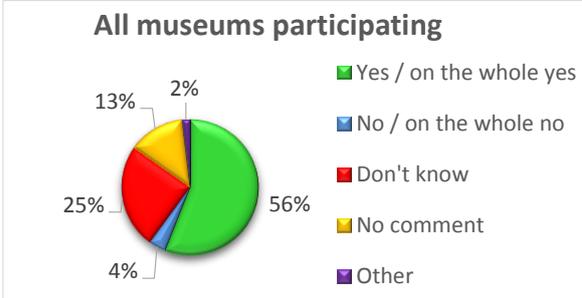
'Does your institution possess the necessary resources for conducting provenance research and linking the results to the internet portal on Nazi-looted art?'



1.2. Results relating to the arrangement and structure of the internet portal

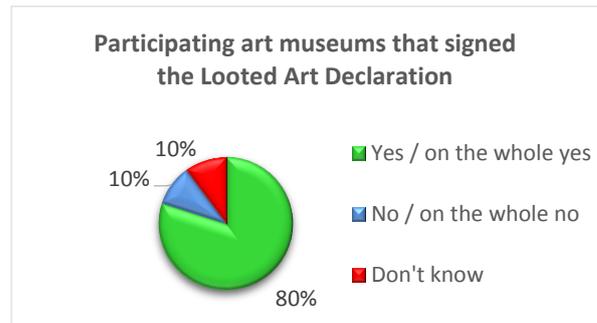
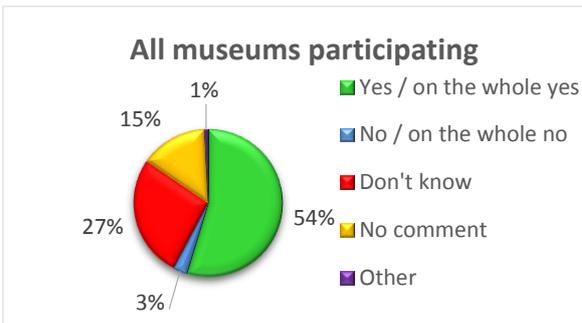
a) Manageability

'Is the internet portal on Nazi-looted art easily manageable and clearly laid out? Are you able to find the information and auxiliary resources that you are looking for?'



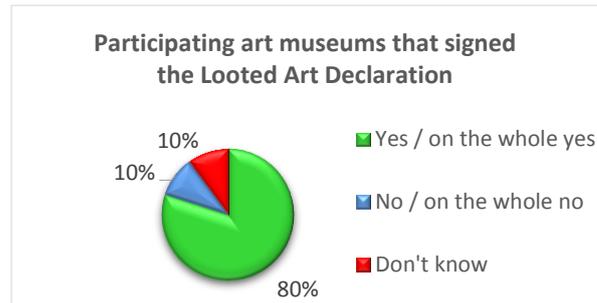
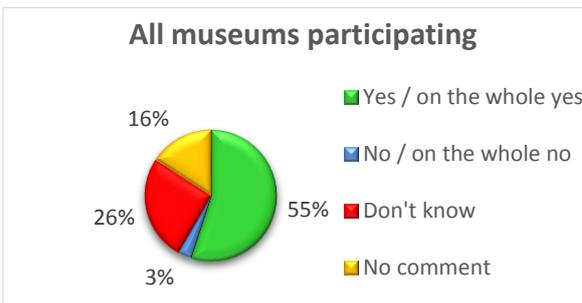
b) Amount of text

'Is the amount of text appropriate?'



c) Links

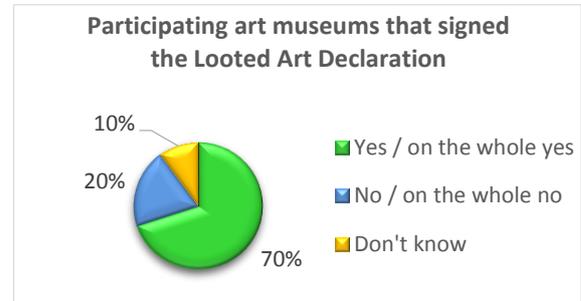
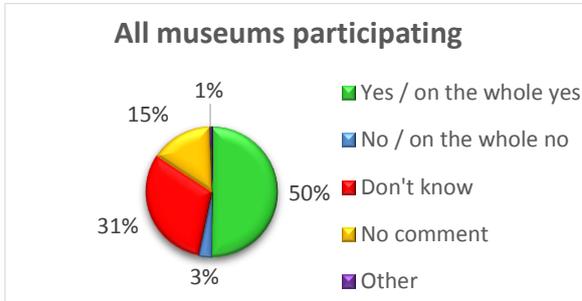
'Are the links recognisable as such and easy to use?'



1.3. Results relating to the content of the internet portal

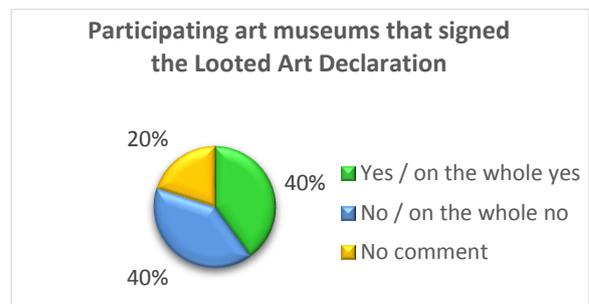
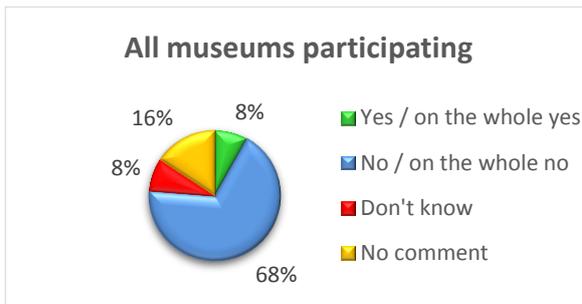
a) Depth of thematic treatment of Nazi-looted art and provenance research

'Is the treatment of the theme of Nazi-looted art and provenance research sufficiently comprehensive, and is the depth of the treatment sufficient?'



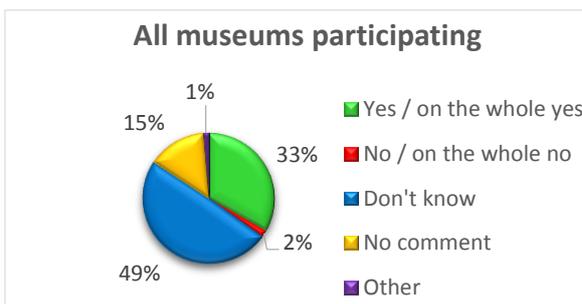
b) Additional informational materials

'Would you like additional information to be provided?'



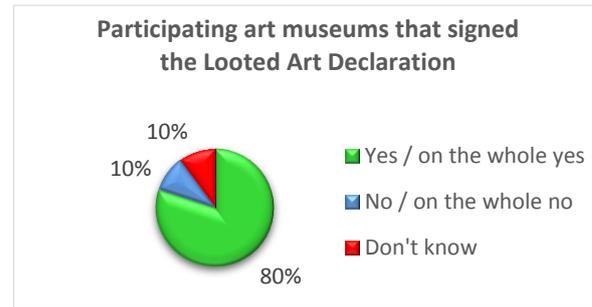
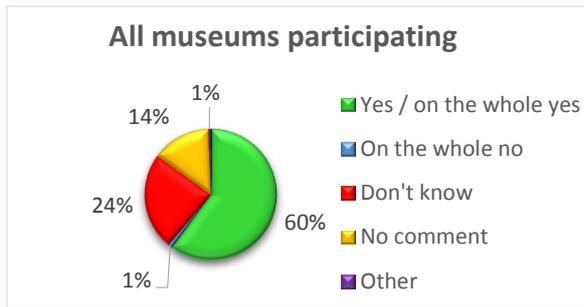
c) Topicality and correctness of the information

'Is the information on the internet portal for Nazi-looted art up-to-date and correct?'



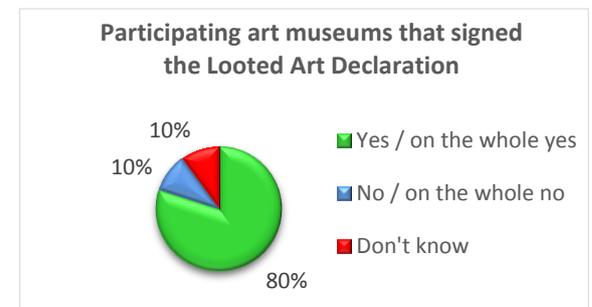
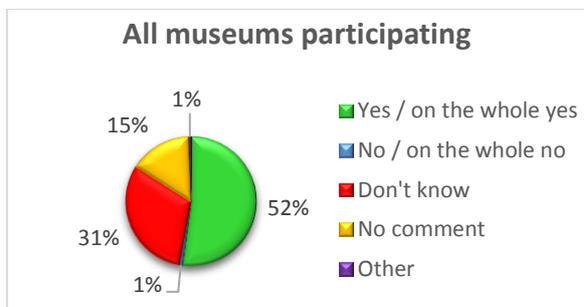
d) Comprehensibility

'Is the text on the internet portal for Nazi-looted art easy to understand?'



e) Links as a supplement / connection to information on the internet portal

'Do the links represent meaningful additions and/or useful pointers to further content on the internet portals for Nazi-looted art?'



2. Assessment of the submitted results by the Working Group of the Confederation, Cantons, Municipalities and Museum Associations

2.1 Public awareness of the portal and relevance (especially to the art museums)

57% of all museums taking part, and as many as 80% of all participating art museums that signed the Looted Art Declaration, are familiar with the internet portal of the FOC. 20% of all museums taking part, as well as 80% of all the museums that signed the Looted Art Declaration, classified the information on the portal as being relevant.

The results have shown that the survey has contributed to making Swiss museums more aware of issues connected with looted art and provenance research. The great majority of the participating museums, and a large number of the museums that signed the Looted Art Declaration, are aware of the portal. The relevance of the information on offer is classified as high by the art museums, in contrast with the other museums taking part. This can be largely explained by the fact that over half of the survey participants (200) are small local museums with an explicitly local or regional orientation.

2.2 Concrete use disappointing

The portal has only been used by 14% of all museums taking part, and by 30% of the museums that had signed the Looted Art Declaration. It follows that use of the portal by both groups cannot yet be seen as adequate.

At the present time, when the theme of looted art has acquired great importance and urgency, an extended use of the portal by the museums, as well as by the art museums that had signed the Looted Art Declaration, would be a welcome development.

2.3. High measure of acceptance

The FOC's internet portal enjoys a high degree of acceptance generally. Taking all the questions into account, the arrangement, structure and content of the portal were only criticised by a small number of the participating museums. The first version of the portal, which has only been subjected to slight modification to date, can thus be rated as satisfactory.

2.4. Useful tips for implementation

The use of an internet portal is particularly dependent on the topicality of the information it provides. Evaluation of the portal yielded important indications – not least in the light of numerous detailed remarks – which provide a basis for updating and improving the user-friendliness of the portal. These remarks generally emanated from institutions that had already engaged with the portal quite intensively.

So while this makes it possible to confirm the high measure of acceptance of the portal referred to earlier, at the same time, the evaluation reveals a need for the reworking and re-editing of the content.

2.5 Willingness to conduct provenance research and publish results

The evaluation has shown that museums (especially the art museums that were signatories of the Looted Art Declaration) are willing to link the results of their provenance research with the portal (80%), but at the same time the majority of them lack resources for provenance research (80%).

III. Ascertained need for action

Based on the insights derived from the results of the survey of Swiss museums on use of the FOC internet portal on Nazi-looted art and provenance research, the Working Group of the Confederation / Cantons / Municipalities and Museum Associations has determined that the following require further action:

1. Focused approach directed to particularly affected art museums

The responses of the museums participating showed that the information on the portal is seen as relevant, especially by the art museums.

The future work of the Working Group of the Confederation / Cantons / Municipalities and Museum Associations should therefore be focused on the art museums in particular.

2. Improved use of the portal

The fact that, while the portal is widely known, it is used only by a few museums and signatories of the Looted Art Declaration, reveals the necessity to further disseminate information and raise the level of awareness, in order to increase the number of users of the portal in the long term.

This should take place on all levels, through the FOC/FDHA and the General Secretariat of the FDFA in cooperation with the Swiss Conference of Cantonal Ministers of Education [EDK], the Municipalities' Culture Conference (SKK) and the museum associations (VMS and VSK) for public and private museums.

3. Updating and expanding the information on the internet portal

The survey supplied important indications as to where the information on the internet portal needs to be updated, and of areas where further information would be welcomed.

The Contact Bureau on Looted Art of the FOC is responsible for the portal and will take account of these concrete indications in its general revisions of internet portal in 2016.

4. Linking provenance research results to the internet portal

The survey has shown that the great majority of the participating art museums are willing to link the results of their provenance research with the FOC's internet portal. However, they do not possess sufficient resources for this purpose.

If it is to be possible for provenance research results to be effectively linked with the portal, the necessary resources need to be supplied or made available. First and foremost, the efforts of public and private proprietors of the works of art should be directed to this aim. In support of this, however, joint efforts by all the parties involved and at all levels are called for.

In the years 2016 and 2017, the Confederation will accordingly give financial assistance to third-party museums for measures relating to the inventorisation and digitalisation of their collections, which are connected to the clarification and publication of the provenance of works of art, and in particular to the publication of the results of provenance research. This grant of financial assistance is based on Article 10 of the Kulturförderungsgesetz [Promotion of Culture Act].

Bern, 21 December 2015



June 2016

Appendix 9: Guidelines for Museums Conducting Provenance Research, especially in connection with the problems of Nazi-looted art in Switzerland*

A) Foreword

In the digital age, provenance research has become an important component of museum work. Museums perform an important service for the community in collecting, preserving and relaying cultural heritage. In relation to this, they are naturally concerned that the works of art rightfully belong to them. Museum ethics, anchored in the work of the museums, therefore place emphasis on a sustainable policy of collection, and in a broad sense this also includes investigation of the provenance of the works in question.¹

The **goals of provenance research** may be summarised as follows:

➤ Exercising responsibility

Provenance research assumes responsibility for clarifying questions of the ownership of art works in a proactive way and handling them with maximum transparency. This is significant above all in connection with the problems of Nazi-looted art, as Nazi-looted art from the period of National Socialism in Germany came into Switzerland in a wide variety of different ways – before, during and after the end of the Second World War.

➤ Creating added value for the institutions

Provenance research, as an integral component of the study of art and culture, creates added value for the institution in that it generates new culture-historical findings in relation to the history of collections and museums and to artistic and cultural theory.

➤ Improved starting position for international loans

Loans of art works between museums are a common occurrence today, and not just between large museums at international level. Against this background, transparency in relation to one's own collection creates a better starting position for international loans, and helps protect museums against any kind of problems in the course of loans resulting from imperfectly clarified provenance.

➤ Importance of IT methods

As a consequence of the greater transparency resulting from use of the internet, provenance is a matter of ever-increasing importance. By publishing the results of provenance research on the internet, museums take up this challenge and create the essential conditions for maintaining their credibility in an international context.

* Extract from the FOC website www.bak.admin.ch/rk > Provenance research in Switzerland.

¹ The most important pillars of an ethical museum policy have been summarised in the brochure 'ICOM Code of Ethics for Museums'.

➤ Encouraging the achievement of just and fair solutions

If, based on provenance research in connection with the problem area of Nazi-looted art, the original owners of a work of art once confiscated by the National Socialists have been identified, the achievement of just and fair solutions as recommended by the Washington Conference Principles from 1998² is the goal to be aimed for. (☞ See [Just and fair solutions](#)).

B) Starting position

1. Goal of the Guidelines

These Guidelines serve as a working tool to support Swiss museums in connection with

- **provenance research relating to new acquisitions** (purchase, gifts, loans) of objects in their collections; and in connection with
- **provenance research relating to existing collections.**

The present Guidelines particularly relate to the problems of Nazi-looted art.

2. What is Nazi-looted art?

After the seizure of power by the Nazis in 1933, the systematic confiscation of property – in particular of the art collections and works of art of the Jewish population by various National Socialist organisations – was a historic event without precedent. Between 1933 and 1945 a great many works of art were confiscated by the National Socialists in Germany and in annexed and occupied countries.

During – and also after – the period of German National Socialism, Nazi-looted art found its way into many countries including Switzerland. In December 1998, Switzerland along with 43 other nations ratified the Washington Conference Principles on Nazi-Confiscated Art (Washington Conference Principles).³ In doing so, the Confederation made a public declaration to the effect that it attaches great importance to dealing with the problems of Nazi-looted art and to finding just and fair solutions in connection with looted art.

The Washington Conference Principles are internationally regarded as constituting 'best practice' in dealing with the topic of looted art. They define Nazi-looted art as being works of art that were confiscated by the National Socialists.

In this field, we find repeated use of terms such as *Fluchtkunst* (works of art in the possession of refugees), *Fluchtgut* [property in the possession of refugees] and *verfolgungsbedingter Entzug* [expropriation resulting from persecution]. These terms call for interpretation and are not an explicit component of international standards and requirements.⁴ (☞ See [Glossary on Nazi-looted art](#) below).

In living up to its ethical and moral responsibilities, the Confederation assumes that, irrespective of any kind of categorisation, a comprehensive scrutiny in each individual case is indispensable. The crucial issue for the Confederation, based on the Washington Conference Principles, is the question whether a transfer or change of ownership in the period between 1933 and 1945 effectively amounted to a confiscation. In the context of provenance research, it follows that collections that were acquired after

² See Richtlinien der Washingtoner Konferenz in Bezug auf Kunstwerke, die von den Nazis konfisziert wurden [Washington Conference Principles on Nazi-Confiscated Art], 1998.

³ See footnote 2.

⁴ The Independent Commission of Experts on Switzerland and the Second World War of 2001 used the term in its concluding report (the 'Bergier report') for 'cultural property that was brought by its (Jewish) owners themselves into or by way of Switzerland on their journey into exile'. It encompasses transfers of ownership in a country where the Holocaust did not take place. See on this subject: TISA FRANCINI, Esther; HEUSS, Anja; KREIS, Georg: *Fluchtgut - Raubgut. Der Transfer von Kulturgütern in und über die Schweiz 1933–1945 und die Frage der Restitution*, Independent Commission of Experts on Switzerland and the Second World War, vol. 1), Zurich 2001. The *Conference on Jewish Material Claims Against Germany* (Claims Conference) and *World Jewish Restitution Organization* (WJRO) likewise make a distinction between states in which the Holocaust took place and those where it did not.

1945 should also be scrutinised. Along with direct confiscation, cases involving pretend sales, sales at knockdown prices, sales without legitimacy etc. would also come under the term looted art. Likewise in cases of works of art / property in the possession of refugees or expropriation resulting from persecution, scrutiny is accordingly called for in order to ascertain whether a change of ownership amounted to confiscation, and whether the works in question can be viewed as Nazi-looted art, in the interest of bringing about just and fair solutions as recommended by the Washington Conference Principles.

C) Methodology of provenance research

The five steps outlined below suggest possible avenues to be pursued in connection with provenance investigations:

1. Determination of relevant objects / collections

Looted art from the period 1933 to 1945 could find its way into the collection of an institution (and the same remains true today) by way of purchase, gift, inheritance, loan or permanent loan. A first possibility for a structured approach as a basis for systematic provenance research, thus, suggests itself, as follows:

- provenance investigation during the acquisition (by purchase, gift, loan etc.) of cultural property, and
- provenance investigation in connection with existing collections.

The crucial issue is whether a change of ownership took place in the years between 1933 and 1945. The work of art in question may, however, have only become part of the collection at a much later date.

a) Provenance investigation during the acquisition of cultural property

The recommended approach for provenance investigations before the acquisition of cultural property is based on ICOM's Code of Ethics for Museums:

*'Every effort must be made before acquisition to ensure that any object or specimen offered for purchase, gift, loan, bequest, or exchange has not been illegally obtained in, or exported from its country of origin or any intermediate country in which it might have been owned legally (including the museum's own country). Due diligence in this regard should establish the full history of the item since discovery or production.'*⁵

Thus, for provenance research to be carried out in relation to the problem area of Nazi-looted art, the first step is to investigate the statements of the former owner, the art dealers and auction houses, as well as the accompanying documentation of the work and any relevant catalogues, in order to ascertain whether there is a provenance hiatus for the period between 1933 and 1945. The circumstances should then immediately be scrutinised, based on presently available resources, to see whether it may be impossible to rule out a case of expropriation in the era of Nazi persecution.

b) Provenance investigation in connection with existing collections

For systematic and targeted provenance research to be possible with reference to the problem of Nazi-looted art in connection with existing collections, first of all, it is necessary to determine what collections are particularly vulnerable in this respect. These include, in particular, the following cultural property:

- those acquired between 1933 and 1945, but also after 1945, where the provenance is unclear,

⁵ ICOM Code of Ethics for Museums, section 2.3., 8 October 2004.

- those that were acquired during the Nazi reign in Germany or in annexed and occupied countries, and/or
- those which may possibly have been the object of a confiscation in the past.

Important information will be supplied, as a first step, by inventory and depository entries dating from the years 1933 to 1945. All objects acquired in this period, in cases where the suspicion that they were acquired in connection with the Nazi persecution cannot be excluded, must be examined. Where do the objects come from? From whom were they acquired? In what context were they acquired? Is there any correspondence, are there receipts, delivery notes or expert reports in relation to the acquisitions? What documentation on the objects already exists?

As a second step, all acquisitions must be checked for provenance gaps between 1933 and 1945, and it needs to be considered whether there is suspicion that they were acquired in connection with the Nazi persecution.

2. Research in relation to the object

The object itself may supply important indications that can contribute to clarification of the provenance. What labels, numbers, stamps, initials etc. are to be found on the reverse, inside or underside of the object? For these questions, there are reference works on collectors' stamps.⁶ Enquiries about customs stamps can be addressed directly to the customs authorities of the given country.⁷

The Contact Bureau on Looted Art of the Federal Office of Culture is also happy to help enquiring institutions or private citizens by providing general information, or can forward the enquiry to the appropriate authority.⁸

Finally, exchanges with professional colleagues (e.g. in auction houses) may also prove helpful.

3. Research in libraries: secondary literature, exhibition listings, warehouse, collection and auctioneers' catalogues

A further important basis for provenance investigations is the inspection of literature on art history – above all directories and catalogues of artists' works – and museum catalogue listings. Academic literature in the fields of history, law or economics can also be of significance. In the meanwhile, bibliographies on the topic have been published, which has made research easier.⁹

4. External archive research

External research materials include other museum archives, art dealers' estates,¹⁰ archives of auction

⁶ For example the important work of Frits Lugt: *Les marques de collections de dessins & d'estampes; marques estampillées et écrites de collections particulières et publiques. Marques de marchands, de monteurs et d'imprimeurs. Cachets de vente d'artistes décédés. Marques de graveurs apposées après le tirage des planches. Timbres d'édition. Etc.* [Marks of Collections of Drawings and Prints. Stamps and Signatures of Private and Public Collections. Marks of Dealers, Mounters and Printers. Sales Stamps of Deceased Artists. Marks of Printers after Printing of the Plates. Edition Stamps. Etc.], The Hague: M. Nijhoff, 1956. See in connection to this: www.marquesdecollections.fr.

Within the Working Group for Provenance Research, a working group has also been established, which concentrates on the identification of dealers' and collectors' marks, customs stickers and other stamps and labels (see in connection to this footnote 13).

⁷ In Switzerland this is the Directorate General of Customs (www.ezv.admin.ch > Federal Customs Administration > Contact > Customs offices).

⁸ Contact bureau on Looted Art of the Federal Office of Culture, Hallwylstrasse 15, 3003 Bern, SWITZERLAND, tel.: +41 (0)58 462 03 25; kgt@bak.admin.ch; www.bak.admin.ch/raubkunst.

⁹ See e.g. www.bak.admin.ch/raubkunst > Literature.

¹⁰ Information on such matters may be obtained for example from the Schweizerisches Institut für Kunstwissenschaften [Swiss Institute for Art Research], Zurich, SWITZERLAND (www.sik-isea.ch) or from the Zentralarchiv des internationalen Kunsthandels [Central Archive of the International Art Trade], Im Medienpark 7, D-50670 Cologne, GERMANY (www.zadik.info).

houses, and also private archives.¹¹ Above all private archives (for example, dealers' or collectors' estates) can be of great importance in relation to a question of this kind, as they generally preserve files that are of direct interest. Artists' estates too are an important source for provenance research. Depending on the collector, dealer or specific issue, public archives (federal, federal state, national, municipal and parochial archives) may then include important files as well. These now come with excellent overviews and collection listings, which simplify access to the information. In public archives, the collections have also usually been catalogued by professionals, making them very easy to access. Finally, important information may also be provided in dossiers on compensation and indemnification in various countries.

In the case of provenance research in connection with the acquisition of cultural property from museum collections, it is also particularly important, wherever possible, to check the inventory and depository entries. Where do the objects come from? From whom were they acquired? In what context were they acquired? Is there any correspondence, are there receipts, delivery notes or expert reports in relation to the acquisitions? What documentation on the objects already exists?

5. Dialogue with professional colleagues, Provenance Research Working Group

Provenance research still suffers from imperfect networking. Yet it is often only as a result of networking and exchanges with colleagues that definite indications of the origin of an object emerge. So an important step for provenance research is to engage in dialogue with the following parties:

- professional colleagues,
- the Arbeitskreis Provenienzforschung (Provenance Research Working Group)¹² and
- the provenance research department of the German Lost Art Foundation.¹³

D) Special features of provenance research in connection with different art genres, and the appropriate methods of access

Wherever possible, the first step will be consultation of the catalogue of works. But it is essential that specifications in the catalogue of works should also be checked, so they should rather be viewed as a starting point for ongoing research involving exhibition, collection and auctioneers' catalogues, artists' correspondence and so on. Generally, catalogues of works exist only for the most renowned artists, and even in this case cannot be found for all artistic genres.

1. Paintings

Research into the provenance of paintings begins with the painting itself. Important above all is that the painting should be identified. What painting are we actually looking at? Is it in fact identical, perhaps, with a 'missing' painting that has a published listing on various databases?¹⁴ What history is found in connection with the painting? What gaps are there, in connection with the specifications of its origins?

¹¹ See "Übersicht über mögliche provenienzrelevante Archivbestände in der Schweiz" at www.bak.admin.ch/raubkunst > Provenance research in Switzerland.

¹² See in connection to this www.arbeitskreis-provenienzforschung.org/. The international Arbeitskreis Provenienzforschung e.V. [Provenance Research Working Group, Regd. Assn.] encourages the development of provenance research in all its fields of activity and in an interdisciplinary context. See also Katja Terlau: 10 Jahre "Arbeitskreis Provenienzforschung". Ein Erfahrungsbericht, in: Koordinierungsstelle Magdeburg: Die Verantwortung dauert an. Beiträge deutscher Institutionen zum Umgang mit NS-verfolgungsbedingt entzogenem Kulturgut, edited by Andrea Baresel-Brand, Volume 8 of Publications of the Magdeburg Coordination Office for Lost Art 2010, pp. 335-349.

¹³ German Lost Art Foundation, www.kulturgutverluste.de.

¹⁴ On the databases, see www.bak.admin.ch/raubkunst > Provenance research in Switzerland.

2. Drawings and watercolours, works on paper

*'Determining the provenance of drawings and watercolours is more difficult, for various reasons, than is the case with paintings, which are more commonly in the research limelight. [...] A fundamental problem is that on the whole there are only sparse records in relation to works on paper in early exhibition and auction house catalogues, as well as in various archival sources like lists of works and correspondence, which makes definite identification or classification [...] a difficult matter.'*¹⁵

Here, too, the nature of the acquisition by the collection is always an important indication. What collections do the works come from? How did the collector come across these works? In what context were they acquired? Who were the dealers involved?

3. Arts and crafts

In the field of arts and crafts there is barely any recourse to research on the subject of Nazi-looted art. Many Jewish collections, however, did include a large proportion of arts and crafts. Here there are very few catalogues of works to be found – only exhibition listings, collection and auctioneers' catalogues, and this is not in every case. The important thing is to scrutinise the collection and shine a critical light on acquisitions from the period 1933 to 1945.

4. Non-European art, ethnographic and archaeological materials

In Nazi Germany, 'ethnic' art (like African and Oceanic art, for instance) was tantamount to ostracised art. Fundamentally speaking, the ethnographical museums were not affected by Nazi cultural policies in terms of the current state of research relating to the objects in question. Moreover, this genre of art was little exhibited in the arts and crafts museums or art museums affected by Nazi cultural policy.

There was however an important market for Asian and Far Eastern art in Germany between 1933 and 1945, so that acquisitions by way of German auctions and dealers were certainly capable of finding their way into Switzerland. So these, too, should be scrutinised with particular care with reference to their provenance.

E) Dealing with research results

1. Publication

In the context of the active or proactive assumption of responsibility on the part of museums and institutions, it is indispensable that the results of provenance research should be made publicly accessible, especially on the internet. Publication serves to bring about enhanced transparency, a responsible attitude to history and the proactive clarification of any open questions. The digitalisation and publication of the results of provenance research on the internet not only generates added value with reference to the history of works and collections, but also creates the essential conditions for a museum to remain credible in an international and contemporary context. With reference to the Washington Conference Principles, the publication of provenance research forms part of the prescribed procedure of identification of the art work, making the results accessible and publication of the findings, thereby also constituting an essential condition for the achievement of just and fair solutions in this context.

(☞ See [Checklist for Provenance Research](#) below).

In the case of objects with Nazi-looted art connections, the Contact Bureau on Looted Art furthermore recommends that the objects be registered on the central database of Lostart.de (☞ www.lostart.de).

¹⁵ Kathrin Iselt: Provenienzen einer Sammlung, in: Birgit Dalbajewa, Peter Hahn andANGES Matthias (ed.): Kokoschka als Zeichner. Die Sammlung Willy Hahn, Ostfildern 2011, pp. 209-218, here p. 209.

In particular, in the context of Nazi-looted art, publication may lead – especially in cases where provenance gaps exist – to supplementary information being supplied by third parties.

2. Just and fair solutions

After a provenance investigation has been carried out, if there are indications of Nazi-looted art, contact should be initiated with any possible groups having claims, first in order to obtain additional information and then to bring about just and fair solutions as recommended by the Washington Conference Principles.

(☞ See [Just and fair solutions](#)).



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Appendix 10: Checklist for Museums for conducting provenance research, especially in connection with the problems associated with Nazi-looted art in Switzerland*

Objective of the checklist

This checklist serves as a recommendation and as support for the execution of provenance investigations, especially in connection with the problems associated with Nazi-looted art, in the light of the Washington Conference Principles.

Relevance of provenance research

Provenance research

- reflects the concerns of the Washington Conference Principles on Nazi-Confiscated Art from 1998 and to the [ICOM Code of Ethics for Museums](#) of 8 October 2004. Moreover, it
- takes responsibility for the proactive clarification of remaining questions relating to ownership;
- creates added value for the individual objects and for museum history in a general sense;
- takes up the challenge of increasing internationalisation and creates essential conditions for the international loan of art works;
- supports the achievement of just and fair solutions in cases of Nazi-looted art.

Procedures for provenance research, especially in association with the problem area of Nazi-looted art

1. Determination of the relevant objects / collections for provenance research

↓	↓
For the acquisition of works of art (purchase, gift, loan etc.)	For existing art collections
<p><u>Relevant objects:</u></p> <ul style="list-style-type: none"> - Objects with provenance gaps between 1933 and 1945 - Objects where the possibility cannot be excluded that they are Nazi-looted art <p><u>Auxiliary resources:</u></p> <ul style="list-style-type: none"> - Information emanating from the former owner, from art dealers or an auction house - Accompanying documents and any catalogues of works in existence - Other 	<p><u>Relevant objects:</u></p> <ul style="list-style-type: none"> - Acquisitions between 1933 and 1945, and acquisitions after 1945 with unclarified provenance - Acquisitions in the period between 1933 and 1945 of objects in Nazi Germany or in annexed or occupied countries - Objects where the possibility cannot be excluded that they are Nazi-looted art <p><u>Auxiliary resources:</u></p> <ul style="list-style-type: none"> - Inventory and depository additions between 1933 and 1945 - Correspondence, receipts, delivery notes or expert reports in relation to the acquisitions - Other
↓	↓

* Extract from the FOC website <http://www.bak.admin.ch/kulturerbe/04402/04711/index.html?lang=de>.

2. Research relating to the object

To be checked:

Indications on the object itself – like labels, numbers, stamps, initials etc.

Auxiliary resources:

- For customs stamps, enquiries can be addressed to the customs authorities in the relevant country
- For collectors' stamps: www.marquesdecollections.fr



3. Library research

Auxiliary resources:

- Literature on art history
- Catalogues and listings of artists' works
- Catalogues of museum collections
- Academic literature in the fields of history law and economics (<http://www.bak.admin.ch/rk> > Literaturlisten [Literature lists]).



4. External archival research

Auxiliary resources:

- Public and private archives (www.bak.admin.ch/rk > Provenance research in Switzerland)
- Museum archives
- Art dealers' estates (see in connection to this www.sik-isea.ch or the Zentralarchiv des internationalen Kunsthandels, Im Medienpark 7, D-50670 Cologne, GERMANY, www.zadik.info)
- Archives of auction houses
- Inventory and depository entries in the case of acquisitions from museum collections
- Etc.



5. Dialogue with professional colleagues

- E.g. Arbeitskreis Provenienzforschung (www.arbeitskreis-proviensforschung.org)
- E.g. the Provenance Research department of the German Lost Art Foundation (www.kulturgutverluste.de)



Provenance not completely clarified	Provenance completely clarified and it is not a case of Nazi-looted art	Provenance completely clarified and it is a case of Nazi-looted art. Heirs unknown.	Provenance completely clarified and it is a case of Nazi-looted art. Heirs have been identified.
-------------------------------------	-------------------------------------------------------------------------	-------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------



Publication of the results on the internet	<u>and</u> publication of the work itself on Lostart.de / Investigate whether it is possible to trace the heirs	<u>and</u> initiate contact with the heirs / achievement of just and fair solutions
--------------------------------------------	-----------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------



Appendix 11: Glossary of terms related to Nazi-looted art*

A) Preliminary remarks

The following glossary serves to explain selected terms in the context of the *Washington Conference Principles on Nazi-Confiscated Art* from 1998 (the Washington Conference Principles). The information supplied here makes no claim to being complete.

Washington Conference Principles

Along with 43 other states, in December 1998, Switzerland ratified the *Washington Conference Principles on Nazi-Confiscated Art* (the Washington Conference Principles). In doing so, the Confederation made a public declaration that it ascribes great importance to dealing with the problems associated with Nazi-looted art and to the achievement of just and fair solutions.

The Washington Conference Principles are internationally regarded as constituting a standard of 'best practice' in dealing with the issues associated with looted art.

B) Glossary

Alternative dispute resolution

The term refers to mechanisms that represent an alternative to the settlement of disputes before a court. Forms of alternative dispute resolution include such approaches as mediation, conciliation or arbitration, for example. In connection with restitution claims for cultural property, there are the international *UNESCO Mediation and Conciliation*¹ platform and (for claims in relation to museums) the *ICOM Art and Heritage Conciliation Committee*² of the International Council of Museums. In the context of Nazi-looted art, the various forms of alternative dispute resolution can help to bring about just and fair solutions as recommended by the Washington Conference Principles from 1998.

Degenerate art

The concept of degenerate art (*'entartete Kunst'*) was used by the National Socialists to stigmatise the art works of Modernism, which did not conform stylistically to the understanding of art propagated by Hitler and the Nazis, and thereby only allowed art identified as heroic. In the implementation of this concept, works of art were removed by the Nazis from national museums, and subsequently destroyed or exploited and/or sold on the international art market. The confiscations were legitimised by the Nazi regime on the basis of a law from 1938 with retrospective effect (the *'Einziehungsgesetz'* or Confiscation Act). The act has not been repealed to the present day. There are no international guidelines on the subject of 'degenerate art' to date.

* Extract from the FOC website www.bak.admin.ch/kulturerbe/04402/04711/index.html?lang=de.

¹ www.unesco.org/new/en/culture/themes/restitution-of-cultural-property/mediation-and-conciliation/

² <http://icom.museum/programmes/art-and-cultural-heritage-mediation/>

Property / art in the possession of refugees

The terms 'Fluchtgut' ['property in the possession of refugees'] and 'Fluchtkunst' ['art in the possession of refugees'] are not dealt with by international standards. They are thus in need of interpretation, and are applied variously by the different parties involved.

The Independent Committee of Experts on Switzerland and the Second World War (the Bergier Commission, also known as ICE) of 2001 used the term *Fluchtgut* in the 'Bergier Report' as designating 'cultural property that was brought by its (Jewish) owners themselves into or by way of Switzerland on their journey into exile'. It comprises transfers of ownership in a country where the Holocaust did not take place.³ The *Conference on Jewish Material Claims Against Germany* (Claims Conference) and *World Jewish Restitution Organization* (WJRO) likewise make a distinction between countries where the Holocaust took place and those where it did not.⁴

With reference to the applicability of the Washington Conference Principles, the Federal Office of Culture assumes that, independently of any kind of categorisation, comprehensive investigation needs to be made in each individual case. Crucial for the Confederation, in the light of the Washington Conference Principles, is the question whether a transfer or change of ownership in the period between 1933 and 1944 effectively amounted to a confiscation. In so far as this was the case, Fluchtgut' ['property in the possession of refugees'] and 'Fluchtkunst' ['art in the possession of refugees'] may well prove to be Nazi-looted art as understood by the Washington Conference Principles. (See in connection to this the entry below for 'Nazi-looted art').

Just and fair solutions

For restitution claims in connection with Nazi-looted art, the Washington Conference Principles from 1998 recommend the achievement of just and fair solutions between the pre-war owners or their heirs and the owners of the works of art today (☞ To [Factors in connection with just and fair solutions](#)). The basis for just and fair solutions is the careful individual examination of the specific case (cf. Article VIII of the Washington Conference Principles).

Provenance research

The goal of provenance research is to determine the complete origin of an object, from the time of its discovery or production onward. The investigation of provenance is a part of the museum ethics anchored in the work of museums, and ensures a sustainable collection policy.

Under the title of 'Provenance and the Obligation of Due Care', the International Council of Museums (ICOM) Code of Ethics for Museums accordingly state: *'Every effort must be made before acquisition to ensure that any object or specimen offered for purchase, gift, loan, bequest, or exchange has not been illegally obtained in, or exported from its country of origin or any intermediate country in which it might have been owned legally (including the museum's own country). Due diligence in this regard should establish the full history of the item since discovery or production.'* (Article 2.3).⁵

Provenance research does not just create added value for individual works of art and for museum history

³ See on this subject: TISA FRANCINI, Esther; HEUSS, Anja; KREIS, Georg: *Fluchtgut - Raubgut. Der Transfer von Kulturgütern in und über die Switzerland 1933–1945 und die Frage der Restitution* [Refugee Property and Looted Assets – the Transfer of Cultural Property within and via Switzerland 1933-1945 and the Question of Restitution] (Unabhängige Expertenkommission Schweiz - Zweiter Weltkrieg [Independent Commission of Experts on Switzerland and the Second World War], vol. 1), Zurich 2001.

⁴ See the joint report of the Claims Conference and WJRO of 10 September 2014 (*Holocaust-Era Looted Art: A Current World-Wide Overview*) (p.5); www.claimscon.org and <http://wjro.org.il>.

⁵ The 'Ethische Richtlinien für Museen des Internationalen Museumsrates ICOM' ['ICOM Code of Ethics for Museums'] constitute the foundations of the professional work of museums and conservators. They represent a minimum standard for museums and reflect principles which are generally acknowledged in the international museum world. See www.museums.ch > Standards > Ethische Richtlinien [Ethical Guidelines].

in a general sense, it also assumes the responsibility of proactively clarifying open questions relating to the ownership of works of art and resolving such issues with maximum transparency (☞ To [Provenance research in Switzerland](#)).

Nazi-looted art

The Washington Conference Principles of 1998 define Nazi-looted art, both in the title and in Articles I, III-V and VII-X as 'works of art confiscated by the National Socialists'.

In living up to its ethical and moral responsibilities, the Confederation assumes that irrespective of any kind of categorisation a comprehensive scrutiny in each individual case is indispensable. The crucial issue for the Confederation, based on the Washington Conference Principles, is the question whether a transfer or change of ownership in the period between 1933 and 1945 effectively amounted to a confiscation. Along with direct confiscation, case histories involving pretend sales, sales at knockdown prices, sales without legitimacy etc. would also constitute looted art. Likewise in cases of works of art / property in the possession of refugees or expropriation resulting from persecution, scrutiny is accordingly called for in order to ascertain whether a change of ownership amounted to confiscation, and whether the works in question can be viewed as Nazi-looted art, so that on this basis just and fair solutions may be achieved.