



EXPLANATIONS RELATING TO THE PRINCIPLES OF THE WASHINGTON CONFERENCE (1998) AND TO THE DECLARATIONS OF THE VILNIUS (2000) AND TEREZIN (2009) CONFERENCES*

A. Principles of the Washington Conference¹

1. Context

The Principles of the Washington Conference on Nazi-Confiscated Art (the “Washington Principles”) were approved on 3 December 1998 at the Washington Conference on Holocaust Era Assets. Representatives of 44 governments and 13 NGOs attended the conference, which was organized under the auspices of the US State Department and the United States Holocaust Memorial Museum. A Swiss delegation was among those taking part. Switzerland was among the countries that approved the Principles of the Washington Conference and so underscored the importance it attaches to the handling of the issues associated with Nazi-looted art.

2. Legal effect

The eleven articles of the Washington Principles are preceded by a brief preamble which indicates the non-binding nature of the principles formulated. The preamble also emphasizes the different legal systems and statutory frameworks to be found in different nations. The Washington Principles are thus to be understood as definitive guidelines which are not subject to direct implementation (so-called “soft law”).

3. Scope

The Washington Principles relate to works of art which were confiscated during the German period of National Socialism (“Nazi-Confiscated Art”), and in particular to confiscated works of art which have not been restored to their legitimate owners.

- **Objects in question:** the Washington Principles are concerned with works of art confiscated under the National Socialists (from 1933 to 1945).
- **Time frame:** the Washington Principles relate to the period when Germany was governed by the National Socialists (1933 to 1945) and to acts perpetrated under the Third Reich. The Washington Principles thus also apply to confiscations that took place before the Second World War.
- **Location:** the Washington Principles are concerned with confiscations of art works that took place in Germany and in other annexed and occupied countries.
- **Persons in question:** the Washington Principles relate to private individuals who were the pre-war owners of art works, as well as to their heirs and to persons who were dispossessed as a result of the Holocaust.

* The present document has been drawn up by the Federal Department of Home Affairs (FDHA, Federal Office of Culture) and the Federal Department of Foreign Affairs (FDFA, Directorate of Political Affairs), in collaboration with the cantons (Swiss Conference of Cantonal Ministers of Education) and the associations representing the museums (Swiss Museums Association; Swiss Art Museums Association).

¹ [Principles of the Washington Conference on Nazi-Confiscated Art, 1998.](#)

4. Commentary

The Washington Principles are of seminal importance in relation to the issue of Nazi-confiscated art. They are generally acknowledged to the present day, and since they were formulated have been reasserted on several occasions (see section B). They are aimed at bringing about a situation where just and fair solutions can be found.

The eleven articles of the Washington Principles can be broken down into three main areas: identification of assets (articles I through IV); original owners and/or their heirs, i.e. victims (articles V through IX); and the settlement of legal disputes (articles X and XI).

- The first article relates to the **identification** of Nazi-confiscated art. This raises a number of issues, especially that of traceability in consequence of the actions that have taken place. This concerns not just the number of the confiscated works of art and the parties involved, but also the restitution of the objects, the special circumstances of the Second World War and the postwar period and the psychological difficulties which arise in endeavoring to clarify events over this time frame. Two further articles recommend that researchers should be given easier access to the archives, while at the same time resources and personnel should be made available with a view to the better identification of looted art. Article 4 emphasizes that in view of the passage of time and the exceptional circumstances of the Holocaust era, a certain degree of consideration should be exercised when it comes to the identification of looted art.
- Once the looted works of art have been identified, the Washington Principles call for an improved level of cooperation so as to make it possible for Nazi-confiscated art to be restored to its former owners. It is therefore important not just to encourage dispossessed persons to come forward with their claims, but also to create transparency with the aim of tracing survivors and their heirs. In order to identify the victims, a central register should be set up. Furthermore, **just and fair solutions** must be sought – both when it has been possible to trace the victims and in cases where identification has proved impossible.
- The last article is concerned with the balanced representation of committee members and members of other bodies involved in the issues associated with Nazi-looted art. Moreover, **alternative dispute resolution mechanisms** are urged, above all in relation to questions of ownership.

B. Follow-up conferences to the Washington Conference (1998) – the Vilnius (2000) and Terezin (2009) Conferences

I. The Vilnius Declaration (2000)²

1. Context

The International Conference of 5 October 2000 held in Vilnius, Lithuania, under the auspices of the European Council set itself the objective of drawing a balance on the Washington Principles. On the occasion of this conference the 38 participating nations, Switzerland among them, approved the Vilnius Declaration of 2000. The introduction to the Declaration refers to the Washington Principles as well as to Resolution 1205 of the Parliamentary Assembly of the Council of Europe on looted Jewish cultural property (1999). Article 19 of this Resolution states that following the Washington Conference a further European conference should be held. A Swiss delegation attended the Vilnius Conference, and the Vilnius Declaration was unanimously approved by the countries attending.

2. Legal effect

In its introduction the Vilnius Forum Declaration emphasizes that just and fair solutions must be found if it is to be possible to clarify issues relating to the looted art works of the Nazi period. But these

² See www.lootedart.com > International > Laws, Policies and Guidelines > Policies > Vilnius Forum Declaration 5 October 2000.

solutions must be capable of being reconciled with the different legal systems of the countries concerned and with any special cases. The Vilnius Forum Declaration encourages nations to undertake **every reasonable effort** to achieve the restitution of Nazi-looted art, and take all reasonable measures to implement the Washington Principles and Resolution 1205 of the Council of Europe. States have a degree of discretion in the way they deal with the issue of Nazi-looted art. The Declaration of Vilnius can thus also be seen as amounting to “soft law”.

3. Commentary

The Vilnius Forum Declaration reaffirms the Washington Principles and elaborates on them, especially with reference to the identification of the confiscated art works (article 2) and the necessity of centralized information resources (website with a contribution from the Council of Europe) and a centralized point of contact for related inquiries (article 3). Article 4 acknowledges that there is no universal model for dealing with these issues, while stating that looted art remains the property of its original owners. Article 5 suggests that regular international expert meetings be held in order to further the exchange of information on the Resolution and to make progress toward the restitution of looted art.

II. The Terezin Declaration (2009)³

1. Context

With a view to assessing progress in the work carried out in the field of Nazi-looted art since the Washington Principles of 1998, a conference was held in Prague and Terezin from 26 to 30 June 2009 under the auspices of the government of the Czech Republic. At this conference, the 46 nations attending approved the Declaration of Terezin on Holocaust Era Assets. The Declaration consists of an introduction followed by a number of thematic sections: the welfare of survivors, immovable property, cemeteries and burial sites, Nazi-confiscated and looted art, Judaica and Jewish cultural property, archival materials, education, remembrance, research and memorial sites. A Swiss delegation attended the Prague conference, and the Terezin Declaration was approved by the 46 nations taking part.

The Declaration of Terezin envisages setting up an institute (the European Shoah Legacy Institute) to provide support for implementation of the principles of the Declaration.

2. Legal effect

Both the introduction to the subsection devoted to looted art and articles 1 and 3 make an **explicit reference to the Principles of the Washington Conference of 1998**. The Declaration of Terezin 2009 reaffirms that the Washington Principles are based on a moral obligation – namely, the obligation of restoring Nazi-confiscated art to the victims of the Holocaust or their heirs. In this connection, the introduction also points out that the restitution of confiscated art works will be subject to the different internal legal systems of the countries concerned and that the international obligations of the different states must be observed. So again this is a matter of “soft law”.

3. Commentary

Essentially, the Declaration of Terezin is aimed at **extending and encouraging the implementation of the Washington Principles**, both through the agency of public and private institutions and by that of private individuals (see article 1). Its highest priority is to find just and fair solutions (see article 3).

By contrast with earlier conferences, on this occasion a follow-up mechanism was created through the foundation of the *European Shoah Legacy Institute*.

³ [Declaration of Terezin, 2009](#).