



## FACTORS CONTRIBUTING TO JUST AND FAIR SOLUTIONS\*

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### Foreword

In December 1998, 44 nations approved the “Principles of the Washington Conference on Nazi-Confiscated Art” (the “Washington Principles”),<sup>1</sup> a pioneering document in this field. Switzerland was among the countries approving the Principles, so demonstrating that it assigns great importance to the achievement of just and fair and solutions in this area.

An evaluation of representative cases in connection with restitution claims relating to Nazi-looted art both within Switzerland and abroad came up with the following approaches to achieving a solution. The enumeration does not claim to be exhaustive, and thorough individual checking of the circumstances in every individual case is indispensable:

### Factors for the achievement of just and fair solutions

#### ➤ Determination of provenance

Based on the often confusing state of the sources, more often than not it was impossible to determine the provenance of a work of art beyond all doubt. Consequently, the first step was to clarify the provenance of the work in detail or commission an expert to do so, with the aim of determining whether it came under the heading of Nazi-looted art.

If the detailed investigation of the work's provenance came to the conclusion that the work could be seen as Nazi-looted art, the following actions were agreed upon. (Again this is an open-ended enumeration and not exhaustive.)

In most cases where just and fair solutions were arrived at in legal disputes connected with Nazi-looted art, the parties concerned agreed on several actions at once:

#### ➤ Actions in respect of ownership (examples)

- Return of the artwork to the former owners or the latter's surviving heirs.
- Return of the artwork to the former owners or the latter's surviving heirs, with the institution retaining a right of pre-emption for the work in question.
- Return of the artwork to the former owners or the latter's surviving heirs, who then loan or donate the artwork to the institution.
- Purchase by third parties, followed by a loan or gift to the institution.
- Gift of the artwork to two institutions.
- Recourse to the vendors of the Nazi-looted work of art, with an agreement for the gift of an artwork of equivalent value.
- Joint ownership – e.g. between the surviving heirs and the institution.
- No return of the artwork, following establishment of the fact that it does not come under the heading of Nazi-looted art.

#### ➤ Further actions: acknowledgement of the circumstances (examples)

In many cases, the former owners or their surviving heirs are concerned that an acknowledgement be made of the circumstances:

- Reference to the former owners in the description of the work of art.
- Specification of “Looted art from the Nazi period” in the description of the work of art.
- Inclusion of a note indicating that the parties concerned have carried out a joint investigation of the circumstances of acquisition.

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\* 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).

<sup>1</sup> Cf. [Principles of the Washington Conference on Nazi-Confiscated Art, 1998](#).