



Cultural Assets and their Provenance – Research, Education, Solutions. The Experience of the Prussian Cultural Heritage Foundation

Hermann Parzinger

Speaking at the conference of the German Lost Art Foundation “New Perspectives of Provenance Research in Germany” (27. – 28.11. 2015)

- Check against delivery. Please check original version in German -

Although the Deutsches Zentrum Kulturgutverluste (German Lost Art Foundation) in Magdeburg has now existed on paper since January 1, 2015 and began its work there on April 1, 2015, I would like to take this occasion, the first conference of this Foundation, to congratulate the German federal government, the Länder of the Federal Republic of Germany and national associations of local authorities in Germany who took it upon themselves to establish this Foundation at short notice and in a swift manner within a single year. As always, when such institutions are newly established, expectations are high, yet the road to being fully up and running may be marked by numerous internal and external obstacles that must be overcome before a well-functioning and effective working apparatus is established.

This Foundation is important to us all, all of us in Germany who are addressing the issue of losses of cultural property. I would therefore like to express my deep gratitude to the policy makers and my best wishes to the Management and Team of the Deutsches Zentrum Kulturgutverluste. You have accepted a Herculean task that is of enormous importance not only for processing and addressing historical guilt, but also for upholding Germany's reputation throughout the world. As President of the Stiftung Preußischer Kulturbesitz (SPK; Prussian Cultural Heritage Foundation), I admit to having some expectations of the Deutsches Zentrum Kulturgutverluste, which I will discuss later in the presentation.

Allow me to begin my presentation with some thoughts on the tasks that are set down in the Foundation's charter and then move on to consider how they will be implemented and fulfilled in practice. It will also be necessary to bring clarity regarding the current priorities underlying the Foundation's work, and address future problem areas.

The basis of provenance research with a focus on art looted by the National Socialists

The Deutsches Zentrum Kulturgutverluste has made the strengthening and expansion of research on the topic of Nazi-looted art its main task, and this is an important decision and the right decision. The history of art works, books and archival sources, which were taken from Jewish owners due to persecution, remains inseparable from the incredible suffering and fate of the victims of National Socialism. Understanding the complex historical context surrounding the seizure of cultural property became a fundamental task of German and European cultural institutions when the Washington Declaration was adopted in 1998. It is firmly established today under the term “provenance research”. Despite the fact that throughout Germany a large number of provenance research projects are being pursued, it is

clear that the number of people working in this area can and should be increased. In the meantime, this area of research has taken on international dimensions and is steadily expanding and being intensified, whereby international networking and cooperation is more necessary than ever.

Provenance research as part of the research of the history of collections is being carried out in all institutions of the Stiftung Preußischer Kulturbesitz. Clarifying the provenance of art and cultural assets is one of the core tasks of all employees who are tasked with the stewardship of our collections. The results of this research are to be found in monographs and catalogs of works, as well as in databases which are accessible not only to researchers, but also the interested public at large. Today, due to international networking these databases serve as a pivotal and worldwide accessible repository of knowledge.

Nazi-looted art has special priority in the broad field of provenance research at SPK. This is not just a matter of processing individual cases that are brought to us by means of specific restitution requests. We also have implemented numerous systematic research projects which are focused on specific sections of the collections. The term "Nazi-looted art" stands for the massive, illegal taking of private property in the context of the discrimination, disfranchisement, persecution and ultimately extermination of Jewish citizens conducted by the Nazi regime. In this area the Nazi state systematically – in part making use of its power to legislate – took measures against its very own citizens. Jewish owners of art and cultural assets were subject to a particular heinous quality of injustice: The looting of the assets of the Jewish population is unmatched in its magnitude in known human history. As the persecution of the Jewish population intensified, the scenarios of loss evolved from more or less forced sales to government seizures and confiscations with no form of compensation.

The Berlin Museums, in particular, have in no small measure to thank the generosity of Jewish patrons for driving their rise to collections of international standing in a comparatively short period of time since their creation in 1830. Names like James Simon, Eduard Arnhold, Oskar Huldshinsky, to mention just a few, are just as closely linked to the history of the Staatliche Museen zu Berlin (National Museums in Berlin) as Ludwig Darmstaedter and Martin Breslauer are to that of the Preußische Staatsbibliothek (Prussian State Library, today Staatsbibliothek zu Berlin).¹ The patronage of Jewish collectors was comprehensive and unique, and we recall it with pride and extreme gratitude. We feel even more ashamed when we think of the deprivation of rights and persecution of Jewish citizens in the period from 1933.² To name the new entrance building on the Museum Island after James Simon as one of the greatest promoters of the Berlin Museums is an attempt to honor his contribution; James Simon stands a representative for many, many others.

The dissolution of Jewish art collections due to persecution started in the year 1933. The historical paths that this took are diverse ranging from direct, forced government encroachment without compensation to the former owners and forced sales – to the abandonment of the works in cases of Jewish citizens attempting to flee the NS regime. Much of the art went into the possession of public muse-

¹ Waltraud and Günter Braun (ed.), *Mäzenatentum in Berlin (Patronage in Berlin)*, Berlin 1993.

² *Sammeln, Stiften, Fördern. Jüdische Mäzene in der deutschen Gesellschaft (Collecting, Donating, Patronage. Jewish Patrons in German Society)*, Veröffentlichungen der Koordinierungsstelle für Kulturgutverluste (Publications of the Coordination Office for Lost Cultural Assets), Volume 6, Köthen 2008.

ums, libraries and archives, but also into private hands. The return of illegally seized art and cultural property formerly belonging to Jewish owners after 1945 was regulated by various legal provisions of the Western Allies and later by the Federal Republic of Germany.³ The German Democratic Republic (GDR) passed no comparable provisions to come to terms with, and to make amends for, Nazi injustice. In the former GDR, payments were generally only made to those victims of fascism who conformed with the new ideological framework. Neither the Soviet occupying power, nor the later GDR government, saw a need to pass regulations with respect to assets that had been taken from Jewish citizens before 1945.⁴

The “Gesetz zur Regelung offener Vermögensfragen” (Vermögensgesetz/VermG) Law on the Settlement of Open Property Issues / Property Act⁵ that was adopted by the government of the GDR shortly before German Reunification was incorporated into Federal German law when the Unification Treaty entered into force on October 3, 1990. Under this Act, art and cultural assets that were present in the territory of the former GDP until reunification could be restituted. This applied to proprietary claims of citizens and associations that were persecuted between January 30, 1933 and May 8, 1945 for racial, political, religious or ideological reasons, or who lost their assets as a result of forced sales, expropriation or otherwise. Restitution claims for art and cultural assets however had to be registered by July 30, 1993. Although this deadline has long since expired, the Vermögensämter (the government agencies in charge of implementing the legislation) are still processing filings today. Often evidence is missing with respect to the facts put forward to support the numerous stories of loss. This unfortunately has a crucial role in the respective final decision. Here again provenance research plays an important role because often conclusions can be drawn from more general information on context, which sometimes then promotes a positive outcome.

In December 1998, the International Conference on Holocaust Era Assets was held in Washington. This conference led to the adoption of the so-called “Washington Principles” which are intended to assist in resolving issues relating to Nazi-confiscated art. Although the Washington Principles are not legally binding, they made clear irreversibly that the international community was prepared to take responsibility and to take concrete steps to make the intended, albeit late, restitution more than 50 years after the end of World War II a reality.⁶

The first priority according to the “Washington Principles”⁷ is the identification of confiscated works of art and the establishment of a register of these works together with the related claims of former owners or their legal successors. In order to achieve a high degree of justice with respect to individual cases, disputes concerning such claims were intended to be resolved through alternative dispute resolution mechanisms. The most important and fundamental principle to this day is the appeal to claimants and current holders of assets to pursue just and fair solutions when dealing with requests for res-

³ Jürgen Lillteicher, *Raub, Recht und Restitution (Theft, Law and Restitution)*, Göttingen 2007.

⁴ Kerstin Röhling, *Restitution jüdischer Kulturgüter nach dem Zweiten Weltkrieg (Restitution of Jewish Cultural Property after the Second World War)*, Baden-Baden 2004, p. 217.

⁵ BGBl. (Federal Law Gazette) 2005, I, p. 205 as amended.

⁶ Tono Eitel, *Nazi-Gold und andere Holocaust-Vermögenswerte (Nazi-Gold and other Holocaust Assets)*, in: *Festschrift für Knut Ipsen zum 65. Geburtstag*, Munich 2000, p. 57 *et seqq.*

⁷ Washington Declaration, printed in: “Handreichung” (Manual) dated February 2001, revised November 2007, see <http://www.lostart.de>.

titution. An example for such an amicable solution can be found in the agreement between the SPK and the heirs of Curt Glaser that was reached in 2012. After extensive historical research, the Stiftung Preußischer Kulturbesitz and the heirs of Prof. Dr. Curt Glaser agreed on the return of four works from the former collection of Professor Glaser to his heirs.

Prof. Dr. Curt Glaser, a physician, prominent art historian, art critic, author of significant art-historical works, and a well-known art collector had worked at the Berlin Museums since 1909 until he assumed the post of Director of the Kunstbibliothek (Art Library) in Berlin in the year 1924. As the National Socialists came to power, Prof. Glaser became persecuted because of his Jewish ancestry. In June 1933, he went into exile with his second wife, who was also Jewish; his forced retirement took place in September 1933. Before he left Germany, Curt Glaser auctioned large parts of his extensive art and graphics collection, his home furnishings and art library by way of two auctions in May 1933. He was able to take a portion of the remaining art works abroad with him. At one of the two auctions, the Berlin Kupferstichkabinett (Museum of Prints and Drawings) acquired six graphic works by Edvard Munch. Another five graphic works by Ernst Ludwig Kirchner, of which three had survived in the collection, were given to the Kupferstichkabinett as a donation immediately after the auction. The name of the donor can no longer be determined.

In acknowledgment of Prof. Glaser's persecution by the Nazi Regime and in honor of his great achievements for the museums in Berlin, the Prussian Cultural Heritage Foundation and the heirs of Prof. Dr. Curt Glaser have reached an agreement pursuant to the Washington Conference principles, which call for a "fair and just solution". Three works by Edvard Munch and a woodcut by Ernst Ludwig Kirchner have been restituted to the heirs of Prof. Curt Glaser. With the magnanimous approval of the joint heirs, the remaining works have remained in the possession of the Prussian Cultural Heritage Foundation – not least in memory of the former director and important academic, Prof. Dr. Curt Glaser.

The Washington Principles as "soft law" are until this day assessed in different ways.⁸ Despite the fact that they only have the character of recommendations, the Washington Principles of 1998 have now nevertheless become largely binding, as they are recognized as the basis for restitution decisions of public museums, libraries and archives in Germany.

The Washington Principles were implemented in the Federal Republic of Germany in December 1999 via the "Erklärung der Bundesregierung, der Länder und der Kommunalen Spitzenverbände zur Auffindung und Rückgabe NS-verfolgungsbedingt entzogenen Kulturgutes, insbesondere aus jüdischem Besitz" (Statement of the German Federal Government, the Länder and the National Associations of Local Authorities regarding on the tracing and return of Nazi-Confiscated Art, especially with regard to Jewish property / Common Declaration).⁹ According to the explicit language of the Declaration, not every legal transaction between the National Socialist state and Jewish citizens after the former seized power in 1933 is considered illegal, but they are placed under a caveat and must be examined carefully to determine their legality. Crucial is whether the transaction was forced, and in

⁸ Hannes Hartung, Kunstraub in Krieg und Verfolgung: die Restitution der Beute- und Raubkunst im Kollisions- und Völkerrecht (Looted Art in War and Persecution: The Restitution of Expropriated and Looted Art in Conflict of Laws and International Law), Berlin 2005, p. 102.

⁹ Text found at: <http://www.kulturgutverluste.de> (Status: 11/26/2015).

determining this, a central aspect is, whether the purchase price was appropriate and freely available to the seller. The burden of proof is correctly placed on the cultural institution – and not on the claimant – which has to prove that it acquired the art and cultural assets present in its collections in a legal manner. Claimants need only prove that they are heirs of the former owner and thereby entitled to restitution. It is important that this be done completely, as a restitution award may only benefit the true, real previous owner, that is, the injured party or his heirs.

In order to assist museums, libraries and archives in handling the Principles, instructions for assessing and managing restitution requests known as the “Handreichung” (Manual) were formulated at the initiative of the then State Minister of Culture by an expert working group in February 2001 and then fundamentally revised once more in November of 2007.¹⁰ The extensive and diverse experience that institutions and claimants have had with restitution requests since the Washington Conference were taken into consideration in drafting this manual. The Washington Principles also had the effect of intensifying provenance research to clarify Nazi looting of cultural property, since only this research may provide the basis to compensate a claim that has been raised.

The Stiftung Preußischer Kulturbesitz (SPK), the largest German cultural institution, has addressed restitution claims since German reunification. By virtue of provisions of the Unification Treaty, as of October, 3 1990, SPK has acted as trustee of the parts of the National Museums in Berlin, the Berlin State Library and the Secret State Archives that were managed in the territory of the former GDR since the war and the division of Germany. Thereby the collections and inventories of these institutions have been reunited. New claims made under the restitution law of the Federal Republic of Germany to art works found in the SPK’s collections could not be filed anymore against SPK when it took up its work in 1961, because the applicable statutory deadline had expired. SPK could only award restitutions from ongoing proceedings on the basis of decisions of the respective responsible authorities.

From 1991 onwards, increasingly there were conversations between the SPK and the Jewish Claims Conference (JCC) regarding works of art that had come into the collections now belonging to SPK before the war ended. Some of these claims were settled based on the Property Act, while others lacked a sufficient legal basis for a return. Finally, in the summer of 1999, SPK established its own position on these cases. In view of the existing legal framework, the Foundation decided to take recourse to the possibility of voluntary redress in individual cases. This was also based on the experience with various restitution requests of the heirs of Jewish former owners that had been filed with SPK since 1990. Acting in the spirit Washington Principles and anticipating the "Common Declaration", the SPK’s Foundation Board passed a ground-breaking resolution on June 4, 1999, authorizing the Foundation’s President to seek mutually satisfactory solutions regarding works taken from their owners by means of persecution that are still today held by the institutions of SPK. The President shall seek such solutions through discussions with beneficiaries, heirs or other legal successors of former Jewish citizens or institutions on the basis of findings and results of provenance research. The President may also decide in favor of the return of works of art, even if the latter does not follow from the due application of legal principles. This cleared the way for voluntary restitution to occur, because in most cases the statute of limitations had elapsed, thereby making the underlying claims unfortunately unenforceable.

¹⁰ *ibid.*

To date, based on the ruling mentioned above, SPK's President has decided on more than 50 restitution requests, predominantly by returning the cultural assets in question as provenance research left no doubt that the respective loss was conditioned on persecution, or by making other arrangements in the spirit of the Washington Principles' call for fair and equitable solutions. Prominent works were included among these decisions, such as the famous painting "Watzmann" by Caspar David Friedrich, which is now exhibited on permanent loan at the Alte Nationalgalerie (Old National Gallery) in Berlin, or works by Edvard Munch from the holdings of the Kupferstichkabinett stemming from the aforementioned Curt Glaser Collection, to name two of many examples.

As provenance of the collections is increasingly researched systematically, the Foundation now more and more often finds itself able to determine the heirs on its own and pursue discussions with them proactively, as well as publish its research results publicly and indicate its readiness to address further claims. The guidelines for doing so have always been the standards articulated in the Washington Declaration of 1998 and the "Common Declaration" based thereon.

A special case amongst the restitution requests involves the Welfenschatz (Guelph Treasure) which is housed in the Kunstgewerbemuseum (Museum of Decorative Arts). It is certainly one of the most important and very likely the most publicly-followed restitution case of the SPK. The Stiftung Preußischer Kulturbesitz rejected the restitution request as, after years of extensive research, it had come to the conclusion that the sale of the Guelph Treasure in 1935 was not a loss due to Nazi-persecution. The claimants however disagreed with this outcome. As a result, the Beratende Kommission (Advisory Commission) under the chair of Jutta Limbach was called to address for the first time an issue involving the restitution of Nazi-looted involving the SPK. In the spring of 2014, the Advisory Commission issued the recommendation that the Guelph Treasure should not be restituted. It confirmed that the detailed research of the SPK established that the sale of the Guelph treasure should not be classified as a forced sale. In February 2015, two of the claimants involved in the restitution proceeding regarding the Guelph Treasure filed a lawsuit against the Federal Republic of Germany and the SPK before a U.S. court in Washington, D.C., demanding the return of the Guelph Treasure. Jointly with the German Federal Government, SPK submitted a Motion to Dismiss to the U.S. court at the end of October 2015. An initial assessment of the case by the Court cannot be expected before mid-2016. It would be improper for me to comment on this particular case at present. However, I would like to point out that the results of our provenance research, together with all key documents and records – insofar as legally possible – are available in a transparent manner on the SPK website.

SPK was able to reach agreements with the claimants in all other cases without having to ask for a recommendation of the Advisory Commission. In the past few years, more than 350 works of art from the collections of the Nationalgalerie, the Gemäldegalerie (Painting Gallery), the Kupferstichkabinett and Kunstgewerbemuseum and more than 1,000 books have been returned to the rightful heirs or their legal successors.

The Staatliche Museen zu Berlin have further intensified their studies and in particular established a series of special projects on provenance research regarding Nazi-looted assets, partly funded from their own budget and through funding from the Arbeitsstelle für Provenienzforschung (now integrated in the Deutsches Zentrum Kulturgutverluste). Due to its importance and scope, I want to mention the

provenance research project regarding the group of works of the former Galerie des 20. Jahrhunderts (Gallery of the 20th Century) being jointly conducted by SPK and the State of Berlin. Two researchers have taken three years to systematically examine around 450 works of art that were created before 1945 in an effort to determine if they were lost due to persecution during the Nazi era. The result was that most of the works were not looted by the Nazis. The works examined are in the possession of the State of Berlin and have been on permanent loan to the Nationalgalerie and the Kupferstichkabinett of the Staatliche Museen zu Berlin since 1968. The collection contains paintings, works on paper and sculptures. Among these are top level works of modern art, by artists such as Hans Arp, Ernst Barlach, Max Beckmann, Lovis Corinth, Otto Dix, Lyonel Feininger, Erich Heckel, Ernst Ludwig Kirchner, Oskar Kokoschka, Paul Klee, Wassily Kandinsky, Georg Kolbe, August Macke, Paula Modersohn-Becker, Piet Mondrian, Henry Moore, Otto Mueller, Gabriele Münter, Edvard Munch, Ernst Wilhelm Nay, Emil Nolde, Max Pechstein, Pablo Picasso, Karl Schmidt-Rottluff and Max Slevogt.

With respect to about 85 percent of the works, it has been possible to establish provenance histories that do not raise further questions. There are indications that three works may have been lost due to Nazi-related persecution. In-depth research is still needed with respect to these works and the legal issues related thereto must be clarified. Despite extensive research, the provenance of 61 works could not be completely elucidated. Therefore, it cannot be ruled out that these works were lost due to Nazi-persecution. The federal state of Berlin has to date published 31 of these works on the LostArt database, including works by Georg Grosz, Wilhelm Lehmbruck and Christian Rohlf. The published notices are intended to appeal to the public to provide further information and state their ownership claims. Other works with gaps in their provenance history will be placed in the database in due course. Moreover, the federal state of Berlin will also contact the persons who may be considered as heiresses and heirs of the former owners.

The project was one of the most extensive, systematic provenance research projects in Germany regarding acquisitions made during the post-war period. The State of Berlin and the Stiftung Preußischer Kulturbesitz funded it from their own resources. The results of the project's research were presented to the public in July 2014 and will be published in book form at the end of 2015 and online in March 2016. For the first time, this publication will also detail the historical development of the Galerie des 20. Jahrhunderts and is a significant contribution to of provenance research in general in Germany.

Another research project regarding the "Sammlung der Zeichnungen" (Collection of Drawings) in the Kupferstichkabinett has already produced initial findings, which, for example, led to the restitution of two major drawings of German Romanticism. The drawings by Friedrich Olivier and Julius Schnorr von Carolsfeld came from the former estate of the Viennese ethnologist Marianne Schmidl and were returned to her heirs in October 2014.

In August 2014, work began on a project in the Museum Berggruen which is scheduled to run for at least two years, 50 percent of the costs of which are funded by the Arbeitsstelle für Provenienzforschung. 135 works of art are being examined that originated before 1945 and are today in the possession of the Stiftung Preußischer Kulturbesitz. All results will be published after the project's completion and made available via the internet.

Systematic provenance research is also conducted by the institutions of SPK with a view to processing groups of objects, which evidence has shown are not the property of the Foundation and are thus classified as “third party property”. Catalogs listing such “third party property” have been published by several museums of the Foundation, and its Antikensammlung (Collection of Classical Antiquities) has now also begun to search for objects classified as third party property in its collection. The project will simultaneously screen the collection for Nazi-looted art. This will also take into account the acquisitions made in the Soviet Occupation Zone and the German Democratic Republic between 1945 and 1989.

Furthermore, I would like to draw attention to the efforts of the Abteilung Historische Drucke (Department of Early Printed Books) of the Staatsbibliothek zu Berlin (Berlin State Library). The Department has successfully completed the four-year research project “Creating transparency: Research, development and nationwide evidence of Nazi looted assets contained in the printed works of the Berlin State Library”. 11,000 books were examined. As has already been described, 1,000 of the nearly 3,600 books that were clearly identified as Nazi loot were returned to the rightful heirs. All cases of Nazi looted property are quickly and comprehensively entered into the online catalog StaBiKat (search word “NS-Raubgut” (Nazi loot)) and into the LostArt database, and descriptions of any evidence relating to provenance are included. This enables research to take place world-wide and gives the rightful owners the chance to identify their property. The 400-page study entitled “Beschlagnahmt, erpresst, erbeutet. NS-Raubgut, Reichstauschstelle und Preußische Staatsbibliothek zwischen 1933 und 1945” (Confiscated, extorted, looted. NS looted property, Federal Exchange Site and Prussian State Library between 1933 and 1945) may now be considered a standard reference work for uncovering illegal acquisitions and is providing other libraries and institutions with important information to assist them in processing their own holdings. The Staatsbibliothek is also researching the time period following the end of World War II. The research project “NS Looted Assets in 1945: The Role of the Central Office for Scientific Legacy Portfolios” has been ongoing since August 2014. The aim is to find out the routes that the Nazi-looted assets took after the war.

Please allow me to briefly outline how provenance research is conducted in libraries: Firstly, all discernible traces left by previous owners that are in and on the book itself are important for determining the history of a specific item. This may be in the form of bookplates, labels, stamps, handwritten marks of previous owners, but may also include numbers and symbols which initially are very difficult to decipher and assign. In particular with respect to NS-looted assets, we repeatedly encounter carefully blacked-out, redacted, taped-over or cut-out stamps and notices of ownership. This complicates identification of the owner greatly.

External sources, such as acquisition documentation regarding collections, may provide further indications in particular when the origin and the acquisition date of a work are noted in the acquisition journals. The provenance researchers attempt to interpret each and every trace, however weak in itself, to place these in chronological order and can thereby – if all goes well – reconstruct the often complex and intertwined history of a work. Often this reconstruction provides only patchy indications and absolute clarity is sometimes impossible to establish due to lack of evidence. However, the information status – or lack thereof – also has to be made available to the public so that the provenance of these works may be further supplemented by third parties.

The “Degenerate Art” Campaign – the Schwabing Art Trove and its Consequences

Different considerations apply to the losses of cultural assets in the context of the Nazi “degenerate art” campaign as primarily government institutions were affected. The “degenerate art” campaign is one of the darkest chapters of German cultural policy and museum history, as the art objects themselves were the targets of the Nazi state. Expressionists, surrealists, Dadaists and many other art movements of classical modernism did not satisfy the so-called *völkisch* (nationalist-racial) ideals of National Socialism and therefore were defamed, seized, and sold abroad to obtain foreign currency by the Nazi regime, as well as to a considerable extent destroyed. For the most part, the art seized and sequestered because the Nazis considered it “degenerate” came from public collections. Private property was usually affected only if it had been held on deposit in a museum or was being offered in public auctions, and with no differentiation being made based on the owner, his or her origin or religious faith.¹¹

Under its Director Ludwig Justi, the Nationalgalerie (National Gallery) in Berlin had established one of the most important collections of contemporary art during the period between the two World Wars. This museum alone lost more than 500 works as a result of the “degenerate art” campaign¹², and a total of nearly 20,000 works from over 100 museums and collections were affected¹³. The legal basis for the “commercial exploitation” of the works that followed so as to obtain foreign currency was only later established via the “Gesetz über die Einziehung von Erzeugnissen entarteter Kunst” (Law on the Seizure of Works of Degenerate Art)¹⁴ of 31 May 1938. The law allowed the confiscated works to be expropriated without compensation for the benefit of the German Reich. Four art dealers, Karl Buchholz, Ferdinand Möller, Bernhard D. Böhmer and Hildebrand Gurlitt, each having particular experience in trading with modern art, were commissioned with the sale of the works that had been classified as “saleable”.

Several research projects have been carried out with respect to the “degenerate art” campaign, in particular at the universities of Berlin and Hamburg. I am not going to delve into these further here. The circumstances surrounding and the consequences of the “degenerate art” campaign can still be felt today, however, as the case of the so-called Schwabing art discovery, which was made public two years ago, has made patently clear. This case involved an extensive art collection from the estate of Hildebrand Gurlitt, which was discovered somewhat by chance in the possession of his elderly and now deceased son. I will refrain from telling what then followed, as the story is well known, and the Stiftung Preußischer Kulturbesitz played no role in the case. The Schwabing art discovery did, however, plainly show once again that foremost there is still a great need to educate and research regarding this chapter of German history, and secondly that questions of looted art must always be kept in mind when researching a work’s ownership history and relationships. Here as well, provenance research provides the key to clarifying a work’s potential Nazi past and sometimes also to subsequent reparations.

¹¹ Gesa Jeuthe, *Die Moderne unter dem Hammer* (Modern Art under the Hammer), p. 198 in: Uwe Fleckner (ed.), *Angriff auf die Avantgarde* (Attack on the Avantgarde), Berlin 2007.

¹² Roland März *et al.*, *Kunst in Deutschland* (Art in Germany) 1905-1937, Berlin 1992.

¹³ Dossier of the Research Centre “Degenerate Art” (Dossier der Forschungsstelle Entartete Kunst) at the Freie Universität Berlin dated 12/15/2004.

¹⁴ Reich Law Gazette I 1938, 612.

Although the “Schwabing Art Trove” task force will be disbanded by the end of 2015, there is still considerable research to be conducted which – irrespective of the ongoing inheritance dispute – should not only lie in the remit of the Museum in Bern, Switzerland, if the collection will go there, but should also be scientifically addressed from the German side, a task which will likely fall in the purview of the Deutsches Zentrum Kulturgutverluste. The latter will need to be equipped with the necessary number of experts for this task. The complete and thorough investigation of the Gurlitt case is not only of central importance for Germany’s reputation in the world due to its enormous international media attention and coverage, but it is also in the interest of German public museums that this be clarified, even if those museums are not directly affected by the case. Currently, the term “Gurlitt” stands not only for “degenerate art”, but is also synonymous for Nazi-looted art, whether or not this is justified.

The Gurlitt case also creates a new and different perspective with respect to works from private collections that were taken by the NS in its “degenerate art” campaign. Previously, it was assumed that the Nazi “degenerate art” campaign concerned works from the public domain primarily and therefore did not affect the rights of private people. It was believed that private loans to museums were not that frequent and thus only rarely were expropriated as “degenerate art”. The Gurlitt case makes it obvious however that the provenances of the works that were affected by the “degenerate art” campaign must be researched in far greater depth than was originally assumed. Moreover, the prior provenance history of these pieces must also be examined very closely. Theoretically, works that were removed from museums during the “degenerate art” campaign may have been in those very museums, because they were previously taken from their former Jewish owners through persecution. Here again, the standards of the Washington Principles must be applied.

For those works of art that were removed by the Nazi regime in the course of the “degenerate art” campaign from German public collections, owned by the museum themselves and without background of Nazi-persecution related acquisition, another aspect is still fundamentally crucial. Insofar as the public collections were the victims of the “degenerate art” campaign, they were also fatefully intertwined with the Nazi-regime which executed the removal. Therefore, claims by public museums for the return of works are regarded as legally unenforceable. This also applies to claims that public museums bring against one another. Following the war, many museums in Germany have tried vigorously to close the wounds ruptured by the Nazi barbarism by re-acquiring works of Classical Modernism on the market, which often had been taken from their previous museum owners in the course of the “degenerate art” campaign. Additionally, the German museums have come to know today for the most part, which of their works of art that were seized by the Nazis under this campaign now hang in public collections. And they know the public collections to which some of the works belonged prior to 1937/38, which they then later acquired after 1945.

The management of affected museums has consistently – and rightly – rejected the complete reversal between the museums of these very numerous cases, as was recently being considered. Although one each museum would receive some paintings, it would have to relinquish others, and the result would merely be a repeated, unsystematic ripping apart of the totality of the collections that were laboriously rebuilt after 1945. What matters here is that today the works of art are once more in public ownership and are exhibited to the latter’s benefit; whether this takes place in Munich, Berlin or Hamburg is of secondary importance. Nevertheless, research as to the fate and history of the works and

their present whereabouts is of course a crucial task of provenance research, because we must and want to know how the Nazi cultural and artistic policies influenced the history of a museum's collection.

The wide sphere of cultural assets relocated as a result of WWII

The broad field related to cultural assets relocated due to war is a further key task of the Deutsches Zentrum Kulturgutverluste and should always be kept in mind. Abbreviated as "looted art", this topic has also been on the political, legal and scientific agenda of Germany since its reunification. "Wartime losses" refers to German art and cultural assets that were relocated after the end of World War II, in particular to the USSR by the Soviet army, and have not been returned to date. These takings by the Soviets after May 8, 1945 were in part a reaction to the massive destruction and seizure of art and cultural assets conducted by various Nazi organizations and the German Wehrmacht during their war of aggression and annihilation against the Soviet Union. Corresponding raids in the context of war have occurred before in history. One only need look at the Napoleonic art raids to find an example. However, this appalling phenomenon reached an unprecedented dimension during the Nazi era.

After World War II ended in 1945, the Red Army took possession of 2.6 million works of art, more than 6 million books and countless kilometers of archival material from German cultural institutions to the Soviet Union. Particularly affected were cities in the Soviet Occupation Zone, in particular Berlin, Dresden, Potsdam, Schwerin, Gotha, Leipzig, and Dessau as well as many other locations which may claim massive losses of cultural artifacts. The Soviet Union, however, continued to consider these cultural assets as intellectual and cultural property of the German people, as corresponding statements by the then Soviet Foreign Minister Molotov evidence, and in 1955 and 1958 the Soviet Union gave approximately 1.5 million works of art back to Germany, including such unique pieces as the frieze of the Pergamon Altar, Raphael's Sistine Madonna and many other works of art. On the occasion of the 50th anniversary of this great return campaign of 1958, the German-Russian Museum Dialogue initiative remembered this important event with a ceremony at the Pergamon Museum on October 30, 2008.

Although these German cultural assets were returned, approximately one million works of art from German collections are still suspected to be in Russia and other states of the former Soviet Union, of which approximately 200,000 pieces have particular value to museums. The political changes in Europe associated with the collapse of the Soviet Union and the German Reunification placed the German-Russian relationship on an entirely new basis. However, the issue of looted art remains unsolved. Germany is insistent on asserting its right of return stemming from international law found in the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1907. By virtue of the so-called Duma Act of 1998, Russia declared rather unceremoniously, in turn, that all German art and cultural assets brought to Russia are Russian property, as compensation for the damages of war and Russian cultural losses inflicted by Germany. A return is possible in principle only with respect to works from private, ecclesiastical and Jewish property which nevertheless has so far only occurred twice in 2002 and 2008, when the medieval stained glass windows of the St. Marien Church in Frankfurt / Oder were restituted.

While opposing legal positions of both sides have almost brought the political discussions to a standstill, the contacts between German and Russian cultural institutions and experts have continued to develop dynamically. Joint exhibitions and research projects have brought about an ever more intense and highly trustful cooperation. A particular highpoint was reached on June 21, 2013 when German Chancellor Angela Merkel and President Vladimir Putin opened the Exhibition “Bronze Age. Europe without Borders” in the Hermitage in Saint Petersburg. In this grand exhibit, the European Bronze Age was presented as an era in which the first significant hierarchically structured civilizations emerged in the regions between the Atlantic Ocean in the west and the Ural and Caucasus in the east and which led to the development of similar cultural conditions in many parts of Europe. Of the 1700 pieces on exhibit, 600 pieces were wartime losses from the Berlin Museum for Pre- and Early History, including such outstanding collections of finds as the gold treasure from Eberswalde near Berlin. These objects, which are so extremely important to understanding the European Bronze Age, have thereby returned to international scientific discourse.

Today, we are working more closely together than ever before on the scientific expert level with Russian colleagues. The fact that the German-Russian relationship has become more difficult at present due to the Russian annexation of Crimea and the Ukraine crisis has had no debilitating effects on this cooperation. Currently, research and preparatory work is underway for three major exhibition projects with museums in Moscow and St. Petersburg, where groups of items from the pre-war-collections of the Berlin museums will again be the focus. The Russian Ministry of Culture has already given its approval to these collaborations.

Together with the Stiftung Preußischer Kulturbesitz and other affected German cultural institutions, the Kulturstiftung der Länder (Cultural Foundations of the German Federal States) has launched two initiatives, the Deutsch-Russischer Museumsdialog (German-Russian Museum Dialogue) and the Deutsch-Russischer Bibliotheksdialog (German-Russian Library Dialogue), in order to promote and foster the development of bilateral networks of experts from both countries.¹⁵ One aim is to compile a much-needed inventory of German art and cultural assets displaced due to the war. On the other hand, research has been conducted into Russian cultural losses from a collection history angle in a project funded by the Volkswagen Foundation. As is always the case, it is necessary to take the legitimate interests of both sides into consideration.

At present, a political solution to the issue of looted art appears to remain in the distant future. For this reason precisely, the experts from museums, libraries and archives on both sides have the duty to do what they can outside of politics, namely, they must first undertake to most fully clarify the whereabouts and conditions of the displaced items from Germany and secondly they must research them in depth. It is essential for international research and the general public to be able to have free access to the works.

The Deutsches Zentrum Kulturgutverluste with its comprehensive database is in a position to provide important fundamental work in this effort. The global accessibility regarding search and discovery announcements is also the most important tool in the field of “looted art”, and the LostArt Database is a

¹⁵ See <http://www.kulturstiftung.de/initiativen/deutsch-russischer-museumsdialog> (Status: 11/26/2015).

secure basis for this. However, it still requires continuous expansion and augmentation. The Deutsches Zentrum Kulturgutverluste could base such augmentation on the basic preparatory work of the German-Russian Museum and the German-Russian Library Dialogues and the databases and research results developed by these initiatives. Should the German Lost Art Foundation wish at some point to devote more attention to this subject, it would be desirable to develop a strategy for this work together with the German-Russian Museum Dialogue and the German-Russian Library Dialogue.

The deprivation of cultural artefacts in the Soviet Occupation Zone and the GDR

The deprivation of cultural artefacts in the period between 1945 and 1989, first in the Soviet Occupation Zone and then in the German Democratic Republic (GDR) are still almost-entirely unexplored areas as evinced by real and present need for research and action. This issue should be given greater attention, not less, as it was included in the coalition agreement drawn up when Chancellor Merkel's cabinet was formed. This taking of cultural assets from 1945 to 1989 is supposed to become a third area of activity of the German Lost Art Foundation in the near future. In addition to the need for expert advice, financial support for projects investigating these losses is of extreme importance. Provenance research in this field is a priority, requires in-depth indexing of inventories and acquisition documents and resolute financial support.

This concerns a whole series of issues: The so-called "Fürstenteignungen" (expropriation of the prince's assets) and "Schlossbergungen" (removal of assets from stately homes) between 1945 and 1949 under the Soviet occupying power, uncompensated expropriations, expropriation for compensations that were lower than usual in the GDR, sales from state management or public property, financial losses due to fraudulent machinations, such as the relinquishment of property to obtain permission to leave the GDR, or expropriations on the basis of a state administrative order. Now, decades after German reunification, there is still a substantial need for research and education in the institutions concerned. Some people may not even know the collections they are managing are affected by this. Moreover, the attendant legal issues are considerable.

The relevant legislation for cultural takings in the Soviet Occupation Zone and the GDR, such as the Vermögensgesetz (Law on the Settlement of Open Property Issues) and the Entschädigungs- und Ausgleichsleistungsgesetz (Indemnification and Compensation Act), is currently inapplicable as several relevant deadlines have expired and thus so too have claims that have not already been filed. The experiences of many German cultural institutions to date have shown that the Vermögensgesetz provides clear provisions regarding jurisdiction and competences for federal and state agencies for the settlement of open property issues (Ämter zur Regelung offener Vermögensfragen) and the Bundesamt für zentrale Dienste und offene Vermögensfragen (BADV, Federal Office for Central Services and Unresolved Property Issues) and thus a strong foundation for clarifying facts. Above all, it gives claimants and interested parties the particular opportunity to reach amicable settlements and dispense with the need for formal decisions from the government agencies at all stages of the proceeding. This leeway to find settlement solutions is always useful when, for example, facts and the evidentiary situation cannot be researched any further, yet the chain of evidence speaks with a high probability in favor of the request and therefore restitution or compensation should be made.

Up until the end of the filing period in June 1993, the area of so-called “GDR-injustice” was not so much in the focus of provenance research, which raises the possibility that claimants were not able to assert their legitimate claims. We should therefore consider here that the legislator might be well-advised in re-opening the absolute statute of limitation periods and establishing a well-functioning administrative procedural system for deciding on such claims. Without question, regulation is necessary to accommodate these unjust losses, however if it does, these decision should then be legally binding. A recommendation with respect to these factual scenarios and losses taking place in the Soviet Occupation Zone between 1945 and 1949 that is modeled on the Washington Principles for Nazi-Looted Art is not necessary in my opinion, and in fact would be the incorrect manner of proceeding. Experience with the Washington Principles has shown that it is extremely difficult for public arts institutions to find solutions when the circumstances surrounding a respective taking cannot be completely clarified. The legislator should pass clear provisions here in the interests of claimants and institutions alike.

Other Future Areas of Provenance Research

Allow me but to discuss something in addition to the range of aforementioned areas, as I mentioned already in my introduction that there are some more fields in which increased provenance research must be conducted. In recent years in particular, special focus areas have emerged in the work at the Stiftung Preußischer Kulturbesitz, and research into them will likely become more pressing in the near future. Recently, due to the conflicts and wars in the Middle East as well as the dreadful destruction of cultural artifacts at the hand of the “Islamic State” terrorist organization issues regarding the origin of archaeological objects have been thrust into the public eye. This is also being correspondingly taken into account in the current revision of the German Kulturgutschutzgesetz (Cultural Asset Protection Act). In addition, the provenances of collections in German museums which are designated as “human remains” as well as those of cultural assets from former colonial territories need to be clarified. Specific provenance research must be conducted on all three of these broad areas. The SPK and other cultural institutions and relevant collections in Germany, have recently intensified their efforts towards a systematic exploration of entire sections of their collections. In all cases, it is paramount that we work with utmost transparency, and an openmindedness is needed to find solutions for which no clear legal regulations are presently found to address the many individual cases.

- **Archaeologica**

The illegal trade in antiquities has been continually increasing worldwide due to the disastrous rise of illicit excavations in recent years. Against this background, an international conference entitled “Cultural Property in Danger. Illicit Excavations and Illegal Trafficking” took place in Germany in December of last year, which was hosted by the SPK, the German Archaeological Institute and the German Association for Archeology with the support of the Federal State Minister of Culture and the German Foreign Office. As part of the Conference, museums worldwide were requested to ensure transparency regarding the circumstances surrounding the acquisition of archaeological objects in their collections. In addition, the conference participants appealed to policy makers to curb the trade in objects obtained from illegal excavations through appropriate legislative measures. Fortunately, the current revision of the Kulturgutschutzgesetz (Cultural Property Protection Act) provides decisive innovations for handling this issue. According to the Act, only objects which are accompanied by a certificate of origin and an

export permit from the country of origin may be traded in Germany. Moreover, appropriate due diligence and duties of care must be met for trade in antiquities to occur. The Conference received extensive attention in the media.

In 1976 already, the Staatliche Museen zu Berlin announced acquisition guidelines as voluntary commitments. According to these guidelines, antiquities of unknown provenance could no longer be purchased, and donations and legacy bequests having dubious origins must be refused. Moreover, these rules also apply to the receipt of works on loan. The UNESCO Convention on the Protection of Cultural Property which was adopted in 1970 had triggered this commitment of the Berlin museums, even though it was only implemented into German law in 2007. Unfortunately, the implementation was done in a rather inadequate manner, as only objects listed in their countries of origin were protected, not however the artifacts that are brought to light almost daily through illicit excavations throughout the world. In 1988, the Antikensammlung (Collection of Classical Antiquities) again underpinned its position through the so-called Berlin Declaration and requested that the world's museums impose stricter controls when purchasing archaeological finds. Finally, after the international conference "Illegal Archaeology" in 2003 the "Berlin Resolution" was adopted. It denounced illicit excavations and the trading of cultural artifacts obtained thereby and extended the 1988 Berlin Declaration to the entire field of archeology.

The Staatliche Museen zu Berlin are currently subjecting archaeological items acquired after 1970 to a very critical review. Each collection has appointed an expert responsible to perform this task. In the long term, a database will provide information on holdings and their origin. If evidence of illicit excavations and illegal provenance comes to light through this work, this may also lead to returns of the relevant pieces.

- **Human Remains**

Many museums contain human remains, as is the case with the collections held by the Staatliche Museen zu Berlin, in particular the Museum für Vor- und Frühgeschichte (Museum of Prehistory and Early History) and the Ethnologisches Museum (Ethnological Museum). The holdings of human remains in the Staatliche Museen zu Berlin have increased significantly in particular due to the acquisition of the anthropological-osteological collections of the Charité Hospital Berlin, which contained the skeletons or skeletal parts of approximately 8,000 individuals. It is imperative that scientific work on these holdings be conducted rapidly and efficiently in light of the sensitivity surrounding human remains, particularly there is a suspicion that these objects are not relics from past millennia, but rather specimens that may stem from problematic colonial contexts. We do not rule out in principle a return of such remains, if it is proven that injustice has been committed. A corresponding interdisciplinary research project is currently being prepared.

In 2013, the Deutscher Museumsbund (German Museums Association) already published recommendations for handling human remains in museum collections.¹⁶ The working group that drew up these

¹⁶ http://www.museumsbund.de/de/publikationen/online_publicationen; Empfehlungen zum Umgang mit menschlichen Überresten in Museen und Sammlungen (Recommendations for Handling Human Remains in Museums and Collections) (Status: 11/26/2015).

recommendations also included representatives of the Stiftung Preußischer Kulturbesitz. Against the background of the acquisition of the anthropological-osteological collections of the Charité just mentioned, SPK has in addition formulated its own fundamental principles for handling human remains, which will serve as its guideline for future action in this field. These guidelines also take their direction from the recommendations of the Deutscher Museumsbund. The paper was presented to the public at the end of March 2015 and is also available on SPK's website.¹⁷ Once more, knowledge of the provenance history of the respective specimens is a prerequisite to any decision on how to further handle human remains which may have come from problematic historical contexts. These holdings have a very special status and must be treated with the utmost respect and sensitivity. They are being safeguarded in an appropriate and dignified manner. Any use of them in a collection presentation may only be done based on established state of scientific research and with particular sensitivity.

Human remains have an important position in the collections nowadays and impart a high level of scientific knowledge. Not only do they provide information about peoples' past and cultures, they also form the foundations for a variety of research which may assist us in improving peoples' lives. For example, human remains allow us to reach findings on migration patterns, eating habits of previous generations, as well as practices of past cultures for dealing with death and burial in different parts of the world, which in turn may assist us in understanding and answering questions that are vital to our present lives. They therefore continue to be an indispensable part of the collections that not only represent the basis for the museums' own research but are also – and most importantly – accessible to all disciplines within the scientific community to assist in their respective projects. Human remains – and I do not speak only of those in the collections of SPK – often come into collections in various manners. An important aim must be to clarify step by step the origin of all human remains in the collections. Therefore, provenance research takes a special priority before any further research can be conducted on and with human remains – be this cultural and social anthropological, human biological or historical research.

- **Ethnologica**

Ethnographic collections which have a colonial background or are potentially the product of unjust practices form a field that has become another focus for systematic provenance research. With respect to the holdings of the Stiftung Preußischer Kulturbesitz, we are currently concentrating on holdings which will be presented at the Humboldt Forum. The SPK's avowed aim is to only exhibit objects there whose provenance has been researched as much as possible. We consider it of utmost importance to establish contact with the societies of origin and to conduct joint work on their material legacies, in the sense of the term *Shared Heritage*.

SPK has also developed a policy paper for questions regarding ethnologica, which makes transparent the Foundation's position regarding the holdings with a colonial background. This is a highly complex task, as there is a variety of very different historical circumstances with respect to the acquisition of individual items that must be taken into account and may not be simply and broadly classified as injustice. In addition, the societies of origin themselves have many differing positions, demands and expectations.

¹⁷ <http://www.preussischer-kulturbesitz.de/schwerpunkte/provenienzforschung-und-eigentumsfragen/umgang-mit-menschlichen-ueberresten.html> (Status: 11/26/2015).

tations regarding how ethnological collections in European museums should be handled. Thus, a simply one-size fits all solution to the problem would do injustice to these differing positions. The policy paper is also available on the SPK's website.¹⁸

For all of the aforementioned areas of provenance research, in the medium and in the long run one can imagine to set up projects, for which the advice and support of the Deutsches Zentrum Kulturgutverluste (German Lost Art Foundation) could be of great service. In the long term, the Foundation will certainly have to address this issue, even if at present it has other, more pressing priorities.

The Deutsches Zentrum Kulturgutverluste (German Lost Art Foundation)

This leads me back to the introduction of my presentation and the question of what the cultural institutions in Germany, including the Stiftung Preußischer Kulturbesitz and myself as president of the SPK, may expect and hope for from the Deutsches Zentrum Kulturgutverluste (German Lost Art Foundation) in the future. Please allow me then to begin here with a brief review of the developments in Germany.

Quite some time has passed since the adoption of the Washington Principles in 1998, and the stipulations of the principles have been rather unsatisfactorily and unsystematically handled in Germany. To accommodate this, the Federal Government, the federal states and the municipal associations established the Arbeitsstelle für Provenienzforschung (AfP, Post for Provenance Research) to promote, strengthen and systematize the provenance research being conducted in Germany.

- **7 years Arbeitsstelle für Provenienzforschung at the SPK as a predecessor institution of the Deutsches Zentrum Kulturgutverluste**

The Arbeitsstelle für Provenienzforschung was founded in June 2008. It was organizationally affiliated with the SPK until December 31, 2014, and was transferred to the Deutsches Zentrum Kulturgutverluste in Magdeburg on January 1, 2015. In the seven years of its activities, a dedicated team headed by Dr. Uwe Hartmann supported provenance research projects in almost all federal states of Germany. The federal government has supplied the research funds for this from the departmental budget of the Federal Ministry of Culture, while the costs for running the AfP have been provided by the Kulturstiftung der Länder (Cultural Foundation of the Federal States). The funds were made available exclusively for researching the whereabouts of art works and other cultural assets which were taken from their rightful owners as a result of the Nazi regime and, via different trajectories, ended up in public collections in Germany. These new funding possibilities were used intensively from the first year of the AfP's existence on. The Arbeitsstelle für Provenienzforschung has made a very significant and important contribution to institutionalizing provenance research and making the research results sustainable, which the Deutsches Zentrum Kulturgutverluste will now continue and expand.

¹⁸ <http://www.preussischer-kulturbesitz.de/mediathek/dokumente/dokument-detail/news/2015/06/09/grundpositionen-der-spk-zum-umgang-mit-ihren-aussereuropaeischen-sammlungen-und-zur-erforschung-der-provenienzen.html> (Status: 11/26/2015).

- **20 years Koordinierungsstelle Magdeburg as a predecessor institution of the Deutsches Zentrum Kulturgutverluste**

Also in the wake of the Washington Declaration, the Koordinierungsstelle für Kulturgutverluste (Coordination Center for Lost Cultural Assets; from 2010 on: Koordinierungsstelle Magdeburg, Magdeburg Coordination Center) was commissioned with recording and publishing identified works of art in a central register, which is accessible worldwide via the internet.¹⁹ In the period between 1933 and 1945, a transfer of cultural assets took place which has not yet been processed in its entirety. The looting of art under the National Socialist regime was followed by the activities of the Soviet Trophy Commissions and individual Allied soldiers. The change in the post-war borders, moreover, entailed that many cultural assets, which had been moved to protect them against the effects of war, were now located in foreign territories. In order to document the information regarding these cultural losses, record the losses of German institutions and thereby create a basis for the search and return of these cultural assets, the federal states of Berlin, Brandenburg, Bremen, Hamburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt, Schleswig-Holstein and Thuringia established the Koordinierungsstelle der Länder für die Rückführung von Kulturgütern (Coordination Office of the Federal States for the Return of Cultural Property). Since 1998, all 16 federal states have participated in financing the Coordination Office. It was attached to the Ministry of Culture of Saxony-Anhalt in Magdeburg. The Coordination Office was integrated into the structure of the German Lost Art Foundation on January 1, 2015. One must thank the previous director, Dr. Michael Franz, and his highly motivated team for its excellent handling of this difficult and not always well-received mission. The work of the Foundation can build on this database and all related activities and networks that were created.

- **Expectations towards the Deutsches Zentrum Kulturgutverluste**

The federal government, the federal states and the three municipal associations have established the Deutsches Zentrum Kulturgutverluste effective January 1, 2015 as an independent, legally incorporated foundation under civil law with its registered office in Magdeburg. It is the national and international central contact point on issues of unlawful takings of cultural property in Germany. The explicit focus of the Foundation is on cultural assets seized by the National Socialist through persecution, especially those taken from former Jewish owners (so-called Nazi-confiscated art). Additionally, the second central task of the Foundation, which thereby continues the work of the Koordinierungsstelle, is addressing the war-related removal or relocation of cultural assets (so-called-looted art). In the medium term, still other areas of activity will be coordinated and promoted, such as, for example, the loss of cultural assets during the Soviet occupation and in the GDR. All these priorities have one thing in common: They all must begin with provenance research, which alone can provide information as to whether certain art and cultural assets were expropriated and should be restituted.

The tasks of the Deutsches Zentrum Kulturgutverluste must be brought to life quickly, effectively and visibly. Many different activities must be performed simultaneously, if we want this to be successful:

¹⁹ See fn. 9.

- Provenance research on the history of art works and other museum objects, books and archival materials, including research on the fate of respective victims, must continue to be strengthened; further assistance is necessary here to strengthen these efforts.
- Independent funding of research projects is essential to create the conditions necessary for basic research and to support networks of the university and non-university research community.
- It is also essential to establish education programs for training provenance researchers as a core part of art history programs, and members of museum staff must receive similar training.
- National and international transparency must be improved by documenting all research results and continuously updating existing databases.
- Effective public relations must be performed to make the Foundation and its work rapidly perceived internationally. In particular, a comprehensive English-language website must be put online.
- Public and private institutions as well as individuals must be supported by advice on provenance research.

All these important tasks that the Foundation must perform require that a sufficient number of staff and staff structure be created in the near future to enable the successful implementation of these responsibilities. There seems to be a dire need for improvement here, which should be dealt with before other areas of responsibility emerge.

Although its offices are located there, the Beratende Kommission (Advisory Commission) does not fall under the authority of the Foundation. The importance of its role cannot be overstated, particularly when it comes to the question of how the results of provenance research with respect to Nazi looted property should ultimately be appraised, especially when agreement amongst respective claimants cannot be reached. The exceptionally high social acceptance of the Commission's members is undisputed and essential.

In recent times, suggestions concerning the question of how the work and effectiveness of the Advisory Commission can be further strengthened have been repeatedly discussed even though these deliberations are a matter for policy makers.

- Proposals that would require the parties in the restitution proceedings to recognize the recommendation of the Commission as binding to me seem to cut both ways, as this may bring both opportunities and risks. The Washington Principles, which are "soft law", will always remain the starting point, and ultimately any recognition of a recommendation by the Advisory Commission would therefore not be legally binding. Further legal redress in the courts will always remain an option to each party.
- The possibility of making a unilateral appeal to the Commission would certainly be desirable and correct. If a public institution has good reason to reject a restitution request, it should not shy away from turning to the established proceedings before the Advisory Commission. For us at SPK, it is inconceivable anyway that we would oppose a claimant's unilateral appeal to the Commission. It is thinkable that public institutions in Germany be obliged under certain cir-

cumstances to appear before the Advisory Commission in cases in which no agreement can be reached with the claimants.

- The appointment of individuals from Jewish victims' organizations to the Commission has already been discussed at length. I wish to further advocate explicitly for these appointments here, as these could greatly enhance the acceptance of the Commission's recommendations.
- Perhaps adopting a proper body of procedural rules for the work of the Advisory Commission could contribute to greater acceptance as well. These rules could be modelled on those found in out-of-court arbitration proceedings. Such proceedings are made available to the public, thereby enhancing transparency regarding the conduct and individual steps of the proceeding.
- The duration of the proceedings is sometimes perceived as too long and more detailed explanatory statements to accompany the Commission's recommendations, such as those that have recently been published more frequently, can also contribute significantly to greater transparency and acceptance of those recommendations.

It is also clear, however, that many of the considerations that I have presented will increase the workload of the Advisory Commission. Such an expanded set of tasks can no longer be supported by an office consisting of a single employee, and would instead require a larger staffing base to adequately and effectively support the Commission members. Perhaps a new division of the Deutsches Zentrum Kulturgutverluste should be established to meet this enhanced workload?

Thank you very much for your attention.