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## Network Of European Restitution Committees on Nazi-Looted Art

### EDITORIAL



Our Network of European Restitution Committees is not a new idea. Already in 2012, the discussions in The Hague at the “Fair and Just Solutions?” Conference underlined the opportunity to link the European commissions that continue to work on the research

and restitution of looted works of art. Five years later, following the international conference “70 years and counting: the final opportunity” held in London on 11 and 12 September 2017, the Spoliation Advisory Panel made a recommendation to establish a permanent secretariat to expand bilateral links and to explore ways of cooperation. The Commission pour l’indemnisation des victimes de spoliations (CIVS) supported this idea, submitting it to the other four committees during the meeting in London on 12 October 2018 and proposed to provide the Network’s permanent secretariat during the first year of its operation.

What is the Network about? It is a question of creating a strong link, but one that respects the distinctiveness of each committee, whose action is carried out within a national institutional framework with its own history and specific legal rules. Based on the exchange and sharing of information and know-how, our Network offers a new response to the effectiveness of provenance research and the moral requirement of “clean museums”. The cooperation which came to a conclusion in July 2015 between the CIVS and the Schwabing Art Trove Task

Force on the works discovered at Cornelius Gurlitt was the first initiative for information sharing. By raising itself to a transnational level, our Network is finally setting up a large-scale response in line with the art market.

This Newsletter must turn these ambitions into reality. In this first issue you will discover the presentation of the French committee. The other committees will be presented in the following issues. These texts, which are intended to be of practical use, will be grouped together in a guide intended to inform the general public and stakeholders of the various countries in question, and will serve as a reference point for States wishing to draw inspiration from them. Sharing news about restitutions, research, events or the internal life of committees is another way of understanding what we do. The study of a case (here: the restitution in 2018 of a Constable painting) can also enrich our reflections and question our practices. Finally, the Announcements Section is a space made available to everyone. We are all confronted, in our cases, with obstacles. We hope that sharing information will unblock certain situations and promote the identification and restitution of Nazi-looted art, in the spirit of the Washington Declaration (1998).

**Michel Jeannoutot**

*Chairman of the Commission for the Compensation of Victims  
of Spoliations Resulting from  
the Anti-Semitic Legislation in Force During the Occupation (CIVS)*

## KOMMISSION FÜR PROVENIENZFORSCHUNG

## Various information

Since February 2019, Pia Schölnberger, a provenance researcher at the Albertina in Vienna for many years, has started working in the administration of the Austrian Commission for Provenance Research at the Federal Chancellery of Austria. From now on she will be the contact person for the Network.

Pia Schölnberger is a historian and Germanist, with a research focus on Austrofascism, Nazi medical crimes, property seizure in Austrofascism and National Socialism among others. She is active at the memorial sites of Hartheim and Am Steinhof, at the General Settlement Fund of the Republic of Austria, at the University of Vienna, Institute for the History of Law and the Constitution. In 2017-19, she was Head of the project of the Federal Chancellery to erect a memorial in memory of the murdered Austrian Jews in Maly Trostinec, Belarus.

- The Dictionary of Austrian Provenance Research ("Lexikon der österreichischen Provenienzforschung") has recently become available online and is constantly being expanded: <http://www.lexikon-provenienzforschung.org/> Find more information (in German) here: <https://www.univie.ac.at/zeitgeschichte/presentation-des-lexikons-der-oesterreichischen-provenienzforschung/>

- The Austrian Advisory Board has met twice since October 2019. During the meeting on 15 October 2018, there was a revocation of the recommendation on the case of Mercedes-Jellinek and a recommendation of non-restitution in the case of Rieger. At the meeting on 11 January 2019, two recommendations were revoked by the Advisory Board on the cases of Grünebaum and Bunzl. In both meetings, the recommendation on Wittgenstein was adjourned. All recommendations can be found here: <http://www.provenienzforschung.gv.at/de/empfehlungen-des-beirats/beschluesse/beschluesse-2008-2013/>

- The Committee will participate at the 1st International Provenance Research Day on 10 April 2019 which is initiated by the Arbeitskreis Provenienzforschung e.V. with a series of events: <https://www.museumbund.at/ausbildung.php> More Information to be found here: <http://www.provenienzforschung.gv.at/de/kommission/veranstaltungen/>

- The Committee is currently preparing a workshop on the question of dealing with objects from former colonies in Austrian museums (further details will follow).

## CIVS

## Organisation of a symposium in Bonn in February 2019



For the first time, the CIVS organised a symposium entitled "Looted Art: Provenance Research and Restitution Practice in Germany and France" which took place on 20 and 21 February in Bonn. The symposium was organized in cooperation with the Institut français and the Käte Hamburger Center for Advanced Study in the Humanities "Law as Culture".

The event was intended to present new institutional practices relating to research and restitution of Nazi-looted art and to create an intensive exchange between its 130 participants to promote a dialogue between research, universities and ministerial officials. In addition to some CIVS partners (DZK, Kommission für Provenienzforschung), the participants included numerous provenance researchers, university professors, department heads in French and German ministries, regional cultural representatives, museum curators, librarians, speakers of German foundations, lawyers, auction house researchers, representatives of Jewish communities in Germany and doctoral students.

It was also intended to create a space for reflection grounded in the Franco-German context and to explore ways of transnational cooperation focusing on the following issues: the work of restitution committees, restitution practices, provenance research as a new academic focus and museums as spaces of memory.

The first day was dedicated exclusively to Nazi looted art (organized by the Institut français and the CIVS), while the second day took a more theoretical look at the topic of looted art (organized by the Käte Hamburger Kolleg).

The publication of the conference papers is planned.

Please find more information here: <http://www.civs.gouv.fr/news/the-symposium-on-looted-art-in-bonn-on-20-and-21-february/>

# NEWS

## ADVISORY COMMISSION

### The Rules of Procedure of Germany's Advisory Commission on the return of cultural property seized as a result of Nazi persecution, especially Jewish property

The Advisory Commission on the return of cultural property seized as a result of Nazi persecution, especially Jewish property was established in Germany in 2003. The Advisory Commission can be called on to make recommendations in the context of disputes concerning the return of cultural assets which were seized from their owners as a result of persecution under the National Socialist regime (see <https://www.kulturgutverluste.de/Webs/EN/AdvisoryCommission/Index.html>).

The work of the Advisory Commission is governed by its Rules of Procedure (for an English version, see <https://www.kulturgutverluste.de/Webs/EN/AdvisoryCommission/Rules-of-Procedure/Index.html>). Among other matters, the Rules of Procedure cover the Advisory Commission's mandate, its composition and chair, the procedure for lodging a request, the preliminary procedure, the hearing and publication of the recommendation.

The Rules of Procedure also include criteria for the Advisory Commission's discussions and recommendations and information concerning the recommendations themselves. The Advisory Commission's discussions and recommendations are to be based on the 1998 Washington Principles, the 2009 Terezin Declaration, the German Joint Declaration of 1999 and the "Guidelines" of 2001. In these discussions and recommendations the Advisory Commission must take particular account of the circumstances resulting in the loss of cultural property, the circumstances in which it was acquired and the provenance research conducted on it.

In addition, the Rules of Procedure contain details regarding the substance of any recommendations made. The Advisory Commission can, for instance, recommend that the cultural property be returned. Property can, however, also be returned against payment of compensation. Alternatively, it may remain with the current holder or owner and compensation paid. The Rules of Procedure expressly point out that additional measures may be recommended depending on the specific circumstances of the individual case.

## RESTITUTIECOMMISSIE

### Looted Art Restitution Research Centre established in the NIOD Institute for War, Holocaust and Genocide Studies

In the Netherlands the Ministry of Education, Culture and Science (OCW) and the Royal Netherlands Academy of Arts and Sciences (KNAW) have decided

to establish a Restitution of Items of Cultural Value and the Second World War Expertise Centre. This Expertise Centre is part of the NIOD Institute for War, Holocaust and Genocide Studies (Amsterdam) and started work on 1 September 2018. The centre's primary task is conducting research for the Dutch Restitutions Committee.

The establishment of the Expertise Centre arises from a ministerial decision made previously to separate the different activities of the Restitutions Committee and to have research done elsewhere.

The Expertise Centre will conduct research at the request of the Restitutions Committee or parties who have approached this Committee in connection with possible restitution applications or the government. The Expertise Centre will also act as a national and recognized focal point for museums, the media, researchers and other interested parties. The Restitutions Committee and the secretariat will remain unchanged.

The decision to make the Expertise Centre part of the NIOD arises from the recognized social position that the institute has had for decades as a knowledge and research centre for a broader cross-section of the public and professionals. NIOD's special focus on both the history of the Second World War and the field of transitional justice makes this research institute a logical place to combine and embed knowledge, expertise and activities relating to the restitution of Nazi looted art held in the Netherlands.

The establishment of the Expertise Centre will result in combining the activities of the research departments of the Restitutions Committee, the Origins Unknown Agency and the Netherlands Museums Association. It emerged from an investigation in 2015 conducted on the instructions of the Ministry of Education, Culture and Science that knowledge, expertise and activities relating to the restitution of Nazi looted art held in the Netherlands was fragmented. The knowledge acquired during the last fifteen years is being combined and embedded by establishing the Expertise Centre in the NIOD: <https://www.niod.nl/nl/expertisecentrum>

## SPOLIATION ADVISORY PANEL

### New UK law proposed to allow national museums in the UK to continue to return cultural objects lost during 1933-1945

A new law is being considered by the UK Parliament, which would bring the UK into line with its European partners and allow the return of WWII looted art to continue without a time limit.

The Holocaust (Return of Cultural Objects) Act 2009 allows 17 UK cultural institutions to return cultural objects where this follows a recommendation by the

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Spoilation Advisory Panel and the Secretary of State for Digital, Culture, Media and Sport agrees. The 17 institutions listed would otherwise be prevented by their governing legislation from returning such objects.

Since the 2009 Act was introduced, a number of artworks have been returned. For example, in 2014, the Spoilation Advisory Panel considered a claim for the return of an oil painting 'Beaching a Boat, Brighton' by John Constable, in the possession of the Tate. The Panel concluded that the painting was owned by a Hungarian art collector in 1944 and was most likely looted when the German army invaded Budapest in March of that year.

At the time the 2009 Act was introduced, the UK Government at the time, took the view that 10 years was a reasonable amount of time for museums to research their collections and for families to bring forward claims. The 2009 Act was therefore given a 10-year lifespan and is due to expire on 11 November this year.

The Government announced at the London Spoilation Conference in September 2017 that it was committed to renewing the 2009 Act. The principles upon which the Act is based are not affected by the passage of time and the need is strengthened as memories start to fade. Furthermore, although much information is available

on the internet about the provenance of items in the UK's national collections, the completion of reports by national institutions into items with incomplete provenance during the relevant period is an ongoing task. As such, potential claimants may still be unaware of the location of any objects which used to be in the possession of their families.

The Holocaust (Return of Cultural Objects) (Amendment) Bill would remove the end date from the Holocaust (Return of Cultural Objects) Act 2009. It was introduced in Parliament on 13 March 2018 and has enjoyed strong support from all political parties.

The Department Culture Minister addressed the UK Parliament on 8 February 2019 and said "There are many such stories still to be told. We must continue to listen and seek redress where we can. The Bill is the right legislation to allow that process". The Minister also referred to the formation of the Network of European Restitution Committees and said that she hoped this would greatly increase international co-operation on the return of works of art looted during the Nazi era.

The Bill is in its final stages in the House of Commons. Following the successful completion of those stages, it is expected to proceed to the House of Lords.

## CASE STUDY

### 2018, DEDHAM FROM LANGHAM (JOHN CONSTABLE)



Since 1894, Dedham from Langham, a painting by John Constable dated 1820, had belonged to the spouses John and Anna Jaffé. Collectors and patrons, John Jaffé (1843-1934) and his wife Anna Gluge (1845-1942) had decorated their villa on the Promenade des Anglais in Nice with an impressive collection of works of art. A few months after Anna Jaffé's death, a provisional administrator of the estate was appointed by orders of 21 September 1942 and 1 April 1943. An auctioneer was in charge of the public auction sale in Hôtel Savoy of the «John Jaffé Collection», including Dedham from

Langham. The quality and value of these paintings, whose notoriety was undeniable, were deliberately depreciated by the auctioneer and the people around him.

Many years later, Alain Monteagle, representative of the Jaffé joint possession, began to search for works that were owned by his family. Having filed a request with the CIVS, Mr. Monteagle informed the committee of the discovery of the Constable painting in Switzerland. The survey conducted by the CIVS led to the discovery of the 1943 auction catalogue which contains a photograph of Dedham from Langham. It was then undeniable that the painting of Constable hanging on the picture rails of the Musée des Beaux-Arts in La Chaux-de-Fonds was the same work sold in Nice in 1943. The Jaffé estate did not want to be compensated but wanted the painting returned. The family's confidence in the Committee and its perfect knowledge of the facts allowed the CIVS to follow the case closely, to support and advise the rightful claimants throughout the entire procedure.

#### La Chaux-de-Fonds' positions

On April 28, 1986, the General Council of La Chaux-de-Fonds in the Canton of Neuchâtel in Switzerland, accepted by decree the legacy of Madeleine Junod

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concerning, among others, Dedham from Langham. This painting had been purchased by the Junod couple in 1946 from Galerie Moos in Geneva. The execution of this legacy resulted in the transfer of the painting to the Musée des Beaux-Arts in La Chaux-de-Fonds. Since then, the collection had its own room and the Museum was instructed never to take it out.

Twenty years later, in 2006, Mr. Monteagle claimed the return of the painting on the grounds that the Jaffe heirs were the legitimate owners of the work.

The Swiss Civil Code does not oblige the owner of a work legally acquired to return it, whether or not it has been despoiled. The Municipal Council of La Chaux-de-Fonds requested the Federal Office of Culture and two experts. The sentence was handed down on the 9 September 2009: the city was not obliged to return the painting. The Federal Office based his decision on legal, ethical, and moral considerations. Having acquired the painting in good faith, the city of La Chaux-de-Fonds was undoubtedly the owner within the meaning of the applicable law (Swiss law). It considered that compensation for the damage suffered was the responsibility of the French State, which had acknowledged the spoliation at the expense of the Jaffe estate. The French State had to carry out its duties and this responsibility could not be assigned to the City of La Chaux-de-Fonds. Furthermore, the Junod family had specified that the works have to be exhibited in the same room and that therefore could not be separated. Nevertheless, following the verdict, the City Council decided to affix a plaque near the Constable painting stating that the work had belonged to the Jaffé collection.

Ten years later, on 15 January 2016, the Jaffé joint possession decided to file a request for conciliation by the Regional Court of Montagnes and Val-de-Ruz, in the canton of Neuchâtel. They claimed again the return of the painting.

In its report of 6 September 2017, the City Council asked the General Council to accept the restitution of the painting. As Mrs Junod's heirs had confirmed the lifting of the charge prohibiting the city from releasing the collection and the contestation period had expired, there was no longer any impediment for the return of the work to Mrs Anna Jaffé's heirs. On 28 September 2017, the General Council unanimously voted in favour of the restitution. On March 12, 2018, the work was finally returned to John and Anna Jaffé's heirs.

## The role of the CIVS in resolving the dispute

After the request for conciliation was filed by Mr. Marc-André Renold, counsel for the Jaffé rights holders, the parties tried to reach an acceptable agreement between January 2016 and September 2017. In addition to the Jaffé joint ownership, the city of La Chaux-de-Fonds, the Musée des Beaux-Arts and the heirs Junod, the CIVS also took part in the discussions. Indeed, decree No. 99-778 established the CIVS as being allowed to exercise a mediation role (Article 2: «The commission shall endeavour to reach a conciliation between the persons concerned.»). Considering the responsibility of the French State at the time of the sale of the painting in 1943, the presence of the CIVS, and the position it adopted, played a role in the outcome of the case.

At its plenary session on 13 January 2017, the CIVS recommended that an indemnity be paid to the Jaffé joint ownership in exchange for the effective restitution of the painting as well as the commitment by the parties concerned to waive any action against France. What justified this compensation, when the artwork could be returned? The CIVS's deliberative panel considered that in order to successfully conclude the negotiations with the city of La Chaux-de-Fonds and its Musée des Beaux-Arts, the Jaffé joint ownership had to incur significant costs which were odd to impose on victims of anti-Semitic spoliations acting for the restitution of a looted painting. The Jaffé joint possession agreed to be ready to pay back such an amount (about one-tenth of the estimated value of the artwork) to the Musée des Beaux-Arts for the restitution of the painting and as compensation for the costs incurred for its conservation and restoration. The Museum itself agreed to pay half of this amount to the Junod heirs in exchange for the lifting of the inheritance tax on the painting.

At the official restitution ceremony held on 12 March 2018 at the Musée des Beaux-Arts of La Chaux-de-Fonds (famous for its watchmaking industries), the City Council explained its change of position: to respect the memory of the victims of Nazi persecution, to find a legally possible and honourable solution, to preserve the reputation and to honour all actors, above all the Junod spouses, the Musée des Beaux-Arts and the City, and finally to avoid a trial which may have been costly.

When players are acting in good faith, this type of case can serve as a lesson. After having granted the return of the Constable, the Musée des Beaux-Arts requested the Swiss Confederation to finance research on other exhibited works.

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Belonging to an illustrious dynasty of art dealers founded by Joseph Bernheim in the first half of the 19th century, the Bernheim-Jeune Gallery was one of the first to be targeted by the ERR. A provisional administrator was appointed to be in charge of Aryanizing this trade in December 1940. The apartments were also looted.

Paintings from the private collection, recovered by the provisional administrator in the free zone, were also sold on the art market.

The CIVS is looking for any information relating to the following two works from this collection:

## CEZANNE, Self Portrait

Currently located in a private collection in New York

Find more information on the online catalogue raisonné:  
<http://www.cezannecatalogue.com/catalogue/entry.php?id=572>

## CEZANNE, Pommes et biscuits / les pommes (Apples and biscuits / apples)

Currently located in a private collection in Argentina

Find more information on the online catalogue raisonné:  
<http://www.cezannecatalogue.com/catalogue/entry.php?id=322>

The work is now in a private collection in Argentina.

For more details, or if you have any information relating to these works, or if you know which foreign museum or specialist the CIVS may contact, please contact: [jerome.benezech@civs.gouv.fr](mailto:jerome.benezech@civs.gouv.fr) or [nina.struckmeyer@civs.de](mailto:nina.struckmeyer@civs.de)

# PRESENTATION OF A COMMITTEE : CIVS



La Commission pour l'indemnisation des victimes de spoliations intervenues du fait des législations antisémites en vigueur pendant l'Occupation (CIVS)

## CHAIRMAN

Michel Jeannoutot, Honorary Judge of the Court of Cassation, the highest court in the French judiciary. Mr. Jeannoutot was also Chief Justice of the Bastia, Chambéry and then the Dijon Courts of Appeal between 1998 and 2009.

## HISTORY AND PURPOSE OF CIVS

The French Republic established the Commission for the Compensation of Victims of Spoliations Resulting from the Anti-Semitic Legislation in Force During the Occupation, or "CIVS," by decree of September 10, 1999 to investigate the confiscations carried out under the Anti-Semitic Legislation by the Nazi Occupation forces or the Vichy authorities during World War II and to compensate the victims for the confiscations. As of December 31, 2018, the victims of the Holocaust or their children, grandchildren and all other legal heirs or assigns, had filed 29,586 claims with CIVS. Of those, 19,639 claims were for "material spoliations"; 9,947 claims were for "bank-related spoliations," in other words, seizures of assets in banks or contents of safety deposit boxes.

France has not set a ceiling for the amount of compensation. Nor has France set a deadline for filing claims with CIVS. All spoliations committed on territory where French sovereignty was exercised can obtain compensation. For the remainder, as of today, regardless of the nationality of the spoliation victims, 21 percent of the claims that were submitted to CIVS came from other countries, 9 percent of those came from Israel, and 7 percent from the United States.

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On July 16, 1995, President Jacques Chirac spoke of the "unremitting debt" of the Nation to the Jews of France (about 300,000 in 1939, 40 percent of whom were French citizens), including the 76,000 Jews deported by the Nazi Occupation forces or the Vichy regime.

In 1997, the French government created the Mattéoli Working Party. This working party conducted a thorough investigation into the confiscations of property and all valuables in France occupied by the Nazis Resulting from the Anti-Semitic Legislation, including legislation on persons deported from France. The working party produced an exhaustive 3,000-page report that included recommendations for the government to repair these wrongs promptly and decisively. One such recommendation was that the government establish

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a body charged with examining claims that were submitted by the victims of the Anti-Semitic legislation passed by France under the Nazi occupation.

The French Republic followed the Mattéoli Working Party recommendation and created CIVS on September 10, 1999. Its role is "to review individual claims submitted by victims or their legal heirs or assigns to receive reparations for losses caused by the spoliations of property Resulting from Anti-Semitic Legislation in Force During the Occupation, either by the occupying authorities or the Vichy Authorities," and "to draft and propose suitable reparation or compensation measures."

## ORGANIZATIONAL OVERVIEW OF CIVS

CIVS is an administrative commission of the French government under the Prime Minister. The Commission is not a court. It investigates claims, determines the nature and extent of material losses and submits recommendations for compensation to the Prime Minister or any other institution involved, and to banks in particular. Action has always been taken on the recommendations that are issued in accordance with the commitments made by the Prime Minister and the banks.

CIVS consists of three divisions. The first initiates the process by logging in the claim, contacting the claimants and conducting research in specialized archives. The second is the Rapporteurs, who are judges in one of the French judicial or administrative jurisdictions. They review the claims and propose an assessment of losses after the Principal Rapporteur of CIVS approves the reports. The third division organizes the hearings of the Deliberative Panel and then issues a recommendation on the claim and proposes the amount of compensation.

When it was established, CIVS launched an international campaign in the print and radio media to notify potential claimants of their right to compensation and to inform institutions that deal with matters related to the Holocaust and the key Jewish organizations about the Commission. CIVS also maintains a telephone line to provide assistance to potential claimants and interested third parties, as well as a web site in French, English, German and Hebrew. The web site contains information about the Commission, answers to the most frequently asked questions, claim forms and other documents on the reparation measures for the Holocaust in France. Each year CIVS publishes a public report of its activity.

## PRINCIPLES UNDERLYING THE CLAIM PROCESS

CIVS operates according to three principles, and underlie its approach to compensating Holocaust victims: equity, pragmatism and promptness.

CIVS must answer claimants promptly, who may be elderly or in a difficult financial situation. Therefore, CIVS expedites the proceedings of direct victims of spoliations and those who are elderly or in a financially or otherwise difficult situation.

CIVS seeks to provide full compensation to each claimant for his or her losses, or at least to get as close to full compensation as possible. Moreover, there is no ceiling on the amount of compensation that CIVS can provide.

CIVS considers that claimants are acting in good faith when they apply for compensation for the losses they sustained. In many cases, it is impossible to gather evidence of losses sustained during deportations, internments or other events in Nazi Occupied France. Therefore, reflecting its pragmatic approach, CIVS has often relied on good-faith estimates in lieu of specific evidence of losses sustained when such evidence did not exist. Estimates may also suffice to prove material losses that occurred as part of everyday life or other plausible losses, so long as the claim is based on a coherent statement. Compensation decisions based on a claimant's supposed good faith also follow the principle that similarly-situated victims should receive the same treatment.

Claimants may apply for compensation from CIVS and there is no opposition based on the statute of limitations. CIVS is not subject to provisions of the law that deals with the statute of limitations, which would have resulted in the dismissal of the great majority of claims. Moreover, France has not set a deadline to submit claims to CIVS, unlike some programs in other European countries.

Finally, the CIVS process lightens the burden of proof on claimants, whose declarations are always presumed to be made in good faith. Personnel and rapporteurs frequently communicate with claimants and their representatives to assist them in managing each step of the claims process.

## ELIGIBILITY FOR CIVS COMPENSATION

### Eligible claimants

Claimants of any nationality are eligible to submit a claim for compensation to CIVS. While most claimants reside in France, a certain number reside in the United States, Israel or other countries. Most spoliation victims were born in European countries other than France, although many of these victims were born in France, Germany, Ukraine, Hungary and in a number of Eastern European countries.

Direct victims of spoliations may apply for compensation, as may their children, grandchildren, spouses, brother, sisters, nieces, nephews, great nephews and great nieces, in addition to all other legal heirs or assigns,

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whether they are family members or not, according to the rules of the governing law of succession.

All victims of spoliations that resulted from the Anti-Semitic Legislation in Force During the Occupation can receive compensation. Therefore, only the application of these laws is taken into consideration as a cause of spoliation, and not just the fact that the victim is Jewish.

## Eligible claims

CIVS was established to review individual claims submitted by the victims or by their legal heirs or assigns to repair losses caused by the spoliations of property that occurred due to the Anti-Semitic Legislation in Force During the Occupation, by the Occupier and by the Vichy authorities. Claims for "material spoliations" and "bank-related spoliations," as provided for in the Washington Agreement between France and the United States of January 18, 2001, can be compensated by CIVS. Damages of a physical or moral nature are not included in the scope of compensation.

## Material spoliations

CIVS processes claims from persons that sustained material losses that resulted from the Anti-Semitic Legislation in Force During the Occupation, attributable to the French or Nazi Occupying authorities on French territory and assimilated territories. CIVS compensates spoliations perpetrated by public or private entities, such as insurance companies, banks or the Caisse des Dépôts et Consignations (CDC).

It is possible to obtain compensation through CIVS for a wide variety of material losses, including but not limited to:

- confiscation of money, personal property or liquid assets
- lootings of family residences or apartments
- work-related losses (such as merchandise inventory, raw materials, machines and equipment as well as losses of customer base and businesses)
- confiscation of money or personal property in the French internment camps, on the occasion of transport to a destination or upon departure from the internment camps
- confiscation of vehicles
- confiscation of works of art or other cultural property
- confiscation of real estate
- money paid to human smugglers to leave Nazi Occupied France to then enter Switzerland or Spain or, before 1943, to move from the occupied zone to the unoccupied zone
- confiscation of personal effects and furniture items located in residences that were used to hide victims during the Nazi Occupation
- unpaid veterans' pensions.

The claims for material spoliations that are filed most often with CIVS are claims for confiscation of money, jewelry, valuables, liquid assets or personal property of the victims at the time of their arrest, entry or detention

at French internment camps, and in particular Drancy, Mérignac and others. According to the records of the Mattéoli Working Party, the victims' property was confiscated by French police and gendarmes or by the SS and German military personnel.

## Bank-related spoliations

Pursuant to the Washington Agreement between France and the United States, certain financial institutions have established two compensation funds for bank-related claims. The first fund, in the amount of \$50,000,000, has compensated victims whose assets have been identified. The second fund, in the amount of \$22,500,000, has paid compensation in the form of a "lump sum" for certain bank-related claims for which CIVS procedures were insufficient to determine the amount of the loss.

## THE CLAIMS PROCESS

### Filing a claim

Any person, regardless of country of residence, can file a claim with CIVS, either in person or through an appointed representative (an attorney, family member or an organization that advocates on behalf of victims of the Holocaust, such as the Holocaust Claims Processing Office in New York, for example). The claimant simply sends a letter, fax or email. A claim form is also available on CIVS web site. The process is free of charge and no special formal procedure is required. The CIVS logs in the claim upon receipt. It then notifies the claimant that the claim has been received and also sends the claimant a questionnaire and power of attorney form to authorize CIVS to conduct the necessary searches concerning the victims and the spoliated property, at no charge.

A claimant is advised to mention as much information as possible on the claim form, and in particular the claimant's status, the type of property confiscated and where, the capacity of other persons involved, etc. However, the CIVS contacts claimants directly to assist them to complete the questionnaire or retrieve information that is essential for processing the claim. Such communications are strictly confidential.

### Researching a claim

After the questionnaire is logged in, the CIVS forwards the claim to its "Control Network" for research in the archives.

Research in the archives is an essential part of the claim compensation process. For material losses, it would be practically impossible to assess the property at issue without such research. Research in the archives can also uncover spoliations that were unknown at that time and then they can be included in the claim.

# PRESENTATION OF A COMMITTEE : CIVS

In addition, research in the archives is important because, according to one of the Mattéoli Working Party's recommendations, CIVS does not provide compensation for claims that have previously received compensation under another program, such as the German Federal Compensation Act (BRüG) or the French law on war damages, unless the compensation recommended under these arrangements did not really provide compensation for the value of the spoliated property. Thus, prior to 2019, CIVS sent more than 20,000 files to its Berlin office. Nearly 60 percent of these claims had already been compensated by Germany to some extent. CIVS supplements the compensation paid by Germany or the compensation paid for war damages if it deems this compensation insufficient.

The Control Unit reviews the claim and identifies the various possible types of property reported confiscated, and it also uses the documents in the file as a basis. CIVS case officers forward copies of the relevant documentation to relevant sources of archives for research. These include:

- National Archives of France (CIVS satellite office) and the archives in the French departments
- Paris Archives (CIVS satellite office)
- Berlin Archives (CIVS satellite office)
- Ministry of Culture, Department of Museums of France
- Ministry of Foreign Affairs, Department of Archives
- Paris Police Headquarters
- Center of Contemporary Jewish Documentation
- Caisse des Dépôts et Consignations
- French Federation of Insurance Companies

Persons who submit a claim for compensation for material spoliations that took place during arrest or internment at French camps may especially benefit from research performed in certain collections of archives. For example, CIVS has searched the files of the Caisse des Dépôts et Consignations and found conclusive answers about consignments of property that was confiscated from persons detained at Drancy internment camp for over 3,600 claims. The CIVS research team that works at the National Archives of France consults digitized records at the Paris Police Headquarters of those arrested and detained at the Drancy, Pithiviers and Beaune-la-Rolande internment camps.

## Investigating the Claim

The Minister of Justice appoints sitting or retired judges, known as "rapporteurs," to investigate CIVS claims. In general, these judges are part of French judicial, administrative or financial jurisdictions and they spend several days a week investigating files that are submitted to CIVS.

The rapporteurs are responsible for conducting an investigation for any claim at the conclusion of the

research in the archives and they are to assemble all information to determine the existence and extent of spoliations. The rapporteurs may summon any person whose testimony is deemed relevant and may request their opinion or the advice of certain government bodies or a qualified third party.

At this time there are 11 rapporteurs and one Principal Rapporteur, who is also a judge and who oversees and coordinates the rapporteurs' work.

A rapporteur assigned to a claim contacts the claimant or the person representing the claimant to arrange a meeting. This meeting can be conducted in person, at the Commission's offices or at the claimant's (or representative's) residence if the claimant has health issues. The claimant may also request a meeting by telephone or letter correspondence.

The meeting between the rapporteur and the claimant is meant to facilitate the claims process and ensure that claimants receive the full compensation to which they are entitled. For example, the rapporteur may check that claimants did not inadvertently fail to mention the cases of spoliations in their claims. The rapporteur may also consider it necessary to ask claimants questions about their family, explain the rapporteur's work to them and solicit their opinion on the proposed compensation.

## Rapporteur's proposed compensation for a claim

The rapporteur prepares a compensation proposal based on the type and extent of the verified spoliations. This amount is to include offsets, if any exist, for prior compensation that has already been paid by the French or German authorities.

The rapporteurs calculate the loss based on the specific characteristics of spoliations where feasible.

- Spoliations of property taken from residences are appraised using criteria in the German BRüG Act (based on the type of building, number of rooms and occupants) or, if the property was insured, based on the insurance policy.
- Material and bank-related losses are appraised as of the date they occurred and are expressed at their updated value.
- Businesses or work-related assets that are confiscated are valued based on specialized reference work in the sector and following consultation with businesses.
- Works of art are assessed based on an appraisal by the Department of Museums of France or reference work specializing in prices for works of art.

When the details of these characteristics are not known, the rapporteur proposes lump sum compensation.

Based on research in archives and the other relevant documents in the file, the rapporteur, in consultation with the claimant, determines who the legal heirs or assigns are for compensation so that the "reserve portions" are set aside for other legal heirs or assigns.

# PRESENTATION OF A COMMITTEE : CIVS

This may require preparing the claimant's family tree beforehand.

The rapporteur sends a first draft of the compensation proposal to the claimant for his or her opinion. At that time the claimant may make comments or dispute the proposal. In most cases, the claimant has agreed with the rapporteur's proposal.

At this point in the process, the claimant receives a copy of the rapporteur's report as well as his request for other documents or references in the claim file that may be of use in supporting the claim. Even if the claimant does not request them, in many cases the rapporteur sends the claimant a copy of documents that support his or her proposal or that may be of historical interest for the victim or the victim's family. Then the rapporteur submits his report and the claim file to the Principal Rapporteur who approves it and forwards it to the Hearings Secretariat.

If a claimant is not satisfied with the rapporteur's investigation, he or she may request that the rapporteur conduct an additional investigation if he or she finds, for example, that there is a material error in the first investigation, or if there is new evidence or information that has been updated. If the rapporteur determines that these conditions are not present, the claimant may contact the Chairman of CIVS or Principal Rapporteur to request a new investigation.

## Hearings before the Deliberative Panel

Under the authority of its Chairman, CIVS then schedules a review of the claim at a hearing of the Deliberative Panel. The panel is comprised of members with extensive and relevant professional and personal experience in the field; there are two sitting judges from the Court of Cassation, including the chief justice, two members of the Council of State [Conseil d'Etat], two senior advisors from the French Audit Office [Cour des Comptes], two university professors and two prominent persons active in Jewish rights organizations.

The Principal Rapporteur assigns claims to the Deliberative Panel either in plenary formation, or to a sub-commission with three members, based on the complexity of the claim.

The claimant is invited to attend the hearing and may take the floor should he wish to do so. At the hearing, the claimant may also be represented by an attorney or any other person of his choosing, such as a family member.

CIVS has organized regular missions to Israel and the United States so that residents of those countries, who have submitted a substantial number of claims to CIVS, can participate in the hearings more easily and take part in the review of their claim, just like claimants residing in France. Nearly 75 percent of all claimants whose claims were on the agenda attended the hearings held in the United States and Israel. Total compensation for these claims has amounted to 20.7 million euros.

The process for the Deliberative Panel hearing is generally as follows: 1) the rapporteur makes his report; 2) the claimant is invited to speak; 3) the Panel asks any questions they may have of the claimant or rapporteur; 4) the government's commissioner, appointed by order of the Prime Minister, and who represents the government, gives a simple opinion on how to handle the claim, although this opinion is not binding on the Deliberative Panel; and 5) the claimant may speak last. Then the Panel deliberates and issues a recommendation for the claim. The Principal Rapporteur attends all plenary sessions and some sub-commission sessions.

The Commission forwards the recommendation to the Compensation Unit of the Prime Minister, which contacts the claimant. Once approved by the Prime Minister, the compensation decision is sent to the National War Veterans Administration (ONAC) for payment. Recommendations for compensation for bank-related spoliations are forwarded to the two funds administered by the United Jewish Welfare Fund, which orders the CDC to pay the amount. Decisions of the Prime Minister may be appealed to a French court of competent jurisdiction, but given the degree of satisfaction that the CIVS process provides for claimants, only a few claims have been appealed. Some appeals have been determined to be admissible, and then CIVS has proposed additional compensation.

When other potential legal heirs or assigns become known during the claims process, CIVS sets aside their portion of the compensation for spoliation claim. Such legal heirs or assigns, or their own legal heirs or assigns, are required to contact CIVS and submit the necessary documents to obtain their reserved share of compensation. CIVS has recommended compensation for several thousand claims for the reserved portion of compensations. As of December 31, 2018, the government has 28 million euros that is set aside pending payment.

# PRESENTATION OF A COMMITTEE : CIVS

## FRANCE'S NEW ORGANISATION FOR THE RESTITUTION OF CULTURAL PROPERTY

The French Government decided in 2018 to improve its public organization for the return of art and cultural objects spoliated due to National Socialism. Two administrations become responsible for implementing this policy, with one specially charged with handling cases and the other with suggesting compensation measures:

- a Mission for Research and Restitution of Spoliated Cultural Property is created within the Ministry of Culture. This Mission directs research with a view to identifying and restituting such property.
- On the basis of this research, CIVS proposes reparation measures to the Prime Minister (restitution or, failing such, compensation).

### Why a new structure?

The aim is to give new momentum to research on spoliated works and to strengthen public action undertaken for their restitution:

- By centralizing all decisions relating to restitution at Prime-Minister level.
- By grouping and strengthening research means within a new Mission attached to the Minister of Culture and possessing its own specific budget.
- By widening the possibilities of referral to CIVS, whose Deliberative Panel is strengthened by the arrival of four new individuals with qualifications in the fields of art history, the art market, the history of the Second World War and heritage law.

### What property is concerned?

- Any cultural property (work of art, book, etc.) spoliated in France during the Occupation.
- Any cultural property spoliated between 1933 and 1945 by the Nazis and now currently on French soil.

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