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Case Auschwitz Suitcase – Pierre Lévi Heirs and Auschwitz-Birkenau State Museum Oswiecim and Shoah Memorial Museum Paris

Pierre Lévi – Auschwitz-Birkenau State Museum Oswiecim – Shoah Memorial Museum Paris – Nazi-looted art/spoliations nazies – Judicial claim/action en justice – Negotiation/négociation – Settlement agreement/accord transactionnel – Ownership/propriété – Loan/prêt

After an initial unsuccessful attempt to negotiate the dispute regarding a suitcase between the heirs of the Holocaust victim Pierre Lévi and the Auschwitz Birkenau State Museum in Oswiecim, the heirs decided to file a restitution claim against the Museum. The parties eventually settled with the help of the Shoah Memorial Museum in Paris and agreed to a long-term loan of the suitcase at the Shoah Memorial Museum.

I. Chronology; II. Dispute Resolution Process; III. Legal Issues; IV. Adopted Solution; V. Comment; VI. Sources.

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I. Chronology

Nazi looted art

- **2004:** A suitcase from the collection of the **Auschwitz-Birkenau State Museum** was loaned to the **Shoah Memorial Museum in Paris** for a permanent exhibition “The Fate of Jews from France during World War II”. Both museums agreed in writing that the suitcase shall be returned to the Auschwitz-Birkenau State Museum by **30 June 2005**. The suitcase is labeled as “suitcase belonging to Pierre Lévi, deported from France to Auschwitz”.
- **February 2005:** During a visit of the Paris exhibition, Michel Lévi-Leleu, retired engineer, and his daughter, Claire, discovered that the exhibited suitcase undoubtedly belonged to his father, Pierre Lévi, as it was tagged with his father’s name, the last address of his family in Paris and his father’s prisoner reference.
- **Following the exhibition:** With the agreement of the Shoah Memorial Museum, Michel Lévi-Leleu made the **request** to the Auschwitz-Birkenau State Museum via the Parisian museum that the suitcase shall remain in Paris permanently, as he did not want it to “repeat the journey that it had already made to Auschwitz”.
- **28 February 2005:** Both parties exchanged letters. The Auschwitz Museum insisted on the importance of the suitcase for the history and proof of existence of the Auschwitz camp. The director of the Museum, Piotr Cywinski, feared a “risk of precedent” - that the return of the suitcase might generate many other restitution claims. A letter from the **Polish Minister for Foreign Affairs and president of the International Auschwitz Committee** was sent to the former Minister of Social Affairs and Health and president of the European Parliament, **Simone Veil**, as well as to Michel Lévi-Leleu. The director of the Shoah Memorial Museum, Jacques Freidj, intervened in order to obtain an amicable settlement.
- **August 2005:** The International Auschwitz Council¹ **approved the extension of the loan for another 6 months** until January 2006. At the end of the loan, no other agreement had been reached.
- **December 2005:** Michel Lévi-Leleu brought an action for restitution against the Auschwitz-Birkenau State Museum before the *Tribunal de grande instance* in Paris. The court ordered for the immediate confiscation and sequestration of the suitcase by the Parisian authorities pending a final court decision on the matter. The settlement efforts between the two Museums were subsequently interrupted. In the meantime, the suitcase was still on view at the Shoah Memorial Museum.
- The Tribunal refused an interim injunction for the return of the suitcase to Poland at the end of the Paris exhibition.
- **4 June 2009:** A **settlement** ended the lawsuit between the Auschwitz-Birkenau State Museum and Michel Lévi-Leleu.

¹ The International Auschwitz Council advises the Auschwitz Birkenau State Museum in its various activities, including on questions concerning Holocaust memorabilia. For more information, see “The International Auschwitz Council,” Memorial and Museum – Auschwitz-Birkenau website, accessed February 5, 2012, http://en.auschwitz.org/m/index.php?option=com_content&task=view&id=278&Itemid=14.

II. Dispute Resolution Process

Judicial claim – Negotiation – Settlement agreement

- **First negotiations** between Michel Lévi-Leleu and the two Museums failed and were then followed by a **trial** in Paris. The President of the Shoah Memorial Museum acted unsuccessfully as an **intermediary** as he tried to convince the parties to settle. The parties seemed to be deadlocked in their positions.
- Michel Lévi-Leleu contended against the return of the suitcase from Paris to Auschwitz, where the awful events took place. The International Auschwitz Council in turn insisted on reassembling everything left from the camp as an “inviolable and integral”² whole, as communicated by a letter of the Council’s chairman sent to Michel Lévi-Leleu.³ Both parties ultimately settled before the “Tribunal de Grande Instance” in Paris rendered a decision.
- Throughout the lawsuit, the Auschwitz-Birkenau State Museum was represented *pro bono* by two lawyers from Gide Loyrette Nouel as well as by a partner in Warsaw.

III. Legal Issues

Ownership

- Michel Lévi-Leleu filed a claim with the Parisian *Tribunal de grande instance* claiming ownership to the suitcase. An option for the Auschwitz Memorial Museum under French law could have been to assert acquisitive prescription (art. 2258 French Civil Code)⁴, which requires a continuous possession as owner of the chattel (art. 2261 French Civil Code)⁵. Such an acquisition of property regarding the suitcase was not at stake here, as the Museum always considered that the object had belonged to Pierre Lévi.

IV. Adopted Solution

Loan

- According to the settlement, the suitcase will be **loaned** to the Shoah Memorial Museum in Paris **on a long-term basis** where it was exhibited at the time of its discovery by Michel Lévi-Leleu. In turn, he renounced all claims and the suitcase remains in the property of the Auschwitz Birkenau State Museum.

² Auschwitz-Birkenau State Museum Press Communiqué, “Settlement Reached over Auschwitz Suitcase,” June 4, 2009, accessed March 9, 2011,

http://en.auschwitz.org.pl/m/index.php?option=com_content&task=view&id=630&Itemid=8.

³ Ibid.

⁴ “La prescription acquisitive est un moyen d'acquérir un bien ou un droit par l'effet de la possession sans que celui qui l'allègue soit obligé d'en rapporter un titre ou qu'on puisse lui opposer l'exception déduite de la mauvaise foi.”

⁵ “Pour pouvoir prescrire, il faut une possession continue et non interrompue, paisible, publique, non équivoque, et à titre de propriétaire.”

V. Comment

- Coming to terms with history: In the present case, Michel Lévi-Leleu's request did not substantiate the common conflict in Nazi-Looted art claims between individual and collective ways to reappraise the past. Michel Lévi-Leleu had not demanded the restitution of the suitcase or a monetary compensation. Instead, he requested that it had to be publicly shown in a specific location, namely in Paris as a replacement for Auschwitz-Birkenau.
- In view of the relatively weak ethical and legal claim the Auschwitz-Birkenau State Museum could possibly assert, their insistence against a return of the suitcase seems surprising.
- Mainly, the Museum was against the return as it feared that similar suits would emerge emptying the museum of all its exhibited objects. The Museum's reasoning, the restitution might cause a "risk of precedence" may most probably miss the point, given the objects at stake (low value, owners difficultly traceable, etc.). The Museum justifies holding these objects as it is an institution devoted to the memorial of the murders committed in the concentration camps during World War II.
- Interestingly, the parties seek guidance and help within their own government (state representatives), as their dispute is converted into a political conflict.
- While the Shoah Memorial Museum has acted as an intermediary, its objectivity may be questionable. It may in fact have a personal interest in the long-term exhibition of the suitcase and in the publicity generated by the case.

VI. Sources

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