

COMMISSION FOR LOOTED ART IN EUROPE

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Press Release

British Museum Press Release: High Court Judgement - 27 May 2005 - Holocaust Spoliation and the Feldmann Drawings

BM 27 May 2005:

The Context: Wartime Provenance

All departments in the British Museum have been carrying out research into the provenance of their collections to establish whether anything could have been stolen by the Nazis prior to acquisition by the British Museum. This has taken place in response to a government initiative to take positive action towards this issue.

The Museum recognises the exceptional circumstances of the Holocaust in Europe between 1933 and 1945, and that objects stolen from their owners in this period have a unique status.

From 1942 onwards the Museum worked for the restitution of looted art at war's end. The Allied Powers at the time pledged to make restitution.

The Museum is clear that any acquisition of Nazi loot by the Museum could only have been the unintended result of ignorance as to the circumstances in which it was on the market.

History and Background

The British Museum Trustees have decided that the case of Feldmann drawings in the British Museum collection represents a unique moral claim which they wish to meet.

The Museum has cooperated fully with the claimants from the outset to find the best solution to this issue.

In August 2003, the British Museum asked the Attorney General whether he had the power to authorise the Museum's Trustees to meet a moral claim that arises from the Holocaust without the need for amending the British Museum Act (1963).

The Museum believed that the existing law would enable the Attorney-General and the British Museum to take account of these matters in considering a claim for the return of works looted during the Holocaust period.

The Attorney -General was unsure. He sought the guidance of the Court which has today clarified the law.

What has the ruling decided?

The Court's decision is that the British Museum Trustees are not able to meet such moral claims under existing law.

It is now beyond doubt that, when there is a claim for an object in the British Museum collection which can be proved to have been stolen from a Jewish family by the Nazis, the object cannot be returned without the authority of an Act of Parliament.

Are the Parthenon Sculptures relevant here?

The Parthenon Sculptures are not related to this case, nor do they play any part in the Court's decision, which was based solely on a consideration of existing case law. The Court agreed that the Sculptures were irrelevant.

The British Museum Trustees do not accept that there is a moral claim to the Parthenon Sculptures, nor to any objects in the collection other than the Feldmann drawings.

The Parthenon Sculptures were acquired in 1816 with money voted specifically for the purpose by Parliament, following a rigorous investigation into Lord Elgin's actions by a Parliamentary Committee.*

What happens next?

The Museum will refer the claim to the four drawings in its collection to the DCMS Spoliation Advisory Panel and seek its advice as to the most appropriate action to take in response to the claim.

For further information about the drawings, please see the British Museum website at <http://www.thebritishmuseum.ac.uk/pd/pdreww2.html>

On the issue of WWII Provenance and spoliation research, see <http://www.nationalmuseums.org.uk/spoliation.html>

*** Note**

A Public Inquiry by Parliamentary Select Committee in 1816 accepted that Lord Elgin had acquired the Parthenon Sculptures lawfully, and in the same year they were vested in the Museum for value by Act of Parliament (56 GEORGIII. Cap.99). This is conclusive on the British Museum's title to the Sculptures. As to Lord Elgin's title, in *Thinking About the Elgin Sculptures*; Critical essays on Cultural Property, Art and Law, (Kluwer Law International 2000) Professor John Merryman of Stanford University explains why it cannot be persuasively argued that it was not good in law.

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