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Case Nedjemankh and His Gilded Coffin – Metropolitan Museum of Art and Egypt

Metropolitan Museum of Art – Egypt/Égypte – Post 1970 restitution claims/demandes de restitution post 1970 – Unconstrained Initiative/initiative spontanée – Deaccession – Due diligence – Illicit exportation/exportation illicite – Criminal offence/ infraction pénale – Unconditional restitution/restitution sans condition

The gilded Coffin of Nedjemankh, a priest of the ram-god Heryshef, was purchased in 2017 and exhibited in 2018 by the Metropolitan Museum of Art. Following an investigation by the Manhattan District Attorney's office, the Met learned that the Coffin had been looted in 2011, during the Egyptian revolution. It also learned that it had received upon its purchase a false ownership history, fraudulent statements and fake documentation, including a forged 1971 Egyptian export license for the coffin. As such, the Met unconditionally returned the coffin to the Government of Egypt.

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I. Chronology

Post 1970 restitution claims

- **2011:** In the context of the Egyptian revolution, a very valuable artefact is plundered from the country. The artefact in question is the gilded Coffin of Nedjemankh (hereinafter “the Coffin”), who was a high-ranking priest of the ram-god Heryshef in the first century BC.¹ The Coffin is engraved in wood and covered with a golden layer. The decorated surface includes scenes and texts that were meant to protect and guide Nedjemankh on his journey from death to everlasting life.² After having left Egypt, the Coffin is said to have become part of a private collection. To this day, the private collector’s identity remains unknown.³
- **July 2017:** The Coffin is bought for €3,5 million (about USD \$4 million) by the Metropolitan Museum of Art (hereinafter “the Met”) from a Parisian art dealer named Christophe Kunicki.⁴ Mr. Kunicki is specialized in “Greek, Roman, Egyptian and Near East Antiquities”.⁵ The Coffin is sold with apparently valid documentation, including a 1971 Egyptian export licence.⁶
- From **20 July 2018**, the Coffin is exhibited at the Met as the centrepiece of the exhibition “Nedjemankh and His Gilded Coffin”. The Coffin is displayed with seventy works from the Met collection that provide contextual information about Nedjemankh's role as a priest in ancient Egypt, his burial, and the decoration on the coffin.⁷
- **15 February 2019:** The Met announces in a press release that it has delivered the Coffin for return to Egypt, after having been informed by the Manhattan District Attorney’s Office (hereinafter the “DA’s Office”) that the coffin was looted from Egypt and that it received “a false ownership history, fraudulent statements, and fake documentation, including a forged 1971 Egyptian export license for the coffin”.⁸

¹ Essam.

² *Ibid.*

³ Stapley-Brown/Kenney.

⁴ Moynihan.

⁵ Mr’s Kunicki’s website. Accessed 7 March 2019. <http://www.kunicki.eu/Kunickiexpertise/Activite.html>. See also Moynihan.

⁶ Moynihan.

⁷ “Nedjemankh and His Gilded Coffin, Exhibition Overview”.

⁸ “The Metropolitan Museum of Art returns coffin to Egypt”.

II. Dispute Resolution Process

Unconstrained Initiative

- According to Shaaban Abdel Gawad, supervisor general of Egypt's Antiquities Repatriation Department, the DA's Office's investigations took about 20 months. At the end of this period, the DA's Office was left with no doubt that the Parisian art dealer provided the Met fake documentation, such as a forged 1971 Egyptian export licence.⁹ The investigators did not give details of how they had found out the Coffin was actually looted,¹⁰ nor about what prompted them to investigate the case in the first place.
- The Met is reputed to have been "fully cooperative" with the DA's Office.¹¹
- Egyptian Minister of Antiquities Khaled El-Enany thanked the Ministry of Foreign Affairs, Egyptian security authorities, as well as members of the National Committee for Antiquities Repatriation for their great efforts in recovering the Coffin. He also thanked the Manhattan District Attorney's Office and the Met for their "much-appreciated" cooperation.¹²

III. Legal Issues

Criminal offence – Deaccession – Due diligence – Illicit exportation

- The Met states that it has been a victim of fraud and says it will "consider all available remedies to recoup the purchase price for the coffin".¹³
- From the art dealer's side, the situation remains unclear. The Art Newspaper Daily (French edition) reports having called a phone number attributed to Mr. Christophe Kunicki. The man on the phone refused to reveal his identity, while confirming that he was speaking on "behalf of Kunicki's office". He stated that, as far as he knew, the documentation they provided "was absolutely correct". He added that "[they] want to know what is going on because [they] don't understand anything about what is happening", before concluding "this is absolutely unbelievable, this is a terrible surprise for us".¹⁴ He also confirmed that the Coffin had been purchased from a private collector whom he refused to name.¹⁵
- The date specified on the forged export licence, namely 1971, is noteworthy because it is prior to the 1983 Egyptian Antiquities Protection Law No 117's entry into force. Whereas the old Egyptian law used to allow some artefacts' exportation, the 1983 law imposes very strict restrictions that render extremely difficult the exportation of Egyptian antiquities.¹⁶

⁹ Essam.

¹⁰ Moynihan.

¹¹ "The Metropolitan Museum of Art returns coffin to Egypt".

¹² Essam.

¹³ "The Metropolitan Museum of Art returns coffin to Egypt".

¹⁴ Stapley-Brown/Kenney.

¹⁵ *Ibid.*

¹⁶ Essam. See also articles 6,7,8,9 of Law No. 117 of 1983 as amended by Law No. 3 of 2010 promulgating the antiquities' protection (Egypt).

- Although the Met claims that all its acquisitions of ancient art “undergo a rigorous vetting process in recognition of the 1970 UNESCO treaty, in adherence to the Association of Art Museum Directors’ Guidelines on the Acquisition of Ancient Art and Archaeological Materials, and in compliance with federal and state laws”,¹⁷ the discovery of the Coffin’s true story raises issues about the thoroughness of its examination of the supporting documentation before buying the Coffin. On this subject, the Met announced that it will “review and revise” its acquisition process (for more about due diligence, see section V.).¹⁸

IV. Adopted Solution

Unconditional restitution

- The Met actively cooperated with the DA’s Office and decided to terminate the exhibition before its scheduled date to return the Coffin to Egypt.¹⁹
- About this decision, the Met’s President and CEO, Daniel Weiss, commented: “After we learned that the Museum was a victim of fraud and unwittingly participated in the illegal trade of antiquities, we worked with the DA’s office for its return to Egypt. The nation of Egypt has been a strong partner of the Museum’s for over a century. We extend our apologies to Dr. Khaled El-Enany, Minister of Antiquities, and the people of Egypt, and our appreciation to District Attorney Cy Vance, Jr.’s office for its investigation, and now commit ourselves to identifying how justice can be served, and how we can help to deter future offenses against cultural property”.²⁰
- Upon its return to Egypt, the Coffin will be temporarily displayed at the Egyptian Museum in Tahrir Square, before being transferred to the Grand Egyptian Museum after its official opening, expected for 2020.²¹

V. Comment

- In this case, the deaccession process hasn’t been an issue. Indeed, unlike the Latin tradition (present for instance in France, Spain, Italy and Greece), which adheres to the fact that cultural heritage is inalienable because it contributes to the collective patrimony of the concerned nation and has a strong presumption against deaccessioning, the Anglo-Saxon tradition is more liberal and adopts a more practical way of thinking.²² In that regard, the Anglo-Saxon tradition has legislation and guidelines that show a positive presumption towards the topic

¹⁷ “The Metropolitan Museum of Art returns coffin to Egypt”.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ Essam.

²² Wijismuller, p.8-10.

- and gives museums the autonomy to decide deaccessioning matters for themselves, providing assistance to museums in this process.²³
- Egypt and its many archaeological treasures represent an attractive target for plunderers. The Cairo Egyptian Museum, which owns priceless antiquities, was burgled in January 2011 when violent confrontations opposed police forces and protestors who were calling for former president Hosni Mubarak to step down from power in nearby Tahrir Square.²⁴
 - It is not the first time that the Met has to face issues concerning potentially stolen artefacts. In 2008, the Met returned the 2500-year-old Euphronios Krater to Italy after plundering suspicions.²⁵ In 2017, the DA's Office seized a 2300-year-old vase which had reputedly been looted by tomb raiders in Italy in the 1970's.²⁶ In 2018 the Met also returned looted statues of sages and goddesses to both India and Nepal.²⁷
 - Met's Director Max Hollein completed his statement about the acquisition process' revision project (see III.) by stating: “[o]ur museum must be a leader among our peers in the respect for cultural property and in the rigor and transparency of the policy and practices that we follow. We will learn from this event—specifically I will be leading a review of our acquisitions program—to understand what more can be done to prevent such events in the future.”²⁸
 - In that regard, the press recently stated that the Met should hire a permanent provenance curator “whose only job is to investigate the collecting histories and chain of custody of archaeological artefacts, paintings, and other cultural objects that come into the museum's collection”.²⁹ According to attorney Ricardo St. Hilaire, “a provenance curator must know how to spot a lie, detect fake documents and recognise exaggerated stories designed to entice a buyer. Such a professional should also double-check the collecting histories of objects previously accessioned by the museum, to find out if they might be subject to legal confiscation or repatriation because of previously unknown archaeological plunder, theft from a museum or house of worship, illegal import or export, or Nazi looting”.³⁰ If the Met actually hires such a provenance curator, it would follow the path taken by The Museum of Fine Arts, Boston, to this day the only major US institution to have a full-time provenance curator, and hence would send a strong message to other institutions about the importance of due diligence and transparency in today's art market.
 - In this context and as the art market is becoming more important and globalized than ever, a series of industry-led initiatives may also help art businesses and institutions acquiring cultural heritage in their due diligence process.³¹ As an example, the Responsible Art Market

²³ *Ibid.*

²⁴ “Le Metropolitan Museum de New York va rendre à l’Egypte un sarcophage qui s’avère avoir été volé”.

²⁵ Moynihan. See also Contel, Soldan, Chechi.

²⁶ Moynihan.

²⁷ *Ibid.* See also Cascone.

²⁸ “The Metropolitan Museum of Art returns coffin to Egypt”.

²⁹ “Gilded coffin gives Met a golden opportunity”.

³⁰ *Ibid.*

³¹ According to the Cambridge Advanced Learners Dictionary & Thesaurus, Cambridge University Press, Due diligence is defined as “action that is considered reasonable or people to be expected to take to keep themselves or others and

(RAM) initiative formed in 2015 in Geneva, Switzerland, aims to raise awareness amongst art businesses of risks faced by the art industry in Switzerland and abroad and to provide practical guidance and a platform for the sharing of best practices to address those risks.³² RAM published guidelines, including a “toolkit” that consists in a non-exhaustive compilation of verifications aimed at mitigating risks which can arise in art transaction and that should be used adopting a “risk-based approach” when conducting client, artwork and transaction due diligence.³³ By applying the RAM toolkit to the Nedjemankh case, we may hypothetically state that a more thorough artwork due diligence should have been performed, and that detailed upstream research about identification, provenance and exhibition history, authenticity and “red flags” (such as the fact that the Coffin is an archaeological object and that its source country has been in recent conflict) could potentially have allowed the Met to discover or suspect the Coffin’s illicit provenance prior to its purchase.³⁴

VI. Sources

a. Legislation

- Law No. 117 of 1983 as amended by Law No. 3 of 2010 promulgating the antiquities’ protection (Egypt).

b. Documents

- RAM (Responsible Art Market Initiative), “What is the Responsible Art Market Initiative?”. <http://responsibleartmarket.org/about-us/>
- RAM (Responsible Art Market Initiative), “Art Transaction Due Diligence Toolkit – Checklists and Explanatory Notes”. <http://responsibleartmarket.org/guidelines/art-transaction-due-diligence-toolkit/>
- Raphael Contel, Giulia Soldan, Alessandro Chechi, “Case Euphronios Krater and Other Archaeological Objects – Italy and Metropolitan Museum of Art,” Platform ArThemis (<http://unige.ch/art-adr>), Art-Law Centre, University of Geneva.
- Wijsmuller Dieuwertje, Deaccessioning& disposal in Europe 2008-2017, A research on possibilities and attitudes across the European Member States. <https://www.museumsanddeaccessioning.com/wp-content/uploads/Deaccessioning-disposal-Europe-2008-2017-D.-Wijsmuller.pdf>

their property safe”. Source: RAM (Responsible Art Market Initiative) Art Transaction Due Diligence Toolkit – Explanatory Notes.

³² RAM (Responsible Art Market Initiative), “What is the Responsible Art Market Initiative?”.

³³ RAM (Responsible Art Market Initiative) Art Transaction Due Diligence Toolkit – Explanatory Notes.

³⁴ RAM (Responsible Art Market Initiative) Art Transaction Due Diligence Toolkit – Checklists.

c. Media

- Ricardo “Rick” St. Hilaire, “Gilded coffin gives Met a golden opportunity.” The Art Newspaper 30 April 2019. Accessed 14 May 2019. <https://www.theartnewspaper.com/comment/gilded-coffin-gives-met-a-golden-opportunity>.
- Stapley-Brown, Victoria/Kenney, Nancy. “New York: le Met a rendu un sarcophage égyptien volé.” The Art Newspaper Daily (Éd. Française) #212, 18 February 2019. Accessed 5 March 2019. <https://daily.artnewspaper.fr/articles/new-york-le-met-a-rendu-un-sarcophage-egyptien-vole>.
- “Le Metropolitan Museum de New York va rendre à l’Egypte un sarcophage qui s’avère avoir été volé.” Culturebox (avec AFP), 18 February 2019. Accessed 5 March 2019. <https://culturebox.francetvinfo.fr/patrimoine/le-metropolitan-museum-de-new-york-va-rendre-a-l-egypte-un-sarcophage-vole-285686>.
- Essam, Angy. “In pics: Egypt to recover gilded coffin from Met museum.” Egypt Today, 17 February 2019. Accessed 5 March 2019. <http://www.egypttoday.com/Article/4/64832/In-pics-Egypt-to-recover-gilded-coffin-from-Met-museum>.
- Moynihan, Colin. “Met Museum to return prize artefact because it was stolen.” The New York Times, 15 February 2019. Accessed 5 March 2019. <https://www.nytimes.com/2019/02/15/arts/design/met-museum-stolen-coffin.html>.
- “The Metropolitan Museum of Art returns coffin to Egypt.” Metropolitan Museum of Art press release, 15 February 2019. Accessed 5 March 2019. <https://www.metmuseum.org/press/news/2019/metropolitan-museum-of-art-returns-coffin-to-egypt>.
- “Nedjemankh and His Gilded Coffin, Exhibition Overview.” Metropolitan Museum of Art’s exhibitions listing 2018. Accessed 7 March 2019. <https://www.metmuseum.org/exhibitions/listings/2018/nedjemankh-gilded-coffin>.
- Cascone, Sarah. “The Met Will Return Looted Statues of Sages and Goddesses to Both India and Nepal.” Artnet News, 5 April 2018. Accessed 10 March 2019. <https://news.artnet.com/art-world/met-returns-looted-indian-idol-1259441>.