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BINDING ADVICE ON DISPUTE OVER THE PAINTING *ROAD TO CALVARY*

THE HAGUE - The Restitutions Committee has issued binding advice concerning the dispute over the division of proceeds from the sale of a privately owned painting, *Road to Calvary, Brunswijker Monogrammist (16th century)*.

The painting *Road to Calvary* was taken from the possession of the Jewish Oppenheimer family 75 years ago at an enforced auction in Nazi Germany. The current owner is a Dutch private individual who wants to sell the artwork. The parties were divided over how much of the sale proceeds would come to the Oppenheimer family. In its binding recommendation, the Restitutions Committee has now concluded that in the event of a sale, the current owner should relinquish one third of the net proceeds to the Oppenheimer family.

The Committee was able to establish that husband and wife Jakob and Rosa Oppenheimer involuntarily lost possession of the painting during the Nazi regime, at what was known as a *Judenauktion (Jewish auction)* at an auction house in Berlin in 1935. The current applicants on the part of the Oppenheimer family are grandchildren of Jakob and Rosa Oppenheimer. The family discovered the location of *Road to Calvary* in 2006 after it had been taken to Sotheby's auction house in Amsterdam to be valued.

The current owner came into possession of the painting as a result of inheritance from her father, who died in 1999. Her father probably bought the painting at a jumble sale or fair in the province of Noord-Holland in the period between 1985 and 1995 for the approximate equivalent of 45 euro. The art work has recently been valued at €80,000. The current owner wants to sell the painting *Road to Calvary*, but the parties could not agree on the division of any sale proceeds, which is why they requested that the Restitutions Committee issue a binding recommendation. The Committee concluded that in the special circumstances of this case, according to the standards of reasonableness and fairness, the current owner's share should be twice that of the Oppenheimer family. According to this recommendation, in the event of a sale, a one-third share of the net proceeds should be relinquished to the Oppenheimer family. This conclusion reflects that the current owner's right of ownership according to Dutch law is beyond all doubt and, all in all, carries the most weight in this case. At the same time, the ownership of *Road to Calvary* as a looted work of art has brought forth a moral obligation towards the Oppenheimer family.

The Restitutions Committee

Since January 2002, the Restitutions Committee has provided recommendations to the Minister for Education Culture and Science regarding claims to items of cultural value in the possession of the national government. In addition, the Committee can also issue binding recommendations concerning disputes between two parties over an item of cultural value not in the possession of the national government. Such advice is given on the basis of what is 'reasonable and fair'.

More information:

For more information, please contact Evelien Campfens, secretary/rapporteur of the Restitutions Committee on +31(0)70 376 59 92.

Relevant recommendations:

[Binding advice on dispute over the painting *Road to Calvary* \(/en/recommendations/recommendation_395.html\)](/en/recommendations/recommendation_395.html)