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Case Three looted paintings - Heirs Oppenheimer, van Doorn, Soepkez and France

Jakob and Rosa Oppenheimer - Baron Cassel van Doorn - Richard Soepkez - France - Artwork/oeuvre d'art - Nazi-looted art/spoliations nazies - Institutional facilitator/facilitateur institutionnel - Ownership/propriété - Statute of limitation/prescription - Unconditional restitution/restitution sans condition

On 11 March, 2014, Aurélie Filippetti, the French government's Minister of Culture and Communication, officially returned three paintings that had been looted by the Nazis (Oppenheimer, van Doorn and Soepkez).

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

- **Before 1933**,¹ the painting *Portrait de femme* (French anonymous, 18th century) belonged to the Berlin Gallery Van Diemen, owned by **Jakob and Rosa Oppenheimer**.
- **In 1933**, the Oppenheimer couple moved to France to escape the Nazis and had to abandon their art collection in Berlin.
- On **25 January 1935**, their property, which had been confiscated by the Nazis, was **auctioned off by force**.² The public auction took place in the Paul Graupe house; the *Portrait de femme* was sold under number 60.³
- In **1941**, Jakob Oppenheimer died in France. Rosa Oppenheimer, who was deported to Auschwitz, died there in **1943**.⁴
- **In 1950**, the painting was given to the **Louvre** by the Office des Biens et Intérêts Privés.⁵
- Between **1960 and 1999**, the painting was stored at the Mobilier national.
- In **1999**, the *Portrait de femme* returned to the Louvre.
- In **February 2013**, the lawyer for Rosa and Jakob Oppenheimer's heirs submitted a request for restitution to the Service des Musées de France.
- On **11 March 2014**, Aurélie Filippetti, the French government's Minister of Culture and Communication, returned the *Portrait de femme* to the granddaughter of Jakob and Rosa Oppenheimer.
- In **1943**, *Mountainous Landscape* (by Joos de Momper) belonged to **Baron Cassel van Doorn**, a Belgian banker, and was one of 3,478 works⁶ in his collection housed in his mansions in the south of France.
- In **December 1943**,⁷ the painting was seized by a commando of German soldiers "supported by the French Gestapo".⁸ The Baron's collection was taken to Munich in a special rail convoy called Berta, consisting of 18 wagons.⁹
- No information was found as to the location of the *Mountain Landscape* **between 1943 and 1945**. Most of the works in the Cassel van Doorn collection were kept in Munich until they were exhibited in the Linz museum planned by Hitler, but this particular painting does not appear to be

¹ Most of the information presented under this section comes from the press kit produced by the Ministry of Culture and Communication (available at <http://www.culturecommunication.gouv.fr/Presse/Dossiers-de-presse/Ceremonie-de-restitution-aux-ayants-droit-de-trois-tableaux-spolies>, 24.03.2014). References from other sources will be provided in specific footnotes.

² Speech given by Aurélie Filippetti at the restitution ceremony (video available on <http://www.culturecommunication.gouv.fr/index.php/Actualites/En-continu/L-histoire-de-trois-tableaux-voles-par-les-nazis>, 24.03.2014).

³ See for another painting also sold at this sale: Anne Laure Bandle, Alessandro Chechi, Marc-André Renold, "Case Road to Calvary - Oppenheimer Heirs and Private Person," Platform ArThemis (<http://unige.ch/art-adr>), Art-Law Centre, University of Geneva.

⁴ HOFFMAN, p. 186.

⁵ According to Jean-Marie Pontier, this Office des biens et intérêts privés was created in 1919 to deal with property looted during the First World War. Placed under the authority of the Minister of Finance and the Minister of Foreign Affairs, it was responsible for recovering and listing documents, archives, securities, movable objects and other items from the German agencies responsible for sequestering French property in the French departments that had become German after the defeat of 1870, and it was responsible for restoring the property or compensating the owners (or their heirs) in the event of the destruction of the said property. (PONTIER, L. 55-6).

⁶ CARPENTIER, L. 6.

⁷ Speech given by Aurélie Filippetti at the restitution ceremony.

⁸ CARPENTIER, L. 7-8.

⁹ Speech given by Aurélie Filippetti at the restitution ceremony.

- part of such museum' inventory.
- In **1945**, the painting was discovered in the salt mines of Alt Aussee near Salzburg.
 - On **17 November 1945**, the painting was sent to the *Collecting Point* in Munich. The card of this *Collecting Point* contains the indication "Hitler". This indication could mean that the painting was destined for the Linz museum that Hitler wanted to create, although as mentioned it does not appear on the inventory of this museum.
 - On **3 June 1949**, the painting returned to France. It bears the number B (Berta) 3049.
 - In **1950**, the *Mountainous Landscape* was awarded to the **Louvre** by the Office des Biens et Intérêts Privés.
 - In **1953**, it was entrusted to the Musée des Beaux-Arts in Dijon.
 - In **November 2012**, the lawyer for the heirs of Baron Cassel van Doorn submitted a request for restitution to the Service des Musées de France.
 - On **11 March 2014**, Aurélie Filippetti, Minister of Culture and Communication, returned *Mountain Landscape* to the granddaughter of Baron Cassel Van Doorn.
 - In **1941**, **Richard Soepkez**, owner of the painting *Virgin and Child* (by an artist from Lippo Memmi's circle), left Romania, which had become German because he refused to pledge allegiance to the new regime.¹⁰
 - In **1944**, this painting was in the Cannes (France) house of the widow of the Romanian banker Richard Soepkez.
 - In **June 1944**, it was seized by the *Einsatzstab Reichsleiter Rosenberg* (ERR), the service responsible for Nazi spoliations.
 - On **19 March 1946**, the painting passed through the *Collecting Point* in Munich.
 - In **1947**, the work was repatriated to France.¹¹
 - In **1951**, the *Virgin and Child* was given to the **Louvre** by the Office des Biens et Intérêts Privés.
 - Between **1957 and 1982**, the painting was deposited at the Musée des Beaux-Arts in Troyes.
 - In **2010**, Richard Soepkez's heir sent a request for restitution to the Service des Musées de France.
 - On **11 March 2014**, Aurélie Filippetti, Minister of Culture and Communication, returned the *Virgin and Child* to the great-grandson of Richard Soepkez.

II. Dispute Resolution Process

Institutional Facilitator

- As of March 2013, the Ministry of Culture implemented a proactive policy consisting in the French government actively seeking out the heirs of looted families in order to return works classified as Musées Nationaux Récupération (MNR).
- However, the three restitutions at stake here are in line with the prior policy, which consisted of the French government waiting for requests from the heirs before dealing with the restitution of the MRN in question. This policy placed the burden of research on the heirs of families looted by the Nazis.
- Jacqueline Domeyko, granddaughter of Baron Cassel van Doorn, at the restitution ceremony on

¹⁰ Speech by Ion Florescu at the restitution ceremony, video available on <http://www.culturecommunication.gouv.fr/index.php/Actualites/En-continu/L-histoire-de-trois-tableaux-voles-par-les-nazis>,

¹¹ Speech given by Aurélie Filippetti at the restitution ceremony.

11 March 2014, explained that her family, in order to identify the works of art belonging to their grandfather had to conduct research for years in various countries. It was only after having found the *Mountain Landscape* themselves that the heirs of Baron Cassel van Doorn were able, in November 2012, with the help of their lawyer Maître Hershkovitch, to file a restitution request with the Services des Musées de France.¹²

- The Oppenheimer heirs also carried out research to find the works belonging to their ancestors and, to do so, called on a company specializing in this field.¹³ It is only in February 2013 that they were able to file a restitution request with the Services des Musées de France.
- However, it seems that the heirs of Richard Soepkez found the painting belonging to their ancestor somewhat by chance. Richard Soepkez's grandson, Ion Florescu, explained at the restitution ceremony that although his family had been very active in Romania in their search for the restitution of their ancestor's property, they had not conducted any searches in France. It was only during a *Google* search for information about his grandfather that he came across the Rose Valland website and discovered *The Virgin and Child*. Following this fortuitous discovery, a request for restitution was submitted directly by the heirs of Richard Soepkez in 2010 to the Services des musées de France. Ion Florescu insists on the ease with which he obtained the restitution of the painting, very quickly and without the help of a lawyer.¹⁴
- Very little information is available on the exact process carried out by the Service des Musées de France between the submission of the restitution request and the return of the works. However, it is possible to imagine that this service first verifies the validity of the request, then recovers the works from the various museums that have deposited them, and finally makes administrative arrangements for their removal.

III. Legal Issues

Ownership - Statute of limitation

- The three works returned by Aurélie Filippetti on 14 March 2014 are works classified as MNR which, as a result, benefit from a very special legal status regulated by Decree No. 49- 1344 of September 30, 1949 relating to the end of the operations of the artistic recovery commission.¹⁵ Pursuant to Article 5 of this decree, the MNR were placed on deposit or assigned to specific national or provincial museums, but without any transfer of ownership having taken place. These works do not belong to the State, nor to the museums, which are merely custodians. Moreover, the decree requires that the MNRs be listed in an inventory¹⁶ made available to looted or despoiled collectors until expiration of the statute of limitation. Despite three successive bills,¹⁷

¹² Speech given by Jacqueline Domeyko at the restitution ceremony (video available on <http://www.culturecommunication.gouv.fr/index.php/Actualites/En-continu/L-histoire-de-trois-tableaux-voles-par-les-nazis>, 24.03.2014).

¹³Speech by Thierry Tonnelier, lawyer for the Oppenheimer family, at the restitution ceremony (video available at (<http://www.culturecommunication.gouv.fr/index.php/Actualites/En-continu/L-histoire-de-trois-tableaux-voles-par-les-nazis>, 24.03.2014).

¹⁴ Speech by Ion Florescu at the restitution ceremony.

¹⁵ Official Journal of 02.10.1949.

¹⁶ Originally, this inventory requirement led, between 1947 and 1949, to the publication of the Répertoire des biens spoliés en France durant la guerre 1939-1945, which has been digitized and can be consulted on the Rose-Valland Musées Nationaux Récupération website (<http://www.culture.gouv.fr/documentation/mnr/MnR-rbs.htm>, 06.04.2014).

¹⁷ Mattéoli, p. 39.

such deadline has never been set. As a result, looted owners or their heirs may request the restitution of their works without a time limit.

- The special status of MNRs is expressed through various characteristics that differentiate them from works belonging to public collections: (i) they must be accessible to the public; (ii) the cartel, catalogues, guides or any other educational support designating them must include the inventory number with a prefix and a specific mention indicating their provenance and place of deposit; (iii) the exit from the French territory of these works is prohibited (consequently, they cannot be lent for an exhibition abroad).¹⁸
- In order to obtain the restitution of an MNR work, the heirs of looted families who have filed a claim with the Service des Musées de France must provide documents establishing their ownership of the work in question as well as those establishing a genealogical link between them and the looted person.¹⁹ Claimants do not have to prove the existence of the looting since the status of MNR itself entails proof of the looting.

IV. Adopted Solution

Unconditional restitution

- On 11 March 2014, Aurélie Filippetti, the French government's Minister of Culture and Communication, officially returned the three paintings to the rightful owners of the looted families. This is an unconditional restitution as the French state did not ask for anything in return, its action having been dictated by a moral duty.²⁰

V. Comment

- The French government, since the publication of Senator Corinne Bouchoux's report²¹ on this subject, seems to take the restitution of looted works to heart. This concern was illustrated by the setting up, in March 2013, of a working group to trace the origin of the MNRs. This group, which includes historians and archivists, has already been able to establish the provenance of 28 of these works, for which all that remains is to identify the rightful owners by calling on genealogists. As Aurélie Filippetti explains, *France has changed its logic. Until March, a claim was needed to open a restitution file. From now on, we are proactive.*²² This work of memory, of history is dictated, in the words of the Minister, by a moral duty; that of treating restitution claims with the greatest seriousness.²³
- This new "proactive" policy seems to be working since already in March 2013, the Minister had returned seven works among which six paintings from the 17th and 18th century that were returned to Thomas Seldorff.²⁴

¹⁸ Website Rose-Valland National Museums Recovery: <http://www.culture.gouv.fr/documentation/mnr/MnR-pres.htm>.

¹⁹ Ibid.

²⁰ Speech given by Aurélie Filippetti at the restitution ceremony.

²¹ Report by Mrs Corinne Bouchoux, Senator, presented to the Senate in January 2013, "Œuvres culturelles spoliées ou au passé flou et musées publics: bilan et perspectives (http://www.senat.fr/fileadmin/Fichiers/Images/redaction_multimedia/4P_C_Bouchoux_oeuvres_spoliees_vJM_cor_C_B.pdf, 23.02.2014).

²² Bommelaer, L. 8-9.

²³ Speech given by Aurélie Filippetti at the restitution ceremony.

²⁴ Speech given by Aurélie Filippetti on 19 March 2013 (<http://discours.vie-publique.fr/notices/133000709.html>)

- The heirs of the looted families welcome this attitude of the French government because they stress the difficulty of the administrative steps required for restitution. They also emphasize how important and symbolic it is for heirs to obtain the restitution of works that belonged to their family. As Jacqueline Domeyko, granddaughter of Baron Cassel van Doorn, rightly puts it, obtaining a painting means recovering a memory, an identity.²⁵

VI Sources

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b. Legislation

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c. Documents

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d. Media

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²⁵ Speech given by Jacqueline Domeyko at the restitution ceremony.