Case Troy Gold – Turkey and the University of Pennsylvania Museum of Archaeology and Anthropology

In September 2012, the University of Pennsylvania Museum of Archaeology and Anthropology decided to loan indefinitely to Turkey a collection of antique jewelry that the Museum had acquired in 1966. The collection was probably illicitly excavated in Troy, a city in Northwest Turkey. In return, Turkey agreed to provide the Museum important loans and further collaboration in the field of archaeology.

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

Pre 1970 restitution claims

- **1966**: The University of Pennsylvania Museum of Archaeology and Anthropology (“Penn Museum”) purchased from George Allen, a Philadelphia antiquities dealer, 24 pieces of gold jewelry dating from the Early Bronze Age (circa 2400 BC)\(^1\). The biggest motivation for this acquisition was their similarity to the Early Bronze Age jewelry of Troy, the Homeric city located in northwest Turkey, which is why the collection was named “Troy Gold”\(^2\). Following the acquisition, George Bass, the then assistant curator of the Penn Museum studied the jewelry and concluded that it was difficult to link the collection to a specific site like Troy. Instead, two other sites could possibly be its location of origin (Poliochni on the island of Lemnos in Greece and Ur in southern Iraq)\(^3\).

- **1970**: Uncertainty about the Troy Gold’s provenance urged the Museum to adopt the “Pennsylvania Declaration”\(^4\) prohibiting the acquisition of undocumented objects. The Museum is the first institution to take such a stand\(^5\) (even prior to the adoption of the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property\(^6\)).

- **February 2009**: Scientists from Germany reexamined the Troy Gold and found a particle of soil inside one object which was not noticed before. The analysis of the soil showed that its composition was consistent with the soil in Troy\(^7\).

- **2009**: Officials from the anti-smuggling department of the Ministry of Culture and Tourism in Turkey realized that in the Penn Museum’s collection, there were certain items that might have originated from Troy\(^8\). The same year, Robert Hecht, the indicted American dealer who sold the famous Euphranios Krater to the Metropolitan Museum of Art\(^9\), affirmed in an

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\(^3\) See University of Pennsylvania Museum of Archaeology and Anthropology Press Release, “Penn Museum Strengthens Partnership with Turkey, Agrees to Indefinite Term Loan of Troy Gold.”


\(^7\) See University of Pennsylvania Museum of Archaeology and Anthropology Press Release, “Penn Museum Strengthens Partnership with Turkey, Agrees to Indefinite Term Loan of Troy Gold.”


interview to be involved in the sale of the Troy Gold with George Allen acting as his agent.10

- **In late 2011**, Turkish authorities contacted the Penn Museum to discuss an eventual return of the Troy Gold to Turkey11.

- **2012**: Following negotiations, the parties reached an agreement. The Museum agreed to transfer the Troy Gold to Turkey on an indefinite loan and in return, Turkey consented to provide important loans to the Museum for future exhibitions and to support the excavations of the University of Pennsylvania in Turkey12.

- **1 September 2012**: The Troy Gold is sent to Turkey by the Penn Museum13.

## II. Dispute Resolution Process

**Negotiation – Settlement agreement**

- Turkey and the Penn Museum settled the controversy regarding the provenance of the Troy Gold in an amicable way14. The long-standing partnership between the parties in the field of archaeology was certainly a key factor in the resolution process. The University of Pennsylvania has indeed been conducting excavations at the site of Gordion (the capital of the Phrygian Kingdom) in central Turkey since 195015. Brian Rose, Professor at the University of Pennsylvania and the curator in charge for the Museum’s Mediterranean section, co-directs the excavations at Gordion since 2006. He is also the head of Post-Bronze Age excavations at Troy since 199116. Being an academic conducting field work at the very site of Troy and a curator at the Museum, he was able to supervise the process involving the Troy Gold for many years17.

## III. Legal Issues

**Illicit excavation – Illicit exportation – Ownership**

- The Troy Gold was sold to the Penn Museum without any documentation18 which may suggest an illicit provenance. The connection of Robert Hecht to the sale is an important

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10 See Avril, “Penn museum lends possibly plundered items to Turkey.”
11 See University of Pennsylvania Museum of Archaeology and Anthropology Press Release, “Penn Museum Strengthens Partnership with Turkey, Agrees to Indefinite Term Loan of Troy Gold.”
12 See Avril, “Penn museum lends possibly plundered items to Turkey.”
14 We would like to thank Zeynep Bayrak from the anti-smuggling department of the Ministry of Culture and Tourism in Turkey for all the useful information she provided on the negotiation process.
17 See University of Pennsylvania Museum of Archaeology and Anthropology Press Release, “Penn Museum Strengthens Partnership with Turkey, Agrees to Indefinite Term Loan of Troy Gold.”
18 See Avril, “Penn museum lends possibly plundered items to Turkey.”
element to support this claim. Furthermore, the scientists who studied the Troy Gold in different time periods and with different techniques believed that it had been looted. The archeologist George Bass underlined several times in an article published in 1970 that the collection was not excavated under scientific conditions. German scientists and Professor Brian Rose who studied the collection later on shared the same opinion. However, none of them could confirm and definitely determine its place of origin as Troy because of the lack of archaeological data. Therefore, the information above can hardly constitute substantial evidence in favor of Turkey to prove the link between the collection and Troy.

- Assuming that this Early Bronze Age jewelry comes from the site of Troy, they should be considered as illegally exported. Turkey has a strict regulation regarding the export of cultural properties since the end of the nineteenth century. The legislation in force at the time of an eventual export (around the 1960s) was the Decree on Antiquities of 1906. According to this Decree, newly found antiquities were State property and they could not be taken out of the country. As a result, in this hypothesis, not only Turkey’s export control regulations are violated but also its ownership title.

- The Penn Museum adopted on 1 April 1970 the “Pennsylvania Declaration” by which the Museum commits not to purchase antiquities “unless the objects are accompanied by a pedigree – that is, information about the different owners of the objects, place of origin, legality of export”. This important document was reinforced by the Museum’s acquisition policy of 1978. In principle, Turkey cannot base its return claim on the Declaration since it is not retroactive. However, it seems to have had an indirect effect on negotiations. Following the return of the object, Professor Brian Rose explained the difficulty of determining the “fate of cultural property whose only certain provenance is the art market” and added that the Museum “continued to adhere to the principles of the “Pennsylvania Declaration” that the Penn Museum formulated 42 years ago.” It is clearly important for the Museum not to contradict its own principles even if they are not applied directly to a case in a strictly legal sense.

21 Asar-ı Atika Nizamnamesi, 29 Safer 1324 (1906).
23 The policy states that the Museum “will not knowingly acquire, by gift, bequest, exchange or purchase any materials known or suspected to be illegally exported from their countries of origin, (…) and will actively discourage the collection of such material, exhibiting such material in the University Museum,” The University Museum Acquisitions Policy, May 2, 1978, Expedition 22/ 3 (1980): 3, accessed April 6, 2013, http://www.penn.museum/documents/publications/expedition/PDFs/22-3/The%20Pennsylvania.pdf.
24 Ibid.
25 See University of Pennsylvania Museum of Archaeology and Anthropology Press Release, “Penn Museum Strengthens Partnership with Turkey, Agrees to Indefinite Term Loan of Troy Gold.”

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IV. Adopted Solution

Loan – Cultural cooperation

- The agreement between the Penn Museum and the Turkish Ministry of Culture and Tourism resulted in the transfer of the Troy Gold to Turkey under an indefinite loan. The Museum thus retained ownership.
- In return, Turkey undertook to provide “the loan of a group of remarkable artifacts excavated in a series of royal tombs at Gordion and in Lydia for a future major exhibition at the Penn Museum”26. Furthermore, Turkey committed to support the University of Pennsylvania’s excavations at the archaeological site of Gordion.
- Finally, both parties agreed to increase their cultural collaboration in the future27.

V. Comment

- The present case illustrates very well the fact that restitution claims by source nations are no longer a terrifying threat for museums but a way to strengthen their relations and to collaborate. As commented by the Penn Museum’s director, Dr. Julian Siggers, the agreement with Turkey “is right and appropriate” and “will lead to great opportunities – for Penn, for Philadelphia, and for the wider archaeological community – to experience more of Turkey’s rich cultural history and heritage in future”28. It is important for university museums like the Penn Museum, which conduct their own expeditions, to secure their continued access to the sites in source countries.
- The Museum transferred only the possession of the Troy Gold to Turkey (even if the loan is granted for an indefinite period) and not the ownership. Julian Siggers explained that this was due to the lack of substantial evidence for the provenance of the collection29. Museums act indeed very carefully when they consider returning objects that are claimed to be illegally exported before 1970. Since the UNESCO Convention was adopted in 1970, the legal regime governing the return of objects exported before this date is still under debate. By doing so, museums intend to prevent other source countries from claiming further objects from their collections based on their ownership right.
- Julian Siggers considers the agreement to be a win-win solution30. As a result, Turkey ensured the return of the Troy Gold which was the main priority during the negotiation process31. The Penn Museum in turn was thereby able to demonstrate its compliance with the principles adopted under the Pennsylvania Declaration and avoid eventual court actions.

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26 Ibid.
27 Ibid.
28 Ibid.
29 See Avril, “Penn museum lends possibly plundered items to Turkey.”
31 The Troy Gold is expected be later displayed in a new museum planned to be constructed in the archaeological site of Troy. The question of where an object will be displayed once it is returned to the source country still has certain importance for museums. Kültür Varlıkları ve Müzeler Genel Müdürlüğü, “Amerika'dan İadesi Sağlanan Troya Eserleri (2012 A.B.D.).”
proceedings that may have damaged its reputation as an institution. Besides, the Museum could also negotiate for specific loans (artefacts from the site of Gordion) and a privilege for excavations which seem to be unusual concessions for Turkey\textsuperscript{32}. The long established relationship between the parties appears to have shaped the outcome of the negotiations.

VI. Sources

a. Bibliography


b. Documents


c. Media


\textsuperscript{32} It is interesting to compare this case to the dispute regarding the Orpheus mosaic where Turkey negotiated with another American museum, the Dallas Museum of Art, for the return of an illegally excavated and exported mosaic and reached an agreement only three months later, in December 2012. Unlike in the Troy Gold case, the Orpheus mosaic was returned definitely to Turkey (both the ownership and the possession) and the parties agreed to jointly select the items to be loaned to the Museum in future. It is important to note that in the Orpheus Mosaic case, Turkey could prove with substantial evidence that the mosaic was illegally excavated and exported from Turkey after 1970. Therefore, it seems that the Museum did not have serious concerns about returning the object considering also that it has newly established its art loan program and seeking for partnership with source countries. Ece Velioğlu, Alessandro Chechi, Marc-André Renold, “Case Orpheus Mosaic – Turkey and Dallas Museum of Art,” Platform ArThemis (http://unige.ch/art-adr), Art-Law Centre, University of Geneva.

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