

## **The large scale of post-war restitution the restoration policy of the cultural heritage of the occupied countries**

On 8 May, 1945 in Reims, at General Eisenhower's headquarters and on 9 May in Berlin, at Marshal Zhukov's headquarters, Germany surrendered unconditionally. The post-war period began, each country determining the policy it would implement. In France, policy was set by General de Gaulle, who was the very incarnation of Free France since the appeal he had made from London through the BBC's air waves on 18 June, 1940. The provisional government, created on 2 June, 1944, was determined to restore national unity, without seeking to settle all of the accounts of the Occupation, considering that it was more important for France to gain an important place on the international stage.

One of the cases he had to deal with was that of settling the conflict with Germany. To understand the mindset that prevailed at the time, it is enlightening to re-read a passage from the third volume of his *Mémoires de guerre* [*Memories of War*] in which de Gaulle summarises in three pages a picture of the state in which France found itself after four years of the Occupation<sup>19</sup>: "None, on the outside, wanted to deny us one of major roles in the world" writes De Gaulle. "But, on the inside, the state of France could be expressed in a balance sheet of ruin". Materially, "one third of French wealth had been annihilated". Buildings destroyed, factories no longer in working order, "railway stations crumbling, tracks broken, bridges blown up, canals obstructed, ports in chaos", one million hectares of land no longer producing crops, another fifteen million hectares producing derisory yields: "Everywhere, there was a lack of tools, of fertiliser, seedlings and good seed. The amount of livestock had been reduced by half".

In forcing the French to finance the occupation of their country<sup>20</sup>, "the enemy allocated exorbitant amounts of money to itself, which it used not only to maintain armies, but also, paid for with our money and sent to Germany innumerable machine tools and massive quantities of consumer goods". The black market, requisitions, fines and outright theft had despoiled France and tens of thousands of working days imposed for the sole benefit of the enemy had aggravated the destitution. "Peace found our economy deprived of a large share of its means of production, our finances crushed under a colossal public debt, our budgets condemned for a long time to bear the enormous cost of reconstruction".

Consequently, France's priority in 1944 was reconstruction; political reconstruction of course, both internally as well as on the international scene, but also and crucially, economic reconstruction: there was an urgency to repair the material damage and restore financial, agricultural, industrial and commercial activity. The definition of the reparations due from Germany was thus a vital issue;<sup>21</sup> among many other items, it involved works of art.

Reading this text enables one to measure just how silent France was at the time of the Liberation on the subject of the deportation of the Jews: 76,000 people, one quarter of the Jews of France, of whom only 2,500 returned. During the post-war period, the discourse about deportations was general; no distinction is made concerning the destruction of the Jews. Further up, in the same text, de Gaulle continues to discuss the dramatic scale of the loss of

human life : "There died, at the hands of the enemy, 635,000 French men and women, of whom 250,000 were killed in combat, 160,000 in air raids or massacred by the occupiers, 150,000 victims of the torture of the deportation camps, 75,000 died as prisoners of war or in forced labour. Additionally, 585,000 people were permanently disabled".

In fact, the only French witness mentioned in the Nuremberg Trials in 1946 was Marie-Claude Vaillant-Couturier, a political deportee, member of the French Communist Party and the widow of Paul Vaillant-Couturier, Director of the Communist daily newspaper *L'Humanité* ; the circulation of a clandestine poem by the poet, Louis Aragon, written in 1943, and entitled *Je vous salue Maries de France* [*Hail Marys of France*], was symbolic of the situation :

Since I cannot repeat all of them here,  
The hundred names, to sons, brothers, husbands so dear  
It is you whom I salute, saying at this moment, the worst  
Saying, Marie-Claude, Hail Mary

Sixty years later, in a speech given in Amsterdam in 2006, Mrs Simone Veil would depict this silence, this absence of acknowledgement : "The return was, I repeat, terrible : we were alone, enclosed in our solitude, especially as what we had experienced was something no one wanted to know about. What we had to tell, no one wanted to share the burden with us. In a Europe liberated from Nazism, who really cared about the Jews who had survived Auschwitz? We were not resistance fighters, we were not soldiers, even though some of us were true heroes, and for the history that was already beginning to be written, for the damaged memory being forged by the first reparatory myths, we were undesirable witnesses.

Even the Nuremberg Trials, whose sixtieth anniversary was have just commemorated, had barely taken into account the dimensions of the Shoah in the crimes against humanity which, for the first time in history, were being judged. It was a matter of creating a new concept with which to judge mass crimes, of which the victims had been Jews of course, but Jews were not at the heart of the discussions."<sup>22</sup>

It is in this context that the organization of the return to France of works transferred to Germany during the Occupation and the provisions made for their restitution should be viewed.

## **1. Recovery performed by the Allies in Germany**

From 1942, the Allies worked on the measures to be taken to enable the recovery of the national economies of the countries occupied after the conflict had ended. These reflections covered a very wide field, including investments, means of production and commercial and immovable property ; the question of works of art was obviously included.

The whole of the restitution policy implemented by the allied governments in the Western block after 1945 is based on the Inter-Allied Declaration against Acts of Dispossession Committed in Territories under Enemy Occupation or Control issued in London on 5 January, 1943 against acts of expropriation committed in territories under occupation or enemy control. The 18 governments who were signatories to the Declaration reserved "all their rights to declare invalid any transfers of, or dealings with, property, rights and interests of any description whatsoever which are, or have been, situated in the territories which have come under the occupation or control, direct or indirect of the Governments with which they are at war, or

which belong, or have belonged to persons (including juridical persons) resident in such territories. This warning applies whether such transfers of dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected". This declaration was transposed into French legislation in an ordinance promulgated on 12 November, 1943 by the French National Committee. The taking of this position concerned mainly those countries that ought thus to be able to reconstitute their assets, but it was the responsibility of those conducting the investigations to take restitution decisions on behalf of their nationals. It was thus not directly aimed at individuals.

From May 1945, the U.S. armies soon discovered, thanks in particular to the information supplied by Rose Valland, that there were important repositories owned by the *ERR* which were located in Germany (Neuschwanstein and Buxheim) Austria (Kogl and Amstetten) and Czechoslovakia (Nikolsburg). They also seized the entire collections of institutions (the Linz Museum) and of Nazi leaders (Goering, Ribbentrop, Hitler, Himmler, etc.), for items that were the result of spoliation, mainly implemented by the German embassy or the *ERR*, or acquired from dealers who were eager to sell to good buyers. These items were recovered and stored by the Allies in provisional depots known as Collecting Points. These were located in Munich and Wiesbaden in the American Zone, Düsseldorf in the British Zone and Baden-Baden in the French zone.

Collections looted by the *ERR* were sent to the Collecting Points along with items of a completely different origin, since they resulted in the main part from purchases made by the German on the Parisian art market. In fact, transactions entered into by German institutions or individuals were considered as having contributed to the impoverishment of the occupied territories. The German museums, leaders and individuals wanting to make acquisitions in France actually benefited from exceptional advantages because the rate of exchange for the Reichsmark had been fixed at an extremely favourable rate of 20 francs to the 1 mark, whereas the true rate of exchange ought to have been 10 francs in June, 1940.

These acquisitions had to be declared by those who had made them and the corresponding items were seized and transferred to the Collecting Points. Even though individuals were rarely capable of indicating the name of the dealer from whom they had purchased the item, the inventories of the museums stated the names of the gallery owners, antique dealers and even individuals from whom they had made purchases, thus enabling them to determine which items should be returned to France. The measures involved thirty or so German and Austrian museums, highlighting major purchases made in Paris especially by museums in Salzburg, Wuppertal, Krefeld and Düsseldorf, and showing that certain Parisian gallery owners had actively collaborated with the occupying power; several of them were convicted after the Liberation by the Commission for the Confiscation of Illicit Profits, including Raphaël Gérard, Alice Manteau and Martin Fabiani.

The extent of the research conducted in the Collecting Points is well known thanks to contemporary evidence and the files that they created.<sup>23</sup> The archives of these services, preserved in the National Archives in Washington, including tens of thousands of files describing the works, known as Property Cards, which were scrupulous in providing all of the provenance information known at the time and currently preserved in Koblenz, show the care with which these operations were conducted. The agents working in the Collecting Points, some of whom were art historians, were able to use the *ERR* archives<sup>24</sup> that had been found in the Neuschwanstein depot, inventories of the Goering collections and those of the German museums; they worked in cooperation with the agents of the Office of Strategic Services who

conducted interrogations of the most important protagonists, such as Gustav Rochlitz, a German dealer who played a significant part in the exchange transactions with the *ERR*, and Maria Dietrich, who sold a lot of items to the leaders of the Nazi regime. Meticulous investigations were performed of the *ERR*, of Goering's collection and the project to create the Linz Museums. Representatives of various countries were also present on a permanent basis. In the case of France, the work was performed in cooperation with an institution with special responsibility for works of art and books, the *Commission de récupération artistique* [Commission for Artistic Recovery] (CRA).

## **2. The *Commission de récupération artistique* (1944-1949) : procedures, working methods and restitution of 45,000 works**

The restitution of works of art<sup>25</sup> was thus considered by France in the immediate post-war period as just one item in the dossier of reparations due from Germany, which also included goods of an economic nature (tools of production, transport equipment), gold currency and securities. The prime objective was the recovery of the country's economy and no specific share was devoted to the spoliation linked to the Anti-semitic laws.

The provisional government assigned responsibility for all of these matters to the Office for Private Property and Interests, a body created after World War I and through which the Ministry of Foreign Affairs, to which it was attached, supervised the implementation of the economic clauses of the Treaty of Versailles concerning the problems of private property. The specific problems posed by the identification and discovery of cultural assets led to the creation of the *Commission de récupération artistique*<sup>26</sup> which was responsible for conducting research leading to the recovery of works of art, historic souvenirs, items of value, documents from archives, books and manuscripts removed by the enemy or under its control from local authorities or French nationals and to recover and check, for the purpose of recovery, the statements made by interested parties and any useful item of information pertaining thereto.

The Commission was quickly set up and, held its first meeting to decide on the outline of what it intended to do on 19 September, less than a month after the Liberation of Paris and even before its official creation under a decree dated 24 November, 1944.

### **Numerous and seasoned teams**

The National Museums and especially Jacques Jaujard, their director, who a few months later was appointed Director of Arts and Letters, were behind the initiative to create the Commission and played a decisive role in its operation.

The presidency was given to Albert Henraux (1881-1953) who had been President of the Society of Friends of the Louvre since 1932. Henraux was himself a great enthusiast and informed collector, very familiar with the art world of both collectors and dealers. The organization of the work of the seventeen employees who worked for the Commission in 1945 (whose numbers were increased to thirty in 1949) was supervised by Michel Florisoone, conservator at the Louvre and familiar with international cultural exchanges thanks to the experience he had acquired previously at the Ministry of Foreign Affairs ; Rose Valland contributed her inestimable experience that had been acquired during the four years she spent at the Jeu de Paume in daily contact with the services of the *ERR*, and who also knew German well ; the role of Suzanne Kahn was also of considerable importance, since she had been secretary to Jacques Jaujard until the passing of the anti-Semitic laws.

In June 1945, a department for the recovery of books, documents from archives, manuscripts and autographs was created on the initiative of Julien Cain, who had been re-appointed administrator of the Bibliothèque Nationale after his return from Buchenwald concentration camp to which he had been deported ; the department was run by Camille Bloch, a member of the Institute, and on 1 January, 1948 it consisted of a chief librarian, three librarians, three typists, four warehousemen and twenty or so men and women employed in classification<sup>27</sup>.

Knowledge of the collections and being accustomed to examining works of art were essential attributes if progress was to be made in the research. Carle Dreyfus (1875-1952), who had previously been a conservator in the Département des Objets d'Art, contributed his erudition and experience from a long career to the Commission. Much of the work was allocated to specialists from outside the Commission including a number of museum conservators, librarians, archivists, artists, decorators and collectors, but excluding any dealer or professional valuer in order to avoid any possible conflicts of interest.

When first created, the CRA was housed in the Jeu de Paume where it remained until it was transferred to new premises in August 1946 at 20 bis Avenue Rapp and at 3 Rue de Montessuy.

### **2,289 claim files**

As was the case in all the other recovery operations, the opening of the files was subordinate to the declaration made by the owners or their beneficiaries either to the Office of Private Property and Interests which transmitted cases mentioning cultural property to the CRA or directly to the CRA.

Wherever possible, the applications had to be supported by documentary evidence : lists of works, certificates and, in the best of cases, photographs.

The *Commission de récupération artistique* had to examine 2,289 application files<sup>28</sup>. A certain number of applications were rejected due to lack of sufficient evidence of ownership or because the items requested were not within the terms of reference of the CRA. Certain situations revealed themselves to be more delicate. For instance, Étienne Nicolas, who claimed two Rembrandts, *Landscape with Castle* and *Portrait of Titus*, had his request for restitution rejected on the grounds that he had sold them voluntarily through an intermediary named de Dequoy, to the German dealer Haberstock, who intended them for Linz ; Nicolas also had to pay a fine of 60 million francs, the amount of the transaction with the Germans, for having "contributed material to the impoverishment of the State".<sup>29</sup>

### **Publication of the *Répertoire des biens spoliés***

Based on the application files 85,000 forms<sup>30</sup> were typed since, in order to make identification possible, the items were classified - using the order traditionally followed in art history - by artistic technique (painting, drawing, tapestry, ceramic, etc.) and, within each technique, according to specific criteria. For paintings, for example, in alphabetic order of artist. The works identified as having been traded during the Occupation were classified in a special file.

These files were also used as a basis for preparation of the publication of the *Répertoire des biens spoliés* [List of Looted Property] published between 1947 and 1949 by the Restitution Bureau of the French Commander-in-chief in Germany the ten volumes of which also covered industrial equipment, transport equipment, securities and horses as well as art objects.

The second volume of this list is devoted to paintings, tapestries and sculptures, the third to

furniture and the fourth to silverware, ceramics and precious objects. Existing photographs of the works are reproduced. Not all the spoliations are included, among those left out are the major collections found after the fall of the Reich still in their original crates in the *ERR* depots, such as the David-Weill collections found in Neuschwanstein castle.

The distribution of the list was designed to warn dealers and was arranged by the Central Bureau for Restitution in Germany and by the *Commission de récupération artistique* which had about a hundred copies of each volume for this purpose. The volumes were sent to museums and galleries, mostly in France, Germany and Austria. The United States also made copies which were sent to museums, administrations and customs authorities.<sup>31</sup>

### **Cooperation with the *Collecting Points***

The CRA was in constant contact with the Allied Collecting Points in Germany in Baden-Baden (French zone), Düsseldorf (British zone) and especially to Wiesbaden and Munich (American zone), where the artworks had been assembled which had been found in the *ERR* depots, in the collections of the Nazi leaders (Goering, Hitler, Ribbentrop, etc.) as well as purchases made by museums and individuals who were required to declare them. After a first trip to Germany in May, 1945 by Rose Valland, Jacques Dupont and Guy Gaudson, Pierre-Louis Duchartre was appointed permanent representative of the CRA with the occupation forces while Rose Valland headed the Artistic Recovery Service as head of the Fine Arts Section of the Division of Interior Affairs of the French Group of the Control Council. Relations with the Soviet Occupation Zone were almost non-existent, however.

### **Other sources of information**

The CRA also benefited from the results of interrogations conducted by the Americans in Germany and Austria, investigations performed by the French Intelligence Services (DGER), and those conducted by the police as part of the inquiries ordered by the Court of Justice, the Committee for the Confiscation of Illicit Profits and the Customs Administration.

### **60,000 items returned to France**

If certain items were discovered to still be in France in buildings occupied by the *ERR*, at the German embassy and in a freight train loaded by the *ERR* and stopped in the suburbs in Paris in Aulnay, on 27 August, 1945, the lion's share of the items recovered came from the former territories of the Reich. The number of consignments is impressive : 40 arrived from Munich (between 14 August, 1945 and September 1945 to December 1949) and 6 from Düsseldorf in the British zone (between 4 March, 1948 and 15 October, 1950). An exhibition held at the Orangerie in the Tuileries in the summer of 1946 displayed to the public some of the masterpieces that had returned in this way.<sup>32</sup> The quantitative assessment of the restitution is provided by a summary table<sup>33</sup> dated 7 June, 1950 consisting of an addendum to the report by the *Commission de récupération artistique* (CRA). A total of 61,233 items were recovered, most of them in Germany and Austria (58,477), the rest in France (1,895), Czechoslovakia (808), Switzerland (39), Italy (10) and Belgium (4). Of these 61,233 items, 41,778, two-thirds of them, had been recovered by 1950. Another document, the date of which remains to be specified<sup>34</sup> indicates that 14,043 items were remitted to the Estates in order to be sold, while 200 frames and blank canvases were donated to Entraide, an association whose aim was to assist young artists. An interim report dated 15 October, 1948 provides an indication of the difficulties of counting in this instance, mainly because some of the items had been inventoried in lots and not piece by piece and also because of the damage caused by an accident to a consignment on its way back from Buxheim and which consisted mainly of porcelain and ceramics.

It should be noted that difficulties remain even today. For example, the porcelain diner service ordered during the Occupation by Goering from the Sèvres manufactory was returned from Germany after the War and part of it is currently preserved in the National Museum of Ceramics but it could be considered as either one unit or as twenty-one objects.

The restitution operations continued after the dissolution of the CRA in 1949. Naturally, they were of particular importance to the major dealers and collectors due to the quality of the works which rendered them more easily identifiable and the existence of documents to back up the applications (stock lists, inventories, their display in exhibitions, insurance policies, photographs). The prestigious Rothschild collections were in the first rank : 1,300 works, including 256 paintings and drawings were returned to Maurice de Rothschild, more than 1,000 to Alexandrine de Rothschild, 300 to Edmond de Rothschild, including 203 paintings and drawings, and including exceptional works such as Vermeer's *Astronomer* which was returned to Edouard de Rothschild after having been destined for Hitler. Another 695 items were returned to the Seligmann galleries, including 188 paintings and drawings, 500 to C. Stern.

The CRA had certainly worked for a small number of beneficiaries, but it contributed decisively to the reconstruction of private collections which constituted the flower of the French art heritage and supported the determined efforts of dealers in their attempts to regain their businesses and once again give Paris an important place on the art market. In this, it appears to have fully accomplished the task allotted to it.

After five years' work, the activities of the *Commission de récupération artistique* officially ended on 31 December, 1949<sup>35</sup>. The question of restitution remained the responsibility of the Office of Private Property and Interest which processed the files in cooperation with the Service for the Protection of Works of Art (Direction des Musées Nationaux), where Rose Valland worked. Until the early 1960s, she continued to conduct the investigations and was mainly responsible for exchanges of information with the services of the German Federal Republic.

### **3. The fate of works that were never restituted**

The fate of works that could not be returned was covered in the Ordinance passed on 21 April, 1945<sup>36</sup>, which stipulated that the owners could present their demands for restitution within one year from the legal date of cessation of hostilities and that the furniture recovered and not returned within a two-year period from this same date would be assigned to the Administration of Estates under the rules applicable to the sale of property owned by the State. The extent of the recoveries made in Germany and taking into account the complexity of the research to be conducted postponed the time limit twice, in the order of 18 August, 1946, and subsequently the order of 29 October, 1947.<sup>37</sup>

#### **Two thousand items remitted to the custodianship of the Musées Nationaux**

In March 1948, the museums put forward the idea that the importance for the national heritage of certain works that had never been recovered required the State to apply special provisions to them<sup>38</sup>. Their sale at auction would require the State, if it wanted to become the purchaser, to make considerable disbursements which might be difficult if not impossible to contemplate in view of the modesty of budgets immediately after the war ; some such works might even be sent abroad. This position was taken into account in the decree of 30 September, 1949, which, while putting an end to the activities of the *Commission de récupération artistique*, instituted,

through its article 5, two commissions, the so-called "Commissions of Choice", whose tasks were to select from among the art objects in the case of one and among books and manuscripts in the case of the other, items that were of the greatest interest. The commission responsible for art works was chaired by the Director-General of Arts and Letters (Jacques Jaujard), assisted by the Director of the Musées de France (Georges Salles). Its members included representatives from the Administration of Estates, the Director of the Office of Private Property and Interests, the head conservators of Musées Nationaux, the Inspector-general of Provincial Museums and the Conservators of the Provincial Museums. It met in eight sessions, from 27 October, 1949 to 17 June, 1953.<sup>39</sup>

Of the 16,000 items that had never been returned, 2,000, i.e. just under 15%, were retained on very wide criteria that were stated in the following terms at the session held on 21 December, 1949 : "Paintings of high quality, worthy of the Louvre, then paintings by secondary masters but signed and dated or unusual and rare works destined for the study rooms of the Louvre and for its reserves. Then a certain number of paintings were considered with the intention of offering them to historical museums. The provinces were also of particular concern in this classification. Finally, it was believed that occasion could be seized for the purpose of starting a collection of works destined to supply embassies, ministries and other official bodies"<sup>40</sup>. Finally, forgeries were also retained in order to prevent them being circulated on the market. The sessions did not last long, rarely exceeding between one and one and a half hours : they only had to validate the lists arranged by technique (painting, sculpture, drawings, etc.) which had no doubt been prepared in advance by the museums.

As part of the dramatic history of the period 1940-1950 which bears the imprint of administrative and political cultures, which can be described at the very least as contradictory, but all of which are very productive of files which have now become archives, the episode of the Commissions of Choice leaves the researcher hungry to learn more. The opacity and silence concerning this arrangement lead one to believe today that its work was performed rapidly and with great carelessness. The items chosen were assigned to the custodianship of the Musées Nationaux, which registered them in special inventories, for so called recovery; they are the items now designated by the acronym MNR (Musées Nationaux Récupération).

### **Thirteen thousand items sold by the Estates Administration**

The remaining 13,463 items or lots remaining were remitted by the Office of Private Property and Interests to the Administration of Estates, which was responsible for selling them. An examination of the detailed list<sup>41</sup> produced at the time shows the heterogeneous nature of the collection. It contains a few important pictures but above all objects of very variable quality, essentially modern furniture (beds, tables, divans, chairs), which explains why only 1,527 of them are identifiable.

They also have a variety of provenances : many of them are of unknown origin, others were purchased (such as parts of the porcelain service ordered by Goering from the Sèvres manufactory) as well as objects for the names of owners are mentioned. These items were sold between 1950 and 1953, in the Estates saleroom in the Rue de Richelieu, as part of sales that dispersed objects that did not originate from the single artistic recovery, and they were advertised in the *Bulletin officiel d'annonce de l'administration des domaines*, which gave details of the lots, and illustrations for the most important works which were put on display before the sale.

A few items fetched particularly high prices, such as that achieved for *La Maréchale de Luxembourg et sa famille* [The Marshal of Luxembourg and his Family] by Lancret, and *L'Intérieur d'une taverne* [Interior of a Tavern] by Van Ostade, which went for 3,200,000 francs and 705,000 francs respectively on 6 March, 1951, or *Garzano, Chevrier en vue d'un village* [Garzano, Goatherd with a view of the Village] by Corot, which went for 3,900,000 francs on the following 7 June<sup>42</sup>. Many of the items of little value were sold in lots, especially in the case of silverware. The total proceeds from these sales amounted on 25 June, 1953 to 98,720,000 francs, and was assessed in September, 1954 at one hundred million old francs<sup>43</sup>.

Whether a work had been looted or not was not taken into account in the criteria of the Commission of Choice, but it is certain that items that had been looted then rediscovered in Germany were thus once again placed on the market with ever having been returned to their owners. There may be various reasons for this, the items not having been reclaimed by owners who no longer lived in France, who did not want to reclaim them or who had disappeared or been killed. A few of the works whose owners were known but which were not the subject of requests for restitution were then sold, such as a set of views of Nuremberg that had belonged to Hermann Arnstein ; in some cases the owners did not reply to letters that had been sent to them or decided not to recover the item. At least one case is known in which the owner was only recognised after the item had been sold. The solution chosen was financial compensation.<sup>44</sup>

The sale of looted items that had been returned to their owners who then sold them is of another nature entirely. This is the case, for instance, with the Schloss collection. Following the partial restitutions performed after the war, a major share of the collection was dispersed at the time of the major sales on 25 May, 1949 and 5 December, 1951. In the case of yet others, restitution occurred without the intervention of any official service; the gallery owner, Paul Rosenberg, for example, negotiated directly for the restitution of his works with the Zurich industrialist, Emil Bührle.

### **The status of the 2,000 MNRs**

The items chosen by the Commission of Choice were consigned to the custodianship of the National Museums in an order issued by the Ministry of National Education<sup>45</sup>. The decree of 30 September, 1949 stated:

- there was an exhibition of these works between 1950 and 1954 to the National Museum of the Château de Compiègne which had sufficient space,
- their inclusion in a provisional inventory was made available to persons whose property was looted : they are included in provisional inventories known as "recovery inventories" and are distinguished by numbers preceded by a specific acronym which indicates their origin : MNR (Musées nationaux récupération) in the case of pictures, OAR (Objets d'art récupération) for art objects, Rec (Récupération) for drawings, etc.

Article 5 of the decree contained two obligations (exhibiting the items and making the inventory available) within a time limit. The vague formulation could lead to the thought that only the second obligation, "making the inventory available" was included within the deadline. Yet the minutes of the discussions that preceded the drafting of the decree show that the wording "until the expiry of the legal time limit for claiming" applies to both obligations. The time limits fixed in the texts of 1945 and 1946 had passed by then; the last one, fixed by the decree of 1947, expired at the end of 1949.

Three draft bills to fix the time limit were drafted successively.<sup>46</sup> In the case of the first, which is similar to the text of the decree, "works of art [recovered and not claimed] can no longer be the subject of a claim after the expiry of a period of three years from the date of publication of the law". After these three years, the State would become the owner. The two other drafts follow a completely different logic : the State would become the owner as soon as the items were remitted, but the right to claim them as having been looted was nevertheless not extinguished. In one of the two projects, this right persisted for thirty years. In the other, it had no statute of limitations. The State, as soon as it received them became the owner of the works which nevertheless could be returned immediately as soon as proof of ownership was produced by the applicants. None of these three bills was ever voted into law. This was also the case with the work performed in 1947 to draft a bill concerning art objects sold to German buyers during the Occupation and which would have covered a large part of the MNRs.<sup>47</sup>

Faced with this situation, in the 1990s, the directorate of the Museums of France sought the legal opinion of the Chancellery and the Council of State and received that of the Cour des Comptes (Revenue Court). In view of the diversity of the positions expressed, no decision was taken and the status of the MNRs remained as it was.

#### **4. Other restitution procedures**

The policy and working methods adopted by France in respect of restitution was shared by the other occupied countries of Western Europe, especially Belgium and the Netherlands.

The issue of cultural property arose differently in Belgium since the Belgian private collections and art galleries that existed at the start of the war were much more modest than in France. The spoliation was implemented by the Belgian section of the *ERR* and some of the items were also transferred to the services of the *ERR* in Paris ; Jewish families were also victims of looting of their flats. A conservative estimate considers that 885 art objects of Jewish collectors were sent from Belgium to Germany, so the scale is much smaller than in the French situation. Following international agreements concerning restitution, Belgium created an *Office de récupération économique* (Office for Economic Recovery) (ORE) on 16 November, 1944, and a small unit, run by the art historian Raymond Lemaire, dealt specifically with cultural assets, based to a large extent on the work of the Americans and the French who did the identification work at the Collecting Points.<sup>48</sup> For Belgium, one essential symbolic challenge was the *Altarpiece of the Holy Lamb*, an unsigned work by Van Eyck, the return of which to the cathedral of Saint-Bavon in Ghent on 30 October, 1945 was the occasion of solemn ceremonies at which Jacques Jaujard, who had become Director-general of Arts and Letters on 6 January, 1945, represented France. The Belgian recoveries mainly involved libraries and archives; an additional 1,155 cultural assets were returned from Austria and Germany, of which 62 were restored to four Jewish families. An exhibition entitled *Chefs-d'œuvre récupérés en Allemagne [Masterpieces Recovered in Germany]*, was organised at the Palais des Beaux-Arts in Brussels in November and December, 1948, accompanied by a catalogue published by Editions de la Connaissance. In 1948, the Ministry of the Economy also produced a publication entitled *Répertoire d'œuvres d'art dont la Belgique a été spoliée durant la guerre 1939-1945 [List of Works of Art of which Belgium was Despoiled during the war of 1939-1945]*. As in France, the museums sought custodianship of certain items. The ORE remitted 132 works of art to them valued at 5,301,000 BEF, the sum being paid to the Administration of Estates ; the ORE also sent 239 archaeological items found at the *ERR* depot in Nikolsburg to the Royal Museums of

Art and History. A total of 639 cultural assets were remitted by the ORE to Belgian cultural institutions.

In the Netherlands<sup>49</sup>, the recovery of works of art was assigned to the Dutch Foundation for Artistic Property (*Stichting Nederlands Kunstbezit*, SNK), created on 11 June, 1945. Its members included the Director of the Rijksmuseum, the Director of the Royal Institute of Art History (RKD) and two representatives of the art market. Working in close collaboration with the other allied countries in the Western Zone, and especially the Monuments and American Fine Arts & Archives Service (MFA&A), the Foundation was able to bring several thousand works of art back to the Netherlands. Exhibitions of the most outstanding works were organised in 1946, mainly in The Hague and Utrecht, accompanied by the publication of a catalogue. In 1953, about 470 pictures were returned to their legitimate owners who had to pay a sum representing 2.75% of the value of the works. Another 719 paintings were auctioned and 18 sold by direct sale, while 120 carpets and an indeterminate number of objects and furnishing were sold for a total value of just over 50,000 florins. In 1952, responsibility for the remaining 4,579 works, including 1,600 paintings, was assigned to the Collections Service of the Ministry of Education, Arts and Sciences. These items were designated under the appellation *Nederlands Kunstbezit* (NK).

The Dutch NKs and the Belgians are thus very similar to the French MNRs. They are items that were sent to Germany during the Occupation, but were returned to their country of origin that could be determined thanks to the declarations of the owners, documentation or markings, especially customs marking, affixed to the works.

After these restitutions on a large scale performed in France, Belgium and the Netherlands, numerous items remained that had not been claimed by any country. These were mainly to be found at the Collecting Point in Offenbach, where archives, art objects and religious items had been assembled which appeared to have come from Jewish families or communities, without it being possible to identify their country of origin. The redistribution of this property, consisting mainly of religious objects, was the subject of discussion implemented by the Jewish Restitution Successor Organization (JRSO), which was an offshoot of the Joint Distribution Committee, and which in 1948 was appointed legitimate heir to the property. The issue was to distribute these objects not on the basis of their geographical provenance but in accordance with what were then considered new centres of Jewish life<sup>50</sup>. The distribution was made between the diaspora in the United States (40%), Israel (40%) and various communities throughout the rest of the world (20%). The 113 religious objects sent to France were allocated in 1951 to the Jewish Museum of Art in Paris and are today preserved in the Museum of Jewish Art and History. In Israel, these items were assigned to the Bezalel Museum and were subsequently transferred to the Israel Museum in Jerusalem.<sup>51</sup>

The main limitation on the recovery operations conducted in Germany in the immediate post-war period was the result of the position then adopted by the Soviet Union which did not apply the principle of the return of the items to their country of origin, considering that they constituted part of the reparations that were theirs by right, in compensation for the immense efforts they had had to make in the conflict.

## Footnotes

19. Charles de Gaulle, *Mémoires de guerre*, vol. III, "Le Salut, 1944-1946", 1959, pp. 233-235.

20. France was required to make a daily payment of 400 million francs, destined mainly for the German administration and the troops.

21. On this subject, see Claude Lorentz, *La France et les restitutions allemandes au lendemain de la Seconde Guerre Mondiale, 1943-1954* [*France and German Restitution in the Aftermath of World War II, 1943-1954*], published by the Direction des archives et de la documentation du Ministry of Foreign Affairs, 1998, 348 p.

22. Speech by Mrs Simone Veil, President of the Foundation for the Commemoration of the Shoah, Amsterdam, 26 January, 2006.

23. See Craig Hugh Smyth, *Repatriation of art from the collecting point in Munich after World War II*, La Haye, Maarssen, 1986, 126 p.; Craig Hugh Smyth, "The Establishment of the Munich Collecting point", in *Spoils of war, World War II and its aftermath: the loss reappearance and recovery of cultural property*, Elisabeth Simpson (ed.), New York, Harry N. Abrams, 1997, 336 p.; Lynn Nicholas, *The Rape of Europa: The Fate of Europe's Treasures in the Third Reich and the Second World War*, New York, Knopf, 1994, 498 p.

24. Concerning the archives of the ERR, see A.J. van der Leeuw, "The best years", in *The Return of Looted Collections (1946-1996): an Unfinished Chapter, Transactions of the Amsterdam Conference, 15 and 16 April 1996*, Amsterdam, 1997, pp. 19-25.

25. The most detailed description of the restitution of works of art is to be found in chapter VIII of Claude Lorentz's book entitled *La France et les restitutions allemandes au lendemain de la Seconde Guerre Mondiale (1943-1954)* published by the Direction des archives et de la documentation of the French Ministry of Foreign Affairs in 1998 (348 p.). The Commission for Artistic Recovery published a balance sheet of its activities in *Documentation française* in 1949 entitled *Spoliations et restitutions des biens culturels et privés (objets d'art ou précieux)*, Notes et études documentaires, no. 1109.

The archives of the *Commission de récupération* artistique, included with those of the Service for the remitting in place of works of art, are preserved in the Archives of the Ministry of Foreign Affairs; the whole consists of more than 900 boxes. They have been subjected to computerised cross-matching.

26. Decree of 24 November, 1944; the setting up of the administrative services by decree of 28 August, 1945.

27. The work of this section was the subject of a detailed report in the mid-seventies: Jenny Delsaux, *La Sous-commission des livres à la Récupération artistique, 1944-1950*, Paris, 1976, 63 p.

28. Most of the information provided here concerning the Commission for Artistic Recovery was supplied to us by Marie Hamon, curator-in-chief at the Direction of Archives and Documentation of the Ministry of Foreign Affairs; in particular we used her typewritten study entitled *La Récupération des biens culturels spoliés* [The Recovery of the Looted Cultural Property, 1944-1995], written in 1993 and updated until 1999.

29. See L.H. Nicholas, *op. cit.*, p. 481.

30. See Marie Hamon, *op. cit.*, p. 95.

31. *Ibid.*, p. 21.

32. This exhibition resulted in the publication of two editions of the catalogue: first edition, *Les Chefs-d'œuvre des collections françaises retrouvées en Allemagne par la Commission de Récupération artistique et les services alliés*; second edition, *Les Chefs-d'œuvre des collections privées françaises retrouvées en Allemagne par la Commission de Récupération artistique et les services alliés*; Paris, Orangerie des Tuileries, June-August 1946, 91 p., 283 issues.

33. MAE/ARD/RA box 713.
34. See Marie Hamon *op. cit.*, p. 97.
35. In application of the decree of 30 September, 1949.
36. Ordinance no. 45-770 of 21 April, 1945.
37. Decree no. 47-2105 of 29 August, 1947.
38. See the letter from the Minister of National Education at the Garde des Sceaux (Treasury) 4 March, 1948 (MAE/ARD/RA C 381 P 13).
39. The Commission held four sessions at short intervals in 1949, on 27 October, 17 November and 19 and 21 December; after this, it met no more than once a year, on 25 October, 1950, 29 May, 1951, 28 March, 1952 and 17 June, 1953. Minutes of the selection commissions are preserved in the MAE (as well as AMN series Z 15B "recovery").
40. Minutes of the session held on 21 December, 1949 (AMN Z15B "Récupération") Forgeries and pastiches not to be placed again on the market were also included.
41. This list was transferred to computer by the Ministry of Foreign Affairs and was communicated to the Mission as an appendix to the sectorial report produced by the Ministry of Finance. It was used as a basis by the experts responsible for Finance to estimate the actual value that these items might have today.
42. See *Annuaire du collectionneur*, 1951.
43. See MAE/ARD/RA box 583 R 39.
44. This statuette of St Sebastien in enamel, gold and crystal (*État des biens passés aux Domaines*, p. 606) belonged to Maurice de Rothschild.
45. Most of the information supplied here comes from the intervention by Monique Bourlet, "Le statut juridique des MNR" [The legal status of the MNR] published in the proceedings of the colloquium entitled *Pillages et restitutions : le destin des œuvres d'art sorties de France pendant la Seconde guerre mondiale, Actes du colloque organisé par la Direction des musées de France le 17 novembre 1996 à l'amphithéâtre Rohan de l'École du Louvre sous la présidence de Françoise Cachin, directeur des musées de France*, Paris, direction des Musées de France et Adam Biro, 2000, 191 p.
46. See the file of the Collections Department of the Direction des musées de France.
47. See MAE/ARD/RA C 404 / P 48.
48. Prime Minister's Service, Study Commission on the Fate of the Property of Members of the Jewish Community of Belgium looted or abandoned during the War 1940-1945, *Les Biens des victimes des persécutions anti-juives en Belgique, Spoliation, Rétablissement des droits: Résultats de la Commission d'étude*, July 2001, 467 p.
49. *Origins unknown, Report on the pilot study into the provenance of works of art recovered from Germany and currently under the custodianship of the State of the Netherlands*, April, 1998.
50. See Kurtz (Michael J.), *America and the Return of Nazi Contraband, The Recovery of Europe's Cultural Treasures*, Cambridge, Cambridge University Press, 2006, 288 p.
51. See Kurtz (Michael), *America and the Return of Nazi Contraband, The Recovery of Europe's Cultural Treasures*, Cambridge, Cambridge University Press, 2006, 288 p.; Steinberg (Shlomit), "On the Road to Recovery: World War II and the Retrieval of Looted Artworks" (in publication). The list of the items can be consulted on the Israel Museum website and was posted in August 2007 ([www.imj.org.il](http://www.imj.org.il)). They will be displayed at an exhibition to be held at the Israel Museum in Spring, 2008.