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The Washington Principles *à rebours*: Explaining Poland's current restitution policy

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Abstract

This article inquires into Poland's current approach to the implementation of the Washington Principles on Nazi-Confiscated Art. It argues that it is more focused on the recovery of national heritage than on providing justice to Holocaust victims and their heirs. First, it discusses the outputs of the Expert Group established in 2009 to implement provenance research in line with the Washington Principles's recommendations. It explains the failure of this initiative by bringing into focus the wider context of the inheritance of the war-time displacements and splitting of collections. It argues that Holocaust victims' assets are one of many problematic items in Polish memory institutions and that the unresolved issue of post-war nationalizations are often perceived as an argument that hinders the Washington Principles's implementation. It outlines the notions of "Polish war losses" and "national cultural goods" and discusses in detail the Polish provenance research databases. It notices that restitution in Poland is increasingly considered as an important national identity-building tool and analyzes several recent educational and branding initiatives of this kind.

Introduction

In September 2016, the Immigration and Customs Enforcement (ICE) unit of the US Department of Homeland Security seized a seventeenth-century painting from the villa belonging to the actor and performer Craig Gilmore and to the painter David Crocker in Silver Lake, Los Angeles, United States.¹ The ICE agents informed them that the artwork hanging in their living room, a female portrait by a minor Dutch painter, Melchior Geldorp (active circa 1615–37), was looted by the Nazis from the National Museum in Warsaw and was the subject of a claim by the Polish state. The seizure was undertaken upon a formal request of the Polish Ministry of Culture and National Heritage (MCNH). Hence, although Gilmore acquired the painting in good faith through Doyle's online auction,² he had to face the legal action by the MCNH and ICE. Having consulted the Los Angeles lawyer Randol Schoenberg, who represented Maria Altmann in the famous Klimt case,³ Gilmore decided to voluntarily return the painting to the Polish state. In September 2018, the painting was

¹ C. Gilmore, "This Painting Was Looted by the Nazis, Then Seized from My Living Room," *Los Angeles Times*, 4 December 2016, <https://www.latimes.com/opinion/op-ed/la-oe-gilmore-polish-looted-art-20161204-story.html> (accessed 20 December 2021).

² Cronin 2018, 519.

³ *Republic of Austria v. Altmann*, 541 U.S. 677 (2004).

handed over to the National Museum during an official ceremony in the presence of Piotr Gliński, the Polish deputy prime minister and minister of culture and national heritage; Georgette Mosbacher, the US ambassador to the Republic of Poland; Heike Spelt, an investigator in the Department of Homeland Security, as well as Gilmore and Crocker.⁴

Tellingly, the ceremony took place on the year of the twentieth anniversary of the adoption of the Washington Principles on Nazi-Confiscated Art (Washington Principles).⁵ While there was no mention of the anniversary during the ceremony, the Washington Principles are a key factor in explaining the main aspects of this “restitution” case – that is, Poland’s claim, the official involvement of ICE, and Gilmore’s motivation to return the painting. In an official statement, the MCNH framed the return of the painting as a restitution of Nazi-looted art to the rightful owner (the Polish state), accomplished in collaboration between Polish officials and American investigators.⁶ Poland, a signatory state of the Washington Principles, has consistently used this instrument to reclaim national property looted, lost, and displaced during World War II. Moreover, in carrying out this task, it readily resorts to the judiciary and police forces rather than to the mediation of expert bodies or commissions established in accordance with the Principles’ recommendations to address and assist claims to Nazi-confiscated art. Gilmore, struggling to understand the history of his painting, the nature of the claim, and the MCNH policy, came to the conclusion that Poland’s search for its lost patrimony can be explained by its communist past, which prevented the issue of restitution of Holocaust-era assets from being resolved in the aftermath of the war.⁷ In his motivation to return the painting, however, he was driven by the spirit of the Washington Principles. In a letter addressed to the National Museum in Warsaw, and the people of Poland, he presented his decision to return the painting as being motivated above all by repatriation in the memory of Holocaust victims.⁸

In this article, the return of Geldorp’s portrait to the National Museum in Warsaw (the “Geldorp case”) is taken as the starting point for a “twenty years after” reconsideration of the implementation of the Washington Principles in Poland.⁹ Their provisions, endorsed by forty-four states and thirteen non-governmental organizations (NGOs), recommend provenance research into Nazi-confiscated art held in institutional collections and, wherever possible, their restitution or just and fair solution to their pre-war owners or their heirs. Since 1998, thousands of works have been returned to the rightful owners, and provenance research has become a standard practice in many memory institutions and auction houses. Despite this, several countries, including Poland, have either not adequately implemented the recommendations of the Washington Principles or have consistently misinterpreted their provisions. The Geldorp case perfectly demonstrates the Polish “à rebours” application and interpretation of the Principles: it is focused on the integrity of national heritage rather

⁴ J. Borowski, “From LA Dining Room to Warsaw’s National Museum: Looted WWII Art Returned after More Than 70 Years,” *The First News*, 15 September 2018, <https://www.thefirstnews.com/article/from-la-dining-room-to-warsaws-national-museum-looted-wii-art-returned-after-more-than-70-years-2254> (accessed 20 December 2021).

⁵ Washington Principles on Nazi-Confiscated Art, 3 December 1998, <https://www.state.gov/washington-conference-principles-on-nazi-confiscated-art/> (accessed 2 November 2019).

⁶ See “Po ponad 70 latach ‘Portret damy’ Melchiora Geldorpa wrócił do Muzeum Narodowego w Warszawie” [After more than 70 years Melchior Geldorp’s *Portrait of a Lady* has returned to the National Museum in Warsaw], <http://www.mkidn.gov.pl/pages/posts/po-ponad-70-latach-bdquoportret-damyrdquo-melchiora-geldorpa-wro-cil-do-muzeum-narodowego-w-warszawie-8701.php?p=30> (accessed 20 December 2021). For an overview of Poland’s restitution efforts in the United States, see Perl 2013.

⁷ Gilmore, “Painting Was Looted.”

⁸ Craig Gilmore, “Provenance Letter of Our Lady Addressed to the National Museum, Warsaw and the People of Poland,” 2 October 2016, Archive of the National Museum in Warsaw.

⁹ For an insightful consideration of the same problem, see also Cieślińska-Lobkowicz 2020.

than on claims brought by individuals or on the fundamental issue of doing justice to Holocaust victims and to their heirs.

In its “à rebours” interpretation of the Washington Principles, Poland recognizes itself as a “pre-war owner” entitled to claim its rights to all Nazi-confiscated art removed from Polish territory. Thus, it extends the Principles’ application – confined to private (mainly Jewish) assets – to Polish national heritage. This is puzzling, considering that Poland is not only a signatory of the Principles but also of all subsequent international declarations on Holocaust-era assets (the 2000 Vilnius Forum Declaration and the 2009 Terezin Declaration).¹⁰ Importantly, the Principles are also recognized by the International Council of Museums (ICOM) in its 1999 Recommendations Concerning the Return of Works of Art Belonging to Jewish Owners¹¹ and the 2001 Resolution no. 8 urging museums to encourage action by their national governments to ensure full implementation of the provisions of the international documents on the identification and return of looted or stolen Jewish cultural property¹² and confirmed by the Resolution of the Council of Europe on Looted Jewish Cultural Property.¹³

Poland’s specific approach to its responsibilities in the matter of Nazi-confiscated art has been highlighted by Stuart E. Eizenstat in a speech at the conference 20 Years of the Washington Principles: Roadmap to the Future, which was hosted in November 2018 by the German LostArt Foundation to mark the twentieth anniversary of the Washington Principles. Eizenstat, widely regarded as their architect, named Poland among the five states that were, and still are, slow to address the statements they signed in 1998.¹⁴ Referring in particular to the claims of the heirs of Jacques Goudstikker to works kept in public Polish collections,¹⁵ which have remained unaddressed by the Polish public authorities, he noted that, “[t]o date the Polish government insists they will only handle Polish artworks that had been taken out of Poland.”¹⁶

In this article, I will ask why the recommendations referring to research into Holocaust-era assets and to the restitution of Nazi-confiscated art have hardly been implemented by the Polish state and its public memory institutions, and, consequently, why Poland has not yet assessed the scale of Jewish art and heritage in its public collections. I will not discuss, however, the wider context of the restitution of Jewish property in Poland and its legal implications. Much has been written about Poland’s ongoing reluctance to resolve this fundamental issue.¹⁷ It has also been repeatedly pointed out that Poland has neither implemented a legal restitution framework nor a restitution policy.¹⁸ Furthermore, I will not go into detail over the issue of Jewish assets, libraries, and collections preserved in Polish

¹⁰ See the “Vilnius Forum Declaration,” *Looted Art*, <https://www.lootedart.com/MFV7EE39608> (accessed 20 December 2021); see also “Terezin Declaration,” <https://2009-2017.state.gov/p/eur/rls/or/126162.htm> (accessed 20 December 2021).

¹¹ See “ICOM’s Recommendations Concerning the Return of Works of Art Belonging to Jewish Owners,” *Looted Art Commission*, <https://www.lootedartcommission.com/OXSHQE36019> (accessed 20 December 2021).

¹² See “ICOM’s Resolution no. 8,” *Looted Art Commission*, <https://www.lootedartcommission.com/OXSHQE36019> (accessed 20 December 2021).

¹³ See “Resolution 1205 (1999),” <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=16726&lang=en> (accessed 20 December 2021).

¹⁴ W. D. Cohan and D. William, “Five Countries Slow to Address Nazi-Looted Art,” *New York Times*, 26 November 2018, <https://www.nytimes.com/2018/11/26/arts/design/five-countries-slow-to-address-nazi-looted-art-us-expert-says.html> (accessed 20 December 2021).

¹⁵ Grimsted 2015.

¹⁶ Cohan and William, “Five Countries.”

¹⁷ See, among others, Weissman 2012; Załączna 2012; Bazyler and Gostynski 2018; Woźniak 2018; Bazyler et al. 2019, 312–56.

¹⁸ Oost 2012, 165–68.

memory institutions, referring to insightful studies by Nawojka Cieślińska-Lobkowicz, a renowned provenance researcher.¹⁹ Instead, I will seek to explain the origins and premises of Poland's restitution policy and its "obsession" with the search for, and recovery of, assets removed from Poland in connection with World War II.

This article begins by briefly summarizing the complex issue of Holocaust-era assets in Polish memory institutions and discussing the activity of an expert group established by the MCNH in 2009 to implement provenance research in line with the Washington Principles. Following an explanation of the consequences of the failure of this project, I discuss the present-day implications of the legacy of postwar nationalization in Polish museums. I argue that confiscated Jewish assets are one of the many problematic items within their holdings. Indeed, mass-scale nationalization, displacement, and splitting of collections formed the grounds of the postwar museum network in Poland and still constitutes a firm foundation of the present-day one. I argue that the unresolved issue of the postwar nationalization precludes the proper implementation of the Washington Principles. Poland applies its provisions to pursue state claims and does not redress the claims of individuals.

To this end, I analyze the current state of provenance research in Poland, with particular reference to the Catalogue of Polish War Losses, one of the earliest online provenance research databases established according to the provisions of the Principles. I explain the notion of "Polish war losses," which is key to provenance research in Poland. In analyzing Poland's restitution policy, I explain another fundamental category – "national cultural goods," introduced in the 2017 Restitution Act – and explain how this latter instrument has recently petrified the peculiar Polish understanding of the Principles. By showing how the rise of information technology and branding strategies has recently made restitution a central element of official educational and promotional programs and strategies aimed at the building of official cultural and national identity in Poland, I also argue that restitution is an important pillar of political propaganda. In conclusion, I return to the Geldorp case. Moving away from the legal and policy contexts, I analyze the struggle of the American owners to understand the core of Poland's "*à rebours*" restitution policy.

Holocaust victims' assets in Polish memory institutions

To meet the provisions of the Washington Principles referring to the research into, and identification of, Nazi-looted art in its public collections, following the signing of the Terezin Declaration, Poland appointed in 2009 the Expert Group on Provenance Research of Jewish Cultural Property in Polish Public Museums (Expert Group), consisting of established and experienced museum professionals, MCNH officials, and NGO experts. For the first time since 1998, the Expert Group officially acknowledged the vast and underestimated issue of Holocaust-era assets in Polish memory institutions and the need for its systematic research and examination.

Next to aristocracy and landowners, Jews belonged to the largest group of private collectors in pre-war Poland. Furthermore, they were generous patrons of Polish and Jewish museums, libraries, and other cultural institutions.²⁰ Considering, however, both the scale of wartime seizures, looting, and relocations of Jewish collections and the scale of the extermination of their owners, even a tentative extent of the losses of Jewish heritage has been extremely difficult to estimate. As pointed out by Cieślińska-Lobkowicz, Jewish assets were on the margins of the Polish documentation of cultural losses prepared during the war and in its aftermath, and the corresponding documentation of Jewish assets compiled from

¹⁹ Cieślińska-Lobkowicz 2009a, 2009b, 2018, 2020, 2021.

²⁰ Cieślińska-Lobkowicz 2018.

the initiative of Jewish individuals and organizations was obviously not free of serious gaps and lacunae, particularly in respect to private collections.²¹ Still, up until today, this documentation – in particular, the 1946 Tentative List of Jewish Cultural Treasures in Axis-occupied Countries,²² which was prepared by the Commission on European Jewish Cultural Reconstruction – remains the most complete and reliable source on looted and destroyed Jewish heritage in Poland.²³

Despite the extent of cultural genocide in Poland, many Jewish art objects and collections have managed to survive in Polish memory institutions where they have been placed for safekeeping by their owners. In the aftermath of the war, however, only a small share of these assets has been returned. According to the provisions of the postwar nationalization laws, such property – described as “post-Jewish” (*mienie pożydowskie*) – was generally considered as abandoned – that is, allegedly ownerless.²⁴ Its restitution, like elsewhere in Europe, was subject to limitations (for example, time restrictions, the definition of heirs confined to the nearest relatives), which made it virtually impossible for most Holocaust survivors to claim their property.²⁵ The same laws provided for the nationalization of public and private collections and assets on the Western Territories (the former German lands assigned to Poland in the aftermath of the war). Although they made exceptions for non-German property, the nationalization, in practice, also extended to Jewish collections and assets (including those confiscated by Nazis in Germany, Poland, and other countries and secured in the museums or deposes in the Western Territories). These collections and assets found their way to public memory institutions, along with objects and artworks of Jewish provenance appearing on the Polish art market during the war and in its aftermath. In the general postwar chaos, many collections were split between two and more institutions.²⁶

Only the preserved collections of former Jewish communities were seen as an integral whole. They were nationalized and entrusted by the Polish authorities to the Jewish Historical Institute (JHI), a public institution founded on the grounds of the Jewish Historical Commission, an organization established in August 1944 to document the Nazi crimes against the Jews and to save as much Jewish legacy in Poland as possible.²⁷ In the mid-to-late 1940s and early 1950s, the JHI’s museum and library became the repository of former collections of Jewish communities in Poland discovered by the JHI or by Polish authorities in the former German deposes in the Western Territories, in the American occupation zone in Germany and Czechoslovakia, and in several Polish public institutions. Furthermore, in 1949, the Polish Ministry of Culture transferred to the JHI a rich collection of Judaica, Jewish books, and archives with a Berlin provenance, which had been found in the ex-German deposes in the Castle of Bożków in Silesia.²⁸

The early postwar years constituted the most significant period *vis-à-vis* the search, registration, and preservation of Jewish cultural assets. Since that time, nothing or very little has been done to research and identify the Jewish provenance of artworks and collections in the holdings of Polish memory institutions. This is well evidenced in the juxtaposition of two official statements referring to Jewish assets in the holdings of the

²¹ Cieślińska-Lobkowicz 2020, 204–8.

²² “Tentative List of Jewish Cultural Treasures in Axis-occupied Countries by the Research Staff of the Commission of European Jewish Cultural Reconstruction,” reprinted as a supplement to *Jewish Social Studies* 8, no. 1 (1946): 1–48.

²³ Cieślińska-Lobkowicz 2009a, 165.

²⁴ Barelkowski and Kraft 2014, 62–96; Weizman 2017, 36–37.

²⁵ Campfens 2021, 98–105.

²⁶ Cieślińska-Lobkowicz 2020, 218–19.

²⁷ Cieślińska-Lobkowicz 2009a, 159–62.

²⁸ Cieślińska-Lobkowicz 2009a, 161.

National Museum in Krakow, released more than a half-century apart. In 1946, Feliks Kopera, the then director of the National Museum in Krakow, confirmed at a hearing of the Polish Security Office that his institution held a large share of Jewish assets left during the war for safeguarding.²⁹ In 2006, however, his successor Marek Świca stated with equal conviction that the problem of Jewish assets does not concern this institution. He stressed that the museum's inventory of books did not reveal any hint of such objects and collections, not mentioning (and possibly not aware of) the fact that, in the postwar museum documentation, provenance was very often neglected, intentionally generalized, and even forged.³⁰

Starting from the outputs of the postwar period, the Expert Group issued a set of provenance research recommendations and a questionnaire in order to urge Polish public museums to assess the range of looted artifacts with Jewish provenance in their collections.³¹ The Expert Group implored them to implement provenance research into any kind of artistic and historical objects, regardless of the objects' links with the Jewish religion and culture. Considering Jews as those defined under the Nuremberg Race Laws, the group urged museums to clear up the provenance of museum objects that might have been unlawfully taken or looted from their Jewish owners as well as deposited by them for safekeeping or sold under duress during the Nazi era. The recommendations discussed and explained the complex German, Soviet, and Polish legislation under which the property of Jewish individuals, religious communities, organizations, and institutions had been sequestered, looted, or nationalized on present-day Polish territories in the years of approximately 1939–50.

As a result, the holdings of Polish public museums might have included Jewish assets with a complex provenance and legal status – that is, first sequestered or looted by the Nazis in Western Europe; then secured on territories assigned to Poland in the aftermath of the war; and finally nationalized under the 1946 Decree Regarding Post-German and Abandoned Properties³² and assigned to a Polish public museum, where they were recorded in the inventory without any mention of their pre-war Jewish provenance. The questionnaire and recommendations issued by the Expert Group also described other circumstances in which Polish public institutions might have acquired Jewish assets: war-time safekeeping of Jewish artifacts and collections (never reclaimed or nationalized under the 1946 Decree); nationalization following the 1944 Decree on Agrarian Reform;³³ and acquisition on the art market and/or donations.

Recalling the example of Gustave Courbet's *View of Ornans* from Mór Lipót Herzog's collection, which in 1946 was erroneously transferred to Poland from the storage of Nazi-looted art in the Fischhorn Castle (Zell am See in Austria), the Expert Group noted that, given the wartime and postwar displacements of art works and collections, Polish public museums might hold Jewish provenance artifacts from all over Europe. Moreover, the Expert Group stressed the complex legal status of Poland's Western Territories, where the sequestration

²⁹ "Protokół przesłuchania prof. Feliksa Kopery w sprawie zbiorów i depozytów Muzeum Narodowego w Krakowie" [Minutes of the Hearing of Professor Feliks Kopera on the Collections and Long Term Loans in the National Museum in Krakow], LXVI no. 521, Archive of the National Museum in Krakow.

³⁰ Dorota Jarecka, "Nie grabiliśmy, nie zwracamy" [We didn't plunder, we don't restitute], *Gazeta Wyborcza*, 21 February 2006, <https://wiadomosci.gazeta.pl/wiadomosci/7,114873,3176507.html> (accessed 20 December 2021).

³¹ Bandurska et al. 2012. For the English overview and summary of the article, see "December 2012 Poland Publishes Provenance Research Guidelines," *Looted Art*, <https://www.lootedart.com/PRQMQG465261> (accessed 20 December 2021).

³² "Dekret z dnia 8 marca 1946 r. o majątkach opuszczonych i poniemieckich," *Dziennik Ustaw*, 1946 nr 13 pozycja 87, <http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19460130087> (accessed 20 December 2021).

³³ "Dekret Polskiego Komitetu Wyzwolenia Narodowego z dnia 6 września 1944 r. o przeprowadzeniu reformy rolnej," *Dziennik Ustaw*, 1944 nr 4 pozycja 17, <http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19440040017> (accessed 20 December 2021).

and looting of Jewish property had begun already as early as in 1933 and was intensified with the adaptation of the Nuremberg Race Laws. The Expert Group's recommendations included a general roadmap to provenance research and a set of aids and tools, such as the index of Jewish private collectors, religious communities, libraries, archives, schools, hospitals, and other organizations on the territories of pre-war Poland and in the Western Territories; a list of auction houses, galleries, and antiquarian shops in Europe and Poland that might have trafficked confiscated and looted Jewish artifacts and collections; a list of Nazi and Polish storage places of looted art; and archival sources and a bibliography.

Unfortunately, the Expert Group's questionnaire and recommendations – based on the earlier efforts undertaken by Polish NGOs (the Stefan Batory Foundation, the national ICOM branch, and the Association of Art Historians) and aimed at sensitizing the Polish authorities on the issues involved in the implementation of the Washington Principles and setting out the provenance research trends in European and US museums – remained on paper only. Published in 2012 in a short research article in the MCNH-founded museum studies journal, *Muzealnictwo*,³⁴ they were not implemented in any of the Polish memory institutions. Furthermore, in 2012, the Expert Group was dissolved, and its output passed into oblivion.

Museum amnesia: the legacy of postwar nationalization in Polish memory institutions

The issue of Holocaust-era assets in Polish museums should be considered in the wider context of the postwar reorganization of the Polish museum network, which was accompanied by a massive – often ahistorical and ideologically driven – merging and centralization of collections. Given the enormous scale of destruction and looting of the holdings of Polish memory institutions, it was generally agreed after 1945 in the museum and library community that the nationalized cultural goods should be allocated to compensate and rebuild Polish public museums and libraries. First, the holdings of Polish memory institutions were rebuilt with collections and artifacts nationalized on the Western Territories. In 1946, the Association of Polish Museums recommended not to reconstruct the collections of German museums on these lands but, rather, to create on their grounds new ones reflecting Polish culture and responding to the needs of the Polish nation, science, and education.³⁵ Polish art, prehistory, and ethnography were supposed to be at the heart of the new institutions and supplement their regional focus. The holdings of the former German museums – which, in particular, reflected the universal canon of art – could be transferred freely and used in the reconstruction of the main Polish public museums. Thus, for example, some of the most-treasured pieces of antique, medieval, Western, and non-European arts and crafts from the holdings of the former German museums in Wrocław (Breslau), Gdańsk (Danzig), or Szczecin (Stettin) were transferred to the National Museum in Warsaw, a pre-war civic institution transformed in the years 1945–50 into the main central state museum. A similar fate was shared by furnishings and altarpieces from the nationalized Protestant churches and by what was left from the most precious private collections and furnishings of the aristocratic and bourgeois residences on the Western Territories.

Second, the holdings of Polish memory institutions were supplemented with private aristocratic collections and museums nationalized after World War II. Such multigenerational collections – comprising archives, libraries, picture and sculpture galleries, armories, interior decorations, applied arts, and so on – were often split between the holdings of various memory institutions. Precious manuscripts, historic prints, and incunabula enriched the collections of the National Library in Warsaw; Polish nineteenth- and

³⁴ Bandurska et al. 2012.

³⁵ Związek Muzeów w Polsce 27, Archive of the National Museum in Cracow.

twentieth-century books and prints were used to “Polonise” libraries in the Western Territories; academic books and journals ended up in university libraries; the most important Western masterpieces, prints, and drawings cabinets were destined for the network of national museums; armory and military pieces were sent to the Museum of the Polish Army in Warsaw, and so on.

Third, the holdings of Polish memory institutions were rebuilt with assets from state, civic, and private memory institutions nationalized, liquidated, or not reconstructed in the aftermath of World War II and, finally, with private collections and artifacts deposited at the time of the war in public memory institutions for safekeeping. Following the provisions of the 1946 Decree Regarding Post-German and Abandoned Properties – just like the post-Jewish assets – if their owners did not reclaim them in time and effectively, they were to be nationalized.

Today Polish memory institutions have a problem with the legacy of the above-mentioned postwar reorganizations and nationalizations. The democratic transformation was not accompanied by either a systemic solution or even a more general in-depth discussion about this “inheritance” from postwar and communist times. Thus, the present-day status of the museum holdings referred to above are in limbo. Moreover, there has not been any serious attempt to face the problems surrounding the collections nationalized in the aftermath of World War II and split between various institutions. Their original locations and their historical provenance – not considered important at the time of the transfers – are often blurred, forgotten, or hidden. Such issues are only approached, if at all, on an ad hoc basis in response to claims by the heirs of the pre-war owners challenging the legality of the nationalizations, which refers, in particular, to the assets and collections nationalized under the 1944 Decree on Agrarian Reform. The extension of its provisions to private residences and their furnishings was challenged on several occasions in the 2000s by rulings of Poland’s Constitutional Court.

Provenance research in Poland: The *Catalogue of Polish War Losses* database

The Washington Principles and the subsequent international declarations on Holocaust-era assets, explicitly encouraging the identification of Nazi-era looted art in public collections, provide guidelines for dealing with the complex inheritance of the postwar nationalizations in the Polish public collections. Since the early 1990s, however, the Polish government has been consistently promulgating provenance research and methods of its own, which focus on the category of “Polish war losses” – that is, “artefacts from public, private and ecclesiastical collections lost as a result of World War II from the post-1945 territory of Poland.”³⁶ Moreover, instead of clearing up provenance issues in its public memory institutions, the Polish state is fostering research for lost Polish artifacts in foreign museums and collections in the first place. Following the signing of the Washington Principles, Poland has intensified its specific provenance research policy and given it a solid institutional basis. In 2001, the Unit of War Losses was established within the framework of the MCNH to document the war losses, search for them in museums and on the art market, and institute restitution claims. Moreover, provenance research is state controlled and centralized. In spite of the current trends in European and world museology, until today, not even one Polish museum has attempted to pursue its own autonomous policy in this matter.³⁷

At the heart of provenance research in Poland is the *Catalogue of Polish War Losses* launched by the MCNH in 1992 and available online since the 2000s as an expanding database

³⁶ See “Czym są straty wojenne?” [What are war losses?], *Dziedzictwoutracone*, n.d., <http://dzielautracone.gov.pl/czym-sa-straty-wojenne> (accessed 20 December 2021).

³⁷ For an overview of the history and present of provenance research in Poland, see Romanowska 2016, 2017.

numbering today approximately 63,000 records.³⁸ At first glance, the online database can be considered as a provenance research tool meeting the requirements of the Washington Principles, as it fosters research and the identification of all art that was looted, confiscated, or relocated during World War II, and it urges users to make every effort to publicize such research in order to locate the pre-war owners and heirs.³⁹ The objects listed in the database, even the few ones with a presumed Jewish provenance, however, are considered “Polish war losses” to which the Polish state is entitled today. The online search engine of the catalogue focuses exclusively on the artifact: it is possible to browse the database according to such criteria as authorship, dating, technique, and material. The provenance information concerning the pre-war whereabouts or ownership of the artifacts can only be consulted by browsing each single record, and more detailed provenance data and information on sources is limited only to the MCNH officials.

This peculiarity of the catalogue – a tool of the Polish restitution policy rather than a provenance research database in the spirit of the Washington Principles – is evidenced when one compares it to the LostArt database launched at around the same time in response to the Principles as a joint initiative of the German government, federal states, and NGOs.⁴⁰ Managed by the LostArt Foundation, which is focused on Nazi-looted art and property that has been displaced as a result of World War II, and provided with two searching engines – Search Requests and Found Object Reports – LostArt aims at making provenance data fully available and at bringing former owners or their heirs together with current owners and supporting them in finding a fair solution in the first place. Its data is the result of provenance research projects founded by the LostArt Foundation. In 2020, the foundation established a new online database, Proveana, to make its findings fully accessible and to expand the area of provenance research covered by its research projects.⁴¹ In addition to data on Nazi-confiscated art and on cultural goods displaced as the result of World War II, Proveana documents confiscated art in the Soviet Occupation Zone and the German Democratic Republic and the cultural goods confiscated in the colonial context. Each record and information is provided with a source citation, and the database is considered as a work in progress. Importantly, data is accessible to all: owners, policymakers, scholars, and journalists. With the intention of facilitating provenance research and the search for victims of Nazi-looted art, Proveana focuses less on the single artifacts and more on the reconstruction of collections and the circumstances of their displacement and disintegration.

In this regard, the documentation of the Ingenheim collection, dispersed as a result of World War II, is a good example, all the more so as some of its Old Master paintings were nationalized and are today kept in Polish museums. Founded by Gustav Adolf von Ingenheim, the artistic agent of the Berlin Museums, this collection of Old Masters was moved by the heirs to Silesia and, up until the outbreak of the war, was displayed in family residences in Hirschberg (Jelenia Góra) and Reisewitz (Rysiowice).⁴² Moreover, some of the works were on long-term loan in the Schlesisches Museum der Bildenden Künste (SMBK) in Breslau (Wrocław). In the aftermath of the war, the paintings, located in the territories under Polish jurisdiction, were nationalized – along with other private collections on the Western Territories – by the Polish state and incorporated into the holdings of the national museum in Wrocław (the former SMBK) and Warsaw and of the Wawel Royal Castle in Krakow.

³⁸ The database is available at <http://dzialautracone.gov.pl/katalog-strat-wojennych> (accessed 20 December 2021).

³⁹ See Washington Principles, arts. 3, 5.

⁴⁰ Sandholtz 2007, 229–30. *Lost Art Datenbank*, <http://www.lostart.de/Webs/EN/LostArt/Index.html> (accessed 20 December 2021).

⁴¹ *Proveana*, <https://www.proveana.de/en/start> (accessed 20 December 2021).

⁴² Palica 2014.

In 2006, the Prussian Claim Society, a trust founded in 2000 by a group of descendants of the German expellees from Eastern and Central Europe to seek compensations from the Polish government, addressed 22 claims to the European Court of Human Rights (ECHR), among which one referred to the paintings from the Ingenheim collection. All these claims were rejected by the ECHR in 2008, which, given the fact that the German government did not support the activity of the society, closed the door on issues of compensation or restitution.⁴³ Accordingly, the LostArt and Proveana entries on the Ingenheim collection, including paintings now in Wrocław, Warsaw, and Kraków, should be considered as a historical reconstruction of the collection's dispersal during the war and in its aftermath.

The different objectives of the Polish and German databases are best evidenced in their overlapping records. This is the case with artwork from Berlin museums that, prior to the war, were on long-term loan in the German provincial museums in Lower Silesia, Prussia, and Danzig (Gdańsk). While the German database considers them as objects displaced as a result of the war, the MCNH catalogue defines them as "Polish war losses." As noticed by Cieślińska-Lobkowicz, the acknowledgment as "Polish war losses" of the works with a provenance from the German museums and ecclesiastical buildings in the Western Territories, regardless of their pre-war legal status, is a recent unregulated practice of the Polish restitution policy.⁴⁴ In April 2019, for example, the Communi Hereditate Foundation, a Polish NGO specializing, *inter alia*, in provenance research, surprised the media with news of its discovery of a "Polish war loss" – a still life by Pieter de Ring – on the walls of the Berlin Gemäldegalerie.⁴⁵

In an online article, Mariusz Pilus, the director of the foundation, reconstructed the history of the wartime displacement of de Ring's painting from the SMBK collection: transferred for safekeeping in 1942, along with other artistic and cultural objects, first to the Cistercian monastery in Heinrichau (Henryków) and after to the castle in Kamenetz (Kamieniec) in Lower Silesia; looted by the Soviet army in 1945–46, and between the years in 1955–58 restituted by the Soviet Union to the German Democratic Republic. In his article, Pilus urged the Polish authorities to undertake restitution negotiations.⁴⁶ He quoted de Ring's entry from the MCNH catalogue with the SMBK provenance. Furthermore, the painting is also listed in the catalogue *Lost Treasures of the Former Museums in Wrocław*, published by the National Museum in Wrocław.⁴⁷ The provenance information in the official Polish databases and publications, however, is incomplete and unverified: according to the statement of the Prussian Cultural Heritage Foundation (Stiftung Preußischer Kulturbesitz [SPK]), Pieter de Ring's *Still Life with Musical Instruments* acquired by the Berlin Gemäldegalerie in 1829 was on loan in the SMBK since 1884 and "today it is rightfully in the collection that has owned it since 1829, the Gemäldegalerie der Staatlichen Museen zu Berlin, now part of the SPK."⁴⁸ Noticing that the information on the rightful owner and on the loan was available in the pre-war printed catalogues of the SMBK, the SPK requested the removal of the misleading article. While the Communi Hereditate Foundation did not correct the

⁴³ Lutomski 2012, 80–81.

⁴⁴ Cieślińska-Lobkowicz 2020, 220.

⁴⁵ M. Kozubal, "Arcydzieło utracone przez Polskę znalazło się w Niemczech" [A masterpiece lost by Poland was found in Germany], *Rzeczpospolita*, 28 April 2019, <https://www.rp.pl/Historia/304289984-Arcydzieło-utracone-przez-Polskę-znalazło-się-w-Niemczech.html> (accessed 20 December 2021).

⁴⁶ M. Pilus, "Strata wojenna z Wrocławia na ścianie niemieckiego Muzeum!" [A war loss from Wrocław on the walls of a German museum!], *ArtSherlock*, 11 April 2019, <https://artsherlockmagazyn.pl/2019/04/strata-wojenna-z-wroclawia-na-ścianie-niemieckiego-muzeum/> (accessed 20 December 2021).

⁴⁷ Heś 2017, 143.

⁴⁸ See "Statement of the Stiftung Preussischer Kulturbesitz of 16th May 2019," *Looted Art*, <https://www.lootedart.com/news.php?r=TN8ROS215191> (accessed 20 December 2021).

information in their online magazine, the MCNH has recently removed the entry on this painting from the MCNH catalogue.

Since 2017, the MCNH runs a research program entitled *Badanie polskich strat wojennych* (Research on Polish War Losses), which allocates small funds, on a competitive basis, to the pursuit of provenance research.⁴⁹ The main objective of the program is to foster research on war losses of the present-day Polish memory institutions; however, it also indirectly aims at clarifying the pre-war provenance of their holdings and at introducing provenance research in Polish museums.⁵⁰ While the impact of the program is limited by the modest sums allocated to it (approximately 100,000 euros annually) and by the time span of the financed projects (up to two years), the program is nevertheless the first attempt at introducing and implementing provenance research into museum practice in Poland.

“Polish war losses” and “national cultural goods”: The philosophy of restitution in Poland

The Washington Principles, by encouraging the pre-war owners and their heirs of Nazi-confiscated Jewish art to come forward and make known their claims, awakened what was seemingly a closed issue – that of postwar restitution.⁵¹ Their provisions have opened the possibility to institute claims that, from a legal point of view, have been time-barred since the 1950s and 1960s and to address them within public memory institutions. Up until the signing of the Principles, museums or libraries were protected from such claims by legislation that banned the possibility of depleting any parts of their collections considered as national heritage. Importantly, at the time of the Washington Conference on Holocaust-Era Assets, Poland was among those states that had already resumed proceedings for the restitution of Nazi-era looted art.

Restitution claims to collections and assets displaced from Poland during the time of World War II were carried out immediately in the aftermath of the war by the Bureau of Revindication and Reparations of the Polish Ministry of Culture and Arts. In 1951, the bureau was dissolved, its mission was recognized as having been accomplished, and the issue of restitution was officially closed. Up to the end of the Cold War, the problem of Nazi-era confiscated art was taken up only occasionally and then mostly as a tool in diplomatic relations, particularly with the German Democratic Republic.⁵² After the Polish democratic revolution and German reunification, however, this issue was resumed by the Office of the Government Plenipotentiary for Polish Cultural Heritage Abroad, founded already in 1991. At that time, its main task was the establishment of cultural relations with Germany. In 1991, both states signed a treaty on good neighborly relations and friendly cooperation, which, among other things, obliged them to seek to solve the still pending problems relating to cultural property and archives.⁵³ Both states used the treaty to address for the first time or to re-address restitution claims and to try to resolve the most sensitive and difficult issue of the time: the controversy surrounding the legal status of the most precious holdings of the Prussian State Library in Berlin (including manuscripts by Johann Wolfgang von Goethe,

⁴⁹ See *Programy MKiDN 2019: Badanie polskich strat wojennych*, <http://www.mkidn.gov.pl/pages/strona-glowna/finansowanie-i-mecenat/programy-ministra/programy-mkidn-2019/badanie-polskich-strat-wojennych.php> (accessed 20 December 2021).

⁵⁰ See, for example, the strategic goals of the 2019 call. *Programy MKiDN 2019: Badanie polskich strat wojennych*, http://www.mkidn.gov.pl/media/po2019/wyniki_/20190329_REG_Programy_2019_Badanie_polskich_strat_wojennych-II_nabor_publicacja_pdf (accessed 20 December 2021).

⁵¹ Protz 1997, 230.

⁵² Jakubowski 2015, 275–80; Wierczyńska 2018, 221–27.

⁵³ Wierczyńska 2018, 231–36.

Friedrich Schiller, Johann Gottfried Herder and original musical scores by Beethoven, Mozart, and Haydn), which were found in the aftermath of the war in caches on Polish territories and, since then, have been kept in the Jagiellonian Library in Krakow, with restricted access even to scholars.

The Washington Principles were, already at the time of their signing, seen as an instrument of international diplomatic and cultural relations that would be useful in readdressing Polish claims to Nazi-era looted art.⁵⁴ In 2017, this policy was sanctioned with the amendment of the Polish Act on the Restitution of National Cultural Goods (Restitution Act), implementing the regulations of the 2014 European Union (EU) Directive on the Return of Cultural Objects Unlawfully Removed from the Territory of a Member State⁵⁵ and the recommendations of the report of the Supreme Audit Office (Najwyższa Izba Kontroli) on the recovery of Nazi-era looted art works of 2017 (Supreme Audit Office Report).⁵⁶ The Supreme Audit Office Report, focusing on issues of feasibility, effectiveness, expenditures, and the right implementation of international treaties and regulations, referred only to the mechanism and practice of restitution. In the report, the philosophy underlying the Polish restitution policy was taken for granted (the implementation of the Washington Principles is not even mentioned), and its conclusions have become a pretext for adopting solutions further consolidating the assumptions underlying Polish restitution policy, to wit: the postwar nationalizations were legitimate; Polish (public) cultural heritage was most affected by World War II; and Polish state authorities have the right and obligation to search for and reclaim the artifacts stolen or relocated from pre-war private and public collections on Poland's post-1945 (Western) territories.

The Restitution Act defines restitution as efforts undertaken by the Polish state to recover Polish cultural property unlawfully removed from its territory, including Nazi-era looted and displaced assets – that is, the “Polish war losses.”⁵⁷ Moreover, according to its provisions, “Polish war losses” fall under the category of “national cultural goods” (*narodowe dobra kultury*). Due to their artistic, historic, and/or scientific value and given their cultural significance, regardless of their pre-war provenance, all “Polish art losses” are “national cultural goods,” research into and restitution of which lies in the public interest. Under the Restitution Act, the MCNH is the only authority empowered to make restitution claims, represent Poland in litigations, and/or pursue research of war-time assets, both in Poland and abroad. The notion of “Polish war losses” in the Restitution Act applies to all artifacts – regardless of their pre-war legal status – dispersed from present-day Polish territories during World War II. Importantly, only approximately 44 percent of the assets listed in the MCNH catalogue have a public provenance, and about 20 percent come from pre-war private collections (including the holdings of private museums and associations), while about 30 percent refer to pre-war religious communities, and about 4 percent have an unverified provenance.⁵⁸ Moreover, as already mentioned, the MCNH catalogue also lists works from the pre-war German museums and ecclesiastical buildings. Thus, the Restitution Act standardizes a practice ingrained in the philosophy of postwar nationalizations, according

⁵⁴ Cieślińska-Lobkowicz 2021.

⁵⁵ See Directive 2014/60 on the Return of Cultural Objects Unlawfully Removed from the Territory of a Member State, [2014] OJ L159, <https://eur-lex.europa.eu/eli/dir/2014/60/oj> (accessed 20 December 2021).

⁵⁶ See “Informacja o wynikach kontroli: Odzyskiwanie utraconych dzieł sztuki” [Information on the outcomes of the investigation: The recovery of art works], *NIK o odzyskiwaniu utraconych dzieł sztuki*, 2017, <https://www.nik.gov.pl/plik/id,13759,vp,16195.pdf> (accessed 20 December 2021).

⁵⁷ “Ustawa z dnia 5 maja 2017 r. o restytucji narodowych dóbr kultury,” *Dz.U.* 2017 poz. 1086, <http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20170001086> (accessed 20 December 2021).

⁵⁸ See the graph in the Supreme Audit Office, *Restitution Report*, 18 May 2017, <https://www.nik.gov.pl/aktualnosci/nik-o-odzyskiwaniu-utraconych-dziel-sztuki.html> (accessed 20 December 2021).

to which the participation and consent of the rightful owner or of the legal descendant is not a condition for taking legal action for restitution. Public authorities (the MCNH and, according to the 2017 Restitution Act provisions, the Ministry of Foreign Affairs), which have the initiative in making claims for redress, do not have to consult or notify the pre-war owner of the assets in question. The eventually restituted artifact becomes state property, and the choice of the institution to which it will be loaned is up to the MCNH. While a work from an existing public collection is usually handed back to it, one formerly in private hands is often deposited in a random public institution. Petrifying this standard practice, the Restitution Act does not further define the procedures regarding returned assets with a provenance from non-public collections.⁵⁹

Restitution education and branding in Poland

In recent years, restitution in Poland has become more than just a tool of cultural diplomacy confined to political and legal offices. In fact, restitution is being ever more considered as an important element of national identity, and the MCNH puts ever more stress on education about it and the wide popularization of the notion of “Polish war losses.” Today, every successful Polish restitution follows a similar scenario, with the restitution ceremony being widely advertised and covered in the media as its main and crowning element. The work/works are presented during a press conference organized on the occasion of its/their formal handover by the MCNH to the director of the chosen memory institution. Notwithstanding its actual value, the work in question is always described as a “priceless masterpiece” and its restitution as the “recovery of Polish national heritage.” The hyperbolized coverage of Polish war losses and of the restitution efforts of the Polish authorities is evident in the figures: 516,000 “priceless Polish war losses” (assessed by the MCNH), and 400 restituted objects.⁶⁰ Moreover, while both the history of the work and its looting are recalled, the stress is put on the latter aspect.

Restitution ceremonies are an important element of the official restitution policy, along with restitution gadgets and souvenirs, events organized on the occasion of International Museum Day and the European Heritage Days, special restitution exhibitions, and promotion in the web 2.0. In particular, the MCNH resorts to multimedia and online strategies to make the “Polish war losses” a topic appealing to the public and to reinforce the aims and ideas underlying the official restitution policy. Since 2010, the MCNH, in a public-private collaboration with the Marketing Communication Association SAR and affiliated Polish advertising and media agencies, has run an educational and branding media project entitled *Muzeum Utracone* (Lost Museum).⁶¹ Within this framework, each year, a short screening on “Polish war losses” and restitution is produced. In the first years, the film clips were just built around digitized pre-war black-and-white, poor-quality photographs of the “Polish war losses,” showing selected reproductions in a slide show format, along with basic information of the lost works against a pandering musical and visual background. However, since 2014, the screenings follow a visually attractive animated format and are built around a particular story, which highlights four motifs: the pricelessness of Polish heritage; the heroism of those who tried to save it during the time of war; the vandalism of the German invaders; and the efficiency of Polish restitution policy.

For example, the 2017 screening tells the story of the evacuation of the priceless renaissance Jagiellonian tapestries from the Wawel Castle in Krakow, undertaken on the

⁵⁹ Stec 2016, 141–42.

⁶⁰ This number covers mainly the 337 objects from collection of the pre-war civic Ethnographic Museum in Lodz, restituted in 2016 by the University in Göttingen.

⁶¹ See *Muzeum Utracone*, n.d., <https://muzeumutracone.pl> (accessed 20 December 2021).

initiative of the Polish authorities in the first days of the war. This epic journey – by river, land, and sea – which finally delivered the artifacts to a safe haven in Canada, is portrayed against the background of swastika flags, marching Nazi troops, a screaming Hitler, and dead bodies.⁶² The animated cartoon is completely silent about the controversies surrounding the prolonged Polish Canadian postwar restitution negotiations⁶³ and is concluded by presenting photographs of the crowds gathered in 1961 in the Port of Gdynia to meet the returning “national treasures.” The film clips had their premiere on International Museums Day. They were featured in open air screenings throughout Poland on the walls of museums or important governmental buildings (among others, the presidential palace and the headquarters of the MCNH), constituting one of the main highlights of this event.⁶⁴ Afterwards, they are made available online on the Lost Museum’s webpage and advertised on Social Media.⁶⁵

The exhibitions *Utracone–Odzyskane* (Lost–Recovered), featuring the restituted artworks and objects, have been organized under state auspices to celebrate the European Heritage Days. Their main aim is to show the efficiency of the Polish restitution policy. Paradoxically, such exhibitions often form a unique occasion to see the recovered war losses. While their artistic quality is often not very high and their value is only confined to the pre-war provenance, they usually end up in museums’ repositories right after the restitution ceremony. The restitution efforts are considered a milestone of Polish cultural policy and are widely advertised both in Poland and abroad. Arguably, some of the official initiatives of this kind can even be framed as branding. In 2015, the Adam Mickiewicz Institute, a public office that coordinates the international promotion of Polish culture, launched a competition entitled *Pamięć utraconych dzieł* (Memory of the Lost Artworks) for the promotional gadget of Polish restitution policy. Neither the metal bookmarks decorated with the graphic motif of lost masterpieces (winner of the “exclusive gadget” category) nor the set of six miniature reproductions of the most famous “Polish war losses” (winner of the “popular gadget” category) were produced commercially. The competition shows, however, the importance of official marketing in Poland’s restitution policy.

The ArtSherlock, a mobile app for searching and finding “Polish war losses,” which was launched by the Communi Hereditate Foundation in 2016 and financed by the MCNH, is an example of the “amusementization” of restitution in Poland.⁶⁶ Addressed to the wider public and downloadable for free, the app, connected with the MCNH catalogue, is supposed to identify an alleged loss on the basis of its scanned image. While the “Sherlock Holmes” game might be appealing to the museum public, it is questionable as a reliable provenance research tool. In fact, the above-discussed controversies surrounding de Ring’s still life from the *Gemälde Galerie* in Berlin have been rigged by an ArtSherlock user, who scanned the mobile phone photo of the painting with the app. Presumably in view of such controversies, the MCNH ceased its financing of the project in 2019. The promotional event organized in October 2019 by the National Museum in Warsaw to celebrate the signing of a sponsoring agreement with Ford is yet another telling example of the official “amusementization” of restitution. Entitled *Noc w Muzeum* (A Night in the Museum), it was conceived by Eureka, a private marketing company, and approved by Katarzyna

⁶² See *Muzeum Utracone*, 2017, <https://muzeumutracone.pl/filmy/2017-2/> (accessed 20 December 2021).

⁶³ Kijewska-Trembecka 2017.

⁶⁴ See “Reportaże 2010–2018,” *Muzeum Utracone*, <https://muzeumutracone.pl/reportaze/> (accessed 20 December 2021).

⁶⁵ The movies are available at “Filmy 2010–2019,” *Muzeum Utracone*, <https://muzeumutracone.pl/filmy/> (accessed 20 December 2021).

⁶⁶ See *Dobre Programy: ArtSherlock*, n.d., <https://www.dobreprogramy.pl/ArtSherlock,Program,Android,72950.html>.

Wagner, the museum's deputy director. The event was planned as a game of treasure hunting in search of lost and recovered masterpieces.⁶⁷ Last but not least, thanks to the columnist Magdalena Ogórek, restitution and "Polish war losses" have become a topic of breakfast television shows in the recent years, with an emphasis on the detective and criminal aspects.

The restitution ceremonies, screenings, apps, and other initiatives attracting a large public underscore the official assumptions of Polish restitution policy – Poland's cultural heritage was the most affected by Nazi looting and plunders; Poland does not have any obligations toward private (including Jewish) pre-war owners of Nazi-confiscated art and their heirs; and Poland should take all possible steps to claim its looted cultural heritage, which appears on the international art market or is kept in public and private collections abroad. Generally, the views of the wider public on the matter converge with the official one, as is well summarized in two separate statements by MCNH officials in 2006 and 2015, which also manifest the firmness of the Polish position. In 2006, when asked by Dorota Jarecka, a journalist of the daily *Gazeta Wyborcza*, about the implementation of the Washington Principles by the Polish state, Franciszek Cemka, the then director of the Cultural Heritage Department of the MCNH, answered: "We respect the provisions of the Washington Principles. But there is simply no such problem here. Poland was not Hitler's ally and Poland did not seize anything. We did not collaborate with the Nazis. It was in Poland that Jewish property was plundered, but it was not Poland that plundered."⁶⁸

The answer of the MCNH to the 2015 question posed by Marek Kozubal, a journalist of the daily *Rzeczpospolita* who asked for a response to Wesley A. Fisher's statement from the Jewish Claims Conference and World Jewish Restitution Organization that Poland and Hungary were ignoring the Washington Principles, followed the same argumentation:

As a result of World War II Poland lost over 70% of its cultural heritage. Some of the movable property was recovered as a result of restitution. At the same time, it should be emphasised that Poland was not responsible for the requisition and looting of works of art. The presence of art works looted by the Nazis in Polish public collections is the result of the relocation of works of art by the German occupation authorities, or mistakes that occurred during the mass-scale post-war restitution. The exact scale of the phenomenon is unknown. The relevant documentation and provenance markings are not preserved, which makes the identification of such objects impossible.⁶⁹

Recently, as rightly noticed by Cieślińska-Lobkowitz, Poland has openly admitted that its restitution policy violates of the Washington Principles. The MCNH's official response⁷⁰ to an article by Nina Siegal published in the *New York Times* on the unresolved problem of Nazi-looted paintings from Dutch Jewish collections preserved today in the holdings of Polish museums,⁷¹ has been aptly summarized by her in the following words: "It is not our fault

⁶⁷ "Karta Imprezy Ford z," 25 October 2019, Archive of the National Museum in Warsaw.

⁶⁸ Jarecka, "Nie grabiliśmy, nie zwracamy."

⁶⁹ M. Kozubal, "Co zrobić ze spadkiem nazistów?" [What should be done with Nazi's inheritance], *Rzeczpospolita*, 6 January 2015, <https://www.rp.pl/Literatura/311069949-Co-zrobic-ze-spadkiem-nazistow.html> (accessed 20 December 2021).

⁷⁰ "Restitution of Looted Art: Statement of the Ministry of Culture and National Heritage," 14 January 2020, https://www.gov.pl/web/kultura/restytucja-dobr-kultury-komunikat-mkidn?fbclid=IwAR12ZoBjOG_gV_lsX7gKotDhLm-i5PTLVn5FLKJsq6rQZps49ZXZwm50g0&utm_source=Histmag.org&utm_medium=article-20050 (accessed 20 December 2021).

⁷¹ N. Siegal, "Poland Urged to Look for Nazi-Looted Art Still Held in Its Museums," *New York Times*, 12 January 2020, <https://www.nytimes.com/2020/01/12/arts/design/poland-nazi-looted-art.html> (accessed 20 December 2021).

that confiscated Jewish assets could be found in our museums. Afterwards they have been lawfully nationalised. In a word, the matter is closed and any doubts are pointless.”⁷²

The Gilmore case: A difficult fit for the Polish restitution policy

The centralized restitution policy focusing on the category of “Polish war losses” and its incompatibility with the Washington Principles is, indeed, difficult to understand for an outsider. No wonder that it came as quite a shock for the American collectors and art lovers recalled in the introduction. Gilmore described the experience of two US Homeland Security officers arriving without prior notice at his door to confiscate the claimed painting as traumatic.⁷³ Given the low value of Geldorp’s portrait, its acquisition in good faith, and Gilmore’s willingness to return it, it is clear that this case should have been settled diplomatically in accordance with the Principles’ recommendations, which called on its signatory parties to resolve issues related to Nazi-confiscated art in a spirit of collaboration, openness, and dialogue and with the intermediation of a special restitution commission.

Gilmore’s letter, which was addressed to the National Museum in Warsaw and to the Poles, was never made public, and it was not even mentioned during the restitution ceremony. Written in the spirit of the Washington Principles, it reflected a different understanding of restitution than the Polish one. The clear association of restitution with the commemoration of the Shoah is at the heart of the letter, in which Gilmore recalled the intense emotions he felt during his performance in a community center for Holocaust survivors in Jerusalem and his impressions from his visits of Holocaust memorials:

I have visited Holocaust memorials in Israel, Amsterdam, Berlin, Vienna, Washington, and Los Angeles, but until this history reached through time and made its way into my own house, I had not been truly conscious of how much our world is still affected by the atrocities and structural violence of World War II. This experience helped me realize that if I was being impacted like this, then the residual damage to all those directly involved, including the cultural institutions which had been so heartlessly pillaged, is almost beyond imagination.⁷⁴

The Washington Conference on Holocaust-Era Assets was not only a milestone in the development of a restitution cultural policy but also an important turning point in the development of the global policy referring to Holocaust education, commemoration, and research. In fact, one of the sessions of the conference was held by the recently established Task Force for International Cooperation and Education and entirely dedicated to these topics.⁷⁵ The connection between restitution and commemoration of and education about the Holocaust is from that time on often invoked in discussions about restitution policies and legislation.⁷⁶ It is also ingrained in the American memory politics and in the policies of its memory institutions dealing with the Holocaust.⁷⁷

⁷² Cieślińska-Lobkowitz 2020, 227.

⁷³ Gilmore, “Painting Was Looted.”

⁷⁴ Gilmore, “Provenance Letter of Our Lady.”

⁷⁵ “Proceedings of the Washington Conference on Holocaust-Era Assets, Chapter 8: Holocaust Education, Remembrance, and Research,” *US Department of State Archive*, <https://1997-2001.state.gov/regions/eur/holocaust/heac.html> accessed 20 December 2021).

⁷⁶ See, e.g., Proceedings of the Second Reading of the Holocaust (Return of Cultural Objects) (Amendment Bill) in the House of Lords, 9 May 2019, <https://www.theyworkforyou.com/lords/?id=2019-05-09b.1378.0> (accessed 20 December 2021).

⁷⁷ Surmann 2012.

Many of the restitution cases are nowadays a public matter in a country in which important Jewish collectors and their heirs took, or have taken, refuge during or after the war and whose courts are on the forefront in settling restitution cases. The Museum of Jewish Heritage, opened to the public at the southern end of Manhattan in 1997 to commemorate the Shoah has been, ever since its opening, an important and symbolic venue of public restitution ceremonies, whereby works of art stolen or confiscated by the Nazis are returned to their rightful owners. Its interior was used for, *inter alia*, the ceremonial return of a unique sixteenth-century Bible of the pre-war Jewish community in Vienna in 2009 and Pierre-Auguste Renoir's *Deux femmes dans un Jardin*, confiscated with Alfred Weinberg's collection in 1940.⁷⁸ Moreover, Simon Curtis's 2015 movie *Women in Gold* – merging the story of the looting and restitution of Gustav Klimt's *Portrait of Adele Bloch-Bauer* with the personal history and recollections of Maria Altmann, the heir of the Bloch-Bauer family who managed to survive the persecutions of the Vienna Jewish community and escape to the United States – has established such an understanding of restitution in popular culture.

While Gilmore, by consulting his case with Maria Altmann's lawyer, made a clear association of the story of Geldorp's painting with Klimt's *Portrait of Adele Bloch-Bauer*, in Poland, the Geldorp case was reduced to an exemplification of Polish restitution policy in the 2019 edition of the *Lost Museum*.⁷⁹ Built on the plot of an escape game, filmed in the noir style, and set in the environs and interiors of the National Museum in Warsaw, the movie shows a young man in a bloody shirt (a clear reference to the war and to the brutality of the invader) in search of the recovered masterpieces, including Geldorp's *Portrait of a Lady*. In the final scene, a uniformed ticket-taker enlightens the audience about the efficiency of the MCNH restitution activities.

The juxtaposition of the movies – the 2019 *Lost Museum* screening and the *Women in Gold* – illustrates well another fundamental peculiarity of Polish restitution philosophy. While Simon Curtis's film shows the private dimension of both the tragedy of war and restitution, the *Lost Museum*'s screening erases any personal history behind Geldorp's painting: it omits both its pre-war history and the Silver Lake episode, showing only its looting during the World War II and its recent restitution. However, the story of this painting could just as well serve as a film scenario.

Geldorp's portrait was acquired at the beginning of the last century in St. Petersburg by Jan Popławski (1854–1908), an established Polish physician and collector of Dutch and Flemish Old Masters. During the time of Russian domination over Polish lands, St. Petersburg – with its large Polish community – belonged to one of the main centers of culture and collecting. In the aftermath of World War I and the revolutionary turmoil in Russia, Popławski, like many of his compatriots, decided to flee to Warsaw, taking his collection of Old Masters with him. He intended to donate his artworks to one of the emerging public museums. Given his poor financial condition, he was forced to sell about two-thirds of the original stock of his collection to the City of Warsaw in 1935.⁸⁰ Entrusted to the National Museum in Warsaw, a municipal institution established in 1916, they were proudly displayed at a special exhibition and published in a richly illustrated catalogue by Jan Żarnowski, formerly the curator of the Hermitage.⁸¹ It was on this occasion that Geldorp's black-and-white photograph – an important proof in the Polish restitution claim – was taken. Looted during World War II in undefined circumstances along with 21 other paintings from Popławski's collection, the painting reappeared only in 2006 at a Doyle's

⁷⁸ See "Restitution Ceremonies at the Museum," 2018, <https://mjhnyc.org/history-location-cultural-landscape/restitution-ceremonies-museum/> (accessed 20 December 2021).

⁷⁹ See *Muzeum Utracone*, <https://muzeumutracone.pl/filmy/2019-2/> (accessed 20 December 2021).

⁸⁰ Żarnowski 1936, 7–14.

⁸¹ Żarnowski 1936.

auction. The “provenance package” – a one-of-a-kind personal story filled with recollections and private photographs, sent by Gilmore to the National Museum – gives insights to its 10-year California history.⁸²

For Gilmore, the return of the Geldorp painting also meant the beginning of a new story. He announced that he would regularly visit “his” painting and that he would commit himself to its new home by financially supporting the educational programs of the National Museum in Warsaw and the Museum of the History of Polish Jews.⁸³ In addition, together with his partner, he used this opportunity to actively manifest their support for LGBTQ+ rights activism in Poland. In 2017, well before the restitution ceremony, the couple took part in the Warsaw Pride Parade, distributing special T-shirts with Geldorp’s reproduction, combined with the motif of the rainbow.⁸⁴ Moreover, in 2019, they got engaged in the National Museum in Warsaw, making the event public via Social Media.⁸⁵ This extraordinary commitment, and even the private educational donation to the National Museum, was met with consternation and surprise from the Polish decision makers. The original way in which the two artists and LGBTQ+ activists have made use of the history of the painting before the public’s eyes shows the enormous social and non-institutional potential of works of art, collections, and objects of the past. It should be viewed within the recent global social activism movement, of which the museum as an institution is an important space.⁸⁶

Conclusions

Poland’s failure in implementing the Washington Principles is generally explained by the reluctance in resolving the wider issue of restitution of Jewish property and by the state’s official memory politics.⁸⁷ Without questioning these statements, I have attempted in this article to demonstrate a more complex picture and to discuss the wider consequences of the Polish “à rebours” restitution policy. By analyzing this problem in the context of the legacy of postwar nationalization and centralization of cultural heritage, collections, and memory institutions, I have argued that the Polish misunderstanding of the Principles is not only political but also institutional. By discussing the importance of the recent popular branding restitution initiatives, I have aimed to draw attention to the successful propaganda attempts of ingraining the conviction of the rightness of this policy among the wider society. Thus, a change of the Polish approach to the restitution of Nazi-era assets will require not only a political and legislative reversal but also changes in the consciousness of museum and heritage experts as well as in the popular awareness. The lack of understanding on the part of Polish decision makers and museum experts of Gilmore’s and Crocker’s motivations as well as the lack of interest on the part of the general public in the artistic and social

⁸² Craig Gilmore, “Provenance Package of Our Dear Lady,” Inventory Department of the National Museum in Warsaw.

⁸³ Gilmore, “Provenance Letter of Our Lady.”

⁸⁴ “News: Zostawcie tęczę w spokoju, Powród damy...” [News: Leave the rainbow alone, the return of the Lady ...], Dariusz Blog, <https://www.google.com/url?sa=i&url=https%3A%2F%2Fmylilefeluke.blogspot.com%2F2018%2F10%2Fnews-zostawcie-tecze-w-spojoju-powrot.html&psig=AOvVaw1KH6XeYQ7wolF2E1o7mxEl&ust=1665174301779000&source=images&cd=vfe&ved=0CAoQjhxqFwoTCJj7kum3zPoCFQAAAAAdAAAAABAE> (accessed 10 April 2022).

⁸⁵ W. Karpieszuk, “Amerykańscy geje zaręczyli się w Warszawie. Wcześniej zrzekli się cennego obrazu na rzecz Muzeum Narodowego” [American Gays got engaged in Warsaw. They previously relinquished a precious painting to the National Museum], *Gazeta Wyborcza*, 8 May 2019, <https://warszawa.wyborcza.pl/warszawa/7,54420,24762108,amerykanscy-geje-ktorzy-na-rzecz-muzeum-narodowego-zrzekli.html> (accessed 20 December 2021).

⁸⁶ Janes and Sandell 2019.

⁸⁷ Cieślińska-Lobkowicz 2020.

performance during the Warsaw Pride Parade are a telling symptom of both the underlying reasons and the consequences of the Polish “à rebours” restitution policy. In fact, the current shape of this policy cannot only be explained as a result of the political climate in Poland. Instead, it is a manifestation of a deeply ingrained and institutionalized historical amnesia. A widely accepted centralized and state-oriented restitution policy leaves no room for the values that are at the heart of the Washington Principles.

Acknowledgments. This article was written within the framework of the research project Digital Heritage in Cultural Conflicts, supported by Poland’s Ministry of Culture, National Heritage and Sport under the Joint Programming Initiative on Cultural Heritage’s (JPICH) Digital Heritage program (Grant no. 98/DSAP- JG/2018). The article is also based on the author’s experience as the National Museum in Warsaw’s provenance research expert from 2017 to 2020. The author would like to thank the anonymous reviewers and the editors of the *International Journal of Cultural Property* for their insightful comments.

Competing interests. None.

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Cite this article: Manikowska, Ewa. 2023. "The Washington Principles à rebours: Explaining Poland's current restitution policy." *International Journal of Cultural Property* 30, no. 1: 42–61. <https://doi.org/10.1017/S094073912300005X>