

Unabhängige Kommission SKKG

Independent Commission of the Stiftung für Kunst, Kultur und Geschichte
for Clarifying Claims Resulting from Nazi Persecution

This examination schedule is a tool used by the Unabhängige Kommission SKKG (UK-SKKG). It may be further developed and adapted based on the experience gained by the UK-SKKG in the course of its activities.

Please note this is an indicative translation of the original German text «Prüfschema der Unabhängigen Kommission SKKG für die Klärung und den Entscheid betreffend Kulturgüter der Stiftung SKKG, die zwischen 1933 und 1945 den Eigentümer:innen NS-verfolgungsbedingt entzogen wurden (verabschiedet am 21. September 2023)». In case of divergence in the translated version, the original German text prevails.

Examination schedule of the Unabhängige Kommission SKKG (UK-SKKG) used to clarify and decide on cultural goods owned by the SKKG foundation, which were lost by previous owners between 1933 and 1945 due to Nazi persecution

(adopted September 21, 2023)

Based on the 1998 Washington Conference Guidelines on Works of Art Confiscated by the Nazis (WP98) and the 2009 Terezín Declaration.

1. Which cultural good is the subject of this examination?
 - Title / artist / dimensions / material / technology
 - Object description (painting: front) with image(s)
 - Signature
 - Description of reverse (provenance characteristics) with image(s)
 - References in literature, exhibition catalogs, magazines or other documents

2. Was the cultural good in question owned by the presumed previous owners or their legal predecessors?
 - Information about the identity of the collector(s)
 - Proof of previous ownership
 - Elimination of other potential claimants
 - Identification of the cultural good in question (in comparison with the cultural property in the foundation's collection)
 - Lost Art search reports
 - All available provenance from catalogs and literature
 - Breakdown of any provenance characteristics (if possible)
 - Referenced in:
 - victim and perpetrator files
 - reparations and compensation files
 - poss. adversarial proceedings / tax files

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⇒ If Question 2 (identification of cultural good / identity of previous owners) can be answered in the affirmative, move on to Question 3.

3. Was the previous owner persecuted by the Nazi regime between January 30, 1933, and May 8, 1945?

- Collective persecution:
 - classification into a persecuted group
 - presentation of prosecution measures
- Individual persecution:
 - introductory biographical information about the family and the person in question
 - information on the person as a collector and, if applicable, the collection itself
 - relevant sources and their transmissions:
 - files on foreign exchange control and emigration/escape
 - tax files
 - sources on *Feindvermögen* [enemy assets] and confiscation through the German Reich
 - company archives
 - files on companies / banks, etc., insofar as there are infringements on assets
 - files on reparations and compensation proceedings
 - files from lawyers
 - files on residences
- Put information within the context of external events:
 - changes in the legal or actual situation for the persecuted group to which the owner belonged
 - general circumstances such as the development of war, the status of the person, with criteria for their existence, tax obligations
 - situation in transit countries and countries of residence
 - political situation in transit countries and countries of residence
 - requirements for residence in transit countries and countries of residence (e.g. economic independence, risk of deportation)
 - earning options and work permissions in transit countries and countries of residence
 - parallel developments in Germany and associated potential threats in the event of return / expansion of war

Special attention to escape/situation in so-called "safe third country"

4. Did the loss of asset occur during the relevant period as a result of forced sale, expropriation, or other means?

- Distinguish between 1933-1935 and 1935-1945 (Nuremberg Laws)¹

¹ With regard to the relationship between individual and collective persecution, it should be noted that this date is the result of a political compromise between the Allies on the issue of restitution

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- Documents on change of ownership from sources relating to Articles 1-3
 - Research results for buyers / dealers / auction houses / museums and art galleries
 - Appearances (and disappearances) on asset statements and lists
5. What evidence is there regarding the persecution-related nature of the loss?
- WP98, Article 4: "...consideration should be given to unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era", therefore evidence of this kind is often no longer in the possession of the applicants.
 - Assumptions based on collective persecution
 - Time-wise: Put changes in living conditions (Article 3 above) into a context of group or individual persecution
 - Contextually
 - general material living conditions until 1933 and thereafter
 - circumstances relating to income and capital before and after 1933
 - behavior as a collector (especially with regard to sales before and after 1933)
 - whereabouts of other assets
 - earning options after 1933
6. What information is available regarding the purchase price, its appropriateness, and "free disposal"?
- Documents with purchase price details, including proof of payment
 - Market situation or comparable sales of similar works in free markets
 - For other sales: comparative information on the appropriateness of those sales
 - Set "free disposal" in relation to pressure to pay, discriminatory payments, attempts to rescue relatives, access to account (no blocked account), etc.
7. Are there reasons for exclusion from restitution?
- Relationship between buyer and seller (background/follow-up)
 - Special support for the buyer, help with escape, transfer of proceeds to a safe country abroad.
8. Were there any claims and subsequent compensation payments/equivalent payments (including proceedings for restitution/compensation after 1945)?
- Files from research for Article 3 above
 - Results of such proceedings
 - Contextualization of procedural actions:
 - prospects for success
 - requirements for successful claims
 - situation of claimants
 - balance of power between the parties

and not a historical assessment of the expropriation process. Background: A fixed date was necessary for the reversal of the burden of proof to be applicable. The Nuremberg Laws were considered a turning point for the "segregation of legal entities."

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- burden of proof

9. Have any decisions or recommendations been made regarding the same collection or collector?

- Research court proceedings and commission decisions or recommendations
- Post-war timeframes / from 1965 to 1990 (Germany) or 1998 (WP98)
- Determination of the grounds for the decision: material or formal
- Classification into country-specific decision-making processes according to local material and procedural requirements

Filter out the elements relevant to the present case that the UK-SKKG must address.