

Provisional edition

Looted Jewish cultural property

Resolution 1205 (1999)¹

1. One essential part of the Nazi plan to eradicate the Jews was the destruction of the Jewish cultural heritage of movable and immovable property, created, collected or owned by Jews in Europe.
2. This involved the systematic identification, seizure and dispersal of the most significant private and communal Jewish property.
3. Subsequent expropriation and nationalisation of Jewish cultural property, whether looted or not, by communist régimes was illegal, as well as similar action in countries occupied by the Soviet Union.
4. Though early moves were made following the end of the Second World War to find and return this looted property, a very considerable amount has not been recovered and has remained in private and public hands.
5. A new attempt is now being made, characterised *inter alia* by major conferences held in London and in Washington, to complete this process and advance the recovery of looted Jewish cultural property before the last of those persons from which it was taken has died.
6. The Assembly has long recognised the Jewish contribution to European culture (Resolution 885 (1987) and recently underlined the significance of Yiddish culture (Recommendation 1291 (1996)). From local community to national and European levels, Jewish culture is a part of the heritage.

1. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 4 November 1999. See Doc. 8563, report of the Committee on Culture and Education (rapporteur: Mr Zingeris).

7. Moreover Europe, as represented in the Council of Europe, now includes the wider Europe, including Russia, throughout which looted Jewish cultural property remains dispersed.

8. The Assembly believes that restitution to original owners or their heirs (individuals, institutions or communities) or countries is a significant way of enabling the reconstitution of the place of Jewish culture in Europe itself.

9. A number of European countries have already made moves in this direction, notably Austria and France.

10. The Assembly invites the parliaments of all member states to give immediate consideration to ways in which they may be able to facilitate the return of looted Jewish cultural property.

11. Attention should be paid to the removal of all impediments to identification such as laws, regulations or policies which prevent access to relevant information in government or public archives and to records of sales and purchases, customs and other import and export records. Russia in particular should keep open its files on Jewish heritage

12. Bodies in receipt of government funds which find themselves holding looted Jewish cultural heritage should return it. Where such works have been destroyed, damaged or are untraceable, or in other cases where restitution may not be possible, such bodies should be assisted to pay compensation at the full market value.

13. It may be necessary to facilitate restitution by providing for legislative change with particular regard being paid to

- i. extending or removing statutory limitation periods;
- ii. removing restrictions on alienability;
- iii. providing immunity from actions for breach of duty on the part of those responsible for collections;
- iv. waiving export controls.

14. Such legislative change may require modification and clarification of human rights laws in relation to security and enjoyment of property.

15. Consideration should also be given to

- i. providing guarantees for those returning looted Jewish cultural property against subsequent claims;
- ii. relaxing or reversing antiseizure statutes which currently protect from court action works of art on loan;
- iii. extinguishing later acquired title i.e. subsequent to the divestment.

16. The Assembly encourages co-operation in this question of non-governmental organisations, and in particular the European Jewish communities, on both national and European levels. Such encouragement extends to the exploration and evolution of out of court forms of dispute resolution such as mediation and expert determination.

17. Due diligence should be imposed on purchasers and the art world by the implementation of the Unidroit Convention on stolen or illegally exported cultural objects.

18. In circumstances where dealers or agents or intermediaries know or suspect a work they have in their possession is looted, provision should be made in law requiring them to hold on to it and alert the relevant authorities and every effort should be made to locate and alert the dispossessed owner or his/her heirs.

19. The Assembly calls for the organisation of a European conference, further to that held in Washington on the Holocaust Era assets, with special reference to the return of cultural property and the relevant legislative reform.