

- The Stiftung Kunstmuseum Bern's principles for dealing with Nazi-looted art
- Decision on the claim for restitution of the heirs of Carl Sachs

Nazi-looted art: Decisions of the Foundation Stiftung Kunstmuseum Bern on *the principles for dealing with Nazi-looted art* and *the claim for restitution by the heirs of Carl Sachs*

On 28 April 2025, the Stiftung Kunstmuseum Bern consolidated and expanded the position it has developed in recent years on dealing with Nazi-looted art. The Foundation's position is presented in a clear and transparent manner in a separate basic document.

At the same meeting, the Stiftung Kunstmuseum Bern decided on the claim by the heirs of Carl Sachs for the return of the painting *Le Chemin des Bois à Ville-d'Avray* (1879) by Alfred Sisley from its own collection. The merchant and collector Carl Sachs (1858-1943) was one of those persecuted by National Socialism. Members of his family died in concentration camps. In February 1939, Carl Sachs and his wife Margarete Sachs managed to flee to Switzerland. There he sold the painting to the art dealer Theodor Fischer in September 1940.

The Stiftung Kunstmuseum Bern has decided to relinquish ownership of the painting. According to the findings of provenance research, there are anomalies in connection with the sale in Switzerland.

The principles for dealing with Nazi-looted art

Since accepting the legacy of Cornelius Gurlitt on 24 November 2014, the Stiftung Kunstmuseum Bern has developed a firm stance on historical, socio-political and legal issues relating to Nazi-looted art in the context of fundamental and case-specific decisions. This extends to the Gurlitt bequest and the museum collection.

For the Stiftung Kunstmuseum Bern, this approach forms the basis for a consistent, comprehensively considered and well-founded decision-making process to do justice to the historical and legal particularities of each case. In each individual case, the decision-making basis and considerations are transparently reflected and published.

The **most important elements** are

To cover the range of possible loss contexts within and outside the National Socialist sphere of influence, ranging from direct confiscation by the authorities to legal transactions under unfavourable conditions, the Stiftung Kunstmuseum Bern considers it appropriate to speak generally of a **"Nazi-persecution-related loss"**. This also covers transfers of ownership to third countries outside the National Socialist sphere of influence, where a "seizure" in the technical sense often did not take place. In addition, the concept of "loss" offers scope to consider not only the objective effects of third parties but also the subjective motives that motivated a persecuted person to sell their cultural assets or property.

Today, there is an awareness that provenance gaps are the rule rather than the exception in the period from 1933 to 1945. This means that evidence or comprehensive findings on the identity of works, circumstances of loss and acquisition, ownership, loans or pledges are lacking to varying degrees after research work has been completed. However, the previous approaches to **uncertain knowledge situations** protect - consciously or unconsciously - the status quo, i.e. the current ownership, disposal and utilisation situation.

The Stiftung Kunstmuseum Bern believes that there is a more results-orientated and fairer way of dealing with such findings. This requires a willingness to make decisions based on relative probabilities that lack justifiability. In addition, the Stiftung Kunstmuseum Bern applies a **factual presumption in favour of the victims** in uncertain situations, unless other scenarios are more likely.

If this willingness to decide exists in the face of uncertain knowledge, research findings that refine knowledge, particularly regarding work identity, persecution and loss by means of circumstantial evidence, become central and can thus serve as decision-making aids. This means that historical research is deepened in those subject areas and extended to those contexts that are relevant for decisions based on relative probabilities. The Stiftung Kunstmuseum Bern refers to this approach as **extended contextual research**.

Regarding the special case of **asset losses outside the Nazi sphere of influence**, the Stiftung Kunstmuseum Bern takes the view that it is irrelevant whether "objectively" a threat or persecution by the National Socialist regime can be spoken of. Disposals by victims of Nazi persecution in third countries outside the Nazi sphere of influence are also - as with any bilateral legal transaction - subjective declarations of intent by both parties that result in contractual relationships. Regarding the context of persecution, only the subjective motives of the persecuted person can be relevant in retrospect, regardless of whether or not there was a risk of persecution in the third country. This means that, apart from a few conceivable exceptions, disposals by victims of National Socialist persecution in third countries outside the National Socialist sphere of influence are always linked to persecution because the subjective motive for the disposal results from the persecution. This means that a legal transaction outside the National Socialist sphere of influence in the years 1933 to 1945 must be examined to determine whether it stands up to scrutiny from the point of view of fairness and justice, particularly with regard to the negotiation situation, exchange ratio (price) and execution of the contract. As a result of such an examination, the legally challenging situation is conceivable that the behaviour of the purchaser is not objectionable and thus two legally protectable positions are opposed to each other.

The **provenance categories** of the Stiftung Kunstmuseum Bern (Berner Ampel 2021), first published in 2021, were further developed in 2024 to include regulations for losses outside the National Socialist sphere of influence and adopted by the Foundation Board in 2025 (Berner Ampel 2025).

The provenance categories (Berner Ampel 2025) are as follows:

Category	Loss within the NS sphere of power	Loss outside the NS sphere of influence	Action
Green	Works that are proven not to be or highly unlikely to be Nazi-looted art.	The purchaser behaves correctly towards the seller, either demonstrably or with a high degree of probability. He does not take advantage of the difficult personal situation or the unequal negotiating position of the seller.	The Stiftung Kunstmuseum Bern will retain works in the "Green" category in its collection.
Yellow-green	The provenance between 1933 and 1945 has not been conclusively clarified and there are gaps. The research presented does not provide any evidence of Nazi-looted art. There are also no indications of Nazi-looted art and/or conspicuous accompanying circumstances.	There are no indications or suspicious circumstances that point to improper behaviour on the part of the acquirer, who would have taken advantage of the difficult personal situation or the unequal negotiating position of the seller.	The Stiftung Kunstmuseum Bern will retain works in the "yellow-green" category in its collection. New findings remain reserved.
Yellow-red	The provenance between 1933 and 1945 has not been conclusively clarified and there are gaps. The research presented does not provide any evidence of Nazi-looted art. However, there are indications of Nazi-looted art and/or conspicuous accompanying circumstances.	There are indications or suspicious circumstances that point to improper behaviour on the part of the acquirer, who may have exploited the difficult personal situation or the unequal negotiating position of the seller.	The Stiftung Kunstmuseum Bern will seek a just and fair solution in dialogue with the descendants of the injured parties, taking into account the particularities of the individual case. The handover of the work is expressly not excluded.
Red	Works that are proven or highly likely to be Nazi-looted art.	The acquirer is demonstrably or very probably behaving incorrectly towards the seller. He exploits the difficult personal situation and the unequal negotiating position of the seller.	The Stiftung Kunstmuseum Bern is restituting these works.

Even in the case of limited knowledge in the "yellow-red" category, the Stiftung Kunstmuseum Bern strives to find a just and fair solution - it has the **will to decide**. In other words, it refrains from postponing a solution until future research has produced clear findings. Instead, it actively seeks an amicable solution with the potentially authorised parties. In such and other challenging cases, the research results and the assessment undergo a **review process with recognised experts**.

The aim is to **pacify stressful or conflict-laden situations due to historical injustice**. This goal can only be achieved when a solution is perceived as just and fair by both sides and is also documented in a way that is comprehensible for future generations.

Claim for restitution by the heirs of Carl Sachs

Claim

On 20 August 2018, the heirs of Carl Sachs (1858 - 1943) published a wanted notice in the Lost Art database for a painting by Alfred Sisley from 1879: "Alfred Sisley, La Chaussee de Sévres [sic] (Le chemin des Bois a ville-d'avray [sic], 1879, oil, painted, 50 x 61 cm, inscr. a. dat. r. u.: Sisley 79 // Daulte, Sisley 1959, no. 321 // Provenance: Charles Bonnemaison-Basclé Paris until 1896, Charles Viguier Paris until 1906, Carl Sachs Breslau, Galerie Fischer Lucerne 14.05.1940, Fritz Nathan Zurich, Hedwig Vatter-Steiger Bern (Lost Art-ID 578881)".

In 2023, the Kunstmuseum Bern carried out provenance investigations into the painting *Le chemin des bois à Ville-d'Avray* (1879) by Alfred Sisley, which entered the collection as a bequest from private ownership in 1994. On 28 February 2024, the heirs of Carl Sachs submitted a claim for the return of the painting to the Stiftung Kunstmuseum Bern.

Since then, the Stiftung Kunstmuseum Bern has been in an open dialogue with the representatives of the community of heirs of Carl Sachs. The aim of the collaboration is to develop a joint assessment of the findings available to date as the basis for a solution that both sides consider to be just and fair in accordance with the Washington Principles (1998) and the Terezín Declaration (2009).

Findings from provenance research

Carl Sachs and his wife Margarete Sachs were among those persecuted by the Nazi regime. Due to the racial ideological persecution, they suffered an almost complete loss of assets as a result of state plundering and were forced to flee to a third country in February 1939. Members of the family died in concentration camps. From February 1939, Carl Sachs and Margarete Sachs lived in Switzerland with temporary residence rights.

On 27 September 1940, Carl Sachs sold the painting to the art dealer Theodor Fischer, Lucerne. The motive for the sale was evidently to earn a living and to secure his right of residence in Switzerland by providing and securing a loan of 100,000 Swiss francs. This constitutes a sale that can be traced back to the persecution by the National Socialist regime.

In the view of the Stiftung Kunstmuseum Bern, whether this gives rise to a need for action on the part of the current owner depends on the behaviour of the former buyer in connection with the change of ownership. In particular, whether the behaviour of the buyer stands up to scrutiny from the point of view of fairness and transparency, namely with regard to the negotiation situation, exchange ratio (price) and execution of the contract.

The art dealer Theodor Fischer knew about Carl Sachs' situation, who had to sell works of art that he had brought to Switzerland in order to secure his livelihood. Given that Theodor Fischer maintained business relations with the Nazi regime, it must be assumed that he not only knew about the systematic confiscation of assets and persecution of the Jewish population but was also aware of Carl Sachs' specific situation of persecution and his life in exile.

The awareness of Carl Sachs' existential vulnerability leads to increased duties of care for the buyer. After analysing all the available findings, there are anomalies in connection with the sale of the work.

Following the appraisal by external experts (expert review), the Stiftung Kunstmuseum Bern assesses the limited knowledge of the painting as being burdened by indications or suspicious circumstances: Category "Yellow-Red", provenance categories of the Stiftung Kunstmuseum Bern (Berner Ampel 2025).

Considerations

The collaboration with the heirs of Carl Sachs was and is characterised by mutual openness and a willingness to talk. The independently compiled research results are recognised by both parties insofar as they reflect the current state of knowledge. Neither party is currently aware of any further research avenues.

The Stiftung Kunstmuseum Bern became the owner of the work in 1994 through a bequest. There is no evidence that the testator was aware of the special circumstances surrounding the sale of the work by Carl Sachs. The presumption of bona fide acquisition and lawful ownership by the testator therefore applies. In the course of finding a solution, this circumstance must be considered appropriately out of respect for the testator and his heirs.

In the case of works in the "Yellow-Red" category, the Stiftung Kunstmuseum Bern endeavours to reach an amicable, fair and equitable solution with the claimants. There are no limits to the possible forms of solution and the surrender of ownership or transfer of the work is expressly not excluded.

Decision of the Board of Trustees

Against this backdrop, the Stiftung Kunstmuseum Bern has decided to relinquish ownership of the painting after comprehensive appraisal and consideration. An amicable solution is to be worked out together with the heirs of Carl Sachs and the heirs of the bequeathed.

This does not constitute a legally usable precedent for similar cases at the Stiftung Kunstmuseum Bern.

The modalities of the handover must be set out in a handover agreement between the parties.

Quotes

"By consolidating and publishing our position, we also want to contribute to the discussion. Professional and careful provenance research is the basis of any solution, but without a transparent approach there will be no comprehensible and pacifying solutions."

Dr Marcel Brühlhart, Member of the Board of Trustees/Responsible for the Gurlitt dossier

"With the basic paper, we have developed a consistent evaluation framework that helps us to make decisions about works of art in our collection."

Dr Nina Zimmer, Director Kunstmuseum Bern - Zentrum Paul Klee

Next steps

Preparation of decisions on works from the collection of the Kunstmuseum Bern:

- Max Slevogt, *Palatinate Landscape*, 1930

Preparation of decisions on works from the Cornelius Gurlitt bequest:

- Honoré Daumier, *Don Quixote and Sancho Panza*, around 1865
- Marguerite Gérard, untitled (Portrait of a young woman), undated
- Pierre Auguste Renoir, *Oedipus Rex* (1), 1895
- Pierre Auguste Renoir, *Oedipus Rex* (2), 1895
- Pierre Auguste Renoir, *Still life*, undated
- After August Rodin, *Cambodian Dancer*, around 1906

Treatment of the claim of the heirs of Dr Fritz Salo Glaser regarding the following 13 works from the Cornelius Gurlitt bequest:

- Hans Christoph, *couple*, 1924
- Conrad Felixmüller, untitled (couple in landscape), 1921
- Erich Fraass, untitled (mother and child), 1922
- Ludwig Godenschweg, untitled (Female Nude), undated
- Ludwig Godenschweg, untitled (man's head from the front), undated
- Otto Griebel, untitled (The Veiled Woman), 1926
- Bernhard Kretzschmar, untitled (tram), undated
- Wilhelm Lachnit, untitled (Girl at the table), 1923
- Wilhelm Lachnit, untitled (Man and woman at the window), 1923
- M.R., untitled (child at a table), undated
- Fritz Maskos, untitled (Contemplating Woman), 1920
- Christoph Voll, *monk*, 1921
- Christoph Voll, *demolition expert Hantsch*, 1922

Further research and search for possible rights holders for the following works from the collection of the Kunstmuseum Bern:

- Henri Matisse, *Les anémones*, 1923
- Ernst Ludwig Kirchner, *Dunes and sea, Fehmarn*, 1913

Attachments and notes

- Stiftung Kunstmuseum Bern, Grundlagen zum Umgang mit NS-Raubkunst (Kunstmuseum Bern Foundation, The basics of dealing with Nazi-looted art)
- Brüllhart / Doll Report "Sachs"
- Online database THE GURLITT ESTATE: <https://gurlitt.kunstmuseumbern.ch/en/>
- Agreement of 24 November 2014 between the Federal Republic of Germany, the Free State of Bavaria and the Kunstmuseum Bern
- Washington Principles (1998): <https://www.state.gov/washington-conference-principles-on-nazi-confiscated-art/>
- Terezín Declaration (2007): <https://www.state.gov/prague-holocaust-era-assets-conference-terezin-declaration/>

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01

Alfred Sisley (1839 – 1899)

Le chemin des bois à Ville d'Avray
[Woodland Path in Ville d'Avray], 1879

Oil on canvas

50,2 x 61,2 cm

Kunstmuseum Bern

Robert Vatter Legacy, Bern

Inv.Nr. G 94.006

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02

View of the Kunstmuseum Bern in the
Hodlerstrasse

Photo: Markus Mühlheim

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