CHRONICLES (March 1997–December 1997)

KURT SIEHR*

25 MARCH 1997 France implemented by Décret no. 97-286 French Statute no. 95-877 of 3 August 1995 implementing the European Directive 93/7 of 15 March 1993 on the return of cultural property unlawfully removed from the territory of a Member State. The Décret no. 97-286 deals with the French central authority and procedures to be taken for the return of objects removed to France and removed from France to other Member States: *Journal Officiel*, March 28, 1997, at 4847; 86 *Revue critique de droit international privé* 358 (1997). This follows the ratification by France on 7 January 1997, of the 1970 UNESCO Convention.

22 MAY 1997 The Italian minister for cultural objects issued protocol no. 3666-A48 impeding the temporary importation of cultural objects into Italy that could be easily exported if not meeting a certain maximum value. The government is afraid that by informal declarations the Italian cultural policy may be evaded: *Il Giornale dell'Arte*, September 1997 at 32.

27 MAY 1997 Paraguay ratified the UNIDROIT Convention of 24 June 1995 on Stolen or Illegally Exported Cultural Objects, see 5 *International Journal of Cultural Property* 155 (1996); Marina Schneider, 2 *Uniform Law Review* 503 (1997).

5 JUNE 1997 The Swiss Federal Court handed down its decision on international legal assistance with respect to art objects found in the free zone of Geneva and claimed by the Italian Republic as being stolen in Italy. The Federal court confirmed a Geneva decision that assistance cannot be granted until the illegal provenance has been shown. *Arrêts du Tribunal Fédéral Suisse,* vol. 123, part II, at 268; *Le Journal des Arts*, September 26, 1997 at 26.

9 JUNE 1997 Memorandum of Understanding between the Government of Peru and the Government of the United States of America concerning the imposition of import restrictions for archaeological objects of pre-Columbian cultures and certain ethnological objects of the colonial period of Peru. Information by Maria Ofelia Cerro Moral, Member of Congress, Lima.

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18 JUNE 1997

An English antiques restorer, Jonathan Tokeley-Parry, was sentenced to six years in prison for smuggling Egyptian antiquities. "Operation Bullrush," an extensive investigation into the Egyptian and Chinese antiquities market, was initiated after the Keeper at the British Museum notified the police that ancient papyri had been brought for an expert opinion. Jerome M. Eisenberg, 5 *Minerva* 3 (1997).

20 JUNE 1997

The World Congress of Artists organized by UNESCO in cooperation with the Getty Conservation Institute passed a Declaration of Rights of Artists: *Il Giornale dell'Arte*, October 1997 at 114.

SPRING 1997

Soon after the British election, the Blair government rejected Greece's request for return of the so-called Elgin Marbles, despite a reported promise by former Labor leader Neil Kinnock that the Labor party would return the sculptures. Heritage secretary Chris Smith said that "the issue had been explored 'over the course of the last five years' and that the government had decided it 'was not a feasible or sensible course of action.'" Greece's Culture Minister Evangelos Venizelos announced that Greece would continue with plans to build a museum near the Parthenon to protect sculptures and antiquities from Athens' air pollution. Jeffrey Kastner, *ARTnews,* September 1997 at 58.

SUMMER 1997

Old master drawings pillaged at the end of World War II were seized in New York. The drawings came from the National Museum of Baku in Azerbaijan where they had been stolen in 1993. *The Art Newspaper*, October 1997 at 4; *Le Journal des Arts*, 26 September 1997 at 2. Some of these drawings may be fakes, *Frankfurter Allgemeine Zeitung,* February 7, 1998, at 35.

SUMMER 1997

The Hellenic Ministry of Culture in collaboration with the Melina Mercouri Foundation published a new folder, "The Restitution of the Parthenon Marbles," to be distributed to visitors to the Acropolis. The folder describes the mutilation to the Parthenon caused by Lord Elgin's removal of these sculptures, their subsequent history in Britain, and Greece's long struggle to achieve their return. The folder describes the essence of Greece's claims, in the words of the Minister of Culture, Evangelos Venizelos:

> The Parthenon Marbles are not free-standing sculptures. They are intrinsic, indivisible elements of the Temple of the Parthenon, the primary and symbolic monument of Western civilisation. Certain of these elements are essential not only for the aesthetic appearance, but for the static stability of the building, as the work of restoration has clearly demonstrated. The request for the restitution of the Parthenon Marbles is not made by the Greek Government in the

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name of the Greek nation or of Greek history. It is made in the name of the cultural heritage of the world and with the voice of the mutilated monument itself, that cries out for its marbles to be returned.

The folder also announces the ambitious restoration program currently being undertaken on the Acropolis. Work has already been completed on the Erechtheion, is presently continuing on the Parthenon and Propylaea and is scheduled to begin on the Temple of Athena Nike. The restoration work on the Parthenon is targeted primarily at its structural preservation, conservation of its surfaces, maximum protection for the sculptures, correcting the positions of previously restored blocks, and the supplementary restoration of certain sections, mainly using existing fallen blocks belonging to the building.

The new Acropolis Museum will be constructed in the locality of Makriyanni, opposite the Sacred Rock and very close to it. The new Acropolis Museum will have a Parthenon Room, from which the Parthenon itself will be visible through its north glassed side, ready to receive the Parthenon sculptures.

SUMMER 1997 The Brazilian government appointed a commission to trace gold, cash, and art loot from victims of the Holocaust and then funneled to Brazil by Nazi Germany during World War II. 23:2 *ARTnewsletter*, September 23, 1997 at 7.

SUMMER 1997 The Centre Georges Pompidou of Paris returned the Cubist painting *Paysage* (1911) by Albert Gleizes (1881–1953), stolen by Nazis fifty-five years ago, to the rightful owner Francis Warin (great nephew of Alphonse Kann) who learned the whereabouts of his painting through Hector Feliciano's book, *The Lost Museum*. 23:1 *ARTnewsletter,* September 9, 1997 at 4.

22 JULY 1997 *Journal de Genève* published an article by Pierre Lalive responding to the statement of the Rudolf Staechelin Family Foundation, which withdrew its collection from Swiss museums following the endorsement of the UNIDROIT Convention by the Swiss Federal Council (see 6 *International Journal of Cultural Property* 416 [1997]). Professor Lalive wrote that the Staechelin statement demonstrated a lack of understanding of current international law and that the UNIDROIT Convention does not represent a radical departure. Furthermore, he pointed out that museums, collectors, and dealers can all be victims of theft of works of art and that it is very much in the interest of a country, such as Switzerland, which is so rich in art collections, to obtain assurance of return of stolen art works. Professor Lalive concluded by stating that it is difficult to see "how Switzerland can permit itself (for example, in relation to Italy, the principal victim of thefts and archaeological pillaging) to appear like

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an island of free trafficking in stolen or illegally exported goods." [Information provided by Lyndel V. Prott, Paris]

22 JULY 1997

The German government finished the draft of a new German *Statute on the Protection of National Cultural Objects*. This statute will, when approved by parliament, replace the old one of 1955 and implement the European Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State, see 6 *International Journal of Cultural Property* 387 (1997).

1 AUGUST 1997

The Italian government issued protocol number 5328/A4A concerning the temporary importation of works of art into Italy from EU member countries requiring burdensome documentation: *The Art Newspaper,* November 1997 at 46; *Il Giornale dell'Arte,* November 1997 at 102.

9 AUGUST 1997

Walter I. Farmer passed away in Cincinnati, Ohio. Farmer (1911–1997) graduated in architecture and served during and after World War II as a Monuments Fine Arts and Archives (MFA & A) officer and as the director of the Wiesbaden Central Collecting Point for displaced art objects. When the members of the collecting point received an order for shipment to the United States of a selection of German "works of art of greatest importance," they published the Wiesbaden Manifest of protest on 7 November 1945, protesting against the transfer of German-owned works of art. Walter I. Farmer was one of the signers of the Manifest. The Manifest was published in the *College of Art Journal* and later in other publications; see T. Carr Howe, *Salt Mines and Castles* 274 (1946); E. Simpson (ed.), *The Spoils of War*, 133 (1997). It reads:

U.S. FORCES, EUROPEAN THEATER GERMANY

7 November 1945

1. We, the undersigned, Monuments, Fine Arts and Archives Specialist Officers of the Armed Forces of the United States, wish to make known our convictions regarding the transportation to the United States of works of art, the property of German institutions or Nationals, for purposes of protective custody.

2.a. We are unanimously agreed that the transportation of these works of art, undertaken by the United States Army, upon direction from the highest national authority, establishes a precedent which is neither morally tenable nor trustworthy.

b. Since the beginning of United States participation in the war, it has been the declared policy of the Allied Forces, so far as military

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necessity would permit, to protect and preserve from deterioration consequent upon the processes of war, all monuments, documents or other objects of historic, artistic, cultural or archaeological value. The war is at an end, and no doctrine of "military necessity" can now be invoked for the further protection of the objects to be moved, for the reason that depots and personnel, both fully competent for their protection, have been inaugurated and are functioning.

c. The Allied Nations are at present preparing to prosecute individuals for the crime of sequestering, under pretext of "protective custody", the cultural treasures of German-occupied countries. A major part of the indictment follows upon the reasoning that, even though these individuals were acting under military orders, the dicates of a higher ethical law made it incumbent upon them to refuse to take part in, or countenance, the fulfilment of these orders. We, the undersigned, feel it is our duty to point out that, though as members of the Armed Forces we will carry out the orders we receive, we are thus put before any candid eyes as no less culpable than those whose prosecution we affect to sanction.

3. We wish to state that from our own knowledge, no historical grievance will rankle so long, or be the cause of so much justified bitterness, as the removal, for any reason, of a part of the heritage of any nation, even if that heritage may be interpreted as a prize of war. And though this removal may be done with every intention of altruism, we are none the less convinced that it is our duty, individually and collectively, to protest against it, and state that though our obligations are to the nation to which we owe allegiance, there are yet further obligations to common justice, decency and the establishment of the power of right, not of expediency or might, among civilised nations.

The works of art were shipped to the United States, exhibited in Washington, D.C., and thirteen American cities, and eventually returned to Germany. The Wiesbaden Manifesto contributed to this return. It is a landmark document of personal courage and exemplary policy.

29 AUGUST 1997 The President of the Republic of Peru ratified the UNIDROIT Convention of 24 June 1995 on Stolen or Illegally Exported Cultural Objects, Normas Legales. *El Peruano,* September 3, 1997 at 152333.

1 SEPTEMBER 1997 President Roman Herzog of Germany announced in Moscow in a potentially far-reaching goodwill gesture that Germany will return what is believed to be pieces of Russia's famed Amber Room, looted during World War II. The fragments discovered in May, 6 *International Journal of Cultural Property* 414 (1997), are

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believed to be part of the Amber Room panels, removed from the palace of Catherine the Great outside St.Petersburg and seized by German troops in 1941. *International Herald Tribune,* September 2, 1997 at 5.

10 SEPTEMBER 1997

The Paris Cour d'appel protected good faith purchasers of art objects that had been lent to art dealers and sold by them without the owners' authorization. 52 *Le Journal des Arts,* January 1998 at 2.

10 SEPTEMBER 1997

The Paris Court of Appeals gave judgment in favor of good faith purchasers of works of art defrauded by two Paris art dealers (commissaires-priseurs). One of them became bankrupt on 4 November 1997. For the Guy Loudmer affair, see 50 *Le Journal des Arts,* December 19, 1997 at 22; 51 *Le Journal des Arts,* January 3, 1998 at 1; 52 *Le Journal des Arts,* January 16, 1998 at 2, and 53 *Le Journal des Arts,* January 20, 1998 at 1, 27.

12 SEPTEMBER 1997

According to Professor Robert Senelle of the University of Gent (Belgium), the Belgian government should ask the French government to return to Belgium several art objects taken by the French army in 1794 and still exhibited in French museums: *De standaard,* September 12, 1997.

24 SEPTEMBER 1997

The English Treasure Act 1996 (c. 24), 6 *International Journal of Cultural Property* 345 (1997), entered into force. A *Code of Practice* for England and Wales has been published by the British Department of National Heritage. [Information provided by J. H. Carleton, London]

26 SEPTEMBER 1997

Two earthquakes hit central Italy and caused serious damages to cultural property in Assisi (Basilica of St. Francis) and other places in the region of Umbria: *International Herald Tribune,* September 27/28, 1997 at 1; *La Repubblica,* September 28, 1997, at 1–8; *Il Giornale dell'Arte,* October 1997, at 1, 6–7.

5–10 OCTOBER 1997

Second seminar of UNESCO on Université et Patrimoine was held in Quebec, Université Laval.

8 OCTOBER 1997

Italy passed Law no. 352 on cultural property. This statute amends several former pieces of legislation but does not implement the EC Directive of 15 March 1993: *Gazzetta Ufficiale della Repubblica Italiana,* supplement to no. 243 of October 17, 1997.

9/10 OCTOBER 1997

The conference Le Scuole di Specializzazione nel settore dei beni culturali [Professional Schools for Cultural Property], held in Rome, passed a resolution in order to acknowledge eleven professional schools as proper educational institutions and to curtail the flourishing of unqualified private courses: *Il Giornale dell'Arte,* December 1997 at 68.

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14 OCTOBER 1997 The Bavarian State Bureau of Investigation informed the public that about thirty Byzantine art objects stolen twenty years ago in Cyprus and worth about 60 million DM, have been discovered with a person living in Munich: *Frankfurter Allgemeine Zeitung*, October 15, 1997 at 13; *Neue Zürcher Zeitung*, October 15, 1997 at 19.

17 OCTOBER 1997 Symposium on Resolution Methods for Art-Related Disputes, organized by the Art-Law Centre, Geneva was held in Geneva.

18 OCTOBER 1997 The Solomon R. Guggenheim Museum Bilbao opened in the new building designed by the architect Frank Gehry of Los Angeles. The next Guggenheim Museum will be created in Berlin. *The Art Newspaper*, October 1997 at 14.

24 OCTOBER 1997 The German-Swiss "bug-war" came to an end. Germany permitted the export of the collection of about three million bugs, collected by Georg Frey of Munich, stored in 6,500 show cases eventually acquired by a foundation and to be exhibited on a long-term loan basis in the Museum of Natural History in Basel, Switzerland. The export permission was given under certain conditions: the collection shall not be sold and dispersed, it must be accessible for research and to the public. *Neue Zürcher Zeitung*, October 3, 1997 at 20, and October 25/26, 1997 at 20; *Frankfurter Allgemeine Zeitung*, October 25, 1997 at 35.

30 OCTOBER 1997 Conference on Art on the Move organized by the Institute of Art and Law (Leicester) in association with Clyde and Co., London.

OCTOBER 1997 The painting *Odalisque* by Henri Matisse (1869–1954) donated to the Seattle Art Museum in 1996 was identified as being stolen from the Rosenberg collection in Paris by the Nazis in 1940. Rosenberg's heirs asked for return of the painting: *USA Today*, October 23, 1997.

OCTOBER 1997 World War II loot surfaced in New York. Twelve drawings (estimated to be worth over $10 million) stolen from the Bremen Museum (Germany) during World War II and subsequently stolen from the National Museum of Baku (Azerbaijan) were seized in New York. Amy Fusselman, 23 *ARTnewsletter*, November 4, 1997 at 8; *The Art Newspaper*, January 1998 at 1.

7 NOVEMBER 1997 U.S. House of Representative Doc Hastings introduced a bill to amend the Native American Graves Protection and Repatriation Act. The amendment would increase opportunity for scientific study of human remains and cultural items, remove a provision for the return of cultural items to tribes lacking cultural affiliation, based only on recent land use, and clarify NAGPRA's language concerning the treatment of inadvertent discoveries of human remains

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and objects. [Information provided by Donald F. Craib, aia-l@brynmawr.edu, December 5, 1997]

14 NOVEMBER 1997

The United States District Court for the Southern District of New York handed down its decision in the case of *United States of America* v. *An Antique Platter of Gold*. The platter is of Sicilian origin, was excavated in Sicily, finally sold to Mr. Steinhardt, an American collector, for more than $1 million, smuggled out of Italy, and imported into the United States via Switzerland in 1991. The customs declaration listed Switzerland as the country of origin and the value of the platter was indicated as $250,000. In 1995, the U.S. Customs Service confiscated the platter so that it could be returned to Italy. The United States filed a civil forfeiture action. The court found that the forfeiture is not unconstitutionally excessive and does not violate Steinhardt's rights under the Eighth Amendment: 1997 U.S. Dist. Lexis 18899 [Information provided by Jack Daulton, Chicago]. See also *The Art Newspaper,* January 1998 at 5. The case is now on appeal to the U.S. Court of Appeals for the Second Circuit.

14 NOVEMBER 1997

Opening of the exhibiton of the collection of Nikolaj Ivanovitch Khardzhiev (1903–1996) in the Amsterdam Stedelijk Museum. This collection of Russian avant-garde painters (Lissitzky, Malevitch, and others) was allegedly illegally exported from Russia and is now claimed by the Russian Republic: *de Volkskrant,* November 12, 1997 at 1; *Het Parool* November 13, 1997 at 1; *The Art Newspaper,* December 1997 at 3; *Il Giornale dell'Arte,* January 1998 at 10.

20 NOVEMBER 1997

The First Courtauld Debate on The Trade in Antiquities, in association with *The Art Newspaper,* took place at the Courtauld Institute of Art, now located in Somerset House in the Strand, London. Most speakers were in favor of licit art trade. An overwhelming majority supported the motion, "This house believes that the trade in antiquities is fundamental to the proper study of the art of the past." 9:1 *Minerva* 18–19 (1998).

NOVEMBER 1997

Commissioners, appointed by the Glasgow City Council, gave the Trustees of the Burrell Collection the right to disregard Sir William Burrell's express wish that his collection of art treasures, donated in 1944, should not be lent abroad. *The Art Newspaper,* December 1997 at 7. This decision has been severly criticized, particulary by the Chairman of the National Art Collections Fund. [Information provided by Richard Crewdson, London]

NOVEMBER 1997

The museum Staatliche Galerie Moritzburg (Halle, Germany) bought for 3.6 million DM the painting *The Cathedral of Halle* by Lyonel Feininger (1871–1956). This painting was formerly part of the museum collection, removed as "degenerate art" in 1937 and acquired by the art dealer Ferdinand Möller in exchange for second-rate Old Masters. The Möller Foundation as the successor

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of Ferdinand Möller sold the painting to the former owner and reduced the price in exchange for retaining 20 percent of the ownership title to the painting. This case is somewhat puzzling in that the seller has sold the painting to its former owner for a considerable sum, while being heralded as a "courageous rescuer" of modern art and as a "generous benefactor" to a public museum. *Frankfurter Allgemeine Zeitung,* December 6, 1997 at 38.

4 DECEMBER 1997 — The Munich police discovered a "hoard" of 40 boxes containing 130 icons, mosaics, and frescoes stolen from churches of northern Cyprus. *Frankfurter Allgemeine Zeitung,* December 5, 1997 at 13.

5 DECEMBER 1997 — Parthenon Day. An international day of action was organized by supporters of the return of the Elgin Marbles in the British Museum to the Parthenon in Athens. The British Committee for the Restitution of the Parthenon Marbles and the Union of Hellenic Student Societies in the United Kingdom organized a students' march to the British Museum in London. For further information, the e-mail address is http/www.u.k.digiserve.com/mentor/marbles/.

16 DECEMBER 1997 — The new Getty Center with buildings designed by Richard Meier opened on the Brentwood hilltop in Los Angeles. *The Art Newspaper,* December 1997 at 1, 29–33.

17 DECEMBER 1997 — Sotheby's announced new "Conditions of Sale" according to which Sotheby's would refuse to handle art without valid export papers in all categories (singled out were eight "areas of potential trouble": Old Masters; Chinese ceramics and works of art; Russian paintings; Greek, Roman, and Egyptian antiquities; African tribal art; Indian and Southeast Asian works of art and sculpures; pre-Columbian art; and jewelry); require consignors to sign a warranty that their goods have not been illegally exported; refuse to work with vendors who will not sign statements that they have come by their art legitimately; require dealers with large consignments to sign warranties affirming that goods have been legally exported from their countries of origin; create a six-person "Compliance Department," at a cost of around £650,000 a year (currently $1.07 million), to look into the history of every object sent for sale "which may have crossed borders." 23:9 *ARTnewsletter,* December 30, 1997 at 2, 3; 97 *ARTnews,* February 1998 at 54.

DECEMBER 1997 — Two paintings, *Portrait of Wally* and *Dead City,* painted by the Viennese artist Egon Schiele (1890–1918) in 1912 and 1911 and that were part of the exhibition "Egon Schiele: The Leopold Collection" at the New York Museum of Modern Art (October 12, 1997–January 4, 1998), were claimed by two American families. The claimants alleged that the paintings were illegally taken by the Nazis and later bought by Dr. Rudolf Leopold as part of the

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EGON SCHIELE, *PORTRAIT OF WALLY* (1912) © LEOPOLD MUSEUM, VIENNA, AUSTRIA. PRIVATE FOUNDATION

Leopold Collection, a private foundation created by the Austrian government after purchasing the Leopold collection. The Museum of Modern Art refused to detain the paintings, relying on § 12.03 New York Arts and Cultural Affairs Law, which immunizes cultural property on loan in New York from civil proceedings. *New York Times,* January 1, 1998 at B1, 20; January 5, 1998 at B1. However, the Manhattan District Attorney Robert A. Morgenthau issued a subpoena barring the return of the paintings to Austria on the grounds that they should be held as evidence in a criminal proceeding. As the paintings had not been registered with the United States Information Agency according to 22 U.S.C.A. § 2459 and Executive Order No. 12047, they do not enjoy immunity from seizure under federal law. *The New York Times,* January 8, 1998 at A8; 23:10 *ARTnewsletter,* January 13, 1998 at 3; 23:11 *ARTnewsletter,* January 27, 1998 at 1.

DECEMBER 1997

The grandchildren of Jacques Goudstikker (1897–1940), a successful art dealer in Amsterdam (Netherlands), have claimed about 150 paintings of the Goudstikker collection. As a Jewish citizen, Goudstikker had fled the Netherlands when Germany invaded the country and left behind his stock of about 1,300 paintings. Many of them were sold to Göring and later restored to the Netherlands via the Munich Collecting Point. Today these paintings are supposed to form part of the "NK (Nederlands Kunstbezit)—collectie" governed by the "Instituut Collectie Nederland" (a body of the Dutch Ministry of Cultural Affairs) and composed of art objects owned by the State and loaned to several Dutch museums. A. Heuss, *Neue Zürcher Zeitung,* December 19, 1997 at 45; K. Blomberg, *Frankfurter Allgemeine Zeitung,* January 20, 1998 at 38.

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DECEMBER 1997 The Greek government decided to change the route of the Metro No. 3 under construction in Athens in order to avoid any danger to the ancient Kerameikos cemetery of Athens, 5 *International Journal of Cultural Property* 310 (1996) [Information provided by Dr. J. Stroszeck of the German Archaeological Institute in Athens]; K. Fittschen, *Frankfurter Allgemeine Zeitung*, February 4, 1998 at 42.

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