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U.S. Court of Appeals Rules Holocaust Looted Art Case Against Hungary Can Proceed in its Entirety

Decision confirms Herzog Heirs' right to claim looted artworks, including 11 previously excluded pieces

Washington, DC – April 24, 2013 – The U.S. Court of Appeals in Washington issued an opinion Friday upholding Judge Ellen Segal Huvelle's decision to allow a lawsuit filed against Hungary, three of its state-owned museums, and one state-owned university for artworks looted from the Herzog family during the Holocaust, to proceed. The decision also reversed the lower court's premature dismissal of 11 artworks on grounds of legal reciprocity.

Heirs to the Herzog Collection first filed suit in July 2010. The lawsuit seeks the return of more than 40 artworks with a combined value of more than \$100 million, including masterworks by El Greco, Courbet, Francisco de Zurbarán, and Lucas Cranach the Elder. The works come from the collection of Baron Mór Lipót Herzog, a passionate Jewish art collector.

Widely regarded by art experts as the world's last unresolved Holocaust art claim of this magnitude, the appellate court's ruling will require Hungary to face direct scrutiny of its Holocaust-era actions and its inventory of all looted artworks.

In its decision, the court reaffirmed the rejection of Hungary's claim that it and its state-owned museums and university are immune from the jurisdiction of the United States courts under the United States Foreign Sovereign Immunities Act for claims arising out of the looting of the Herzog Collection.

This decision also upholds the lower court's rejection of the claim made by the Hungarian government that it acquired the Herzog Collection through a 1973 Claims Settlement Agreement with the United States. This claim has been Hungary's sole justification for the government's position in its public statements on the case and in its response to U.S. government officials, including then-Senator Hillary Clinton, who demanded the return of the paintings in 2007 and 2008.

The following statements are from the Herzog heirs and their counsel:

Michael S. Shuster, counsel to the Herzog family and partner at Holwell Shuster & Goldberg LLP, explained and applauded the ruling.

- "The court's denial of Hungary's appeal, and its reinstatement of the 11 previously excluded paintings, is a testament to the strength of our case."
- "The Court of Appeals set aside all of Hungary's technical defenses to the claims, and makes clear that Hungary will be required to submit to discovery and to defend the case on the merits. We look forward to exposing Hungary's Holocaust-era actions at trial."

Agnes Peresztegi, counsel to the Herzog family and to the Commission for Art Recovery, stated:

- “The heirs note with particular satisfaction that prior to the court's decision, the current government of Hungary announced that it would return all works of art in bailment currently held in national museums that are, in reality, the property of private owners. This decision has enabled the government to distance itself from the previous governments' policy of attempting to use legal technicalities to avoid restitution of looted art. With this change in policy, the heirs should get back works of art that rightfully belong to them.”

David de Csepel, the lead plaintiff in the lawsuit and nephew of Martha Nierenberg, daughter of Erzsébet (Herzog) Weiss de Csepel, who fled the Hungarian Holocaust with her family in 1944 and has long championed efforts for the return of the collection, stated:

- “This ruling brings us one step closer to restoring what was lost to our family and has been held hostage by the government of Hungary for more than half a century.”

Charles A. Goldstein, counsel to the Commission for Art Recovery, a not-for-profit organization that works to ensure that governments comply with the Washington Principles for Holocaust-era looted art, stated:

- “This is a very favorable decision and a major setback for the Hungarian government.”

Hungary may petition for rehearing *en banc*, seeking to have the full D.C. Circuit Court hear the appeal, and may subsequently file in the Supreme Court for *certiorari*. Once the appellate process is exhausted, the case will proceed to discovery.

Additional materials, including a copy of the decision and photos of the artwork, are available online at <http://www.hungarylootedart.com/>.

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