

THE COMMISSION,

Meeting in plenary session on 9 April 2021;

Having regard to Decree No. 99-778 of 10 September 1999, as amended by Decree Nos. 2000-932 of 25 September 2000 and 2001-530 of 20 June 2001;

Having regard to Decree No. 2018-829 of 1 October 2018, addressing the establishment of a procedure for seeking out the owners, or their heirs, of cultural property spoliated during the Occupation, and particularly Article 3-1 of said Decree;

I. The facts

Armand DORVILLE, a lawyer, collector and well-known art lover, left his Parisian home on Rue Séguier, Paris (6th arrondissement) at an unknown date to take refuge in his property in Cubjac (Dordogne), where he had brought his collection of paintings and artworks. He died on 28 July 1941. Being single and without any statutory heirs, he had, by a will dated 2 May 1939, appointed as universal legatees:

- of one quarter in usufruct, his brother, Charles DORVILLE, his sister, Valentine LION née DORVILLE, his sister, Jeanne LEVY née DORVILLE (widow) and Elia COUCARDON, his housekeeper,
- of one quarter in bare ownership, his niece, Marie-Louise KAHN née LEVY, daughter of Jeanne LEVY née DORVILLE (widow), his nieces, daughters of Valentine LION née DORVILLE, namely: Marie-Thérèse GRADWOHL née LION, Denyse FALK née LION, and Monique TABET née LION.

The executor of the will, Jacques PFEIFFER, a lawyer, organised the auctions intended to enable the delivery of the legacies and any settlement of inheritance tax. These sales took place between May and November 1942 in Nice and Lyon. The estate-related operations were closed after the Liberation, the heirs giving discharge on 7 November 1947.

II. The procedure

By application dated 13 November 2019, Maître ..., acting on behalf of the firm ..., specialising in inheritance-related genealogy and the search for heirs, the latter himself acting in the capacity of representative for the descendants of Armand DORVILLE' legatees, referred the matter to the CIVS seeking:

- the cancellation of the auctions on the basis of the provisions of the Order of 21 April 1945
- the restitution of the following artworks:
 - Eugène Delacroix, *Tête de Lionne*, REC, Louvre
 - Constantin Guys, *Jeune Femme et sa duègne*, Orsay
 - Constantin Guys, *Présentation du visiteur*, Orsay
 - Constantin Guys, *Cavaliers et amazones*, Orsay
 - Constantin Guys, *La loge de l'Empereur pendant une représentation de Mme Viardot dans « Orphée »*, Orsay
 - Constantin Guys, *Revue aux Invalides par l'empereur Napoléon III*, Orsay
 - Henry Monnier, *Portraits of Joseph Prudhomme and Henry Monnier*, Louvre
 - Henry Monnier, *Les trois matrones*, Louvre
 - Henry Monnier, *Les visiteurs*, Louvre
 - Henry Monnier, *Une soirée chez Mme X*, Louvre
 - Jean-Louis Forain, *Femme à la terrasse Fleurie*, Orsay
 - Pierre-Jules Mène, *“L'Amazone/Présumée être S.M l'impératrice Eugénie”*, Compiègne

- *Camille Roqueplan, La diligence en danger, Louvre*
- *Constantin Guys, Le prédicateur, Troyes*
- *Jean-Louis Forain, L'Anglais au promenoir, Troyes*
- *Émile Cross, Étude de femme, Troyes*
- *Édouard Vuillard, Le bibliophile / La lecture, Nice*
- *Adolphe Hervier, Drawing of 5 April 1871 / Place à Coutances, Dijon*
- *Édouard Vuillard, Étude diverses partie haut à droite / Fleurs en pot, Orsay*
- *Félix Vallotton, Portrait of Octave Mirbeau, Grenoble*

to the heirs of Armand DORVILLE, claimants, represented by ..., namely:

1/ Branch of Marie-Louise KAHN née LEVY, daughter of the above-named Jeanne LEVY née DORVILLE (widow):

- her daughter, Mrs A., born on ... in ...,
- her daughter-in-law, Mrs B., born on ... in ..., as the spouse entitled to succeed her son, ...,
- her grandchildren, daughter and son of the above, namely:
 - Ms C., born on ... in ...,
 - Mr D. born on ... in ...,

2/ Branch of Félix FALK, widower in the first marriage of the above-mentioned Denyse LION, husband in the second marriage of ...:

- his son, Mr E., born on ... in ...,
- his daughter-in-law, Mrs F., born on ... in ..., as the spouse entitled to succeed his son ...,
- his grandchildren, daughter and son of the above, namely:
 - Ms G., born on ... in ...,
 - Mr H., born on ... in ...,

3/ Branch of Marie-Thérèse GRADWOHL née LION, who had no children and died in 1995, leaving the following heirs, unless there are testamentary provisions that are unknown to this day, namely:

- on her father's side
 - Mr I., born on ... in ...,
 - Ms J., born on ... in ...,
- on her mother's side
 - Mrs A., mentioned above,
 - Mrs B., widow of Mr KAHN, mentioned above,
 - Ms C., mentioned above,
 - Mr D., mentioned above.

These claimants are acting as beneficiaries of:

- Jeanne LEVY née DORVILLE,
- Marie-Louise LEVY, divorced from Mr KLEIN and then married Mr KAHN,
- Charles DORVILLE,
- Valentine LION, née DORVILLE who died during deportation,
- Marie-Thérèse GRADWOHL née LION,
- Denyse FALK, née LION who died during deportation,
- Dominique FALK, who died during deportation,
- Monique TABET née LION, who died during deportation,
- Marie-France TABET, who died during deportation.

The beneficiaries of two legatees of Armand DORVILLE are absent and not represented, namely:

- ..., universal legatee of Charles DORVILLE, brother of Armand DORVILLE,
- Elia COUCARDON, Armand DORVILLE's housekeeper.

III. The investigation of the case

The investigation of the application gave rise to the investigations set out in:

- the summary note, dated 29 September 2019, drawn up by the Ministry of Culture's Mission for Research and Restitution of Cultural Property Spoliated between 1933 and 1945 (M2RS), accompanied by a list of prices of the works sold,*
- the reports of Ms ZAGURY and Mr AUGUSTIN, rapporteurs at the CIVS, communicated to the claimants, the M2RS, the Ministry for Europe and Foreign Affairs and the Ministry of Culture.*

At the end of the investigation, Maître ... and Mr DACOSTA, Government Commissioner, submitted their written observations.

Informed of the hearing of 9 April, Mrs A., appeared with her representative, Mr X., and his counsel, Maître

The Commission heard the two judge-rapporteurs, the Director of the Diplomatic Archives representing the Ministry for Europe and Foreign Affairs and the Director-General for Heritage and Architecture representing the Ministry of Culture, the Government Commissioner, then the claimant, her representative and his counsel.

The Commission considers the following to be established:

the research carried out and the results on file indicate that Armand DORVILLE, a well-known Parisian lawyer and wealthy collector, died unmarried and without any children in CUBJAC (Dordogne) on 28 July 1941. As part of his estate organised according to his last wishes, steps were taken by his heirs in PARIS and PÉRIGUEUX and resulted in an order giving authority to take possession on 26 November 1941 without any reference to Armand DORVILLE's Jewishness and despite the notaries' obligation to verify this point in relation to the anti-Semitic legislation that was in force.

Jacques PFEIFFER, a long-time colleague and friend of Armand DORVILLE, appointed executor of the will "with seisin" (possession of real property), had an inventory drawn up of the furniture and paintings in CUBJAC (Dordogne) from 3 to 9 April 1942 and organised the auction.

The sale of the DORVILLE collection, comprising 445 works, entitled "Cabinet d'un amateur parisien", was organised mainly in the south, in NICE (Alpes-Maritimes) at the Hôtel SAVOY by an auctioneer, assisted by the expert acting for the sellers, on 26 May and from 24 to 27 June 1942. Two other sales took place on 1 July (book sale) and 5 November 1942 (original manuscripts) in LYON (Rhône). The total sales amounted to FRF 9,051,915, i.e. €3,195,326 after conversion to current value.

A temporary administrator was appointed under the Law of 22 July 1941 and intervened in June 1942 with a certain amount of confusion, as the Commissariat-General for Jewish Affairs (CGQJ) had been notified at the last minute of the Jewish status of Armand DORVILLE and his heirs, with the temporary administrator even pointing out that he did not have his official notice of appointment on the first day of the second sale, 24 June, and that it was necessary to backdate this appointment.

Although he gave notice of the appointment, the temporary administrator did not intervene in the progress of the sales, he let them take their course. He expressly stated that he respected their organisation at the request of the executor of the will.

However, he stopped the "money" from the proceeds of the sales. He kept the amounts which he refrained from depositing with the Caisse des Dépôts et Consignations (CDC), contrary to the usual procedure, and deposited it in two private accounts in the name of the estate. In December 1942, he

sent the CGQJ a request for exemption from the Aryanisation procedure for each of the beneficiaries. This exemption, based on the military credentials and patriotic attitude of several family members during the wars of 1870-71, 1914-1918 and 1939-1940, was granted by the CGQJ in July 1943 on condition that the funds be invested in government bonds. The securities were most probably handed over to the notary between October 1943 and May 1944.

At the time of the Liberation, the surviving heirs of Armand DORVILLE gave Jacques PFEIFFER "full and final discharge without any reservations for all that he had done in carrying out his mission", and the temporary administrator handed over the accounts to him.

In a letter to the Restitutions Department dated 26 September 1947, the notary in charge of settling the estate stated: "It has not yet been requested to invalidate the sales of movable and immovable property made by the temporary administrator." The legatees who were aware of this option did not make use of it. In addition, they sold CUBJAC château (Dordogne) in 1946. Marie-Thérèse and Roger GRADWOHL enquired with the relevant bodies after the war to obtain compensation for the spoliations suffered by Valentine LION née DORVILLE, her daughters, Denyse FALK née LION and Monique TABET née LION, and her granddaughters, Dominique FALK and Marie-France TABET, at the time of their arrest in March 1944 and their deportation without return, as well as those resulting from the looting of Armand DORVILLE's Paris home in December 1943 and their own home in August 1942. The reimbursement of the CGQJ's levies on the sales was also requested.

IV. The Commission's opinion

It should be noted that only the regular court system has been given jurisdiction to rule on the application of the Order of 21 April 1945. Therefore, the request to cancel the auctions in question, based on the application of this text, is beyond the scope of the CIVS' assessment and cannot be accepted.

The auctions, which took place between 26 May and 1 July 1942, were decided on and organised by Jacques PFEIFFER, appointed as executor by his friend and colleague Armand DORVILLE. The executor was appointed "with seisin" (possession of real property) and had thus received complete authority without any prior obligation to obtain the consent of the legatees.

Moreover, as the public auction of Armand DORVILLE's collection was undoubtedly a means of generating sufficient cash to pay the inheritance tax (more than 45% of the net assets) and distribute the legacies, these sales cannot be considered to be an exorbitant measure under ordinary law. The heirs of Armand DORVILLE who were present were also able to exercise their right to withdraw 46 works considered to be of a family nature, under no duress.

Furthermore, the proceeds from these sales were well above the estimates. As a result, the auctions were organised and conducted without any coercion or violence.

Although the appointment of the temporary administrator the day after the second sale in NICE had no significant impact on the continuation of the auctions as settled by the executor, it did however have the immediate consequence of the proceeds being seized, which were thus made unavailable to the legatees. This Aryanisation measure, decided on and executed under the Law of 22 July 1941, must be considered as spoliation of an anti-Semitic nature within the meaning of Article 1 of the Decree of 10 September 1999 which governs the CIVS.

The consequences of the Aryanisation of the proceeds from the sales were exceptionally made worse by the deportation and extermination of three of Armand DORVILLE's legatees and two children. These murders and the scattering of the other heirs, which occurred due to anti-Semitic persecution,

had the direct consequence, after the Liberation, of unusually prolonging the unavailability of the proceeds from the sales. This situation gives rise to a specific financial loss for which compensation is payable. In the light of the facts of the case, this amount can be set at €350,000.

It is in this troubled context that the State Secretariat for National Education and Youth (Fine Arts, National Museums Directorate) knowingly acquired the following twelve artworks during these sales:

- 1) Constantin Guys, Jeune femme et sa duègne, watercolour, for FRF 31,000, recorded under number RF 29334 and the same title;*
- 2) Constantin Guys, La présentation du visiteur, pen and wash, for FRF 32,000, recorded under number RF 29335 and the title Présentation de visiteur;*
- 3) Constantin Guys, Cavaliers et amazones, pen and watercolour, for FRF 30,000, recorded under number RF 29336 and the same title;*
- 4) Constantin Guys, La loge de l'Empereur pendant une représentation de Madame Viardot dans "Orphée", pen and watercolour, for FRF 26,300, recorded under number RF 29337 and the title La loge de l'Empereur;*
- 5) Constantin Guys, Revue aux Invalides par l'empereur Napoléon III, pen and watercolour, for FRF 24,000, recorded under number RF 29338 and the title Une revue aux Invalides;*
- 6) Henry Bonaventure Monnier, Portraits of Joseph Prudhomme and Henry Monnier, watercolour, for FRF 28,000, recorded under number RF 29339 and the same title;*
- 7) Henry Bonaventure Monnier, Les trois matrones, watercolour, for FRF 24,000, recorded under number RF 29340 and the same title;*
- 8) Henry Bonaventure Monnier, Les visiteurs, watercolour, for FRF 6,000, recorded under number RF 29341 and the same title;*
- 9) Henry Bonaventure Monnier, Une soirée chez Madame X, gouache pen, for FRF 11,500, recorded under number RF 29341 bis and the same title;*
- 10) Jean-Louis Forain, Femme à la terrasse fleurie, watercolour, for FRF 40,000, recorded under number RF 29342 and the title Jeune femme debout sur un balcon, contemplant des toits parisiens;*
- 11) Pierre-Jules Mène, L'amazone présumée être Sa Majesté l'impératrice Eugénie, original wax, for FRF 12,000, recorded under number C 42.064 and the same title;*
- 12) Camille Roqueplan, La diligence en danger, watercolour, for FRF 5,000, recorded under number RF 29333 and the same title.*

The Administration knew that these sales were subject to the Law of 22 July 1941, and even intervened directly with the temporary administrator seeking the distribution of the legacies to the museums.

The Commission therefore considers, on the basis of fairness, that these twelve works of art, acquired under the conditions set out above, should not be kept in public collections. However, as the law currently stands, the return of these twelve works to the claimants conflicts with the principle of the inalienability of public property, laid down by the French Heritage Code (Art. L 451-5).

If this obstacle were removed, the Commission would recommend the reimbursement of the sale price received by Armand DORVILLE's heirs for these twelve works, a total amount of FRF 269,800, i.e. €79,294 after conversion, if necessary, by offsetting it with the proposed compensation.

With regard to the other artworks claimed, it is not established whether their buyers knew that the provisions of the Law of 22 July 1941 applied to these sales. There is therefore no reason, in fairness, to allow the claim on this point.

Consequently, in the light of the rapporteurs' investigations, which are detailed in their reports and which were developed during the hearing, it seems fair to award the claimants, the beneficiaries of ... and those of Elia COUCARDON, for the Aryanisation of the proceeds from the sales of the artworks, compensation of €350,000, or €270,706 if the twelve works of art are returned (Constantin Guys, *Jeune femme et sa duègne*, watercolour, recorded under number RF 29334; Constantin Guys, *Présentation du visiteur*, pen and wash, recorded under number RF 29335; Constantin Guys, *Cavaliers et amazones*, pen and watercolour, recorded under number RF 29336; Constantin Guys, *La loge de l'Empereur*, pen and watercolour, recorded under number RF 29337; Constantin Guys, *Une revue aux Invalides*, pen and watercolour, recorded under number RF 29338; Henry Bonaventure Monnier, *Portraits of Joseph Prudhomme and Henry Monnier*, watercolour, recorded under number RF 29339; Henry Bonaventure Monnier, *Les trois matrones*, watercolour, recorded under number RF 29340; Henry Bonaventure Monnier, *Les visiteurs*, watercolour, recorded under number RF 29341; Henry Bonaventure Monnier, *Une soirée chez Madame X*, gouache pen, recorded under number RF 29341 bis; Jean-Louis Forain, *Jeune femme debout sur un balcon, contemplant des toits parisiens*, watercolour, recorded under number RF 29342; Pierre-Jules Mène, *L'amazone présumée être Sa Majesté l'impératrice Eugénie*, original wax, recorded under number C 42.064; Camille Roqueplan, *La diligence en danger*, watercolour, recorded under number RF 29333).

V. Allocation of compensation

It follows from the notarised deeds relating to the account, settlement and division of Armand DORVILLE's estate, drawn up in 1947 and 1950, that the beneficiaries of this estate were:

- Marie-Thérèse GRADWOHL née LION,
- Marie-Louise KAHN née LÉVY,
- Felix FALK,
- Charles DORVILLE,
- Jeanne LÉVY née DORVILLE (widow),
- Elia COUCARDON.

The entitlements of each were set as follows:

- 15/32nds in bare ownership and 5/32nds in full ownership to Marie-Thérèse GRADWOHL née LION,
- 6/32nds in bare ownership and 2/32nds in full ownership to Marie-Louise KAHN née LÉVY,
- 3/32nds in bare ownership and 1/32nd in full ownership to Félix FALK
- 8/32nds in usufruct to Charles DORVILLE
- 8/32nds in usufruct to Jeanne LÉVY née DORVILLE (widow)
- 8/32nds in usufruct to Elia COUCARDON.

For the Commission, the right to compensation is deemed to have been acquired on the day of the spoliation and that, consequently, the compensation awarded is distributed taking into account the rights of each of the above-mentioned beneficiaries.

As the fourth usufructuary, Valentine LION née DORVILLE, was deceased on the day of the estate operations, her rights as usufructuary were extinguished, which resulted in particular in the conversion of the bare ownership rights that her heirs (or their heirs) had derived from Armand DORVILLE's will into full ownership rights.

The heirs of ... TABET, who died in 1946, husband of Monique LION, universal legatee in bare ownership of Armand DORVILLE and who died during deportation, relinquished their rights in the estate.

In this case, the three usufructuaries were all between 50 and 60 years old in 1941, the date their rights as usufructuaries came into being, and the usufruct valuation rate is 50%.

The rights of each of these three usufructuaries reduced to all of the assets bequeathed universally is 8/64ths. The total of their shares is 24/64ths, i.e. 3/8ths of the assets bequeathed universally, which left the other three universal legatees with 5/8ths of the assets bequeathed universally to share in the following proportions: 5/8ths for Marie-Thérèse GRADWOHL née LION, 2/8ths for Marie-Louise KAHN née LEVY and 1/8th for Félix FALK.

Thus the rights of these three other legatees to the assets bequeathed universally were distributed as follows:

- Marie-Thérèse GRADWOHL née LION, was to receive 25/64ths of these assets,*
- Marie-Louise KAHN was to receive 10/64ths of the same assets,*
- Félix FALK was to receive 5/64ths of these assets.*

Marie-Louise KAHN née LEVY was the only daughter of Jeanne LEVY née DORVILLE. Also, as Jeanne LEVY née DORVILLE is deceased, their shares are combined and the total represents 18/64ths.

Based on the rights acquired by the six beneficiaries of the DORVILLE estate appointed in the 1947-1950 deeds, and taking into account the death of Jeanne LEVY née DORVILLE (widow) in 1972, the compensation awarded by the Commission is distributed as follows:

- 1°/ for the branch of Charles DORVILLE (1/8th or 32/256ths of everything), the beneficiaries are the heirs of ... whom he had appointed as his universal legatee,*
- 2°/ for the branch of Marie-Louise KAHN née LEVY (18/64ths), the beneficiaries are as follows:*
 - Ms A., with 36/256ths,*
 - Ms B., whose usufruct is valued at 70% for the time at which her right arose, with 25.2/256ths,*
 - Ms C., with 5.4/256ths,*
 - Mr D., with 5.4/256ths,*
- 3°/ for the branch of Félix FALK (5/64ths), the beneficiaries are as follows:*
 - Mr E., with 10/256ths,*
 - Ms F., with 6/256ths,*
 - Ms G., with 2/256ths,*
 - Mr H., with 2/256ths,*
- 4°/ for the branch of Marie-Thérèse GRADWOHL née LION (25/64ths) who died in 1995 without any children, the beneficiaries are her heirs who, unless there are testamentary provisions that are unknown to this day, are:*
 - on her father's side (25/128ths):*
 - Mr I., with 25/256ths,*
 - Ms J., with 25/256ths,*
 - on her mother's side (25/128ths), the above-mentioned beneficiaries of the branch of Marie-Louise KAHN, namely:*
 - Ms A., with 25/256ths,*
 - Ms B., with 17.5/256ths,*
 - Ms C., with 3.75/256ths,*
 - Mr D., with 3.75/256ths.*

These latter portions are in addition to the portions fixed above which these beneficiaries derive directly from their own branch, which brings their total shares to:

- 61/256ths for Ms A.,*
- 42.7/256ths for Ms B.,*
- 9.15/256ths for Ms C.,*

- 9.15/256ths for Mr D.,
- 5°/ for the heirs of Elia COUCARDON, 32/256ths.

THE COMMISSION IS OF THE OPINION,

1° - That Ms A., Ms B., Ms C., Mr D., Mr E., Ms F., Ms G., Mr H., Mr I., and Ms J. SHOULD BE RECOGNISED AS HEIRS OF VICTIMS OF SPOLIATION ARISING FROM ANTI-SEMITIC LEGISLATION IN FORCE DURING THE OCCUPATION;

2° - That compensation of €350,000 (€270,706 if the twelve works are returned) be awarded, with this amount to be distributed as follows:

- 10/256ths to Mr E.,
- 6/256ths to Ms F.,
- 2/256ths to Ms G.,
- 2/256ths to Mr H.,
- 25/256ths to Mr I.,
- 25/256ths to Ms J.,
- 61/256ths to Ms A.,
- 42.7/256ths to Ms B.,
- 9.15/256ths to Ms C.,
- 9.15/256ths, to Mr D.,
- 32/256ths to the beneficiaries of ..., this share being expressly reserved,
- 32/256ths to the beneficiaries of Elia COUCARDON, this share being expressly reserved;

3° - That the twelve works purchased by the National Museums at the June 1942 sale be returned to Armand DORVILLE's beneficiaries, if their inalienability is terminated.

NOTES that the claimants will have to personally handle any sharing of the compensation awarded with any known or future heirs.

REMINDS the parties that this recommendation will be transmitted to the Prime Minister's office in accordance with Article 1-1 of Decree No. 99-778 of 10 September 1999, as amended, and notified to:

- Ms A., residing at ...,
- Ms B., residing at ...,
- Ms C., residing at ...,
- Mr D., residing at ...,
- Mr E., residing at ...,
- Ms F., residing at ...,
- Ms G., residing at ...,
- Mr H., residing at ...,
- Mr I., residing at ...,
- Ms J., residing at ...,
- Mr X., law firm ..., residing at ...,
- Maître ..., residing at ...,

And provided for information to:

- the Director-General for Heritage, Ministry of Culture, 182 Rue Saint-Honoré, 75033 PARIS cedex 01,

- **the Director of the Diplomatic Archives, Ministry for Europe and Foreign Affairs, 3 Rue Suzanne Masson, 93126 LA COURNEUVE cedex,**
- **the Director of the Musée des Beaux-Arts Jules Chéret, 33 Avenue des Baumettes, 06000 NICE,**
- **the Director of the Grenoble Museum, Place Lavalette, 38000 GRENOBLE,**
- **the Director of the Dijon Musée des beaux-arts, 1 Place du Théâtre, La Nef, 21000 DIJON.**

- *The Ministry for Europe and Foreign Affairs was represented by Mr CHIBAEFF,*
- *The Ministry of Culture was represented by Mr HÉBERT.*

During the deliberation, the Commission was composed of Mr JEANNOUTOT - Mr BERNARD - Mr TOUTÉE - Ms DREIFUSS-NETTER - Mr BADY - Ms SIGAL - Ms DRAI - Ms ROTERMUND-REYNARD - Ms ANDRIEU - Mr RIBEYRE - Mr PERROT.

Paris, 17 May 2021

*The Chargé de Mission,
Hearing Secretary*

Emmanuel Dumas

The Chairman,

Michel Jeannoutot