

**Editorial:****“The Adoption of the Terezin Declaration on June 30, 2009”**

Prof. Dr. Marc-André Renold,  
Direktor des Centre du Droit de  
l'Art, Universität Genf

On June 30, 2009, at the end of the Holocaust Era Assets Conference in Prague, the delegations of 46 States adopted the Terezin Declaration.<sup>1</sup> This Conference was a follow-up of the 1998 Washington Conference on Holocaust-Era Assets and enabled the participating States to review many aspects relating to the Holocaust which are still being felt today, such as the welfare of Holocaust survivors, issues linked to immovable property, Jewish cemeteries and burial sites, Nazi-confiscated and looted art, judaica and Jewish cultural property, archival materials and education, remembrance, research and memorial sites.

The Terezin Declaration is very broad in scope. For example, its definition of art and cultural property that was “confiscated, sequestered and spoliated” by the Nazis refers to several means “including theft, coercion and confiscation and on grounds of relinquishment as well as forced sales and sales under duress”. In the field which is of interest to us, i.e. art and cultural heritage, the question is whether the Declaration adds anything new to the 1998 Washington Conference Principles on Nazi-Confiscated Art. I think we can say that it does, and this is for three main reasons.

First, a reaffirmation of the Washington principles can only help them being better known, understood and implemented. Education in this field is central and it can only be useful that all those concerned be reminded of the necessity to elaborate “just and fair solutions”, possibly through the use of alternative dispute resolution mechanisms.

Second, it can be useful for States to compare and see what others have been doing in the field of restitution and “just and fair solutions”. In this regard it is very interesting to note that the Claims Conference (the Conference on Jewish Material Claims Against Germany) issued a Policy Report which was distributed in Prague and which can also be downloaded on the Claims Conference website ([www.claimscon.org](http://www.claimscon.org)). According to this report it appears that of the 50 concerned states,<sup>2</sup> 15 countries have made major or substantial progress in this field in the recent years, while 23 have made no significant progress and 6 do not dispose of sufficient information.

Finally, the Prague and Terezin Conference were a forum where States were able to inform about future plans in the sector. Thus, Mr. Stuart Eizenstat, head of the US delegation, informed the media that the US was going to set up a Nazi stolen art commission which will have a goal similar to that of the UK Spoliation Advisory Panel. Of course it remains to be seen if this will really happen, but it is thanks to events such as the Prague Conference and the Terezin declaration that such progress can be made.

Be that as it may, the text of the declaration does not really seem to have any additional normative power extending further than its status as “soft law” (or “narrative norm” to use the term proposed by *Eric Jayme*<sup>3</sup>). It remains to be seen how it will be put into effect by national legislators, courts, arbitral panels, mediators and other means of alternative dispute resolution.

*Marc-André Renold*

<sup>1</sup> Terezin Declaration of the Holocaust Era Assets Conference Prague (June 30, 2009), *KunstRSp* 2009, 68 (in this issue).

<sup>2</sup> For Germany, see the newpost below at p. 112.

<sup>3</sup> *Erik Jayme*, Narrative Normen im Kunstrecht, in Becker et al. (Hrsg.), *Recht im Wandel seines sozialen und technologischen Umfelds*, Festschrift für Manfred Reh binder, Bern 2002, S. 539 ff.; *Erik Jayme*, Die Washingtoner Erklärung über Nazi-Enteignungen von Kunstwerken der Holocaustopfer: Narrative Normen im Kunstrecht, Veröffentlichungen der Koordinierungsstelle für Kulturgutverluste (Hrsg.), *Museen im Zwielicht*, Magdeburg 2002, S. 247 ff.