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Working Group on Orphan Objects

First Session

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ISSUES PAPER

1. The International Institute for the Unification of Private Law (UNIDROIT) has undertaken, as part of its Work Programme for the triennial period 2023-2025, a project to develop specific criteria for “satisfactory” provenance of cultural objects lacking provenance and/or presenting gaps in their provenance to prevent them from disappearing to the detriment of the history of art, science, and knowledge.
2. Although the Project is entirely subject to UNIDROIT practice and procedures relating to projects submitted to Working Groups, UNIDROIT has nevertheless decided to join forces with two partners, the Art-Law Centre of the University of Geneva (ALC) and the Fondation Gandur pour l’Art (FGA).
3. This document provides a preliminary outline of the issues that the UNIDROIT Working Group may wish to consider during its first session on 2-3 May 2024.
4. This document does not intend to provide an exhaustive list of issues nor a full legal analysis of each topic. Rather, its purpose is to provide a starting point for the Working Group’s deliberations at its first session to refine the scope of the Orphan Objects Project. It is structured into three sections: (i) preliminary matters; (ii) scope; and (iii) content of the Project.

I. PRELIMINARY MATTERS

A. Background of the Project

5. The UNIDROIT General Assembly approved for the 2017-2019 Work Programme the topic of Private Art Collections, assigned with low priority, to explore private law issues surrounding art collections. Research was then conducted in the following thematic areas: (i) “Private collections - Historical and legal perspectives”, examining the definition of public and private collections and collectors, including a comparative analysis (France, Italy and the United States) of national legislation basing the public protection of private collections on the concept of public interest, as well as the status of private collections in European and international law; (ii) “The public interest in the protection of cultural heritage in private collections under United States law”, the public interest in heritage preservation, the public interest and moral rights (California, Massachusetts, New York) and the public interest as justification for private collection protection legislation; and (iii) “Private collections in the United States of America, Mexico and Colombia: legal challenges, the role of private actors and proposed solutions”.

6. UNIDROIT also hosted a conference in Rome with the International Society of Research on Art and Cultural Heritage Law (ISCHAL) in March 2017 on “[Private collections - Historical and legal approaches](#)” and asked Prof. Moustaira to prepare a study of the private law aspects on which UNIDROIT’s particular expertise would be of additional benefit in this field,¹ which was submitted to the Governing Council. To further develop the topic, UNIDROIT, the University of Gdansk and the University of Opole (UNESCO Chair in Cultural Property Law) - with the support of ISCHAL - organised a symposium in Gdansk on 6 and 7 June 2019, with a session (the second day) devoted to private art collections, which focused on the issues raised by Prof. Moustaira.

7. There is increasing interest in the question of archaeological and ethnographic objects, and more broadly works of art, present in collections well before the 1970s but for which there are neither archives nor material evidence of their existence in those collections before that date. While it is understood that any acquisition of this type of property must be made in accordance with the applicable international conventions and national laws, several issues nevertheless arise: what should be done with works without archives; what should be done with such works if their holders wish to move, sell or lend them; and what should be envisaged for the future in this regard? All are questions that merit consideration.

8. Given that, in the event of a sale, a collector might prefer a discreet solution, i.e. by private sale, which encourages the clandestine market and results in a total lack of transparency, detrimental to the objects, reflection needed to be initiated and a reasonable solution found for the presently unsatisfactory situation. This is why the University of Geneva, UNIDROIT and the Fondation Gandur pour l’Art organised a colloquium in Geneva in February 2021 on the subject of “[What prospects for ‘orphan works’? Reflections on cultural goods with no provenance](#)”, providing a platform for various experts to discuss archaeological and ethnographic objects with incomplete or no provenance. The proceedings of the colloquium were published in December 2023. It appears that so-called orphan works, in other words cultural property with no proven provenance or with significant gaps in its provenance, are the source of many legal, ethical, archaeological and historical questions.

9. The discussions led to the proposal of focusing the Project on private art collections to address orphan cultural objects in the UNIDROIT 2023-2025 Work Programme, and a medium priority was assigned by the General Assembly in 2022 thanks to the identification of sufficient resources provided by ALC and FGA.

10. An Exploratory Expert Group² was convened and held its first preparatory meeting in September 2022 to delve into the complexities surrounding orphan cultural works. The meeting primarily focused on the definition of orphan works, the role of provenance research, the legal status of orphan works in (public and private) art collections, the due diligence required when acquiring an

¹ [UNIDROIT 2017 – C.D. \(96\) 9](#), Annexe II, p.10.

² Ms Sophie Delepierre, Head of Heritage Protection Department, International Council of Museums (ICOM); Mr Manlio Frigo, Professor of International Law, *Università degli Studi di Milano*, Milan; Mr Jean Claude Gandur, Chairman Founder, *Fondation Gandur pour l’Art*, Geneva; Ms Giuditta Giardini, Lawyer and Consultant, Antiquities Trafficking Unit, Manhattan District Attorney’s Office; Ms Corinne Hershkovitch, Avocate à la Cour, Paris; Ms Joanna van der Lande, Chair, Antiquities Dealers’ Association, United Kingdom; Mr Amnon Lehavi, Atara Kaufman Professor of Law and Academic Director, G City Real Estate Institute, Harry Radzyner Law School, Reichman University (IDC Herzliya); Mr Vincent Négri, Researcher at *l’Institut des Sciences sociales du Politique* (ENS Paris-Saclay) and Deputy Director of the Graduate School *Humanités-Sciences du Patrimoine*, *Université Paris-Saclay*; Ms Artemis Papanthassiou, Senior Legal Adviser at the Ministry of Foreign Affairs, Greece, and Coordinator of the UNGA Resolutions on the Return and Restitution of Cultural Property to their Countries of Origin; Mr Marc-André Renold, Professor at the University of Geneva, UNESCO Chair in International Law on the Protection of Cultural Property, and Director of Art-Law Centre of the University of Geneva; Ms Nadja Roby, Director, Policy and Government Relations, Indigenous Portfolio, Canadian Museum of History; Ms Isabelle Tassignon, Curator, Archaeology and Ethnology Collections, *Fondation Gandur pour l’Art*, Geneva; and Ms Ana Vrdoljak, Professor, Law Faculty, University of Technology, Sydney, Australia, and Chairperson of the International Cultural Property Society.

orphan work, issues of proof, the role of databases, the return and restitution claims relating to orphan works, and limitation periods. See the [summary report](#).

11. In March 2023, the question of the definition of “orphan works” was again addressed by the Exploratory Working Group, which also expanded on the importance of having a clear and comprehensive definition that would work from both a legal and trade perspective. See the summary report.

12. On 29 and 30 March 2023, the Exploratory Working Group tackled the results of a series of interviews meant to share the concerns of collectors on the matter of orphan works. The outcome presented seven key points, *i.e.*, the need for transparency, the question of evidence, limitation periods, databases, restitution issues, the relative importance of the objects, and the compensation of good faith purchasers. The Group again addressed the current status of provenance, due diligence and the importance of clear definitions in order to have cross-border consistency in the acquisition process of an object. See the summary report.

13. The Exploratory Working Group met again in November 2023 and in February 2024, and it restated the main objective of the Project, *i.e.*, to develop a set of principles or guidelines to assist in addressing the issue of orphan objects, along with practical tools for collections actively seeking to manage their orphan items.

B. Target audience

14. As consistent with all UNIDROIT instruments, the prospective guidance document should be relevant to all jurisdictions irrespective of their particular legal tradition (e.g., common law and civil law States) and would aim to provide assistance to parties involved in the acquisition of cultural objects.

15. The targeted audience for this discourse encompasses a diverse array of stakeholders involved in the acquisition, circulation, and preservation of cultural artifacts, including but not limited to museum institutions, art collectors, dealers, auction houses, legal practitioners, and scholars in the field of cultural heritage.

C. Composition of the Working Group

16. The Working Group is composed of members and observers. The number of members is restricted but must have equitable geographical repartition and represent all legal systems (a participant from Africa will be determined at a later date). The list of observers will grow depending on the expertise missing and the interest shown.

Members:

- Jorge Sánchez Cordero, Mexico (*Chairperson of the Working Group*)
- Corinne HersHKovitch, Lawyer, France
- Keun-Gwan Lee, Professor, Republic of Korea
- Amnon Lehavi, Professor, Israel
- Till Vere-Hodge, Barrister-at-Law, United Kingdom
- Eric Cottier, former magistrate, Switzerland
- Joanna van der Lande, United Kingdom

Invited observers:

- UNESCO

- International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM)
- International Council of Museums (ICOM)
- Conseil des Maisons de Vente (CMV)
- International Confederation of Art and Antique Dealers' Associations (CINOA)
- Canadian Museum of History

17. The *Fondation Gandur pour l'Art* and the Art-Law Centre of the University of Geneva are partners in the Project and represented in the Working Group by Isabelle Tassignon and Marc-André Renold, respectively.

D. Methodology and timeline

18. The Working Group will undertake its work in an open, inclusive, and collaborative manner. As consistent with UNIDROIT's practice, in principle the Working Group will not adopt any formal rules of procedure and seek to make decisions through consensus.

19. Meetings will be held in English only, but documents will be provided in both English and French.

20. The Working Group will meet at least twice a year for a two or three days per session, and intersessional work can take place if needed.

21. The proposed agenda of the session is as follows:

- Day 1- Morning: Objectives, problems posed by orphan works;
- Day 1- Afternoon: Discussion on guidelines;
- Day 2- Morning: Presentation of three case studies, selected for their representativeness;
- Day 2- Afternoon: Development of guidelines and procedure.

E. Relationship with existing international initiatives

22. Research provenance for cultural objects involves tracing their ownership history, documenting their origins, and ensuring their authenticity. Due diligence in this context involves conducting thorough investigations to verify the authenticity and legal status of cultural objects, particularly in cases involving their acquisition, sale, or exhibition. Several initiatives and practices aim to address these concerns.

23. *International Conventions and Guidelines*: the main instrument is the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects ("the 1995 UNIDROIT Convention") of which Article 4 introduced the concept of and proposed criteria for due diligence when acquiring cultural property. Other international agreements and guidelines, such as the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property (and its Operational Guidelines) and the ICOM Code of Ethics for Museums, provide frameworks for addressing issues related to the provenance and due diligence of cultural objects. Furthermore, the MONDIACULT Declaration 2022 positions culture as a global public good, refers to the need for cooperation in terms of the fight against illicit traffic, and stresses the importance of the object's provenance, cooperation with different stakeholders, the art market and engagement of the wider public.

24. *Legislation and Regulation*: Many countries have enacted legislation and regulations to prevent the illicit trade in cultural property and to regulate the acquisition and transfer of cultural

objects. These laws often require thorough due diligence processes, including provenance research and documentation, to ensure compliance with legal requirements.

25. *Documentation and Cataloguing:* Cultural institutions, museums, and collectors maintain detailed documentation and cataloguing records for cultural objects in their collections. These records often include information about the object's provenance, including previous owners, acquisition history, and any relevant documentation supporting its authenticity.

26. *Provenance Research Projects:* Many museums and cultural institutions undertake provenance research projects to investigate the ownership history of cultural objects in their collections, especially those with incomplete or questionable provenance. These projects often involve archival research, historical analysis, and collaboration with experts in relevant fields.

27. *Database and Registry Systems:* Several databases and registry systems have been established to facilitate the documentation and sharing of information about cultural objects, including their provenance and legal status. Examples include the Art Loss Register, which helps track stolen works of art, and the Getty Provenance Index, which provides access to research data on the ownership history of works of art.

28. *Due Diligence Guidelines for Buyers and Sellers:* Organisations such as the Art Dealers Association of America (ADAA), the International Council of Museums (ICOM), and the Responsible Art Market (RAM) have developed guidelines and best practices for conducting due diligence when acquiring, selling, or transferring cultural objects. These guidelines emphasise the importance of verifying provenance, authenticity, and legal compliance.

29. *Collaborative Initiatives and Networks:* Collaborative initiatives and networks bring together stakeholders from various sectors, including museums, academia, law enforcement, and government agencies, to share information, resources, and expertise related to cultural heritage preservation and due diligence.

30. *Training and Education:* Training programmes and educational initiatives aim to raise awareness about issues related to cultural heritage preservation, provenance research, and due diligence. These programmes provide professionals in the cultural sector with the knowledge and skills needed to assess and manage the provenance and legal status of cultural objects in a responsible manner.

31. By implementing these initiatives and practices, stakeholders in the cultural heritage sector can work together to enhance the transparency, accountability, and integrity of research provenance for cultural objects and ensure rigorous due diligence in their acquisition, exhibition, and transfer. Based on this work, it is important to establish what "satisfactory provenance" is.

II. SCOPE OF THE PROJECT

32. Orphan cultural objects are works that present legal and ethical challenges due to their incomplete or unsatisfactory provenance, making it difficult or impossible to identify and locate rightful owners or property rights. Some of the key issues associated with these assets include the following.

- *Limited access and use:* Orphan cultural property often includes works for which it is difficult to identify or locate the owners/holders of property rights. As a result, cultural institutions, such as libraries, museums, and archives, may be reluctant to use these works for fear of facing legal action. This, in turn, limits public access to these cultural resources and restricts their use for educational, artistic or commercial purposes.

- *Risk of legal disputes*: Uncertainty about provenance can lead to costly and complex legal disputes. This can discourage buyers or cultural institutions from acquiring or even exhibiting such works for fear of legal consequences.
- *Loss of cultural memory*: Orphaned cultural property often represents an important part of a society's collective memory. These are works that can reflect aspects of a community's history, culture, language, and identity. When these works are not accessible or used due to their orphan status, it can lead to a loss of this cultural memory, thus depriving future generations of access to their cultural heritage.
- *Barriers to preservation and conservation*: Cultural institutions are often responsible for preserving and conserving cultural property for future generations. However, due to the uncertainty about the ownership of orphan cultural property, these institutions may be reluctant to invest time and resources in their preservation. This can lead to deterioration or loss of these valuable works over time.
- *Problems of restitution and historical reparation*: In some cases, orphan cultural property may have been acquired unjustly or illegally by institutions or individuals, for example during periods of conflict, colonisation or cultural dispossession. The identification and restitution of these properties to their rightful owners, or to their descendants, raise complex questions of historical justice and reparation. This often requires close collaboration between the current owners of the property and the communities or individuals concerned, as well as transparent policies and processes to address these sensitive issues.

33. Acknowledging the pivotal role of provenance research in the fulfilment of the duty of diligence, the scope of the Project will be to draft guidelines for "satisfactory provenance" which must take into account that there are two types of orphan works:

- objects with no archives, of which the former presence in collections has yet to be proven; and
- objects with archives that turn out to be inauthentic and thus become orphans, placing their owners in a difficult situation.

34. It is therefore understood that doubtful provenance is an obstacle to the objects' circulation. The subtlety is to distinguish between orphaned objects and objects with problematic provenance. It is envisaged to start the draft procedure with orphan objects and then to extend it to objects with problematic provenance, since the idea is to seek a remedy for markets that are closing.

35. The 1995 UNIDROIT Convention refers to due diligence at the time of acquisition, and it places the responsibility (the burden of proof) on buyers. In this framework, the Working Group can delineate the responsibilities and the importance of due diligence, proposing a nuanced approach that categorises actors based on their expertise and involvement in the art market.

36. Central to the reflection is the objective of enhancing the circulation of objects on the market by addressing provenance concerns, while also emphasising the need for fair and equitable solutions inspired by established models such as the 1998 [Washington Principles on Nazi-Confiscated Art](#).

III. CONTENT OF THE PROJECT

A. Orphan Works

37. During the Exploratory Expert Group meeting in September 2022, it was discussed whether the term "orphan work" was suitable. "Orphan" could be confusing as it is used in copyright law to refer to works that have no identifiable copyright holder. "Orphan" (*orfanelli* in Italian) could also be

used in both Italian and American law as an archaeological term of art referring to fragments of antiquity. The term *orfanelli* was also used in the Statement of Facts of the agreement between the District Attorney of New York and the US dealer Michael Steinhardt.

38. In March 2023, a sub-group of the Exploratory Expert Group held an entire meeting focused on questions of definition. The Group revised previous examples, such as those addressed in September 2022. The purpose of the meeting was to consider definitions provided by Prof. Frigo in the document "Orphan cultural objects. Essays of a definition" and in the document "Proposals of definitions of orphan cultural objects", and by Ms Van der Lande in "Draft proposal of the definitions for the purpose of the UNIDROIT Explanatory Expert Group on Orphan Cultural Objects". See the summary report.

39. The sub-group agreed to submit the following definition of "orphan cultural objects": "For the purposes of [...], an orphan object is a movable cultural object, as defined in [A]rticle 2 of the 1995 UNIDROIT Convention, which has totally or partially no documented and/or identifiable provenance (e.g. no available or [no] reliable archives or publications). ["The place or country of origin, whether known or not, is not a criterion to determine whether an object is orphan."]."

40. In February 2024, as an alternative to the term "orphan", a sub-group suggested that the term "unprovenanced" or "of unknown provenance" could be used.

41. Other formulas have been proffered: incomplete provenance (not systematic), declared unsatisfactory (value judgment), doubtful provenance (negative connotation), problematic provenance, hindering its circulation on the market (too long).³

42. The formula to be used could be: "*object with problematic provenance*".⁴ However, another definition considered during the February 2024 meeting comes from the art market's perspective: "A cultural object that has been legally held, whether in private or public ownership for many years or even centuries, but does not have demonstrable evidence of licit origin, sufficient to satisfy current standards of acquisition or import".

B. Discussion on Guidelines

43. In preparing the 1995 Convention, attention was focused on due diligence when acquiring cultural property, and it is now important to start from the provisions of Article 4 of the UNIDROIT Convention and to make the link between due diligence and provenance.

44. Article 4 of the 1995 UNIDROIT Convention deals with accessibility. In the context of provenance research, the researcher needs access to archives but may have to face professional secrecy. This obstacle needs to be discussed by the experts.

45. The first meeting of the Working Group could focus on guidelines in order to identify all the problems that need to be addressed, prior to a reflection on the procedure.

46. The suggested title for these guidelines is *Principles on Due Diligence Methodology; Guiding Principles for Cultural Property of Questionable/Problematic Provenance*.

47. Proposals on the content of the guidelines include:

- Preamble with definitions;

³ Exploratory Expert Group (sub-group), Orphan Works Project, February 2024.

⁴ *Ibid.*

- Archives, public and private;
- Databases (creation of a portal to present and identify them, with regular updates);
- Documentation (photographs, literature);
- Labels and brands, restoration(s);
- A series of "red flags" to pay attention to, emphasising the importance of not relying on the appearance of an antique collection, with the possibility of indicating high-risk names (if convicted);
- Provenance research; and
- Establishment of a procedure, aiming for a fair and equitable solution.

C. Case Studies

48. Case studies which illustrate the difficulties encountered with orphan objects will be presented.

D. Development of Guidelines and Procedure

49. The procedure proposed could consist of exhibiting the object of which the provenance is problematic under defined conditions, for a specific period of time and with appropriate publicity, in order to enable possible claims to be raised.

50. In the event of a claim, it would be examined, and alternative dispute resolution methods could be proposed (such as mediation or conciliation).

51. If no claim is made, it would have to be justified to carry out a specific list of procedures which a judge would be responsible for verifying before issuing a "certificate of provenance" which would be equivalent to an authorisation for circulation and presentation for sale.

52. The Art-Law Centre at the University of Geneva could be a possible forum for the hosting of the proposed procedure. Leveraging the Centre's existing platform for cultural heritage diplomacy, established in 2022, could offer a unique opportunity for individuals seeking to return property, and to do so anonymously. This initiative not only facilitates the return of cultural artifacts but also underscores the importance of collaborative efforts in safeguarding cultural heritage. A presentation of the platform will be made.

53. When considering the implementation of such a procedure, it becomes imperative to establish a suitable forum for adjudicating potential claims and assessing the diligence undertaken. One viable suggestion involves the establishment of a foundation under Swiss law, inspired by the model of the International Alliance for the Protection of Heritage in Conflict Areas Foundation (ALIPH). This proposed foundation could serve as a dedicated platform for addressing claims and ensuring due diligence, providing a structured and impartial mechanism for resolving provenance-related disputes within the art market.

54. Given the complexity of the procedure, it is prudent to initially apply it to significant assets, albeit with the reminder that consulting a specialist at the outset is essential to ascertain the significance of the property. However, confining the procedure to important assets poses the challenge of addressing objects of lesser importance.

55. To mitigate this, a suggested approach is to commence with the most substantial objects and, upon successful implementation, gradually extend the procedure to encompass smaller assets. This phased approach ensures thoroughness while allowing for broader inclusion over time, thereby striking a balance between feasibility and comprehensiveness in addressing provenance concerns across a spectrum of cultural artifacts.

56. Given the dynamic nature of the current legal landscape, establishing definitive rules to guarantee transaction security proves to be challenging. Therefore, there is growing interest in developing a procedure that either renders provenance satisfactory or facilitates the return of artifacts. This procedural approach aims to address the inherent uncertainties in transactions, offering a pathway to enhance confidence and integrity within the art market.

57. In addition, it could be proposed that states submitting objects for consideration must have ratified the 1995 UNIDROIT Convention.

58. Once the procedure has been developed by the appointed experts, it should be subject to an open consultation (online) and published (in the form of guidelines). The procedure would follow the usual rules of UNIDROIT's process.

59. UNIDROIT will not be able to set up the structure itself but will be able to provide the keys to create it. Its contribution will include issuing calls for tenders and facilitating funding, with a keen focus on ensuring the sustainability of the Project.

60. On the financial side, the post-procedure transactions could generate funds that could finance, at least in part, the structure.

E. Cross-cutting topics that may become the core elements of the Project

61. Numerous appeals have been made for the ratification of the 1995 UNIDROIT Convention, evident in, among others, United Nations General Assembly Resolutions, G20 Declarations, and European Union Resolutions. Despite these calls, progress in ratifications has been slow, prompting discussions around the need for a concerted advocacy effort.

62. In France, for example, the absence of ratification of the 1995 Convention, coupled with the requisite due diligence, is significantly affecting the country, having an impact on individuals and the market alike. Despite a hierarchical structure comprising ministries and the *Service des Musées de France* (SMF), a lack of specific directives regarding due diligence implementation persists. This gap contrasts with significant demands from political and judicial authorities for due diligence adherence. As such, the effective utilisation of due diligence is becoming increasingly crucial for ensuring the smooth functioning of the market.

63. In France, there was no link between good faith and provenance, at least until the signing of the UNIDROIT Convention in 1995. In the case of law, the term "due care" is still not used to establish whether the possessor is acting in good faith. The Code of Ethics for Auctioneers has recently been amended (2022) and reflects an evolution. Before the reform, if there was any doubt about the provenance, the professional was obliged to conduct research; with the reform, the professional is required to conduct research and if a doubt persists after it has been conducted, it is recommended not to sell the object. This development has not yet been reflected in court decisions.

64. An additional aspect deserving attention is the adoption of mediation and alternative dispute resolution mechanisms by the judiciary and other stakeholders. Fabrice Vert, the First Vice-President of the Paris District Court, advocates for mediation and has expressed interest in integrating due diligence requirements, such as financial law compliance, into these processes. A

potential framework could involve conducting due diligence, including the public display and publication of the object for a specified period to solicit claims. Subsequently, an evaluation would ensure compliance, culminating in a judicial document affirming satisfactory provenance, thereby permitting the object's circulation in the market. Notably, specialised law enforcement agencies often restrict object circulation, even without claims, despite the significant costs associated with such restrictions. This not only undermines the circulation of valuable cultural artifacts but also represents a loss to the preservation of art history and knowledge.

65. The Working Group could act as a whistleblower in the face of the following dangers.

- Specialised police may intimidate participants in the art market, discouraging them from publicising the objects they wish to sell. This reluctance could hinder future research efforts due to a lack of publicity. It is important to recognise that cultural property itself is not illicit; only the trafficking of such property is considered illegal.
- There is a prevailing tendency to prioritise the moral dimension of restitution over its legal implications.
- Transparency in transactions is compromised by private sales, although it is crucial to note that not all such sales involve questionable intentions. A novel trend emerging in the United States is the practice of private and exclusive auctions, where participation is restricted to a select few clients.
- The absence of a comprehensive register for returned property poses a challenge, particularly for auction houses. These establishments often rely on in-house provenance researchers and may face difficulties in verifying whether certain items have been previously returned, sometimes resorting to last-minute legal consultations.
- Despite efforts to verify specific criteria and record information in databases, objects are not consistently catalogued. This lack of systematic documentation can lead to errors in attributions and misidentifications. Additionally, collectors' reputations may suffer if their names are erroneously associated with disputed objects.