



EN

Private art collections - Orphan Objects
Working Group
Fifth session /hybrid)
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Report on the intersessional work in Sub-Groups

(prepared by the Secretariat)

1. The fourth session of the Working Group on Orphan Objects (Rome, 1-3 December 2025) resulted in much progress on each Draft Guideline and the relevant commentary. The discussions unfolded based on several documents provided by the UNIDROIT Secretariat, and also thanks to the presentations made during the Research Symposium on "Orphan Objects: Curatorial, Ethical, and Legal Aspects" ("the Symposium") held just prior to the session on 1 December 2025, which addressed some key issues that had not found consensus in previous Working Group sessions.

2. As announced at the end of the fourth Working Group session, and in view of the fifth session scheduled for March 2026, the UNIDROIT Secretariat proposed to establish five Sub-Groups, tasked with exchanging on specific issues and working on drafting proposals to be discussed during the Working Group session, with the goal of facilitating consensus (see summary report [Study SXXB – W.G. 4 – Doc. 8](#), para. 146). These five Sub-groups were:

- Sub-Group 1 – "Orphan cultural object" – search for an alternative term;
- Sub-Group 2 - Articulation between due diligence and provenance research (Guidelines B and C);
- Sub-Group 3 - Definition and criteria of a provenance researcher;
- Sub-Group 4 - Guideline D (evidence);
- Sub-Group 5 - Guideline on scientific publication.

3. The Sub-Groups worked on the basis of a document prepared by the Secretariat (Study LXXB – SG – Doc. 1) that highlighted the issues the Sub-Groups were called to work on in Guidelines B, C, and D, as well as a new Guideline on scientific publication, based on the discussions held and the proposals made by Symposium speakers, Working Group members, and observers. Guidelines E (Publicising an [orphan cultural object]) and F (Dispute resolution) were not discussed during the fourth session of the Working Group and therefore no associated Sub-Groups were created.

4. The Sub-Groups met several times following the fourth session of the Working Group, and the participants prepared preliminary references to be inserted in the commentary to the Guidelines (Sub-Group 4 drafted a more elaborated text). They are reproduced in this document. The commentary, when finalised, will provide contextual explanations, interpretative guidance, and practical illustrations.

5. The Secretariat has also added some references to the present document that the Working Group, at previous meetings, had indicated as to be inserted in the commentary (they appear in red).

I. SUB-GROUP 1 - ALTERNATIVE TERM FOR [ORPHAN] CULTURAL OBJECTS

6. From the beginning of the UNIDROIT project on [orphan] cultural objects, the terminology used to designate the category of objects covered by the Guidelines has been the subject of continuous and meticulous debate.

7. The term originally used was [orphan] cultural objects. Some members were inclined to use this term as it was a phrase already referred to by art market professionals, while others were against using this term since they deemed it offensive to underrepresented communities and countries.

8. Several terms were proposed during the last Working Group session, such as "orphan cultural objects", "unprovenanced objects", "undocumented objects", "insufficiently provenanced", or "incompletely documented provenance".

9. As no consensus was reached during the fourth session of the Working Group, Sub-Group 1¹ was tasked with finding a new, acceptable term to be submitted for discussion at the next session.

10. A document² was originally prepared by the UNIDROIT Secretariat in order to support the Sub-Group's discussion, showing the terms proposed over the course of the sessions, identifying when each term emerged and the arguments expressed in favour or against.

11. After meeting one time on 2 February 2026³, Sub-Group 1 submits the following four proposed terms to the Working Group for discussion:

- (1) Orphan or incompletely documented cultural objects;
- (2) Undocumented or incompletely documented cultural objects;
- (3) Undocumented or incompletely documented "orphan" cultural objects;
- (4) "Orphan" or incompletely documented cultural objects.

12. The use of quotation marks in options 3 and 4 was proposed to indicate that the term was being used in a specific, non-standardised context.

The Working Group is called upon to discuss the four terms proposed by Sub-Group 1.

¹ Sub-Group 1 was composed of Ms Patty Gerstenblith, Ms Joanna van der Lande, Mr Marc-André Renold, Mr Keun-Gwan Lee and Ms Giuditta Giardini.

² Study LXXB - SG 1 - Doc. 1 rev.

³ Study LXXB - SG 1 - Doc. 2.

II. SUB-GROUP 2 - ARTICULATION BETWEEN DUE DILIGENCE AND PROVENANCE RESEARCH (GUIDELINES B AND C)

GUIDELINE B: DUE DILIGENCE

13. During the third Working Group session, members agreed that due diligence needed to be exercised before engaging in provenance research. While the exercise of due diligence would need to take place in case of a “transfer”, the elements triggering the carrying out of provenance research were still under discussion.

14. Sub-Group 2⁴ was in charge of drafting a clear and satisfactory definition of due diligence and working on its articulation with provenance research. The Sub-Group was asked to answer the following questions:

- What constitutes an apparent change of circumstances that triggers due diligence, and how should this be defined or addressed in the Guideline?
- Should provenance research be an ongoing obligation after due diligence, and how frequently should it be conducted if documentation remains incomplete?
- Should a risk assessment framework be put in place (prioritising researching the provenance of the highest-risk cultural objects first)?

15. Sub-Group 2 met three times⁵ and submitted elements for the commentary to Guideline B, specifically on the satisfactory definition of and articulation between due diligence and provenance research and the concept of “continued attention”.

16. Ms Giuditta Giardini and Ms Charlotte Loram submitted observations in response to the summary reports of Sub-Group 2⁶ and Sub-Group 3,⁷ notably regarding the definitions of provenance research and due diligence. Their document, contained in Annexe 1, offers a reflection on the relationship between these two processes and is submitted for discussion by the Working Group, as requested by Sub-Group 2.

17. The proposals of Sub-Group 2 relating to the text of the Guideline and the commentary are presented below for discussion.

18. References made during previous meetings of the Working Group of what should still be developed in the commentary are added in **red**.

The Working Group is called upon to discuss:

- 1) the new draft of the Guideline B and its commentary (see below)
- 2) Annexe 1

⁴ Sub-Group 2 was composed of Ms Joanna van der Lande, Ms Corinne Hershkovitch, Ms Jianhong Zhang, Mr Marc-André Renold, Mr Amnon Lehavi and Mr Maxence Garde.

⁵ The first meeting was held on 16 January 2026 (summary report - Study LXXB - SG 2 – Doc. 1), the second meeting on 10 February 2026 (summary report - Study LXXB - SG 2 – Doc. 2) and the third meeting on 4 March 2026 (preparatory document - Study LXXB - SG 2 – Doc. 3 rev. and summary report -Study LXXB - SG 2 – Doc. 4).

⁶ Study LXXB - SG 2 – Doc. 1.

⁷ Study LXXB - SG 3 – Doc. 1 and Doc. 2.

Draft Guideline B –

<u>End of the fourth session of the Working Group</u>	<u>New Guideline B proposed by Sub-Group 2</u>
<p>B. Due Diligence</p> <ol style="list-style-type: none"> 1. Due diligence should be performed when the object is subject to a transfer or when the circumstances so require. Due diligence includes, but is not limited to, the criteria provided for in Article 4.4 of the 1995 UNIDROIT Convention. 2. For the purposes of this Guideline, “transfer” shall mean a change in ownership, possession or physical location of the object. 3. Due diligence should be performed by public and private institutions, collectors and all actors dealing with cultural objects. 4. If, after exercising due diligence, the provenance of the object remains unknown or incomplete, continued attention should be given to the object and the provenance research should be considered ongoing. 5. <u>Certain categories of sensitive cultural objects require a heightened degree of due diligence, necessitating, among other actions, increased attention to provenance research. These categories of heightened sensitivity include</u> <ol style="list-style-type: none"> (a) <u>human remains, burial objects, objects of religious, ritual, sacred and traditional significance (as determined by the community of origin), and</u> (b) <u>archaeological objects.</u> 	<p>B. Due Diligence</p> <ol style="list-style-type: none"> 1. Due diligence should be performed when the object is subject to a transfer. Due diligence includes, but is not limited to, the criteria provided for in Article 4.4 of the 1995 UNIDROIT Convention. 2. For the purposes of this Guideline, “transfer” shall mean a change in ownership, possession or physical location of the object. 3. Due diligence should be performed by public and private institutions, collectors and all actors dealing with cultural objects. 4. If, after exercising due diligence, the provenance of the object remains unknown or incomplete, continued attention should be given to the object and the provenance research should <u>[could]</u> be considered ongoing. 5. Certain categories of sensitive cultural objects require a heightened degree of due diligence, necessitating, among other actions, increased attention to provenance research. These categories include <ol style="list-style-type: none"> a) human remains, burial objects, objects of religious, ritual, sacred and traditional significance (as determined by the community of origin), and b) archaeological objects.

Draft commentary –**Paragraph 1**

19. At previous meetings, the Working Group indicated the following points to be inserted in the commentary:

- Define “due diligence”, referring to Article 4(4) of the 1995 UNIDROIT Convention.

- During the third session of the Working Group, “when the circumstances so require” was deleted from paragraph 1 of Guideline B. It was proposed to keep the examples of “acquiring an object” and “case law” in the Commentary to Guideline B, while the other examples should be moved to the commentary to Guideline C .

The Emil Bührle Collection at the Kunsthaus Zürich could serve as an example of such circumstances (when a name from the object’s provenance turned up in the anti-money laundering listing).

The circumstances could also imply an apparent change of circumstances, defined as follows: “If after acquiring an object, there is a new set of circumstances (even if not proven before a court of law), a reasonable person would reconsider the transaction”. It could underline that all findings should be documented and retained with the object.

- Include a more precise checklist-style articulation of due diligence with a step-by-step description.

Paragraph 2

20. At previous sessions, the Working Group indicated the following points to be inserted in the commentary:

- the definition of “transfer” should underline that it applies to both domestic and cross-border situations;
- specific reference to change in physical location of the object sometimes being called “translocation”.

Paragraph 3

21. Commentary has not yet been proposed for this paragraph.

[to be discussed – “public and private institutions” – addressees of the Guidelines]

Paragraph 4

Articulation between due diligence and provenance research

22. Due diligence is a process of a legal nature that aims to assess whether it is legal and reasonable to proceed with the acquisition of an object or another transfer of possession. The minimum steps involved in due diligence are listed in Article 4.4 of the UNIDROIT Convention.

23. Provenance research may also aim to secure an acquisition, but is historical in nature. It is an in-depth, long-term investigation to reconstruct the object’s trajectory.

24. Due diligence and provenance research are therefore different in nature and scope, even if certain elements overlap, such as consulting registers of stolen property, for example.

New criteria with regard to due diligence

25. Due diligence might require more verification or vigilance than the ones *[listed - new wording to be discussed]* in Article 4.4 of the 1995 UNIDROIT Convention.

[to be added – explanation of Article 4.4 of the UNIDROIT Convention / additional sentence underlining the existence of more tools nowadays]

26. One example of this reinforcement is demonstrated by Switzerland's revised Ordinance of the International Transfer of Cultural Property (13 April 2025),⁸ which includes, among other things, declarations of sellers/consignors confirming their right to dispose of the object.

[to be added – other example(s) of developments of due diligence criteria]

"ongoing provenance" - Circumstances triggering provenance research

27. Provenance research may be required to be resumed following the publication of new books or articles relating to the object under study. This also applies to the release of new information or archives (newly discovered or made accessible after a period of incommunicability has ended).

[to be added – additional wording capturing the link between conducting provenance research and further due diligence, and how both notions could trigger the other]

Concept of "continued attention"/ongoing provenance research⁹

28. The concept of "continued attention" is difficult to generalise for all actors performing provenance research. The same means will not be required of all museums, nor all collection types.

29. For example, modern and contemporary collections will not face as many holes in provenance research as extra-European or antiquity collections. Some of these cases lacking provenance history can never be resolved, as the information needed was never duly consigned or shared. In any case, the important consideration is the time and resources that an institution, museum, or private person should allocate to support this "continued attention". Without limit in time, results, or methodologies, most of these objects will never have a complete provenance.

30. Practically speaking, such attention cannot be "ongoing" forever, as it would consume too many resources. More institutions have opted for an annual or biannual check for most of their pending provenance research, depending on the quantity of objects involved. More specifically, former results should be compared with emerging pieces of information, such as archaeological discoveries, new archives becoming open to the public, etc. No institution will be able to carry on provenance research indefinitely, considering both the lack of human resources available (cost, availability, training) and the need to decide upon their status (for both internal and external stakeholders).

Paragraph 5

31. At previous meetings, the Working Group had indicated the following points to be inserted in the commentary:

- Underline that the determination of whether an object has lost sacred or ritual significance should not be made unilaterally by market-State courts, but rather by or in accordance with the views of the community of origin;
- Explain the differentiation between category (a) and category (b) and why they require heightened scrutiny.

⁸ Revised Cultural Property Transfer Ordinance, Switzerland (2025) - See: <https://www.fedlex.admin.ch/eli/cc/2005/318/en> and https://www.homburger.ch/en/insights/stricter-rules-for-trading-cultural-property?utm_source=LinkedIn&utm_medium=bulletin-02&utm_campaign=bulletin-2026

⁹ A member of Sub-Group 2 questioned the necessity to comment upon the expression.

32. The following examples were given:

- Regarding differentiation – while sacred objects are sensitive for cultural reasons, archaeological items are more vulnerable to illicit trade.
- Regarding the requirement for heightened scrutiny for archaeological objects – illicit excavation destroys archaeological objects' historical context. Specific attention should be paid to distinguishing lawfully excavated material from objects of uncertain or illicit origin.

[*to be discussed* – paragraph 5(b) should be aligned with the wording of the 1995 UNIDROIT Convention]

III. SUB-GROUP 3 – DEFINITION AND CRITERIA OF A PROVENANCE RESEARCHER (GUIDELINE C)

33. During the fourth Working Group session, the definition of a provenance researcher and the criteria that this definition should include were thoroughly debated. Paragraph 3 of Guideline C seeks to define the person who should conduct provenance research, notably as someone who “has adequate knowledge and expertise”, taking into consideration “existing standards”.

34. Sub-Group 3¹⁰ was in charge of discussing the professional or non-professional nature of a provenance researcher, reflecting on what constitutes adequate knowledge and expertise and proposing a definition for the commentary. It was asked to answer the following questions in particular:

- By whom should provenance research be conducted (with criteria)?
- Should provenance research be limited to professionals, or could it be conducted by others apart from qualified or certified researchers?
- What constitutes adequate knowledge?
- What are “existing standards”?

35. Sub-Group 3 met twice;¹¹ participants of Sub-Group 3 submitted elements for the commentary to paragraphs 3 and 4 of Guideline C regarding the definition of a provenance researcher, the definition of “adequate knowledge”, examples of existing standards and cases of good and bad provenance research (and their implications for legal doctrine).

36. One participant from Sub-Group 2 submitted elements for the commentary on the proportionality of provenance research for paragraph 4 of Guideline C.

37. Ms Giuditta Giardini and Ms Charlotte Loram submitted observations in response to the summary reports of Sub-Group 2¹² and Sub-Group 3,¹³ notably regarding the definition of provenance research and the role of the provenance researcher. This document is included for discussion by the Working Group in Annexe 1, as requested by Sub-Group 3.

¹⁰ Sub-Group 3 was composed of Ms Isabelle Tassignon, Ms Joanna van der Lande, Mr Amnon Lehavi, Mr Marcílio Toscano Franca-Filho, Mr Jacques Schuhmacher, Ms Giuditta Giardini, and Ms Marie Dufлот.

¹¹ The first meeting was held on 19 January 2026 (summary report - Study LXXB - SG 3 – Doc. 1), the second on 3 March 2026 (Study LXXB - SG 3 – Doc. 2 rev. and summary report Study LXXB - SG 3 – Doc. 3).

¹² Study LXXB - SG 2 – Doc. 1.

¹³ Study LXXB - SG 3 – Doc. 1 and Doc. 2.

38. Sub-Groups 2 and 3 submit the following proposals to the Working Group for discussion.

The Working Group is called upon to:

- 1) Discuss the new draft for Guideline C (see below)
- 2) Review the relevant draft commentary

Draft Guideline C –

<p><i>Guideline C as it stood at the <u>end of the fourth session</u> of the Working Group</i></p>	<p><i>Modifications proposed by Sub-Group 2 and Sub-Group 5 –</i> <u>The terms highlighted in yellow were added during the first meeting of Sub-Group 5.</u></p>
<p>C. Provenance research</p> <ol style="list-style-type: none"> 1. Possessors of cultural objects should engage in provenance research which is part of due diligence when (...). 2. Provenance research is the process of searching information related to the history, <u>context</u>, circulation, <u>ownership and current meaning</u> of an object from its creation or, <u>in the case of archaeological objects</u>, its discovery, <u>to its current location</u>. Provenance research also endeavours to identify if the object has been subject, in the past, to any illicit transfer or similar action. 3. Provenance research should be conducted by a person who, considering all circumstances, has adequate technical knowledge and expertise in the relevant field, taking into consideration existing standards, if any. 4. The extent of provenance research depends on the specific case and the history of the object. <u>The provenance research</u> should aim to collect <u>and assess</u> all reasonably obtainable documentation and information at the time of the search in order to evaluate <u>provenance gaps and undocumented transfers</u>. <u>It should also aim to evaluate</u> their authenticity of the 	<p>C. Provenance research</p> <ol style="list-style-type: none"> 1. Possessors of cultural objects should engage in provenance research. 2. Provenance research is the process of searching information related to the history, context, circulation, ownership and <u>current cultural</u> meaning of an object from its creation or, in the case of archaeological objects, its discovery, to its current location. Provenance research also endeavours to identify if the object has been subject, in the past, to any illicit transfer or similar action. 3. Provenance research should be conducted by a person who, considering all circumstances, has adequate knowledge and expertise in the relevant field, taking into consideration existing standards. 4. The extent of provenance research depends on the specific case and the history of the object. The provenance research should <u>reasonably</u> aim to collect and assess all <u>reasonably</u> obtainable documentation and information at the time of the search in order to evaluate provenance gaps and undocumented transfers. It should also aim to evaluate the authenticity of the object and of the available documentation.

<p><u>object and of the available documentation.</u></p> <p>5. The results are only relevant at the time the provenance research is conducted <u>of the provenance research should be dated. Should additional information become available, the results of the provenance research could be reconsidered and supplemented or amended as relevant.</u></p>	<p>5. The results of the provenance research should be dated and publicly shared. Should additional information become available, the results of the provenance research could be reconsidered and supplemented or amended as relevant.</p>
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Draft commentary –

Paragraph 1

39. At previous meetings, the Working Group indicated the following points to be inserted in the commentary:

- “when the circumstances so require” was deleted from paragraph 1 of Guideline B.
- In consequence, the following examples were proposed to be moved to Guideline C’s commentary: reviewing collections; exhibitions which imply a transfer of physical location; publications; the legal status and/or the title to an object that requires due diligence, including, but not limited to, existing or new “red flags’ names”, looting in a particular area, new or ongoing conflicts, trafficker archives or other relevant factors.

Paragraph 2

40. Commentary has not yet been proposed for this paragraph.

Paragraph 3

Definition of a Provenance Researcher

41. Researching provenance forms part of existing due diligence practices in both the public and private sector. Both professionals and non-professionals can be considered provenance researchers. There is currently no specific qualification to become a provenance researcher; the profession, such as it is, is still in its infancy, but it is emerging as a professional career.

[to be added – explanation of the difference between professional and non-professional categories]

[to be added – highlighting the future possibility of more formalised professional standards]

[to be added – reference professional associations such as the *Arbeitskreis für Provenienzforschung* and the German Lost Art Foundation, but be cautious against over-reliance on specific programmes or associations in the commentary, as such references might require frequent updates]

[to be added – refer to provenance research practices beyond European and Holocaust-related contexts, and remain sensitive to global and Indigenous perspectives]

42. The non-exhaustive selection of links below, from a brief internet search, show provenance research to be a burgeoning area. Prior to the Washington Principles on Nazi-Confiscated Art

(1998),¹⁴ provenance research was largely focused on attribution, authenticity and title. The Washington Principles forced a fundamental shift, leading to widespread, systematic research into museum collections to ensure they did not contain items stolen during the 1933–1945 period. More recently the focus has shifted once again and broadened beyond the Nazi-era and into wider collections, both in institutions and in private collections.

43. The links below reflect these developments, with increasing focus on the importance and development of provenance research and in the hiring of provenance researchers, particularly within institutions. In any case, the links indicate the development of more professional commercial services within the private sector (see Annexe 2).

Who researches provenance? (a non-exhaustive list)

- Public institutions: curators and exhibition assistants;
- Commercial businesses: auction and art dealer employees, stolen art registers, assistants, interns, art consultants and art researchers;
- Private individuals and institutions: collectors and researchers in their employ;
- Law firms;
- Insurance companies and loss adjusters;
- Law enforcement;
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[to be added – additional sentence proposing to use a general description of a provenance researcher and add to the list of roles the words “such as” or “for example” to illustrate that many types of individuals engage in this work, including collection managers, scholars, registrars and activists. This would help to avoid accidentally excluding groups like Indigenous people, whose research methods might not fit into traditional professional classifications]

What qualifies an individual to research provenance?

- A specific qualification is not required *per se*, but adequate knowledge of art and cultural objects should be considered a basic requirement. What is considered adequate knowledge will depend on the specifics of the case.
- An understanding of the research criteria and objective specific to an individual case.
- Some knowledge on where and how to research provenance, depending on object type and the specifics of the case.
- Organisational skills, an eye for detail both when looking at the artwork and the available documentation or data, lateral thinking, and the ability to work independently and use initiative, while also working collaboratively. This can be likened to detective work.
- A provenance researcher should work according to a high ethical standard and document his or her findings.

¹⁴

https://en.wikipedia.org/wiki/Washington_Principles_on_Nazi-Confiscated_Art.

What would differentiate a professional from a non-professional provenance researcher?

- Perhaps the majority of provenance research is conducted by individuals working at quite a junior level, who are not just focused on provenance research. They would not be considered professional provenance researchers.
- Someone employed (or self-employed) permanently or on a temporary contract, solely for the purpose of researching provenance, could be considered a professional provenance researcher.
- A provenance researcher may be employed or self-employed to research provenance on specific cases but might not be solely engaged in such work; they may not be considered, or consider themselves to be, professional provenance researchers but rather experienced provenance researchers.
- A professional provenance researcher, as well as an experienced provenance researcher, should demonstrate specific knowledge of and experience with provenance records, with a proven ability to work with primary sources, archives and databases while looking for clues on the object or artwork. A specific qualification is not necessary; this can be gained through training and experience. In-depth knowledge of the specific type of cultural object may or may not be required, depending on the circumstances, but an ability to establish an understanding of how to find clues and piece together fragmented information should be demonstrated.
- A professional or experienced provenance researcher should have adequate knowledge and understanding of the past and present art market, and/or museums' and institutions' acquisition policies, with the ability to develop more detailed knowledge when required.
- A professional or experienced provenance researcher should have some knowledge of international cultural property laws and treaties, as well as international export regulations (both current and historic), and have the ability to establish more detailed knowledge of the specifics for individual cases.
- Whether a provenance researcher is required to be independent would depend on the circumstances, also considering any possible conflicts of interest.

44. The definition of a provenance researcher should remain broad. What differentiates a professional provenance researcher from an experienced provenance researcher, or indeed an inexperienced provenance researcher, will become more defined as and when the profession of professional provenance researcher further develops.

45. Provenance research is conducted in many different contexts and to varying degrees of thoroughness depending on the circumstances of both the cultural object and who the holder/owner is. Provenance research is to be encouraged, whatever the circumstances, so the financial and related costs of conducting such research should not discourage the endeavour.

46. New guidelines for and clarifications of the Washington Principles,¹⁵ published in 2024, specifically mention provenance research and provenance researchers under Guidelines G and H:

G. Governments should encourage provenance research and projects to catalogue, digitize and make available on the internet public and private archives, including dealer records. Public and private collections should be encouraged to publish their inventories.

H. Provenance researchers should have access to all relevant archives and source documents. Provenance research carried out by public or private bodies should be made

¹⁵ <https://www.state.gov/office-of-the-special-envoy-for-holocaust-issues/best-practices-for-the-washington-conference-principles-on-nazi-confiscated-art>

publicly available on the internet. Where queries are made, as a matter of fairness current possessors in particular should disclose all documentation related to acquisition and provenance to claimants. Provenance research, particularly regarding potential claims, ideally should be conducted by an independent research body to avoid possible conflicts of interest. Such an independent institution should be granted access to all relevant archives whether public or private.

47. ICOM (The International Council of Museums) is preparing an issue of *Museum International* on Provenance Research in Museums.¹⁶ ICOM's Code of Ethics requires museums to establish provenance as part of due diligence, under Article 2.3.¹⁷ Their Code of Ethics is currently under revision.

Aim of provenance research

48. The principal aim of provenance research is always to reconstruct the path taken by an object from the point of creation to its current owner, recognising that this may not always be possible.

Overarching research strategies

49. Overarching research strategies are therefore always the same. In order to fill the gaps in an object's history, provenance researchers systematically think about where a trace may have been left in the historical record.

- This research always begins with a systematic review of the existing documentation, the scholarly literature about the artist/maker and type of object, and other relevant publications (for example, exhibition or sales catalogues), relevant archives, and online resources. Specifically, researchers will want to learn about existing guidelines for the relevant field and about other provenance research projects concerning the type of object under consideration. It is often advisable to make contact with other researchers who have researched similar objects in the past, or other experts who may have information about the object's provenance.
- At the beginning of the research project, provenance researchers will also clearly document what is currently known and not yet known about the object.
- They will then choose a starting point and either try to move forward or backward in time in order to fill in the gaps.
 - For example, they may start with the current owner. If the current owner acquired the object from a dealer, they may write to said dealer and ask if they can share from where the dealer acquired it.
 - Conversely, they may start with the artist or maker and focus on who represented them or with the first name in the existing provenance chain.
 - In some cases, they may start their research in the middle and work in both directions.
- Throughout this process, it is vital that provenance researchers critically interrogate the literature, the historical documentation, and the responses to their inquiries.
- Needless to say, provenance researchers should be aware of the legal and ethical debates surrounding the objects under investigation. However, it seems important to draw a clear distinction between provenance research as historical research and provenance research as

¹⁶ <https://icom.museum/en/news/call-for-papers-museum-international-provenance-research-in-museums/>.

¹⁷ <https://icom.museum/wp-content/uploads/2018/07/ICOM-code-En-web.pdf>.

legal scholarship. The aim of provenance research is to gather all of the available facts to enable informed decision-making.

[to be addressed – proposition to move this part to paragraph 4 of Guideline C, which addresses methodology, rather than paragraph 3, which concerns who should conduct provenance research]

[to be added – reference to the *Arbeitskreis für Provenienzforschung*, the German Lost Art Foundation and the Austrian Commission. Those references could also be addressed under “existing standards” and “adequate knowledge”]

Adequate knowledge

50. It is important to consider that the Working Group’s definition of what constitutes a “cultural object” is extraordinarily broad. It encompasses a wide range of different groups of objects, each of which present their own research challenges.

51. Therefore, the definition of “adequate knowledge” should not be overly restrictive but rather emphasise the core research competencies outlined above.

52. In this context, it is important to note that provenance is a relatively young discipline. There are many different paths into the field, and a clear professional standard or system of certification has yet to emerge.

53. For certain areas it is easier to define what “adequate knowledge” looks like than for others. The field of Nazi-era provenance research is particularly well defined and has produced foundational texts that provide practical guidance on how to carry out this research:

- Yeide, Nancy H., Konstantin Akinsha, and Amy L. Walsh. *The AAM Guide to Provenance Research*. Washington, DC: American Association of Museums, 2001.
- German Lost Art Foundation. *Provenance Research Manual: To Identify Cultural Property Seized due to Persecution during the National Socialist Era*. Magdeburg: German Lost Art Foundation, 2019.
- Tompkins, Arthur, ed. *Provenance Research Today: Principles, Practice, Problems*. London: Lund Humphries, 2020.
- Redmond-Cooper, Ruth, ed. *Museums and the Holocaust: Law, Principles and Practice*. Bournemouth, UK: Institute of Art and Law, 2021.
- Schuhmacher, Jacques. *Nazi-Era Provenance of Museum Collections: A Research Guide*. London: UCL Press, 2024.

54. In recent years, there has been an effort to support researchers interested in investigating objects from “colonial contexts”. Museum Associations in various countries have produced guidance for their museums, including the following advice on how to carry out research or case studies:

- Advisory Committee on the Collection of Colonial Cultural Heritage. *Colonial Collections and a Recognition of Injustice*. The Hague: Council for Culture, 2020.
- German Museums Association. *Guidelines for German Museums: Care of Collections from Colonial Contexts*. 3rd ed. Berlin: German Museums Association, 2021.
- Arts Council England. *Restitution and Repatriation: A Practical Guide for Museums in England*. London: Arts Council England, 2022.

55. For antiquities, the UK Department for Culture, Media, and Sport's due diligence guidelines provide guidance which seems highly relevant:

- Department for Culture, Media and Sport. *Combating Illicit Trade: Due Diligence Guidelines for Museums, Libraries and Archives on Collecting and Borrowing Cultural Material*. London: Department for Culture, Media and Sport, 2005.
- This forthcoming volume promises to be the work of reference for Mediterranean antiquities: Barr, Judith, Nicole Budrovich, and David Saunders, eds. *Provenance Research for Mediterranean Antiquities: Methods and Resources*. Los Angeles: Getty Publications, forthcoming 2026.

[to be added – definition of “adequate knowledge” as a familiarity with core research strategies, such as examining the object, reviewing archival records, and thinking strategically to locate information, rather than relying solely on formal qualifications, as researchers often work across diverse object categories in practice. Adequate knowledge can be acquired in different ways, and it should not be defined so narrowly as to exclude capable practitioners. It was agreed that the definition should not be overly restrictive, as experience plays an important role. The distinction between knowledge and certified expertise is important. What ultimately matters are the research skills a person has and his or her ability to apply them appropriately]

[to be added – explanation of “considering all circumstances” to encapsulate the diverse backgrounds of researchers]

[to be added – commentary section on the *Expertise in the relevant field*]

56. At previous meetings, the Working Group had indicated the following points to be inserted in the commentary on *Expertise in the relevant field*:

- Community-based traditional knowledge could be recognised as valid expertise. Communities could be recognised as experts for specific objects and traditions. They could act as holders of cultural property, reflecting the concept of “cultural proprietors”.

Examples of existing standards

57. There does not appear to be any specific document regarding standards of conduct to be adopted when researching provenance, but rather indications contained in policy documents, codes of ethics or charters of museums, provenance research guides (with regard to methodology).

58. The following list is not exhaustive (see Annexe 3).

[to be added – explanation that existing standards should focus more on the behaviour and conduct of the researcher (transparency, cooperation, independence) rather than just the methodology]

Paragraph 4

Reasonableness of provenance research

59. The proportionality of provenance research is not a concept shared among stakeholders, considering both the examination process and expected results. As provenance research is not (except in some very rare cases) an easily fulfillable task, it needs to be assessed through verifiable data.

60. The proportionality of provenance research needs to be based on criteria such as:

- Market value (mainly for acquisition projects);
- Historical, artistic, or stylistic importance;
- Sensitive geographical provenance or associated transfer dates;
- Known close parallels being looted, trafficked, or otherwise tainted;
- Provenance information shared with tainted objects.

[to be added – definition of “verifiable data”, underlining that documentation may sometimes be unreliable or forged]

[to be added – explanation of the subjective nature of some criteria such as historical, artistic or stylistic importance and the difficulty of supporting them with evidence]

[to be added – caution should be raised about treating any single criterion as automatically triggering a full, open-ended cycle of provenance research]

[to be added – explanation that assessments should be made on the basis of a range of relevant information and evidence, and that no single piece of data should be treated as determinative]

61. However, these criteria would need to be calibrated to each individual case. Otherwise, there would be a serious risk that a misconception about the nature of collecting practices could bring useless scrutiny and controversy to far too many objects.

62. For example, many stakeholders involved in the art market or collectors work in repetitive and shared networks. For some specialisations, certain names will be either central or peripheral in nearly all transactions, which might lead to their names being associated with tainted objects (being looted or trafficked). Not all objects on the art market were trafficked or have an illicit origin. Each known provenance history should be carefully and individually identified, supported by more than just repetitive patterns identifiable in transactions. There is an important difference to make between a scheme pattern made to dissimulate illegal activities, and the mere nature of business relationships and partnerships. That is the reason why contextualisation should always be a priority. If not, provenance research will be diluted by researching objects that do not present the same levels of risk of “bad” provenance.

On its link with object value

63. The motive for provenance research cannot only be based on value, as most of the objects kept in museums have increased market value due to their exceptional quality and exhibition history. A hierarchy based only on that would not be efficient for museums who would have to undertake a wide provenance research protocol for objects (sometimes for thousands of them). Proportionality should be assessed through different spectrums (value, sensitive origin, or transfers) and duly adjusted, with realistic deadlines and expectations from the provenance researcher.

Cases of good and bad provenance research and their implications for legal doctrine

64. The commentary to this paragraph will include examples of good provenance research practices, notably in case law. Mr Amnon Lehavi proposed to refer to some parts of Chapter 3 of his book *Cultural Property: Law, Policy, and Markets* (Cambridge University Press, 2026), which show cases of good and bad provenance research and their implications for legal doctrine, and particularly case law in various jurisdictions.

65. The first section (Part 3.1) illustrates current provenance research practices (good and less so) of three key museums: the Louvre, the Metropolitan Museum of New York, and Kunsthaus Zürich. The second section (Part 3.3.2) deals with provenance research, due diligence, and the specific protection of cultural property in national laws, including Switzerland, the Netherlands, and Germany. The third section (Part 3.4.2.3) deals with provenance research carried out as part of civil and criminal cases in the United States, including a detailed analysis of how such provenance is reflected in recent case law. The fourth section depicts the establishment and operation of central agencies for provenance research established in Austria, France, and the Netherlands.

66. At previous meetings, the Working Group had indicated the following points to be inserted in the commentary on *Expertise in the relevant field*:

- It was proposed to move the following elements to Guideline C Commentary:
 - Previous Paragraph 2 of Guideline C. Provenance Research: “Complete and unbroken records of provenance are rare. The provenance of some objects may not be able to be verified in its entirety since their creation or discovery to their current location”.
 - Previous Paragraph 3 of Guideline C. Provenance Research: (Due diligence and) Provenance research requires(s) extensive and comprehensive research that integrates various types of information. Conducting (due diligence) provenance research may confirm that the object is an orphan cultural object as defined in Guideline A.
 - Third sentence of the previous Paragraph 5 of Guideline C. Provenance Research: “This may include, among other actions, library research, consultation of public or private archives, document and scientific analysis, and exchanges with witnesses.”
- Clarify that “authenticity” is widely understood as authenticity of the object, not of the documentation.
- Concerning “available documentation”:
 - Encourage reliance on objectively verifiable documentation from neutral sources, distinguishing it from documentation provided by interested parties;
 - Refer to the 1995 UNIDROIT Convention for examples, include examples of documentation such as invoices and export documents, and note that documentation is usually attached to the object and must be assessed critically;
 - Reflect that oral accounts may replace written documentation in some cultural contexts, and explicitly recognise oral history as part of provenance research, noting that it complements written documentation.
- Highlight that forged documentation is an increasingly common problem and provide references/examples of forgery risks in archival documentation.
- Specific attention should be paid to assessing whether documentation is forged and identifying types of documentation, especially obsolete or uncommon forms that require extra verification.

Paragraph 5

67. Commentary has not yet been proposed for this paragraph.

[*to be addressed* – Sub-Group 4 proposed to delete paragraph 5 of Guideline C as its content overlaps significantly with the new draft of Guideline D]

IV. SUB-GROUP 4 - GUIDELINE D - (EVIDENCE) [EVIDENCE IN COURT / DOCUMENTATION / RESULTS / TRANSPARENCY]

68. The Guideline on applicable law, previously part of a trio on applicable law, evidence and dispute resolution, was deleted at a previous session of the Working Group.¹⁸ Such deletion ultimately had impact on the relevance of the two other Guidelines.

69. Sub-Group 4¹⁹ was tasked with refining the scope of Guideline D and also modifying its title. Moreover, the Sub-Group was asked to answer the following questions:

- Under what conditions should provenance research and due diligence information be shared (regarding legitimate interest, legal restrictions, or privacy concerns)?
- With whom should provenance research and due diligence information be shared (only with the future possessor)?
- What constitutes acceptable proof of the due diligence and provenance research exercise?

70. In advance of the first meeting of the Sub-Group, Mr Marcílio Toscano Franca-Filho submitted a preparatory document proposing a new preliminary draft Guideline D, which was the basis for the discussions during the three meetings held by Sub-Group 4,²⁰ as well as a draft commentary.

The Working Group is called upon to:

- 1) Discuss the new draft submitted by the Sub-Group for Guideline D (and consequently the proposed deletion of paragraph 5 of Guideline C on Provenance Research) (see below)
- 2) Review the relevant draft commentary

Draft Guideline D –

<i>End of the fourth session of the Working Group –</i>	<i>New Guideline D proposed by Sub-Group 4 –</i>
<p>D. (Evidence) [evidence in court, documentation / results / transparency]</p> <p>All elements relating to the provenance and due diligence performed are to be retained and shared including with the community concerned. They should accompany the object at any time and be shared in case of a transfer.</p>	<p><u>D. Provenance information, documentation and transparency</u></p> <p>1. All information and documentation relating to due diligence and provenance research undertaken shall be dated, recorded, retained, and preserved in a durable and intelligible manner.</p>

¹⁸ See [Study LXXB- W.G.3 – Doc. 4](#)

¹⁹ Sub-Group 4 was composed of Mr Marcílio Toscano Franca-Filho, Mr Keun-Gwan Lee, Mr Eric Cottier and Mr Till Merlin Vere-Hodge.

²⁰ The first meeting was held on 21 January 2026 (summary report - Study LXXB- SG 4 – Doc. 1), the second on 5 February 2026 (summary report - Study LXXB - SG 4 – Doc. 2) and the third on 26 February 2026 (Study LXXB - SG 4 – Doc. 3 and summary report - Study LXXB - SG 4 – Doc. 4).

	<p>2. Due diligence and provenance documentation shall accompany the object at any time and be transmitted upon any transfer of the object.</p> <p>3. Such information and documentation should also be shared in good faith, outside any transfer circumstances, with competent authorities, dispute-resolution bodies, communities of origin or concern and persons or entities demonstrating a legitimate and proportionate interest in the object.</p> <p>4. The extent and form of disclosure may be subject to legal, contractual, or ethical limitations, including those arising from data protection, privacy, security, or confidentiality obligations. Where full disclosure is not possible, reasonable measures should be taken to enable meaningful access to the substance of the information, such as summaries or anonymisation.</p> <p>5. Demonstration of a reasonable level of due diligence and provenance research exercise consists of documented evidence of the research process. The absence of conclusive information shall not, in itself, be regarded as a failure of reasonable and proportionate efforts being manifested during the research process.</p> <p>6. Should additional information, research or technology become available, all provenance information and documentation could [new wording to be proposed] be reconsidered, revised, supplemented or amended as relevant at any time.</p>
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Draft commentary –

Title

71. The title “D. Provenance information, documentation and transparency” appears to be the most appropriate, as it accurately captures the Guideline’s conceptual architecture, scope and ambition. The text articulates three distinct yet interrelated dimensions: (i) provenance information as the substantive and interpretative outcome of research; (ii) provenance documentation as the body of records, sources, and evidentiary materials that support and substantiate that information; and (iii) provenance transparency as the governing principle regulating the circulation, sharing, and accessibility of such data. A broader title, including, for example, a reference to “due diligence”, would seem to stray from the scope of this project (orphan objects). A more restrictive title, focusing solely on documentation or transparency, would fail to reflect the central role attributed to provenance information throughout the Guideline, as well as the careful differentiation drawn between the production, preservation, transmission, and public communication of provenance data. By explicitly encompassing these three layers, the proposed title ensures internal coherence with the

content of the Guideline, systematic alignment with the broader set of Guidelines, and appropriate visibility for its normative core, without narrowing its scope or blurring its analytical focus.

Paragraph 1

72. This paragraph establishes a foundational obligation that underpins the entire architecture of due diligence and provenance research in the art and antiques market. By requiring that all information and documentation relating to due diligence and provenance research be dated, recorded, retained, and preserved in a durable and intelligible manner, the Guideline affirms that these processes are not merely transient compliance exercises or informal professional practices, but legally and ethically consequential activities, the evidentiary value of which extends over time. This provision should be read as setting both a procedural and a substantive standard: procedural, in that it mandates systematic record-keeping throughout the lifecycle of an object, and substantive, in that the quality, reliability, and accessibility of the information preserved directly affect the legal security of transactions and the credibility of market actors.

73. In the contemporary art market, characterised by increasing globalisation, financialisation, and legal sensitivity, due diligence and provenance operate as the twin pillars of the edifice of legal certainty, ethical integrity, and economic stability. Due diligence refers to a proactive, prospective, and decision-oriented process of verification and risk assessment undertaken prior to acquisition, transfer, loan, insurance or public display. It encompasses the examination of lawful title, the identification of legal restrictions or claims, compliance with anti-money laundering frameworks and tax law, and the evaluation of reputational and institutional risks. Provenance research, while distinct, forms an integral component of due diligence: it reconstructs the documented history of ownership, possession, custody, and circulation of an object over time, situating it within its historical, legal, and cultural context and revealing potential gaps or sensitive periods. The Guideline's insistence on durable and intelligible preservation reflects the understanding that provenance is not static, but dynamic, cumulative and revisable, and that its probative value depends on the traceability and integrity of the underlying documentation.

74. Accordingly, this paragraph reinforces a culture of accountability and transparency by ensuring that due diligence and provenance research generate verifiable records capable of scrutiny by competent authorities, dispute-resolution bodies, market participants, interested communities and, where appropriate, the public. The failure to preserve such information exposes actors to significant legal, reputational, and financial risks, often beyond the scope of insurance coverage, while robust documentation practices reduce uncertainty, facilitate restitution where warranted, and strengthen trust across the market. In this sense, the paragraph encapsulates a core principle: that the effectiveness of transnational legal standards depends not only on substantive rules, but also on the reliability, durability, and intelligibility of the factual records through which those rules operate in practice.

Paragraph 2

75. This paragraph articulates a principle of continuity of information that is central to effective provenance governance and to the integrity of the art and antiques market. By providing that due diligence and provenance documentation shall accompany the object "at any time" and be transmitted upon any transfer, the Guideline affirms that such documentation is not ancillary to the object, nor merely a by-product of isolated transactions, but an integral component of the object's legal and historical identity. This reflects an understanding of documentation as a functional extension of the object itself, carrying evidentiary, ethical, and legal significance across time and jurisdictions.

76. The obligation of transmission upon any transfer, whether by sale, donation, loan, inheritance, or other form of conveyance, serves multiple purposes. First, it ensures continuity of knowledge, preventing the loss, fragmentation, or strategic withholding of provenance information that frequently occurs when objects circulate across borders or through successive intermediaries. Second, it reduces duplication of efforts by subsequent possessors, who would otherwise be required to reconstruct provenance from scratch, often at significant cost and with imperfect results. Third, it strengthens market transparency and legal certainty by allowing future possessors to assess risks, compliance obligations, and potential claims on the basis of documented, traceable information.

77. This paragraph also underscores the cumulative nature of due diligence and provenance research. Provenance is not a static record fixed at the moment of first documentation, but a dynamic process that evolves as new information emerges, archives are opened, or claims are raised. By requiring documentation to “accompany the object at any time,” the Guideline encourages each possessor to view themselves as a temporary custodian of both the object and its informational history, with a responsibility to preserve, update, and transmit that record in a durable and intelligible form. This approach aligns with cooperative behaviour among private actors.

78. Importantly, the provision does not imply that all documentation must be publicly disclosed or that sensitive information must be shared indiscriminately. The duty to transmit documentation operates within the broader framework of “qualified transparency”²¹ developed in Paragraph 4, and remains subject to legitimate legal, contractual, and ethical constraints. Nevertheless, the default rule is one of transmission rather than retention, and of continuity rather than informational rupture.

79. In practical terms, paragraph 2 promotes a chain-of-custody logic for information and documentation. By embedding this logic into the governance of cultural objects, the Guideline contributes to reducing disputes, facilitating restitution where appropriate, and enhancing trust among collectors, institutions, authorities, and source communities.

Paragraph 3

80. This paragraph extends the logic of “qualified transparency” beyond transactional moments and affirms a broader, relational duty to share provenance and due-diligence information in good faith. By explicitly providing that such information should be shared outside any transfer circumstances, the Guideline makes clear that transparency in the governance of cultural objects cannot be reduced to a purely market-driven or contract-triggered obligation. Instead, it recognises that provenance information serves autonomous public, ethical, and legal functions that persist independently of acquisition, sale, loan, or donation.

81. This text reflects the approach according to which good faith operates as a structuring principle of private-law relations in transnational contexts. Here, good faith requires openness to dialogue, responsiveness to justified requests, and a willingness to engage constructively with parties who demonstrate a legitimate and proportionate interest in the object. The scope of potential recipients is deliberately broad and inclusive: it includes persons and communities of origin or concern, competent public authorities, dispute-resolution bodies, and other entities whose interest is directly connected to the object’s history, status, or cultural significance. This formulation acknowledges that provenance information is not only relevant to current or prospective possessors, but also to those seeking historical clarification, cultural reconnection, regulatory oversight, or peaceful dispute resolution.

²¹ PASQUALE, Frank. *Beyond Innovation and Competition: The Need for Qualified Transparency in Internet Intermediaries*. *Northwestern University Law Review*, v. 104, n. 1, p. 105-173, 2010.

82. Once again, the paragraph does not create an obligation of indiscriminate disclosure. Rather, it operates in continuity with the “principle of qualified transparency”. The requirement of a legitimate and proportionate interest functions as a normative filter, ensuring that information is shared where it meaningfully contributes to accountability, cultural justice, or legal certainty, without imposing unreasonable burdens or exposing actors to unjustified risks. In this sense, paragraph 3 complements paragraph 2: while the latter focuses on the transmission of documentation along the chain of possession, the former addresses horizontal and dialogical forms of information sharing that may arise in non-transactional contexts.

83. By emphasising sharing “outside any transfer circumstances”, paragraph 3 reinforces the idea that provenance and due-diligence documentation are not merely tools of risk management for market actors, but shared informational resources that underpin ethical stewardship, historical accountability, and the effective functioning of transnational cultural property regimes. By embedding good-faith sharing obligations into non-transactional contexts, the Guideline strengthens the connective tissue between private documentation practices and the broader public interests served by transparency in the cultural field.

Paragraph 4

84. The “principle of qualified transparency” operates as an intermediate standard governing the sharing of due diligence and provenance information in the art and antiques market. It rejects both unjustified opacity and the unrealistic demand for absolute disclosure, recognising that provenance-related data are often legally, ethically, and economically sensitive. The principle is based on a calibrated model of disclosure, whereby information is shared in good faith with actors demonstrating a legitimate and proportionate interest, such as prospective buyers, cultural institutions, insurers, public authorities, or dispute-resolution bodies. At the same time, it acknowledges lawful and contractual limitations arising from data protection, privacy, security, or confidentiality obligations. Where full disclosure is not possible, the principle favours graduated solutions, including summaries, anonymisation, or differentiated access regimes. In this way, qualified transparency functions as a structuring principle for provenance and due diligence governance, balancing accountability and legal certainty with the protection of legitimate interests in a highly globalised and sensitive market.

85. This paragraph introduces an essential qualification to the principle of transparency by recognising that the disclosure of due diligence and provenance information must operate within a framework of legal, contractual, and ethical constraints. The provision rejects both extremes: it neither endorses absolute opacity grounded in confidentiality claims, nor imposes an unrealistic standard of unrestricted disclosure. Instead, it articulates a calibrated and context-sensitive model of transparency that seeks to reconcile access to information with the protection of legitimate interests.

86. By expressly referring to data protection, privacy, security, and confidentiality obligations, the paragraph acknowledges the complex regulatory environment in which provenance research is conducted. Provenance records often contain sensitive personal data (such as information relating to heirs, private collectors, or intermediaries), commercially sensitive material, security-relevant details concerning storage or transport, or information subject to archival access restrictions. The Guideline clarifies that compliance with such constraints is not only permissible but required, thereby preventing transparency obligations from placing actors in conflict with binding legal norms or ethical duties.

87. Crucially, however, the paragraph establishes that legal or contractual limitations on disclosure do not justify complete non-disclosure as a default position. Where full disclosure is not possible, the Guideline imposes a positive obligation to seek reasonable alternatives that preserve the substance and functional value of the information. Measures such as summaries, redacted

versions, or anonymisation are explicitly endorsed as techniques capable of enabling meaningful access while mitigating risks. Good faith and reasonableness require parties to adapt their conduct so as to uphold the objectives of transparency to the greatest extent possible under the circumstances.

88. The emphasis on “meaningful access” is particularly significant. It signals that formal or purely symbolic disclosure, such as the provision of vague assurances or conclusory statements devoid of evidentiary content, does not satisfy the standard set by the Guideline. Even in constrained contexts, the shared information should be sufficient to allow recipients with a legitimate interest to understand the nature of the undertaken provenance research, identify potential gaps or risk factors, and assess the object’s legal and ethical status. In this sense, the paragraph reinforces the qualitative dimension of transparency, focusing not merely on the act of disclosure but on its practical usefulness.

89. Overall, this provision operationalises the principle of qualified transparency by balancing openness with responsibility. It encourages a culture of transparency, problem-solving and proportionality, in which limitations on disclosure are treated as exceptions requiring justification and mitigation, rather than as convenient grounds for withholding information. By doing so, the paragraph strengthens trust among market actors, authorities, and communities of concern, while ensuring that transparency remains compatible with the diverse legal regimes and ethical considerations that shape the transnational circulation of cultural objects.

Paragraph 5

90. Whereas Paragraphs 1 and 2 articulate the principle of continuity in provenance information and documentation, and Paragraphs 3 and 4 elaborate the model of qualified transparency grounded in good faith and proportionality, Paragraph 5 performs a complementary and clarifying function by defining the evidentiary benchmark through which those obligations are to be assessed. It does not introduce a new normative layer but rather consolidates the existing framework by specifying how compliance with due diligence and provenance standards is to be evaluated in practice. In this sense, it integrates seamlessly into the Guideline’s cumulative logic, which consistently avoids both excessive formalism and unrealistic expectations, favouring structured accountability, methodological rigour, and calibrated responsibility instead.

91. The initial formulation according to which “demonstration of a reasonable level of due diligence and provenance research exercise consists of documented evidence of the research process” is particularly significant because it operationalises the broader principles of continuity and transparency in concrete evidentiary terms. By anchoring the assessment of diligence in documented process rather than definitive historical outcomes, the provision aligns with the Guideline’s dynamic conception of provenance as cumulative and revisable. It recognises that certainty is often unattainable in a field marked by archival gaps, displacement, and fragmented records, yet disciplined and traceable inquiry remains both possible and necessary. The emphasis on documented evidence thus transforms abstract duties into verifiable practice, ensuring that what is evaluated is not merely the completeness of the object’s history, but the integrity, coherence, and proportionality of the undertaken research.

92. Paragraph 5 performs a pivotal clarificatory function within Guideline D by articulating the evidentiary threshold applicable to due diligence and provenance research. It deliberately shifts the evaluative focus from an outcome-based model to a process-oriented standard. Compliance is thus not contingent upon the production of exhaustive or definitive provenance narratives, but upon the existence of documented, structured, and methodologically coherent research efforts undertaken in good faith. This approach reflects the structural realities of the art and antiquities market, where archival lacunae, wartime displacement, colonial extraction, informal transactions, and opaque

intermediated markets frequently render complete historical reconstruction unattainable. By expressly stating that the absence of conclusive information should not, in itself, be regarded as a failure of reasonable and proportionate efforts, Paragraph 5 avoids transforming due diligence into an “obligation of result” (“obligation de résultat”). Instead, it aligns the standard with a classical “obligation of means” (“obligation de moyens”), calibrated by reasonableness and proportionality. At the same time, the insistence on documented evidence of the research process establishes an objective and auditable benchmark. What is assessed is not merely what was discovered, but whether the actor designed, implemented, and recorded a research pathway commensurate with the risk profile and characteristics of the object, including archival inquiries, database consultations, engagement with communities of origin where appropriate, and other traceable investigative steps.

93. In this way, Paragraph 5 strikes a careful equilibrium between epistemic limitation and regulatory accountability. It protects the good-faith actor who can demonstrate disciplined and transparent efforts, while preventing uncertainty from being invoked as a shield for superficial inquiry. Due diligence is thereby defined not as the attainment of perfect historical certainty, but as the demonstrable exercise of proportionate, well-documented, and methodologically sound investigation.

Paragraph 6

94. This paragraph affirms the dynamic and evolutionary character of due diligence and provenance research by expressly recognising that documentation is not fixed or immutable but remains open to reconsideration and refinement over time. By stating that information and documentation could be reconsidered, revised, supplemented or amended whenever additional research, information, or technology becomes available, the Guideline reflects a forward-looking and realistic understanding of how knowledge in the cultural property field is generated, corrected, and expanded.

95. This provision rejects a static conception of provenance as a closed historical narrative established once and for all at the moment of acquisition or transfer. Instead, it embraces a cumulative model in which each new possessor, researcher, or institution contributes incrementally to the object’s informational history. Advances in archival access, digitisation, forensic analysis, scientific dating, database interoperability, and artificial intelligence increasingly enable the discovery of facts that were previously inaccessible or unknowable. The paragraph encourages actors to remain receptive to such developments and to integrate new findings in good faith, thereby enhancing the accuracy and reliability of provenance records.

96. The use of the permissive formulation (“could be reconsidered”) preserves proportionality and reasonableness, avoiding the imposition of a perpetual or onerous duty of continuous investigation absent concrete triggers or material developments.

97. By legitimising revision and amendment, the Guideline further promotes intellectual honesty. Updating documentation to reflect new information should not be perceived as undermining past diligence or exposing actors to criticism; on the contrary, it evidences responsible stewardship and good faith engagement with evolving knowledge. This approach also benefits dispute prevention and resolution, as it facilitates the timely correction of errors, the clarification of uncertainties, and the accommodation of newly substantiated claims without resorting immediately to adversarial proceedings.

V. SUB-GROUP 5 - GUIDELINE ON THE [SCIENTIFIC] PUBLICATION OF [ORPHAN] CULTURAL OBJECTS

98. During the fourth Working Group session, a proposal was made to add a new Guideline concerning the scientific publication of [orphan] cultural objects. No consensus was reached regarding its final insertion into the current version of the Guidelines. Indeed, reservations were expressed by one member, and a proposal then was made to insert its content into the commentary to Guideline C.

99. Sub-Group 5²² was asked to answer the following question:

- Should this Guideline be inserted and explained in the commentary to Guideline C, and if so, how?

100. The Sub-Group met on 26 January 2026,²³ but no agreement was found among participants. The Sub-Group discussed more the publicisation of an orphan object (Guideline F) than scientific publication, and in particular the sharing of provenance results. It proposed to add “and publicly shared” to draft paragraph 5 of Guideline C (see relevant Guideline above).

The Working Group is called upon to:

1. Discuss whether to keep this new Guideline proposal as a stand-alone Guideline or to add it in the commentary to another Guideline (probably C).

Guideline on the [Scientific] publication of an [orphan] cultural object as it stood at the end of the fourth session of the Working Group –

1. Objects without an undocumented full provenance history or no provenance at all should be brought to the attention of the scientific community and to the public.
2. The publication of those objects should be [accompanied by/include] a [clear/direct] [reference/mention] to the fact that the object is fully or partially unprovenanced, to the absence of the object’s documentation before the latest date known or the multiple provenance gaps identified, to the known or unknown date of the object’s legal export from its [country of origin/source country], and to a contact referenced in case of additional information.
3. The publication of unprovenanced objects may not be used to replace, construct, or establish provenance, nor to encourage any transfer of the object. Any transfer of the object remains subject to the applicable provisions of the relevant conventions in the field.

²² Sub-Group 5 was composed of Ms Isabelle Tassignon, Ms Patty Gerstenblith, Ms Corinne Hershkovich and Mr Amnon Lehari.

²³ Study LXXB - SG 5 – Doc. 1.

ANNEXE 1**OBSERVATIONS SUBMITTED BY GIUDITTA GIARDINI AND CHARLOTTE LOORAM****March 2nd, 2026**

1. This note is submitted in response to the summary reports of Sub-Group 2 (Study LXXB - SG 2 – Doc. 1, Jan 2026) and Sub-Group 3 (Study LXXB - SG 3 – Doc. 1 and 2, Feb 2026).

2. The present observations first address the concepts of *provenance research*, the role of the provenance researcher, and the definition of *due diligence*. The note concludes with a reflection on the relationship between these two processes.

1. The definition of provenance research**a. The definition under Guideline C**

3. The current ICOM Code of Ethics for Museums (2004) defines provenance as: “The full history and ownership of an item from the time of its discovery or creation to the present day, through which authenticity and ownership are determined.” This statement tries to both define what *provenance* is and what the purpose of provenance research is. The result is a definition that is normative rather than descriptive, and blurs the line between provenance research and due diligence. A clean definition of provenance should be value-neutral, and serve as the foundation on which professional standards and ethical obligations can be built. For example: “Provenance is the history of an object from creation or discovery to present day, including its origins, movements, and successive ownership.”

4. The current Guideline C addresses the issue of professional standards and ethical obligations by focusing on a definition of *provenance research* rather than *provenance*.

5. Guideline C represents an important step towards professionalising provenance research, but as currently drafted it suffers for a lack of conceptual clarity. It is unclear whether the guideline is intended to define provenance research or provenance researchers, prescribe research methodology, establish ethical obligations, or set professional standards. In attempting to address all of these simultaneously, it does none of them with sufficient precision. The result is a text that conflates definition with aims, methodology with outcomes, and obligation with recommendation.

6. Paragraph 2 repeats the structural problem identified in the 2004 Code of Ethics definition by conflating what provenance research is with what aims to achieve. The second sentence (“Provenance research also endeavours to identify if the object has been subject to any illicit transfer”) should be separated out as a statement of purpose or objective, not incorporated into the definition itself. Furthermore, the statement frames the identification of illicit transfer as the only goal of provenance research, which unduly narrows its scope. Reducing provenance research to a due diligence mechanism in service of detecting illicit transfer flattens the field and shortchanges its broader intellectual and ethical dimensions. Instead, a statement on the aims of provenance research should present the identification of illicit transfer as one of multiple objectives.

b. Three aspects of provenance research

7. Paragraph 4 makes an important contribution in this regard, but conflates three distinct aspects without distinguishing between them:

1. *methodological aims*: how research is conducted (e.g. “to collect and assess all reasonably obtainable documentation and information at the time of the search”);

2. *interpretive aims*: what the researcher does with the findings (e.g. “to evaluate the authenticity of the documentation” and “to evaluate provenance gaps and undocumented transfers”); and
3. *outcomes*: what provenance research produces or enables (e.g. “evaluate the authenticity of the object”).

8. Without this distinction, provenance research risks being understood as a linear procedure with a single objective, obscuring both the interpretive judgment it requires and the range of purposes it serves. A clear distinction between methodological aims, interpretive aims, and outcomes is an essential foundation for the development of meaningful professional guidelines. Having a separate section for outcomes would acknowledge the multiple ends for provenance research in addition to identifying illicit transfers and determining authenticity, including contributing to art historical knowledge, establishing historical records, informing acquisition decisions, identifying cultural affiliation, and supporting restitution claims, among others.

9. The three categories listed above are equally confused in the draft “Commentary” to Paragraph 3. Instead of directly defining “adequate knowledge,” it begins with another definition of provenance research, once more focused on establishing—in a completely arbitrary manner—its “principal aim.” An attempt is made to elaborate research strategies in the same Commentary, which could answer the concerns outlined above. However, the proposed methodology is superficial, and moves back and forth without a clear order.

10. It should be noted, first, that this is not the appropriate place to engage in a methodological discussion of provenance research. Second, it would be preferable to provide a list of possible actions and allow their sequence to be determined on a case-by-case basis (as Paragraph 4(4) of the same Commentary suggests).²⁴ Third, the commentary overlooks the fact that provenance research always begins with the object itself, not documentation and scholarly literature, to, at minimum, establish basic typological and descriptive information and assess its location and condition. This information will shape the direction of the research.

11. Paragraph 4 identifies a genuine methodological problem, namely the evaluation of documentation, but fails to acknowledge that such evaluation requires external validation. This validation may arise, for example, when provenance researchers consult with the country of origin, where known, to verify whether an export permit allegedly issued by that country is authentic, legally valid, and still in force. More broadly, the paragraph overlooks an essential procedural dimension of provenance research: collaboration. Effective provenance research necessarily involves engagement with other researchers, law enforcement authorities, countries of origin, and relevant communities, both to verify findings and to ensure that the research serves the range of purposes outlined above.

12. Moreover, the idea that provenance research should be understood as an ongoing process should be made explicit in this new definition of provenance research.²⁵ While it is true that it is not sustainable to continue studying an object when no new material, leads, or information are available, research may be triggered or revisited in light of new discoveries, including newly identified archaeological sites, archival materials, or documentary evidence.²⁶ This characterization should not

²⁴ See, Study LXXB - SG 3 - Doc. 2, pp. 2-3.

²⁵ See, Study LXXB - SG 2 - Doc. 1., paras 12-13.

²⁶ Even agreements or MoU concluded by museums with countries of origin, often based on prior provenance research and investigations (such as those involving the Medici, Becchina, or Almagià networks), may be reopened when new evidence of criminal conduct relating to objects covered by such agreements comes to light. For agreements between a museum and Italy, in legal terms, this situation may be analysed through the doctrine of “*presupposizione*,” which refers to an external circumstance, not expressly stated in a contract, yet regarded by the parties as an objective and fundamental condition for its validity. Where such a presupposed circumstance proves to be absent or invalid, the legal basis of the agreement itself may be called into question. See, for instance, “The Metropolitan Museum of Art–Republic of Italy Agreement of February 21,

be interpreted as requiring provenance research to be conducted continuously and without interruption. Rather, it suggests that provenance research may require reassessment whenever new evidence or information emerges that could materially affect the known history of a given object. Paragraph 5 hints at this by acknowledging that the results of provenance research may be revisited. The definition of provenance research in Paragraph 2 should then make this dimension of provenance research explicit, rather than leaving it implicit in a later point about results.

c. The role of the provenance researcher

13. Paragraph 1 limits the obligation to conduct provenance research to possessors of cultural objects, inadvertently excluding key actors such as countries of origin, communities, and victims of spoliation, who have legitimate and often urgent reasons to conduct provenance research. Indeed, this framing also overlooks the fact that provenance research is frequently conducted on objects whose current location is unknown. Provenance research should therefore be understood as an activity that any stakeholder may undertake (or through a professional provenance researcher) divorced from possession. At the same time, paragraph 1's use of "should" renders what ought to be a binding professional standard effectively voluntary. For possessors (or future or aspiring possessors) specifically, conducting provenance research must be framed as an obligation in the context of due diligence, not a recommendation.

14. While Paragraph 1 of Guideline C specifies that the obligation to engage in provenance research rests with the possessor of an "orphan object," Paragraph 3 provides that whoever conducts such research should be a person "who, considering all circumstances, has adequate knowledge and expertise in the relevant field, taking into consideration existing standards."

15. The current formulation of Paragraph 3 has rightly removed any reference to the impartiality of the individual or of the role, which seemed unpractical. However, this reference may be better understood as relating to the neutrality of the provenance research process or outcome rather than to the personal position of the researcher. In practice, a provenance researcher retained by a particular party may inevitably face structural pressures that risk partiality. Although such bias is not desirable, it remains both reasonable and necessary to require that findings be presented in a neutral and methodologically transparent manner.

16. Paragraph 3 appropriately focuses on the skills of the provenance researcher, describing the person as possessing "adequate knowledge" and "expertise in the relevant field." The Commentary offers a few of these requisites and skills (for example "the ability to think creatively and systematically about where an object may have left a trace in the historical record" or "should be aware of the legal and ethical debates surrounding the objects under investigation") but they remain sparse, and scattered throughout the Commentary rather than consolidated into a coherent competency framework.²⁷

17. Regarding the definition of "adequate knowledge," the Commentary suggests that the concept must be broad because the definition of cultural objects is broad.²⁸ However, there does not appear to be a necessary correlation between these two elements. The "adequate knowledge" required of a researcher may apply across different categories of objects, regardless of the breadth of the definition of cultural objects.

2006' (2006) 13 *International Journal of Cultural Property* 427-434; 'Princeton University Art Museum and Italy sign agreement over antiquities' (30 October 2007) *Princeton University News*, available online at <https://www.princeton.edu/news/2007/10/30/princeton-university-art-museum-and-italy-sign-agreement-over-antiquities> accessed 22 February 2026.

²⁷ See, Study LXXB - SG 3 - Doc. 2, "Commentary", para. 4(5)-(6), p. 3.

²⁸ See, Study LXXB - SG 3 - Doc. 2, "Commentary", paras. 5-6, p. 3

18. Moreover, today, in the absence of specific requirements or of a formal register of provenance researchers, a “person” who is not formally trained in a particular subfield or who lacks specific qualifications may nonetheless acquire “adequate knowledge” through experience, sustained engagement, or independent study. Instead of explaining how this may occur, the Commentary merely provides a list of scholarly publications and implies that these works define what adequate knowledge entails (“In the field of Nazi-era provenance”).²⁹ The role of a Commentary is to clarify the content of a concept, rather than simply referring to academic literature. In its current wording, the objective of the Commentary in this respect appears unclear.

19. A further concern arises from the characterization of provenance research as “a developing field with a growing body of academic and professional literature.” While this statement is accurate, it leaves unresolved the question of the competencies and qualifications required of provenance researchers. A framework intended to provide guidance on provenance research and due diligence should, at minimum in the Commentary, attempt to articulate the core requisites and skills associated with this role, including methodological, legal, historical, and ethical competencies.

2. The definition of “due diligence”

a. *Due diligence includes provenance research*

20. It should first be noted that, while the UNIDROIT Convention provides a definition of “due diligence” (Article 4(4)),³⁰ it does not expressly refer to “provenance research”.

21. During the drafting of the Convention, the drafters deliberately adopted the concept of due diligence in preference to (subjective) “good faith.”³¹ This choice reflects an intention to move away from purely subjective standards³² and to introduce a more objective evaluative framework.

22. Under the Convention, entitlement to fair and reasonable compensation (Article 4(1)) is contingent upon demonstrating that due diligence was exercised at the time of acquisition. Article 4(4) specifies that:

“4) In determining whether the possessor exercised due diligence, regard shall be had to all the circumstances of the acquisition, including the character of the parties, the price paid, whether the possessor consulted any reasonably accessible register of stolen cultural objects, and any other relevant information and documentation which it could reasonably have obtained, and whether the possessor consulted accessible agencies or took any other step that a reasonable person would have taken in the circumstances.”

23. Although provenance research is not explicitly mentioned, several of the actions enumerated, such as consulting accessible agencies, registers, catalogues, and documentation, clearly overlap with what is now commonly understood as provenance research.

²⁹ *Ibidem*, paras. 8 ff, p. 3.

³⁰ [ICOM Code of Ethics for Museums](#) (‘Glossary’ (2004) 47, available online and accessed 22 February 2026) defines “due diligence” as “The requirement that every endeavour is made to establish the facts of a case before deciding a course of action, particularly in identifying the source and history of an item offered for acquisition or use before acquiring it.”

³¹ In civil law countries, a distinction is often made between subjective good faith and objective (or operative) good faith. G. Giardini, ‘Taming the Italian ‘Trojan Horse’: The *a non domino* Sales of Cultural Objects’ (2023) 28(1) *Uniform Law Review*.

³² The subjective standard nevertheless remains embedded in Article 4(1), which provides that compensation shall be granted only “provided that the possessor neither knew nor ought reasonably to have known that the object was stolen”, as well as in Article 6(1).

24. It therefore appears that the UNIDROIT Convention itself implicitly treats provenance research as an integral component of due diligence.

b. The transactional nature of due diligence

25. The UNIDROIT Convention adopts what may be described as a 'transactional' conception of due diligence.³³ This is rightly reflected in the current definition of Guideline B, Paragraphs 1.

26. Due diligence is assessed with reference to a specific moment in time, namely the period preceding the 'transfer' of the cultural object. This is evident from Article 4(1) of the UNIDROIT Convention, which places upon the possessor the burden of proving that they "exercised due diligence when acquiring the object" (emphasis added).

27. The transactional nature of due diligence is further reinforced by Article 4(5):

"The possessor shall not be in a more favourable position than the person from whom it acquired the cultural object by inheritance or otherwise gratuitously."

28. Accordingly, not only purchasers, but also donees, heirs, and other successors acquiring objects gratuitously, are required to exercise due diligence.

29. Paragraph 2 of Guideline B appears, at present, to be overly broad. While it is true that it seeks to establish best practice standards, outside situations such as acquisitions, donations mortis causa or inter vivos, transfers of business divisions, mergers and acquisitions, consignment agreements, temporary custody, or lending and borrowing arrangements, it is difficult to identify circumstances in which the mere physical movement of an object would trigger a due diligence obligation.

30. An exception may arise where the object is transferred "across international borders" for various reasons,³⁴ including restoration and appraisal purposes. In such cases, the applicable regional or national export and import regulations would apply and may require the provision of additional information concerning the cultural object. It therefore seems appropriate that this wording ("across international borders") be reinstated.

31. Due diligence may thus be understood as a "snapshot" of the object's legal and factual status at the time of acquisition or similar. Unlike provenance research, which may be revisited and expanded over time, due diligence is assessed in relation to a specific transactional context.

c. Due diligence: all hands on deck

32. Due diligence should be regarded as a composite process requiring the contribution of multiple specialised actors.

33. The provenance-related aspects of due diligence should be conducted by one or more qualified specialists, as discussed above. Archival research, documentary verification, and related inquiries may be undertaken either by the same provenance researcher or by other appropriately skilled professionals.

34. This multidisciplinary character reflects the increasing complexity of acquisition or similar-related assessments in the field of cultural property.

³³ In this sense, the definition provided by ICOM in the Glossary is less transaction-oriented, it refers to a generic "case".

³⁴ See, old draft of Guidelines B, in "Preparation intersessional work of the working group on orphan objects before the fifth session", p. 6.

35. While in conducting provenance research the involvement of a legal expert is typically occasional and supportive in nature, in the context of due diligence their participation is necessary. Such expertise is essential for the review of contractual documentation and records of title transfers, as well as for the assessment of the applicable legal framework, including ownership laws and relevant export and import regulations across the jurisdictions concerned.

36. The proliferation of new legislation and the complexity of contemporary geopolitical situations further underscore the need for legal assessments to be conducted by individuals trained in the law. For instance, the EU Import Regulation has introduced specific compliance obligations to be carried out before importing cultural objects in the Union's territory.

37. For instance, cultural objects discovered in war zones, or territories such as Cyprus or in the West Bank are subject to a particularly complex legal framework. In the latter case, the 1993 and 1995 Oslo Accords divided the West Bank into three administrative areas (Areas A, B, and C) as a temporary five-year arrangement, which in practice remained in force until October 2023. The agreement allocated varying degrees of civil and security control between the Palestinian Authority (PA) and Israel, covering Palestinian cities, towns, villages, and areas under Israeli administration. As a result, determining the applicable legal regime for cultural objects found in the West Bank requires careful analysis of the specific location of the find and the corresponding allocation of authority under the Oslo framework, as well as consideration of Israeli military orders, Palestinian legislation, and relevant international law provisions.³⁵ Such assessments clearly require specialized legal expertise.

³⁵ DANY, Statement of Facts against M. Steinhardt, December 6, 2021, pp. 86 ff.

ANNEXE 2

In view of the second meeting of Sub-Group 3 on the Definition and criteria of a provenance researcher,³⁶ **Ms Joanna van der Lande** submitted a draft commentary on the **Definition of a Provenance Researcher**, accompanied by the list of links below attesting to the current developments of provenance research and in the hiring of provenance researchers.

Specific jobs for Provenance Researchers are being advertised:

- Canvas Art and Law – advertising for a Provenance researcher with a particular focus on natural history and geology: <https://www.natsca.org/node/2902> and <https://spnhc.org/provenance-researcher-2/>
- The Art Loss Register – advertising for a Provenance Researcher: <https://arthist.net/archive/36783>

Specialist Provenance Research agencies

- Isabel von Klitzing – Provenance Research – Art Consulting: <https://www.provenanceresearch.com/>
- The Society of London Art Dealers list provenance researchers: <https://slad.org.uk/service-providers/art-provenance-research/> -

Advertised courses in Provenance Research

- <https://www.artmarketacademy.com/p/provenance-research-the-practical-how-to-guide-2>

While Museums are increasingly highlighting their departments focusing on provenance research

- Yale University Art Gallery: <https://artgallery.yale.edu/research-and-learning/provenance-research>
- Victoria & Albert Museum: <https://www.vam.ac.uk/research/projects/provenance-research-at-the-va>
- Metropolitan Museum: <https://www.metmuseum.org/perspectives/provenance-research-art-detective>
- The Metropolitan Museum and links to Provenance Research Resources: <https://www.metmuseum.org/about-the-met/provenance-research-resources> -
- A guide to the provenance research of cultural goods 1933-1945: <https://english.cultureelerfgoed.nl/documents/2024/01/01/a-guide-to-provenance-research-cultural-goods-1933-1945> -
- Ashmolean Museum: <https://www.ashmolean.org/provenance-research>
- Courtauld Institute: <https://courtauld.ac.uk/about-us/policies/gallery-policies/provenance-research/>
- Smithsonian National Museum of Asian Art: <https://asia.si.edu/whats-on/blog/posts/object-history-sleuths-meet-a-provenance-researcher/>
- Museum of Modern Art: <https://www.moma.org/collection/provenance/>
- Tracking Down the Provenance of Old Master: The Research in a Few Basic Steps, Jona Mooren & Eelke Muller: <https://www.codart.nl/feature/museum-affairs/tracking-down-the-provenance-of-old-masters-the-research-in-a-few-basic-steps/>

³⁶ See preparatory document - Study LXXB - SG 3 – Doc. 2 rev.

ANNEXE 3**NON-EXHAUSTIVE LIST OF EXISTING STANDARDS**

[presented by Marie Duflot]

International:

- ICOM Code of Ethics: Under revision (the new version should be published in June 2026). Current version, see article 2.3 Provenance and Due Diligence, 2.11 Repositories of Last Resort, 2.20 Documentation of Collections, 3.2 Availability of Collections, 4.5 Display of Unprovenanced Material, 6.1 Cooperation.
- Washington Principles (1998): Access to archives, attention given to unavoidable gaps and ambiguities, publicize confiscated art. See: <https://www.state.gov/washington-conference-principles-on-nazi-confiscated-art>
and Best Practices (2024): Access to all archives and documentation to researchers, results publicly available on the internet, encouragement to create independent expert bodies. See: <https://www.state.gov/office-of-the-special-envoy-for-holocaust-issues/best-practices-for-the-washington-conference-principles-on-nazi-confiscated-art>
- Charter of Porto-Novo, Xogbonu, Ajashe (2022): Access to resources, independent, autonomous and reflective research, separation of the time of research and of restitution, inclusivity. See: <https://retours.hypotheses.org/371>

Belgium:

- Restitution Belgium, Principes éthiques pour la gestion et la restitution des collections coloniales en Belgique (2021): Recommends more cooperation in research and equality between the actors involved, transparency and access to documentation, urges to create an independent institution for provenance research. See: <https://restitutionbelgium.be/fr/rapport>

France:

- Ministère de la Culture, Vadémécum des recherches de provenance (2025): Giving priority to sensitive objects (nazi-looted art, human remains, colonial collections, illicit traffick), Not acquiring undocumented objects, access to information (especially online), spirit of cooperation-transparency-respect-confidentiality with claimants. See: <https://www.culture.gouv.fr/thematiques/musees/pour-les-professionnels/etudier-la-provenance-et-l-histoire-des-collections/methodologie-sources-et-outils-pour-la-recherche-de-provenance/vademecum-des-recherches-de-provenance>
- Collectif Pluridisciplinaire de Recherche de Provenance, Charte de déontologie (should be published in 2026).

Germany:

- Deutsches Zentrum Kulturgutverluste, Provenance Research Manual (2019): Transparent documentation of gaps in provenance chains, data exchange, Open Access publication, personal data protection, etc. See: <https://kulturgutverluste.de/sites/default/files/2023-06/Manual.pdf>
- The DZK has several series of publications available here: <https://kulturgutverluste.de/en/medialib/publications>
- Arbeitskreis Provenienzforschung e.V., Admission procedure: Each member accepts guidelines amongst which cooperation between provenance researchers, publication of research results, commitment to the general scientific standards (DZK, ICOM). See: <https://www.arbeitskreis-provenienzforschung.org/en/about-us/membership/>

- Arbeitskreis Provenienzforschung e.V., Sub-group on standardisation, "Leitfaden zur Standardisierung von Provenienzangaben" (2018): Current state of the research, chronology, completeness, identifying provenance gaps, handling of sources and (un)secured information. See: <https://www.arbeitskreis-provenienzforschung.org/arbeitsgruppen/ag-standardisierung/>

Netherlands:

- Council for Culture, Colonial Collection and a Recognition of Injustice (2020): Readiness to return cultural heritage objects, establishing an expertise center on the provenance of colonial cultural heritage objects, proactive research, giving source countries access to information "without restriction", international cooperation. See: <https://www.raadvoorcultuur.nl/documenten/2021/01/22/colonial-collection-and-a-recognition-of-injustice>
- Cultural Heritage Agency, Provenance research on cultural goods 1933-1945 – A Guide (2024): Responsibility to investigate provenance for anyone having acquired an object or having stewardship over it, requirement for museums to make public the research results, citation of sources. See: https://english.cultureelerfgoed.nl/documents/2024/01/01/a-guide-to-provenance-research-cultural-goods-1933-1945?utm_source=chatgpt.com
- Cultural Heritage Agency, Provenance research into collections from a colonial context – A Guide (2025): Accessibility of collections for countries and communities of origin, collaboration with researchers of the country of origin, announce research projects online in view of more transparency, reporting dead ends in the research, publication on research reports online. See: https://english.cultureelerfgoed.nl/documents/2025/01/01/provenance-research-into-collections-from-a-colonial-context---a-guide?utm_source=chatgpt.com

Switzerland:

- Confédération Suisse, Empfehlungen des Bundesamtes für Kultur zu Provenienzforschung und Datenschutz (2025): Protection of personal data, knowledge and respect of legal standards (Washington Principles, UNESCO, UNIDROIT), transparency, facilitated access to research results. See: <https://www.bak.admin.ch/dam/bak/de/dokumente/raubkunst/publikationen/empfehlungen-bak-rovenienzforschung-und-datenschutz.pdf.download.pdf/Empfehlungen%20BAK%20Provenienzforschung%20und%20Datenschutz%20dt.pdf>
- ICOM Suisse & Associations des musées suisses, Provenienzforschung im Museum I, NS-Raubgut. Grundlagen und Einführung in die Praxis (2021): This document is more of a manual than ethical guidelines; Encourages proactive provenance research by institutions. See: <https://www.museums.ch/de/fachwelt/angebote/publikationen/provenienzforschung-ns-raubgut-931.html>
- ICOM Suisse & Associations des musées suisses, Provenienzforschung im Museum II, Sammlungen aus kolonialen Kontexten. Grundlagen und Einführung in die Praxis (2022): Giving access to both collections and documentation, translation of data, online publication, close cooperation with communities of origin, non-Eurocentric approach. See: <https://www.museums.ch/de/fachwelt/angebote/publikationen/provenienzforschung-koloniale-sammlungen-952.html>