

STATEMENT OF MARTHA NIERENBERG
TO THE
COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET
OF THE
EUROPEAN PARLIAMENT

MARCH 17, 2003

Good afternoon, Chairman Gargani, Vice Chairman Rothley, Vice Chairman Koukiadis, Vice Chairman Miller and the other members of the Committee on Legal Affairs and the Internal Market.

I am Martha Nierenberg. I am here to tell you of my quest, so far unfulfilled, to recover a portion of the Herzog art collection – indeed, my family's heirlooms – that was lost as a result of the Holocaust. I am also here on behalf of all victims whose artworks were stolen in the Holocaust as part of one of the largest thefts of cultural property in history. My case is only an illustration of the injustice that face most victims when they request that their stolen art, their rightful cultural property, be returned to them. I am asking you to help ensure that the victims will finally receive some measure of justice and that governments of EU nations will no longer be permitted to hide behind laws that were never intended to shield governments from rectifying crimes committed against innocent citizens by governments.

Like you, I was born and raised in Europe. My childhood was spent along the Danube in Budapest, the second capital of the Austro-Hungarian Empire. My grandfather, Baron Mór Lipót Herzog was a quintessential European of his class and completely immersed himself and our family in European culture. A successful banker in pre-War Budapest, my grandfather assembled the largest private collection of artworks in Hungary, containing hundreds of items, helping Budapest to become one of the leading

centers of art and culture in Europe. This collection included works of many of the European artists most renowned through the centuries – from the Renaissance through the Impressionists. Paintings by Tiepolo, El Greco, Goya, Degas, Monet and Renoir, Gobelins tapestries, silverwork and more graced my grandfather's Budapest home. Indeed, his home was an exquisite display of the history of art in Europe.

Following my grandparents' deaths, my mother, Elizabeth Weiss de Csepel (née Erzsébet Herzog) and her brothers, István and András Herzog, divided the collection among them, intending to continue their father's legacy as a patron of the arts. Then came World War II. The tragedy that enveloped Europe, particularly its citizens of Jewish origin, ended the Herzog family's residence in Hungary and resulted in the theft and dispersal of the Herzog art collection. Today, my family's art collection is scattered, with parts of it known to be in Hungary, Poland, Russia and other places. The existence and location of many of the works of art has been unknown for nearly 60 years.

When my mother died in 1992, I inherited that portion of the Herzog Collection that she had inherited from her father, Baron Herzog. With the opening of Hungary to the West, and the rise of a democratic regime in Budapest, we made inquiries. We learned that many pieces of the Herzog Collection, both those I owned as well as ones inherited by my cousins, were being openly and brazenly exhibited as the "Herzog Collection" in two museums in Budapest – the Museum of Fine Arts and the Hungarian National Gallery.

In September 1995, I found a lawyer and approached the museums and the government about rectifying this situation and returning stolen artworks to my cousins and me. In an attempt to placate me, the Hungarian Government set up a Committee of

Experts to review that status of the artworks held by the two museums. Although the Committee confirmed that artworks remained my property and the property of my cousins, I recognized that the Hungarian Government would be very reluctant to part with the artwork. Accordingly, in the spirit of compromise and cooperation, I proposed an agreement under which only a certain percentage of the value of the collection would be returned to the Herzog family with the remaining portion being awarded to Hungary. Moreover, Hungary would have been entitled to choose which objects it wished to keep or purchase. In addition, my family agreed to assist Hungary in obtaining the return of objects that originated in the Herzog Collection but that are now abroad, and the percentage division would also be applicable to the portions of the Herzog Collection that were located in other countries. Despite my sensitivity to Hungary's concerns, the Hungarian Government summarily rejected my offer and proposed that a new committee be formed composed entirely of government officials and providing for no objective review of my claim.

After the Hungarian Government rejected all of my efforts to regain my mother's art collection, I had no choice but to commence a lawsuit in the Hungarian courts, which I did in October 1999 with the assistance of the Commission for Art Recovery. By that point, we had been in contact with the Hungarian authorities for almost four years, and there had been no progress. These delays are significant in part because of my age. As the Hungarians continue to delay, it seems to me they expect there will be a point at which I will no longer be able to pursue my claims. The lawsuit was filed in the Metropolitan Court in Budapest against the Museum of Fine Arts, the Hungarian National Gallery and the Hungarian State. The suit seeks the restitution to me of twelve

paintings that I inherited from my mother. In addition to the art covered by my lawsuit, these two museums continue to hold hundreds of pieces of art that were taken during the Hungarian Holocaust from my uncles, István and András, and their families.

In the course of the trial, the defendants raised every conceivable procedural and technical objection to my claim, in an effort not only to prevent the restitution of my art but also to prevent the court from even hearing my claim! Amazingly, during the trial, the National Gallery voluntarily returned one of my paintings (by the Hungarian 19th century painter, Mihaly Munkácsy) without giving any explanation of what distinguished the ownership of that painting from the ownership of the other paintings.

After a one-year trial, in October 2000, the Metropolitan Court in Budapest issued a ruling that confirmed the obligation of the Hungarian government to return ten of the remaining eleven paintings and dismissing the government's defenses. Unfortunately, rather than using the Metropolitan Court's ruling as an opportunity to honor its obligations under international law to return my art, the Hungarian government appealed the ruling. Over two years later, in February 2003, the Supreme Court of Hungary issued its decision confirming much of the lower court's ruling but frustratingly requiring yet further proceedings in the lower court regarding certain technical and factual matters, resulting in yet further delays in the return of the art stolen from my mother nearly 60 years ago.

I wish my claim for my art could have been resolved by an amicable agreement with the Hungarian Government. I repeatedly offered to settle my claim while respecting Hungarian sensitivities. Unfortunately, no Hungarian official would ever speak to me seriously about a settlement. Because no agreement could be reached, the only choice I

had for justice was to go to court. The lawsuit has been dragging on since 1999. I would like to end it and have peace, but I will not simply walk away and let the Hungarian Government keep property stolen from my family.

Mr. Chairman, I am determined to do everything I can to obtain justice and recover my family's legacy. I would hope that a country clearly wishing to be a part of the West -- Hungary is a member of NATO and has recently been admitted to the European Union -- would deal with my claim for recovery of stolen art rather than engage in old, tired bureaucratic games and legal maneuvering. The Hungarian government should do what is right. It should accept the conclusion of its own Experts Committee. It should accept the ruling of the trial court. It should accept the principal rulings of the Supreme Court. In short, the Hungarian government should acknowledge my ownership rights and negotiate an end to the lawsuit.

Yet this lawsuit is not just about my family's legacy and me but also about broader principles of right and wrong. The Hungarian government should not be permitted to hide behind legal defenses that are not applicable to art stolen during the Holocaust and that were certainly never intended to afford a government with defenses to the return of art stolen by a government during the persecution of its own citizens. The defenses of adverse possession, prescription and export controls were designed to protect legitimate participants in commerce or to prevent the theft of national heritage. They were never intended to permit a government to hold art stolen from its citizens on the pain of death. The Hungarian government should do what is right for all owners and heirs of stolen art. It should begin by acknowledging that it controls an unknown number of fine art pieces that were stolen during World War II. It should make a serious and

renewed effort to identify those artworks and return them to their rightful owners. It should also provide a clear, short, workable process for all others who may wish to assert art claims -- a process that doesn't require hiring lawyers or posting hundreds of thousands of dollars in bonds.

My hope is that the European Parliament will establish a new standard of justice for its member states and will remove the legal bases behind which Hungary and other governments hide in order to avoid their legal and moral obligations to return artworks stolen during the lowest point in European history.

Thank you.