

Museum of Cultural History  
Att:/ Museum Director Håkon Glørstad  
P.O. Box 6762 St. Olav's Square  
0130 Oslo

Sent by e-mail only to: [postmottak@khm.uio.no](mailto:postmottak@khm.uio.no)  
and [hakon.glorstad@khm.uio.no](mailto:hakon.glorstad@khm.uio.no)

Oslo, 1<sup>st</sup> of July 2022  
Item No.: 10940-501  
Dok.nr.: 6DZLNQ6CFDSA V-1039236807-496  
Lawyer in charge: Cato Schiøtz

## MARTIN SCHØYEN – REF.NBR: 2021/9715 HAKONI

I hereby comment on your letter on behalf of the Museum of Cultural History ("KHM") of 23<sup>rd</sup> of May 2022. As the sender of KHM att:/ report of 6 March 2022, I therefore address you directly on matters in relation to the case.

Your letter represents a very unsatisfactory response to my serious inquiry of May 6, 2022. In this regard, I would particularly like to point out the following:

### 1 THE QUESTION OF CHRISTOPHER PRESCOTT'S LEGAL INCOMPETENCE

In the above-mentioned letter, you state that there is a high threshold for disqualification because of professional disagreement. This is nothing but stating the obvious – of course this is correct.

However, this is not the case in the current situation: Prescott has for more than 20 years campaigned against Schøyen with a series of personal attacks and strongly damaging accusations, which go far beyond factual/professional disagreement.

Let me mention a few examples of such allegations and insinuations by Prescott vs. Schøyen:

- Schøyen is in the same category as imperialist states and antiquities plunderers.
- Schøyen stimulates the counterfeiting industry.
- Schøyen is involved in a network of looters and smugglers.
- Schøyen supports criminal networks.
- Schøyen makes up rescue operations to legitimize his purchases.
- Schøyen is dishonest and indifferent to provenance.

One example – of several – of this type of attacks can be found in the article in Heritage no. 3/2022, written by Christopher Prescott and Josephine Munch Rasmussen: *Exploring the "Cosy Cabal of Academics, Dealers and Collectors" through the Schøyen Collection*.

The latest example can be found in Morgenbladet on 11<sup>th</sup> of March this year on p. 33, where the newspaper confronts Prescott with the fact that he has previously told the newspaper that Schøyen has "*a systematic history of buying dubious goods and dealing with smugglers*."

Prescott states: "*We cannot close our eyes to the fact that they (including Schøyen – my addition) have helped to plunder countries in deeply tragic circumstances and financed crime.* »

Through his many excessive personal attacks, Prescott of course has a strong personal interest in defending his previous attacks – which he has done to the full extent through his report of 6<sup>th</sup> of March this year, where he was the main individual responsible – presumably with the assistance of Håkon Roland.

One thing is that Prescott is clearly legally incompetent in relation to Schøyen. The startling and highly reprehensible thing is that you, as director of KHM, did not even *raise the question* of potential legal incompetence. It was simply not brought up, and much less considered.

And as we shall emphasize below : An analysis of the report's content shows that Prescott's lack of neutrality and the persistent absence facts and his bias permeate the entire report in both its premises and conclusions — to the extent that they are undocumented and completely incorrect.

## **2 MANDATE OF KHM (MUSEUM OF CULTURAL HISTORY)**

In your letter of 23<sup>rd</sup> of May 2022, it is stated that there is no provision that relates to KHM's mandate.

However, there *must be* correspondence between the Department and KHM where the assignment is given. *I hereby ask for a copy of the prior correspondence with the Ministry relating to the Ministry's request.* Then we will probably see how KHM's mission/mandate is described.

The basis when it comes to the seizures made is the framework/guidelines that Section 23c of the Cultural Heritage Act draws up.

According to section 23c, The Norwegian authorities can assist a requesting state "*in seeking a cultural object and to prevent it from avoiding the procedure for return*".

It is the above-mentioned section that governs the ministry's responsibility and capacity, and this is what draws up the framework for both the ministry's task and KHM's work.

This provision is of course well known to you and forms an important basis for which investigations should be carried out.

In any case: such an examination must be limited to referring to a factual description of the objects in question, and not present the expression of undocumented and unfounded personal views regarding return of cultural objects.

A thorough description has, in addition, already and in all respects been given by Schøyen personally, through the extensive documentation related to the relevant cuneiform tablets included in Schøyen's catalogue CUSAS 17, which the undersigned has previously explained and emphasized

– both to the Ministry and to Økokrim (National Authority for Investigation and Prosecution of Economic and Environmental Crime).

We can conclude that KHM in its report of 6<sup>th</sup> of March has gone far beyond both the frameworks set out in section 23c of the Cultural Protection Act and the purpose of the provision.

The entire report is permeated with unqualified *personal views* where the author, for the vast majority of the objects concerned, concludes as follows (my underline):

*«The objects should be returned to Iraq».*

This type expression of *personal opinions* lacking legal basis and justification, has no place in fulfilling the Norwegian authorities' duty in accordance with the Cultural Heritage Act Section 23c.

The opinions can only be explained by Prescott's strong personal and unevidenced commitment.

But it is worse than that. On page 13 of your report under section II, you discuss "*4322 other cuneiform objects originating from Iraq and other countries*".

This is grossly outside of what both the Ministry – and Økokrim – has for consideration in the present case (83 tablets only), and which forms the basis for KHM's task. In this section you share personal opinions completely without any factual reasoning or legal basis before concluding as follows:

*«After consulting the relevant government authorites, measures to secure the material presently held by Schøyen should be considered. »*

Nothing less.

How can this be reasoned/explained as part of the assistance governed by Section 23c? And again, the expression of these unqualified and discourteous personal views can only be explained by Prescott's strong personal and irrelevant commitment, which you indiscriminately present on behalf of KHM.

It is very surprising that as a museum director and issuer of the report, you allow this kind of irrelevant personal views to pass.

### **3 LACK OF ADVERSARIAL PROCEEDINGS**

In the letter of 23<sup>rd</sup> of May, it is stated under section 1 that it has not been "*natural to allow adversarial proceeding*".<sup>1</sup>

---

<sup>1</sup> Norwegian original text: «At det ikke har vært «*naturlig å gi kontradiksjon*».»

This is completely misleading. It is a general principle in the administration of due process that the person who is subjected to criticism shall be allowed to counter such criticism. Moreover, the stronger the criticism, cf. the criticism of Schøyen in the report of 6<sup>th</sup> of March, the stronger the consideration of – and the requirement for – the right of reply.

Schøyen has repeatedly asked the Ministry for an account of the Iraqi authorities' statements in relation to the case: What facts does Iraq use as a basis for the objects seized?

Among other things, Schøyen has requested access to the correspondence between Iraq and the Ministry, which led to the Ministry's request for assistance from Økokrim.

This petition was originally rejected but has since been partially complied with. The correspondence clearly states that Iraq *has no concrete factual or legal justification for its request* for return of the object: Iraq *merely postulates* a duty to return.

Despite the fact that this has made it impossible to carry out an ordinary adversarial process, Schøyen has on his *own* initiative, provided supplementary information. This first took place on 31<sup>st</sup> of August 2021, when I presented appendices in an email to Økokrim and gave a more detailed description of the individual objects, including a general overview of the provenance.

This was followed up by me in a letter to Økokrim on 22<sup>nd</sup> of September 2021, which provide an account of the provenance associated with the catalogue CUSAS 17 and the MS numbers in this catalogue. This information supplements the general overview provided in Appendix 1 and 2 of the email 31<sup>st</sup> of August 2021.

Schøyen has not at any stage been confronted with the conclusion that is repeated for nearly every single item in KHM's report of 6<sup>th</sup> of August 2022, where the following standardized formulation is used:

*«Schøyen has failed to provide documentation of legal removal from Iraq and the evidence on balance otherwise indicates modern looting, smuggling and illicit trading.»*

It goes without saying that such a serious accusation presupposes that Schøyen has the right of reply to counter the accusations. To restate the point: the stronger the criticism, the stronger the requirement for an adversarial process and the right of reply with countering arguments and documentation.

Naturally, cultural assessments given by KHM are not superior to general ethical and legal norms and principles when it comes to forms of procedure in cases concerning strongly disputed questions.

Your rejection that Schøyen should have been given the opportunity to counter the statements given in the report through an adversarial process before the strongly stigmatizing conclusions were published is, and will always be, deserving of strong criticism.

This weakness of the report can also be explained given Prescott's strong and unreasoned personal involvement. As the person responsible for the report, you have taken far too lightly the responsibility to secure adversarial proceedings and fulfillment of the general legal principles of right of reply, that in *all other* contexts is *taken for granted*.

#### 4 GENERALLY REGARDING ASSESSMENT OF EVIDENCE

Questions about provenance regularly raise difficult factual questions.

In earlier correspondence, the Ministry has – as the Ministry of course should – stressed that it is Iraq that has the burden of proof. Doubts regarding the facts therefore strikes in Iraq's disfavor. This is also emphasized in my letter to the Ministry of 2<sup>nd</sup> of November 2021 section 3 p. 2, where among other things I stated (my underline):

*It is very unsatisfactory that the ministry does not follow-up with further questions and asks the Iraqi authorities to document both the facts on which they base their claim and – in addition – an account of why the fact on which Iraq bases its claim relates to illegal exports in accordance with Iraqi internal law. In this regard, we remind you of our letter to the Ministry on 20<sup>th</sup> of September 2021 p. 1, in which Økokrim v/Maria Bache Dahl has stated:*

*«Restitution procedure has been initiated, but an expert review must first be carried out to determine the origin and authenticity of these objects and the Iraqi authorities must document their request»*

This is also in accordance with the UNESCO Convention 1970 Art. 7 b ii, which determines (my underline):

*«The requesting party shall furnish, at its expense, the documentation and other evidence necessary to establish its claim for recovery and return. »*

Why have you failed to apply this in your report?

It is not only neglected, you have even *reversed the burden of proof and turned it upside-down*.

In the report of 6<sup>th</sup> of March, it is Schøyen who has again and again had the burden of proof imposed on him, in an attempt to cast doubt in his disfavor. The starting point is always that "Schøyen *has failed to provide documentation of legal removal from Iraq...* » (my underscore).

It is remarkable that you reverse the burden of proof, conflicting both old undisputed legal principles as well as general ethical and normative guidelines that apply in relation to assessment of evidence – especially where highly contentious allegations are made, cf. above.

More than this, it is completely incorrect when, in the letter of 23<sup>rd</sup> of May 2022, it is alleged that all items have been assessed individually in the report. It is evident from the summary conclusions that all objects are treated uniformly and that the conclusions are standardized.

## 5 COMMENTS REGARDING THE PROVENANCE

In your report of 6<sup>th</sup> of March, it is a general conclusion that the seized objects are probably the result of smuggling/looting that was carried out in the 1980's – and in particular – in the 1990's.

A standard wording that recurs repeatedly is:

*«Probably, the object was looted in and smuggled out of Iraq between late 1980 and early 1990».*

There are only minor individual deviations with respect to this standardized formulation.

However, it is striking that there is no correlation between the report's conclusions for the individual objects and the premises on which the conclusions are based.

The reviews undertaken does not substantiate the bombastic and defamatory allegations and conclusion of the report.

Had you followed the general principles of adversarial proceedings towards Schøyen, the many factual errors would have been pointed out and corrected.

In the following, I will review the provenance of the cuneiform tablets that originate from the most important seller.

No less than 41 of the 83 cuneiform tablets in the seizure originate from the Cumberland Clark collection.

Cumberland Clark was born in 1862 and died in 1941 and was a major collector of cuneiform tablets.

His collection of cuneiform tablets was collected at the beginning of the 20<sup>th</sup> century – perhaps especially in the 1920's, about 100 years ago.

In 1938 he published the book "*The Art of Early Writing with Special Reference to the Cuneiform System*", in which Chapter X, describes his own collection of cuneiform tablets.

The collection consisted of about 1750 cuneiform tablets that were never published.

Cumberland Clark's purchase of cuneiform tablets often occurred in larger lots, where not each cuneiform tablet was identified. This is perfectly normal.

After Cumberland Clark's death in 1941, the collection was kept by his heirs, who did nothing about the collection: it was untouched for all practical purposes until the heirs sold the collection to Mark

Wilson – a highly respected antiques dealer – in the mid-1980s. The sale also included some private documents relating to the purchase of the cuneiform tablets and notes on some of the cuneiform tablets by Theo Pinches who worked at the British Museum.

A letter from Géjou to Clark of 15<sup>th</sup> of February 1921 states that Cumberland Clark's main source was the French antiques dealer Élias Géjou, who was also a supplier to European and American museums.

Martin Schøyen acquired the Cumberland Clark collection in two large lots:

- **The first lot of 400** cuneiform tablets was acquired as part of Martha Crouse collection.
- The entire Martha Crouse collection including the 400 cuneiform tablets with *provenance from the Cumberland Clark collection* was acquired in 2 major purchases on the 19<sup>th</sup> of June 1989 and 10<sup>th</sup> of May 1990.

According to the Outline of MC collection, signed by Mark Wilson and dated Southampton on 25<sup>th</sup> of June 1989, the following cuneiform tablets from the seizure can be identified, as the texts were immediately identified, and MS numbers applied.

- MS 3028 Royal inscription on black stone fragment.
- MS 3287 List of the 8-year names of Rim Sin, King of Larsa.

Further identification of the texts could only be done after preservation (when necessary), after which MS numbers were applied and the cuneiform tablets included into the main catalog. Of these, the following are from the seizure:

- MS 3265 Votive inscription
- MS 3266 Votive inscription
- MS 3267 Votive inscription
- MS 3268 Dedicatory inscription
- MS 3269 Royal inscription
- MS 3289 Dedication to An
- MS 3396 Dedication to Nergal
- MS 3409 Dedication to a bronze statue

**The second part** of the collection was acquired through a trade agreement with Mark Wilson on the 20<sup>th</sup> of June 1994.

The following cuneiform tablets from the seizure are specifically mentioned in the trade agreement:

- MS 1846/ Door socket of Enmentana
- MS 2795 Royal inscription of Tiglath-Pileser and Sargon II
- MS 1815/3 Brick of Nebuchadnezzar

As can be seen from the trade agreement p. 3 last paragraph, the cuneiform tablets were preserved and the texts identified and MS-numbers continuously applied, after which they were included into the main catalog. Of these, the following cuneiform tablets are included in the seizure:

- MS 1846/4 Royal inscription of Eriba-Marduk
- MS 1846/5 Royal inscription of Enlil-bani
- MS 1869 Lipit-Ishtar
- MS 1914 Amar-Sin
- MS 2078 Kutur-undash (NB Iran)
- MS 2368 Sargon II
- MS 2399 Foundation cone from Damgalnumna temple
- MS 2800 Royal annals of unidentified Assyrian king
- MS 2818 List of governors of Adab
- MS 2814 Defeat of Magan
- MS 2855 King list
- MS 2870/1-2 Royal inscription of Nebuchadnezzar
- MS 2871 Royal inscription of Gungunum king of Larsa
- MS 2879 Votive gift of Elamite king (NB Iran)
- MS 2890 Gudea of Lagash
- MS 3028 Royal inscription
- MS 3183 Cadastre of Ur-Nammu
- MS 3185 Royal inscription of Menua of Urartu (NB Turkey/Azerbadyan)
- MS 3205 Royal inscription
- MS 3206 Cadastre of Ur-Nammu
- MS 3210 Ninurta, the Lord
- MS 3429 King list
- MS 4536/1-3 Xerxes (NB Syria & Afghanistan)
- MS 4576 One Talent weight, to Shara
- MS 4585 Royal inscription of Enlil-Bani

As previously emphasized, the Cumberland Clark collection makes up 41 of the 83 cuneiform tablets that are subject to the seizure.

It is therefore *completely unfounded* when you in the report claim that these items have been the subject of smuggling and looting in the 1980s and 1990s.

This conclusion can also probably be attributed only to Prescott and his need to defend his previously strongly defamatory and incorrect claims about Martin Schøyen and the Schøyen collection.

## **6 OTHER CIRCUMSTANCES**

Above, I have pointed out a number of issues open to severe criticism relating to the report of 6<sup>th</sup> of March and the questionable role that Christopher Prescott in particular has had.



The unacceptable and unsustainable report must be viewed in the context of KHM's other involvements with and treatment of Martin Schøyen.

Håkon Roland has been responsible for processing applications for export permits in relation to a coin auction held earlier this year over Martin Schøyen's ancient coins.

Through this capacity Håkon Roland clearly saw the opportunity to exercise hostility towards Schøyen, which materialized by gross procedural errors, wrong application of the law and incorrect evidence assessment.

The case was – to summarize – as follows:

Oslo Myntgalleri AS applied for an export permit for several valuable foreign coins on 18<sup>th</sup> of May 2022.

The application was rejected by Håkon Roland on 19<sup>th</sup> of May 2022 with an odd justification, which among other things referred to the fact that there was still uncertainty about how KHM should comply with the current rules. As a concrete justification, Roland emphasized that (office translation):

*"The best and fastest way to process this is that we reject the applications for the items you have applied where there is doubt as to how they should be understood in relation to the guidelines we have received in order to get a principle decision on how the regulations should be interpreted. It will facilitate both our work and your work the next time you apply for export permits."*

This, of course, is completely unauthorized and clearly a legally invalid decision.

Lawyer Christian Aubert notified KHM upon notification of proceedings on 10<sup>th</sup> of June 2022 and notified that a temporary precautionary measure would be taken out.

The request for a temporary precautionary measure was issued on 15<sup>th</sup> of June 2022.

In Section 3.3 Aubert has provided an in-depth account of the errors of Roland's decision.

The Ministry of Culture treated the case as an urgent matter and *reversed the* decision on 21<sup>st</sup> of June 2022.

As can be seen from the decision, Roland's decision suffered *from "significant errors/shortcomings"*, and the ministry's premises are completely destructive.

Through the reversal of Roland's decision, the state avoided a liability of several million kroner because of Roland's clearly invalid and unacceptable decision.

We can thus establish that when it comes to the relationship with Schøyen, we are dealing with a modus operandi on the part of KHM that is highly open to criticism.

## 7 SUMMARY

This case is *very* serious, and it is your duty as director to clean up and take remedial action on these matters.

The report of 6<sup>th</sup> of March 2022 has been submitted *by you* on behalf of the museum.

In a letter to the Ministry of 9<sup>th</sup> of March 2022 on p. 2, I have pointed out that the report suffers from several errors, some of which are impossible to understand. The errors are so glaring that they are apparent even with a quick and superficial reading.

It is incomprehensible that you as the sender have not registered these errors – which by the way shows that the report of 6<sup>th</sup> of March 2022 appears to be rushed work – and that raises the question of whether you have actually read through the report at all before signing it. In this case there has clearly been a conspicuous lack of quality control on your part.

KHM's treatment of Schøyen will necessarily have legal consequences. Among other things, Schøyen has asked me to consider whether the matter should be brought before the Ombudsman.

Before a final decision is made with regard to this, I ask for your comments on the present letter by the 10<sup>th</sup> of August 2022.

By the way, I assume that neither Håkon Roland nor Christopher Prescott will have anything to do with matters involving Martin Schøyen in the time to come and that any public communication about matters involving Schøyen is handled by you *alone* on behalf of the museum.

Sincerely,  
Advokatfirmaet Glittertind AS / Law firm Glittertind AS

Cato Schiøtz  
Lawyer (H)

Copy sent by e-mail to:  
Ministry of Culture att:/ Sunneva Sætevik ([Sunneva.satevik@kud.dep.no](mailto:Sunneva.satevik@kud.dep.no))  
Ministry of Foreign Affairs att:/ Tor Martin Møller ([Tor.Martin.Moller@mfa.no](mailto:Tor.Martin.Moller@mfa.no))  
Økokrim att:/ Maria Bache Dahl ([Maria.Bache.Dahl@politiet.no](mailto:Maria.Bache.Dahl@politiet.no))