



## History of the Statue of the *Victorious Youth* (The Getty Bronze) December 2018

### The Timeline:

- The statue of a Victorious Youth was found in international waters by fishermen on an Italian vessel in 1964. The fisherman brought it ashore and sold to Italian buyers.
- The statue of a Victorious Youth is Greek, not Roman or Italian. It was in Italian territory only for a fleeting period of time, and only in modern times.
- After years of criminal proceedings in the late 1960's, several Italians who had purchased the statue from the fishermen were acquitted of purchasing and concealing stolen property. In 1968, the Court of Cassation, Italy's highest court, ruled that there was no evidence that the statue belonged to the Italian state.
- The statue was acquired in 1971 by a consortium called Artemis S.A., a publicly traded fund specializing in art works. Munich-based German dealer Heinz Herzer offered to sell the statue to J. Paul Getty in 1972. Mr. Getty wrote Herzer that he would recommend the acquisition to the Getty Museum Board of Trustees at a price of \$3.5 million.
- As part of a robust due diligence process, Stuart Peeler, a prominent Los Angeles lawyer and Getty Museum trustee, reviewed the Italian court decisions from the 1960's and a legal opinion provided by a pre-eminent Italian counsel and concluded, as had the highest Italian court, that Italy had no legal claim to the statue because there was no evidence it was of Italian origin or that it was found in Italy (or Italian waters), and that the Getty Museum could obtain good title. Negotiations continued into 1973, with Mr. Getty repeatedly offering lower prices.
- In 1973, Mr. Getty discussed the possibility of joint acquisition of the statue with Thomas Hoving, director of the Metropolitan Museum. Mr. Getty appears to have rejected this proposal because it would have required the Getty Museum to pay more than 90% of the purchase price while receiving only a 50% ownership interest.
- In 1973, at the request of Italian officials, German police investigated Herzer about receipt of stolen goods in connection with the statue. The investigation was dropped for lack of evidence of wrongdoing, mainly because the Italian high court had concluded that there was no evidence that the statue had been found in Italy (or Italian waters) or that it was of Italian origin.

- In 1974, a prosecutor in Gubbio, Italy, sought an investigation of Herzer in connection with the statue. German authorities terminated the investigation in April 1974 for lack of evidence of wrongdoing.
- In October 1974, Mr. Getty saw the statue in person for the first time, in London, with Herzer and the English dealer, David Carritt. In his diary, Getty refers to "having heard so much about it and having been so interested in it at one time."
- J. Paul Getty died in 1976.
- The Getty Museum legally purchased the Bronze in 1977 in the United Kingdom, after extensive review of the relevant facts and law over the course of many years, including:
  - the conclusion of German authorities in the mid-1970's that the statue could legally be offered for sale in Munich because the Italian high court had concluded that there was no evidence that the statue was of Italian origin or that it had been found in Italy (or in Italian waters).
  - the failure of the Italian Ministry of Culture to join any of the Italian legal proceedings related to the Bronze in the 1960's a statement by Luigi Salerno, the senior Italian official in charge of export licenses for cultural property, that Italy would not pursue a claim to the object
  - an independent analysis of applicable international, federal and state law
  - the 1968 decision by Italy's highest court, the Court of Cassation, ruling that there was no evidence that the object belonged to Italy.
- The statue was legally exported from the United Kingdom, where the 1977 purchase took place, and legally imported into the United States, where it went on view at the Getty Museum in 1978.
- In 2006, the Italian Culture Ministry submitted a dossier to the Getty asking for the Getty to surrender the Bronze to the Italian state. The dossier acknowledged that the Italian state had no valid claim to the Bronze, but instead requested that the Getty surrender the Bronze in the spirit of collaboration between the Ministry and the Getty. The Getty refused this request on the ground that there was no basis to support repatriation of an object that had no connection with the Italian patrimony.
- Shortly thereafter, and following publicity about the statue, a local prosecutor in Pesaro, Italy filed a criminal case against the long-deceased fishermen who found the statue and seeking an order forfeiting the statue to Italy.
- In November 2007, a Pesaro judge dismissed the case, finding that no one was alive to be prosecuted, that any applicable statute of limitations had long-since expired, and that the Getty should be considered a good faith purchaser.

- Notwithstanding this decision, the prosecutor improperly sought a forfeiture order from a different judge in a different part of the same court (called the "court of execution" because it is a judicial body that under Italian law serves to execute decisions by the court). The court of execution improperly refused to honor the trial court's decision and ordered a forfeiture in 2010 after a closed-door proceeding in which the normal rules of evidence did not apply. The court denied the Getty's requests to make the proceedings open to the press and the public, and refused to allow the Getty to challenge certain procedural aspects of the case related to administrative forfeitures.
- The Getty immediately appealed the decision to the Court of Cassation, which directed the Getty to ask the local court of execution (the "Pesaro court") for reconsideration. The Pesaro court affirmed the 2010 forfeiture order in 2012. The Getty again appealed to the Court of Cassation.
- Several years after the initial appeal, the Court of Cassation held in February 2014 that the Pesaro court's refusal to open the proceeding to the press and the public might have violated the Italian Constitution and transferred the appeal to the Constitutional Court.
- In April 2015, Italy's Constitutional Court concluded that the Getty had been deprived of its right to a public hearing, and the matter was remanded to the Court of Cassation, which, in turn, remanded the case to the Pesaro court for reconsideration.
- From 2016 until 2018, the Pesaro court held episodic hearings to determine whether certain procedural arguments were available to the Getty. At no point did the Pesaro court even consider any new or competent evidence as to whether the statue had Italian origins or had been found in Italian waters. Indeed, no evidence was ever presented related to any assertion of Italian ownership.
- Despite the total lack of competent evidence of Italian ownership or origin, and despite the clear expiration of the statute of limitations, in June 2018, the Pesaro court upheld the original order of forfeiture. The Getty appealed to the Court of Cassation.
- The Getty's position:
  - The statue of a Victorious Youth, also known as the Getty Bronze, is not Italian and was not found in Italian waters. Unless Italy can demonstrate that the object was found in Italian territory, which it cannot do, Italian patrimony law establishing state ownership does not apply. Further, US law requires that a country claiming cultural property in the United States requires a showing that the objects were found in that country.
  - Alleged illegal export is not grounds for return. Italian law imposes certain penalties on those who participate in illegal exportation. But the Getty had nothing to do with any illegal export, and first learned of the work's existence years after its brief appearance in Italy. Like most countries, US law does not provide for return of illegally exported property.

- Half a century ago, the highest court in Italy found that there was no evidence that the statue belonged to the Italian state because there was no evidence that it had been found in Italy, or in Italian waters. The Getty relied explicitly on the Italian high court's decision – as well as opinions by pre-eminent Italian lawyers, statements by the senior Italian official in charge of exports, decisions by German law enforcement officials, and other similar factors – in making its good faith decision to purchase the statue.
- International law imposes no obligation to return the object. The object left Italy before the 1970 UNESCO Convention existed, and long before Italy or the United States ratified the UNESCO Convention. Even the UNESCO Convention contains no requirement mandating return of objects, except those that have been stolen in the conventional sense, as from a museum collection. The 2001 bilateral agreement between the US and Italy, which provides for seizure and return under some circumstances, applies only to archaeological material originating in Italy, not to a Greek object that passed through Italy in recent times. Thus, even if any of these conventions applied to this case, none of them would compel the seizure of the statue.
- Presence on an Italian-flagged boat does not make the object Italian. One of the Pesaro Court's bases for ordering the forfeiture is the theory that ships under the Italian flag (like the fishing boat that found the statue in 1964) are the equivalent of Italian territory. In addition to conflicting with the Third United Nations Law of the Sea Convention, adopted in 1982, this theory would lead to the absurd result that if an Australian fishing boat had found the Bronze, it would become Australian cultural property.
- Passage of time defeats any claim by Italy. The Getty has owned the sculpture since 1977. Its location was well-known to Italy since at least 1973. Any claim against the Getty — or anyone else— would be long since time-barred. Even ignoring statutory limitation periods, the Getty is entitled, after 40 years of exhibition and study, to rely on its settled property rights in the statue. Also, if Italy's fundamental position is that an object becomes part of a country's patrimony by its mere presence in the country, *Victorious Youth's* 40-plus years in Los Angeles presumably give California a superior claim.
- This is the latest decision in a process that has gone on by fits and starts for many years, including a 50-year-old determination by Italy's highest court that there was no evidence to support Italian state ownership, and another decision more than a decade ago, dismissing the proceeding. We will continue to oppose any effort to remove *Victorious Youth* from its home in Los Angeles.

**MEDIA CONTACT**

Julie Jaskol Getty  
 Communications  
 (310) 440-7607  
 JJaskol@getty.edu