

Introduction to the PAESE database

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1. Preliminary remark

The configuration and implementation of the PAESE database were supervised by the project coordinator within the framework of the joint project *Provenance Research in Non-European Collections and Ethnology in Lower Saxony* (PAESE) and continuously coordinated with the project staff. The first version went online in 2020, and since then, further adjustments and updates are continuously being made.¹

The database was developed as a joint database and as an infrastructure for the participating research projects. The focus is on the documentation of collection items from colonial contexts and, in particular, on the origin (provenance) of the objects.²

Therefore, the target group(s) are persons and institutions active in the field of provenance research as well as representatives of countries of origin. Starting in 2022, there will be an English version of at least the most important data in addition to the German version; other languages are in preparation and will be implemented successively for selected objects.

In the context of the PAESE joint project, object bundles were initially fed into the database. These bundles were the focus of research in the sub-projects of the participating institutions (Landesmuseum Hannover, Ethnologische Sammlung der Georg-August-Universität Göttingen, Landesmuseum Natur und Mensch Oldenburg, Roemer- und Pelizaeus-Museum Hildesheim, Städtisches Museum Braunschweig and Evangelisch-Lutherisches Missionswerk Hermannsburg).³

At the end of the project funding (2022), the administration will be transferred to the *Provenance Research Network in Lower Saxony*, which will open the database for the documentation of further holdings of the collections mentioned as well as for other museums, institutions and projects in Lower Saxony.⁴

For exchange and feedback, as well as for comments or queries, please feel free to contact the administrators of the PAESE database at any time at: info@postcolonial-provenance-research.com.

¹ Cf. <https://www.postcolonial-provenance-research.com/datenbank/>. The development of the database, like the entire PAESE joint project, was funded by the VolkswagenStiftung and supported by the *Provenance Research Network in Lower Saxony*. The basic conception of form and content was coordinated by Claudia Andratschke, provenance researcher at the Landesmuseum Hannover and coordinator of the Provenance Research Network in Lower Saxony, and Lars Müller, scientific project coordinator PAESE project. The technical implementation and support was and is carried out by *DRIVE - Die Medienagentur. DRIVE GmbH & CO. KG*, Hanover (<https://www.drive.eu/>).

² On the definition of collection items from colonial contexts cf. Deutscher Museumsbund (ed.), Leitfaden zum Umgang mit Sammlungsgut aus kolonialen Kontexten, 3rd revised edition 2021 (<https://www.museumsbund.de/wp-content/uploads/2021/03/mb-leitfaden-web-210228-02.pdf>).

Accordingly, it is not a pure object or image database like, for example, the portal "Kulturerbe Niedersachsen" (Cultural Heritage Lower Saxony), cf. <https://kulturerbe.niedersachsen.de/start/>.

³ Cf. on the collections, subprojects and staff involved in the PAESE joint project <https://www.postcolonial-provenance-research.com/paese/>.

⁴ Cf. <https://www.provenienzforschung-niedersachsen.de/>.

2. Remark on transparency and sensitive data/terms

The data-providing collections and administrators of the database are striving to create the greatest possible transparency about the documented objects, their history and provenance. In various cases - and often after exchanges with colleagues from the countries of origin - the transparency imperative has been restricted to the extent that images and/or certain information are not played out in the case of sensitive objects.⁵ If there is a justified interest - and if necessary after consultation with colleagues from the countries of origin - this information can be provided by the respective preserving institutions.

In the database, object information from index cards, inventory books and other historical sources is partially documented. These may be characterized by colonial racist terminology and categorizations from which the data-providing institutions and administrators explicitly distance themselves. In some cases, however, such information was classified as relevant to the research and was appropriately attached as a scan or transcribed but then clearly marked as source terms.

3. Explanations of the documented object information

The documented object information is divided into three sections: *Basic data*, *documentation*, and *further information*.

The search and export function (Excel or PDF) allows users and interested parties to search the database by different terms or categories and to download the information on all the played-out holdings or those accordingly selected beforehand.

Subsequently, the individual sections of the front end are explained in more detail.

3.1 Basic data

Under basic data, the basic information necessary to identify an object is documented. The field names correspond partially to those of other object databases, and individual data fields were adapted according to the objective.

For example, in each data-giving collection, there was information about the origin of the objects, which was stored there under field designations such as "ethnicity" or "culture" or, on old index cards, as "race". These terms were partly regarded as colonial-racist and essentialist, which impede or hinder the exchange with representatives of the countries of origin. Therefore, it was agreed upon the field name "cultural attribution", which should clarify that the categories documented underneath were or are attributed. In addition, multiple entries are possible, e.g. if objects were or are not attributed to only one group.

Another important element of the PAESE database is that a remarks field has also been added here, where these decisions can be further differentiated and explained - just as with the "Documentation" tab.

⁵ Instead of illustrations, disclaimers will then appear with more detailed explanations as to why an object is not displayed; further reasons for not displaying information will be explained in more detail in the comment fields accordingly.

3.2 Documentation

Here, the provenance data of the respective objects known or determined in the course of the project are documented. Currently, up to five changes of ownership can be documented in the database, from which a **provenance chain** is automatically generated in the front end.⁶

3.2.1 Information in provenance chains

Unless otherwise stated, the provenance chains in the PAESE database primarily document **changes of ownership**, since there is often no reliable information about the actual ownership structure. Owners can, but do not have to be proprietors at the same time.⁷

The provenance chain documents the identified changes of ownership in chronological order, whereby the **chronology** begins with the most recent change of ownership. In addition, it was and is important to us to document gaps, uncertainties or even ignorance. Thus, in many cases, no clear originators or first owners could be determined through the provenance research, which can be documented by “unknown acquisition type” for “unknown”/ or “unknown person”.

Each segment of the provenance chains in the PAESE database is structured according to the following scheme:

[On/ ca./ until/ since etc. **date**] *from/ by* [**person/ institution/ unknown owner**]
acquired by/ as/ from/ in/ in [**form of acquisition**] *from/ by* [**person/institution/unknown owner**].

As far as possible, care was taken to document the persons, institutions and places named in the provenance chains in a standardized manner (GND, VIAF, GeoNames, etc.).

Statements of location predominantly reflect the current designation. The specification of historical place names is problematic regarding the intended decolonization of the knowledge holdings but can be relevant in individual cases for the regional assignment of the origin. Accordingly, problematic terms were largely avoided and, in the case of a citation, clearly marked as a source (placed in “quotation marks”). Problematic aspects or connotations can be additionally pointed out in the comment fields.

Exhibitions or other **temporary whereabouts** of the objects/persons/animals are not documented in the provenance chain. However, information on exhibitions or temporary whereabouts can be stored under “*Additional information*” as “*Reception*”.

In the case of the **acquisition types** documented in the provenance chains of the PAESE database, the verb “**acquired**” is to be understood neutrally and does not in itself imply any moral-ethical valuation or legal qualification. The acquisition can be concretized by specifying the forms of acquisition as well as in the comments field.

⁶ Cf. on this the glossary in the annex.

⁷ Cf. on this the glossary in the annex.

The following acquisition types or methods are currently deposited in the PAESE database:⁸

- by unknown acquisition
- by purchase
- from estate
- as a gift
- in exchange
- taken on commission
- sold on commission
- by auction
- on loan/ permanent loan
- held in trust/ handed over
- in (colonial) contexts of violence
- by confiscation
- as transfer
- as a find/ (collection)
- by animal capture
- through hunting
- through mediation
- by return/ restitution
- through inheritance

3.2.2 Transcripts

It is possible to include transcripts of the index cards and the inventory books in the documentation. These are sources that are to be clearly marked as such and for which the above-mentioned preliminary remarks on racist and stereotypical terminology apply accordingly.

3.2.3. Further object fields

In keeping with the focus on documenting the results of provenance research, it was important for the PAESE project to present the research process in a transparent manner.

Therefore, under the *Documentation* tab, the corresponding date of the last processing, the abbreviation of the processor, and information about the status of the processing can be found.

- “Provenance in process” means that research is currently being conducted on the objects,
- “Provenance processed” means that the objects have been researched and the corresponding project has been completed,
- “Provenance not yet processed” means that the objects have been fed in without any further research having been carried out on their provenance.

The aim was and is to publish mainly objects that have already been researched further in the PAESE database. In the case of collections whose completeness is relevant, this was deviated from (e.g. scattered objects from ethnology, zoology and geology or objects from exchange deals with the former Museum für Völkerkunde Berlin).

⁸ For the explanation of the types of acquisition, cf. also the glossary in the annex.

3.3 Additional information

Under this tab, further information on the respective object is deposited.

This concerns, among other things, scans of inventory books and/or index cards - whereby these can also include racist or colonial wording, categorizations or terms as sources (see above).

Additionally, information on the reception of the objects can be appended, for example, on their musealization or presentation/use in exhibitions. Likewise, information on further literature, sources or further objects of the involved actors in other collections can be deposited here. The last point, in particular, aims to contribute to better networking of the collection holdings.

4. Literature

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- Deutscher Museumsbund (ed.), Leitfaden zum Umgang mit Sammlungsgut aus kolonialen Kontexten, 3rd updated edition, Bremen 2021, online at <https://www.museumsbund.de/wp-content/uploads/2021/03/mb-leitfaden-web-210228-02.pdf>, last access on 15.1.2022.
- Erste Eckpunkte zum Umgang mit Sammlungsgut aus kolonialen Kontexten der Staatsministerin des Bundes für Kultur und Medien, der Staatsministerin im Auswärtigen Amt für internationale Kulturpolitik, der Kulturministerinnen und Kulturminister der Länder und der kommunalen Spitzenverbände, 13.03.2019, online at <https://www.bundesregierung.de/resource/blob/974430/1589206/85c3d309797df4b2257b7294b018e989/2019-03-13-bkm-anlage-sammlungsgut-data.pdf?download=1>; letzter Zugriff 15.1.2022.
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- ICOM Checklist on Ethics for Cultural Property Ownership, 2011, online at https://icom.museum/wp-content/uploads/2018/07/110825_Checklist_print.pdf; last access on 20.1.2022.
- Müller, Lars, Herausforderungen und Möglichkeiten von Datenbanken in der postkolonialen Provenienzforschung. Ein Praxisbericht aus dem PAESE-Projekt, in Provenienz & Forschung, 2(2020), pp. 52-57.

Annex: Glossary of terms and acquisition types deposited in the PAESE database

Preliminary remark:⁹

The following definitions refer to the *Bürgerliche Gesetzbuch* (BGB, German Civil Code). The BGB came into force throughout the German Empire on 1 January 1900, and is still in force in updated form in the Federal Republic of Germany. A large proportion of the provisions mentioned below have also applied in unchanged form since 1900.

Before 1900, however, there was no national private law code in Germany. Rather, regional and local particular legal systems applied within Germany and, in addition, since the reception of Roman private law at the beginning of the modern era, the so-called common (= generally applicable) Roman law (pandect law) applied customarily and subsidiarily. This law, which originated from ancient Roman law in the version of the *Corpus iuris civilis*, as it has been known since the 16th century, applied in large parts of Germany until December 31, 1899.

Additionally, Roman law also formed an important substantive model for private law legislation in those German particular states (principalities) in which it had already been formally abrogated before 1900. This also applies to many private law provisions of the Prussian code in force in the Prussian states from 1794 to 1899, the "Preußisches Allgemeines Landrechts" (ALR, Prussian Civil Code). Above all, however, the BGB, which has been in force since 1900, is, to a large extent, the result of modern scholarship on Roman private law. This is the reason for the many similarities in content that still exist today in the various German and also Western European private law systems, despite the extensive legal fragmentation in Germany before 1900.

At this point, it must be expressly emphasized that the reference back to the BGB only serves to define relevant terms as well as the types of acquisition listed alphabetically below. With regard to the evaluation of the acquisition processes to be carried out in the context of provenance research, however, it is not so much legal as moral-ethical criteria that are decisive.¹⁰

⁹ We would like to thank PD Dr. jur. Christoph-Erich Mecke for valuable comments, corrections and additions here and in the following, see the PAESE subproject "Ethnografika außereuropäischen, insbesondere kolonialen Ursprungs aus rechtshistorischer, juristischer und rechtsethischer Sicht", <https://www.postcolonial-provenance-research.com/paese/teilprojekte/hannover-ethnografika-aus-rechtsethischer-sicht/>.

¹⁰ Cf. ICOM (ed.), Icom Code of Ethics for Museums, 2004, <https://icom.museum/wp-content/uploads/2018/07/ICOM-code-En-web.pdf>; ICOM (ed.), ICOM Code of Ethics for Natural History Museums, 2013, https://icom.museum/wp-content/uploads/2018/07/nathcode_ethics_en.pdf; ICOM (ed.), Checklist on Ethics for Cultural Property Ownership, 2011, https://icom.museum/wp-content/uploads/2018/07/110825_Checklist_print.pdf; Deutscher Museumsbund. Leitfaden zum Umgang mit Sammlungsgut aus kolonialen Kontexten, 3rd updated edition 2021, online at: <https://www.museumsbund.de/wp-content/uploads/2021/03/mb-leitfanden-web-210228-02.pdf>.

Possession and ownership

Possession and ownership are legal concepts that must be categorically distinguished from each other under private law:

“**Possession**” of a thing (= any physical object, but not animals, § 90, 90a BGB) has anyone who exercises the “actual power over the thing” (according to § 854 par. 1, § 856 BGB). For the question of possession, it does not matter whether possessors also have a right to exercise actual physical control over the thing.

“**Ownership**”, on the other hand, refers to the right of the owner of a thing “to do with the thing as he or she pleases and to exclude others from any influence”, “insofar as this is not contrary to the law or the rights of third parties” (§ 903 clause 1 BGB).

Whereas the concept of possession basically only refers to the purely factual physical control of a person without reference to the legal situation, the concept of ownership refers to the comprehensive legal authority of owners with regard to this thing.

Whoever is the possessor of a thing can also be its owner, but does not have to be. Conversely, the owner of a thing is not always its possessor. Owners, however, can “demand the surrender of the thing” from possessors according to § 985 BGB; the latter can “legally refuse the surrender of the thing” to its owners according to § 986 par. 1 sentence 1 BGB only if and only as long as possessors are “entitled to possession vis-à-vis the owners”. Possession means to exercise the “actual power over the thing” (in accordance with §854 BGB), and ownership means “as far as the law or the rights of third parties do not conflict, to be allowed to do with the thing as one pleases” (§ 903 BGB).

Provenance chain

A provenance chain (synonym: provenance specification) is a chronological listing of all known changes of possession and ownership of a cultural or natural object (or animals). It consists of varying numbers of segments that are similar in structure and consist of the recurring elements listed below:

- Date of acquisition or period of possession
- Name of the possessors / parties involved
- Type of acquisition

Unless otherwise stated, the provenance chains in the PAESE database primarily document changes of possession, as there is often no reliable information on the actual ownership circumstances. Possessors can, but do not have to be owners at the same time.

Exhibitions or other **temporary whereabouts** of objects/persons/animals are **not** documented in the provenance chain. Information on this are deposited under “**Additional information**” as “**Reception**”.

Acquisition types/methods documented in the PAESE database¹¹

Appropriation (not deposited in the PAESE database)

From a moral-ethical perspective, many types of acquisition fall under “appropriation”, including, depending on the perspective, illegal excavation and illegal export of human remains and objects, illegal hunting, or illegal withdrawals from nature.

Due to the problematic legal definition outlined below, it was decided not to include this type of acquisition in the thesaurus of the PAESE database.

Admittedly, no one can acquire ownership of a thing by taking it away from another. However, anyone who takes into his own possession (§ 872 BGB) a movable thing that is not only without possession (then find!), but also ownerless (= not owned by another person), acquires ownership of this thing from a legal perspective (§ 958 par. 1 BGB). Under current law, this does not apply only if the appropriation is prohibited by law or if the appropriation right of another person, for example, in the case of huntable animals, the hunting right of the person entitled to hunt, would be infringed (§ 958 par. 2 BGB). Even in the case of movable property that has previously been stolen by a third party, ownership of the property cannot be obtained by appropriation, since a stolen item is not ownerless.

Auction

Synonyms: Vendue, acquisition at auction, art auction etc.

Special type of conclusion of purchase contracts. Bidders who are willing to buy submit bids which are considered binding. If another bidder submits a higher bid, the binding effect expires. The purchase contract is concluded when the auctioneer accepts the highest bid. In doing so, he acts as the representative of the consigning owners. As a rule, a so-called surcharge is levied on the hammer price for the auctioneer's services. If the auctioneer is officially appointed, the acquisition of ownership is easier than with a normal purchase (e.g. in the absence of ownership by the consignor).

Seizure

The seizure of an object by an act of state authority against the will of the possessors or owners. The seizure does not deprive the owner of the property.

Find/ Gathering up / Collecting

In colonial contexts, “find” and/or related “gathering up/collecting” can play a role, for example, of objects (also of archaeology, geology or natural history) or human remains, e.g. on burial grounds, burial mounds or in burial caves.

The gathering up or collecting of objects or remains from areas under formal colonial rule might even have been “legal” according to the legal understanding of the time (see

¹¹ Cf. here and in the following, also Arbeitskreis Provenienzforschung (ed.), Leitfaden zur Standardisierung von Provenienzangaben, 1st edition Hamburg 2018, online at https://www.arbeitskreis-provenienzforschung.org/data/uploads/Leitfaden_APF_eV_online.pdf; Deutscher Museumsbund. Leitfaden zum Umgang mit Sammlungsgut aus kolonialen Kontexten, Bremen 2021, online at: <https://www.museumsbund.de/wp-content/uploads/2021/03/mb-leitfaden-web-210228-02.pdf>.

“appropriation” above), but today's perspective and moral-ethical aspects must be examined on a case-by-case basis.

Purchase

A contract by which the seller undertakes to transfer possession as well as ownership of an object to the buyer (§ 433 par. 1 clause 1 BGB) and, at the same time, the buyer undertakes to pay the purchase price agreed between seller and buyer (§ 433 par. 2 BGB).

The transfer of ownership by handing over and an (additional) agreement on the transfer of ownership of the object (§ 929 clause 1 BGB), which takes place in fulfillment of the seller's obligations, is regularly possible without form, just like the purchase agreement. From a legal point of view, it is then only decisive that both contracting parties express the concurring will to conclude the purchase agreement and - at the same moment or later - to transfer ownership. However, all the aforementioned agreements do not have to be explicit, but can also be implied conclusively, i.e. de facto behavior of both parties is sufficient (also, for example, by wordless handover of the object), from which, in the absence of contrary circumstances in the specific case, an agreement of both parties on the transfer of ownership can be concluded. For the rights and obligations of the seller and buyer associated with the purchase contract (cf. § 433-435 BGB).

(Colonial) Contexts of violence

In the PAESE database, not all acquisitions in colonial contexts are documented as also acquired in “(colonial) contexts of violence”, although the data-providing institutions and the project processors generally acknowledge the asymmetries and violent aspects of colonialism.

In the guidelines of the Deutscher Museumsbund (DMB, German Museums Association) for the handling of collection items from colonial contexts, p. 142, note 125, the following paraphrase is used for “*violence in a colonial context*”: “*e.g., warlike conflicts between colonized and colonizers, genocide, internment in camps, massive oppression of indigenous population (parts of population) up to enslavement or punitive expeditions.*”

Related forms of acquisition are defined as follows: “*Objects may have been taken out of the country, acquired, or manufactured in the course of such contexts of violence or using the resulting structures.*”

A definition of this kind thus encompasses more forms of acquisition than “seizure” or “acquisition in connection with a punitive expedition”. The context of violence reconstructed in each case should be supplemented or explained in more detail in the comments field.

Commission

Form of commercial transaction in which one businessman sells goods or securities for another in return for payment.

Loan/Permanent loan

Legally, the storage of a movable item by a custodian to whom the item has been handed over by the depositor, either against payment or free of charge.

Remuneration for safekeeping shall be deemed to have been tacitly agreed if, according to the circumstances, safekeeping can only be expected in return for remuneration (§ 689 BGB). Unlike in the case of lending the lender, in the case of safekeeping, the custodian may not use the item for his own purposes.

Estate/ Inheritance/ Bequest

The death of a person results in legal succession to his or her assets. This takes the form of universal succession, i.e. all assets and liabilities of the deceased (= testator) pass to the legal successor(s) (= heirs). Therefore, the heir or heirs take on exactly the legal position as owner, debtor, creditor, etc., which the deceased held at the moment of his death.

Who becomes heir is determined either according to the order of succession laid down by law for relatives and spouses (= legal heirs according to § 1924-1926. BGB) or according to the determination of heirs by the testator, in particular by will (§2064-2066 BGB). An effective testamentary determination of the heirs deviating from the succession determined by law always takes precedence over the statutory succession.

In a will, however, the testator may not only appoint the heirs determined by him or her, but also allocate individual assets from the estate to specific persons; this is then referred to as a **bequest**. However, such a bequest does not establish a position of inheritance, but only a claim regularly directed against the heir or heirs of the person to whom the bequest was made, namely "the right [...] to demand performance of the bequeathed object" (§ 2174 BGB). The fulfillment of this claim can only take place after the inheritance by separate transfer of the bequeathed object or right from the heir or heiress to the beneficiary, the so-called legatee. A bequest can also fall to museums or institutions. In contrast to everyday language, which does not distinguish between "bequeath" and "inherit," in legal language under the BGB a precise distinction must be made between an inheritance position arising at the moment of the testator's death with regard to the entire estate on the one hand, and a bequest claim of the legatee directed against the heir or heirs for the legal transfer of the individual object of the estate determined by the testator on the other.

Return/ Restitution

In the area of collection material from colonial contexts, the German Museums Association guidelines for dealing with collection material from colonial contexts are authoritative.¹²

According to these guidelines, the following justifications for restitution to the states or societies of origin are distinguished from one another:

- 1) The cultural property was unjustly taken from its former owners or custodians. In order to redress this injustice, the cultural property must be restituted. The type and significance of the cultural property is irrelevant.
- 2) Objects are returned because they are of special significance to their former owners or custodians.

In addition, the aim is for institutions to transparently register the reasons for restitution in the PAESE database.¹³

¹² Cf. here and in the following Deutscher Museumsbund (ed.), Leitfaden Umgang mit Sammlungsgut aus kolonialen Kontexten, 3rd updated edition 2021, pp. 82-84; online at: <https://www.museumsbund.de/wp-content/uploads/2021/03/mb-leitfanden-web-210228-02.pdf>.

¹³ Cf. *ibid.*, for further definitions and the corresponding fundamentals for this, especially Erste Eckpunkte zum Umgang mit Sammlungsgut aus kolonialen Kontexten der Staatsministerin des Bundes für Kultur und Medien, der Staatsministerin im Auswärtigen Amt für internationale Kulturpolitik, der Kulturministerinnen und Kulturminister der Länder und der kommunalen Spitzenverbände, 13.03.2019, online at: <https://www.bundesregierung.de/resource/blob/974430/1589206/85c3d309797df4b2257b7294b018e989/2019-03-13-bkm-anlage-sammlungsgut-data.pdf?download=1>.

Foundation (not deposited in the PAESE database)

Legally, in the sense of § 80.82 BGB, a legal entity officially recognized as a foundation, endowed with assets whose current income is to be used for an essentially unlimited period ("in perpetuity") for an at least legal, often charitable purpose determined by the founder. A special form are foundations which are established only for a specific period of time, but "at least ten years" and "whose assets are to be used for the pursuit of the purpose" (§ 80 clause 2 BGB).

In common parlance, the word "foundation" is often used synonymously with donation, e.g., for the gift of a specific sum of money. Therefore, the **word foundation is generally avoided in the PAESE database**. If it is only a question of a one-off donation of assets without the designation of a foundation purpose for the use of these assets, it is a case of donation.

Donation

A gratuitous endowment by which someone enriches another person from his or her own assets (§ 516 par. 1 BGB). A gift is a contract between two parties, i.e. the parties to the contract must agree that the gift is gratuitous. Gratuitous does not mean free of charge or free delivery, the donee may incur various other costs (transport, notary fees, etc.). Gratuitousness only means that the donation is legally independent of any consideration.

Exchange

Contract in which, in contrast to the purchase contract, the obligation to pay a purchase price is replaced by another consideration, such as the transfer of ownership of another item. In other respects, according to § 480 BGB, "the provisions on the purchase shall apply mutatis mutandis to the exchange [...]."

The extent to which barter transactions were "unequal" transactions, took place "on an equal footing" or exploited coercive situations, must be examined or evaluated on a case-by-case basis and, if necessary, explained in more detail in the comments field.

Animal trapping/Hunting

In current jurisdiction, animals occupy a special position among tangible movable property and are distinguished from one another as wild, tame and domesticated animals.

In each case, only those animals that are in a state of natural freedom in the respective country and that, if trapped, strive to regain their freedom - i.e. native ("exotic") animals that do not live in other countries - are considered "wild" animals.

Wild animals that can be hunted are subject to hunting rights, which in turn are linked to land ownership and regulated by law.

Tame animals are domestic animals that may not be appropriated; special cases are ownerless animals. In connection with colonial contexts, it must be examined to what extent such hunting rights or species protection laws existed in the respective region.

Fiduciary transfer/Custody

Not expressly regulated by the BGB; consequently, there is also no legal concept of trusteeship. In legal practice, there is an immense number of different legal relationships based on trusteeship or quasi-trusteeship. In very general terms, a trustee is a natural or legal person to whom the rights of the trustor are transferred, combined with the obligation

towards the trustor to exercise these rights only for the legally determined or contractually agreed purpose.

Depending on the form of a contractual trust relationship, in the classic situation of a trust relationship the trustor transfers full legal power over a thing (property) or over a right to the trust beneficiary. Consequently, the trust beneficiary is the sole legal owner in the external relationship with third parties and can dispose of the object or right in a legally effective manner, even against the will of the trustor. However, prior to this, the trustor and the trust beneficiary have concluded a trust agreement in which it is stipulated that the object or right is only transferred "in trust" from the settlor to the trust beneficiary and that the trust beneficiary may only make use of his legal power in the internal relationship vis-à-vis the trustor in the external relationship in accordance with the stipulations of the trust agreement. For instance, in the case of a fiduciary transfer of property for the purpose of securing a loan, the realization of the property by the trustor (bank) only takes place in the event that the loan is not repaid. After repayment of the loan, on the other hand, there is an obligation under the trust agreement to transfer the property back to the original owner. In short form: The trustor *can* legally do more in relation to third parties (external relationship) than he *is allowed* to do according to his duties towards the trustor (internal relationship). If the trustor violates his contractual obligations in the internal relationship, he is liable to pay damages to the trustor. In the external relationship, however, the trust beneficiary's transaction remains legally effective.

Custody is legally the storage of a movable item by a custodian to whom the item has been handed over by the depositor, whether against payment or free of charge. Remuneration for safekeeping is deemed to have been tacitly agreed if, under the circumstances, safekeeping can only be expected in return for remuneration (§ 689 BGB). Unlike in the case of lending, in the case of safekeeping, the borrower may not use the item for his own purposes.

In the case of gratuitous custody, a lower standard of liability applies to the custodian in the event of destruction or damage to the item (§ 690, 277 BGB). The depositor must be informed by the custodian before changes are made to the agreed type of safekeeping (§ 692 clause 2 BGB) and may also reclaim the item from the custodian at any time.

(§ 695 clause 1 BGB). The following applies to safekeeping in contrast to trusteeship: safekeeping is generally based only on an - at least partial - transfer of possession and not also of ownership.

Furthermore, the custody relationship is always unilaterally oriented towards the interests of the depositor, whereas the fiduciary relationship may also be significantly determined by the interests of the fiduciary.

Transfer

General language expression for transfer of an object from the administrative responsibility of one public authority/public institution to the administrative responsibility of another public institution. As a rule, no change of ownership takes place.

Mediation

An intermediary prepares contracts (for purchase, sale, exchange, etc.) up to the conclusion of the contract.

In current jurisdiction, a distinction is made between commercial intermediaries (depending on the relationship to the client, commercial broker/agent) and the mediation of other transactions or occasional mediation (cf. § 652-654 BGB, civil broker).

Cf. also "Commission".

Vorlass (not deposited in the PAESE database)

General language term used to describe the leaving of property by a living person to an institution when there is an expectation that it will be granted to the institution by will after death. **This term is therefore avoided in the PAESE database**, as it says nothing about the ownership or possession situation; it may be a gift or a loan. In legal language, the term "Vorlass" (premature legacy) does not exist.