



THE CASE OF THE ANTWERP ROYAL MUSEUM OF FINE ARTS

A REGISTRARS' AND A BUREAUCRATS' VIEW ON
COLLECTION MOBILITY AND SHARED LIABILITY

Prague, 24 juni 2015

Collection on the move



KONINKLIJK
MUSEUM
VOOR SCHONE
KUNSTEN
ANTWERPEN



the bureaucrat



the registrar





The museum building in Antwerp's Zuid or 'South' quarter celebrated its 120th anniversary in 2010.

In all those years, the building was never thoroughly renovated.

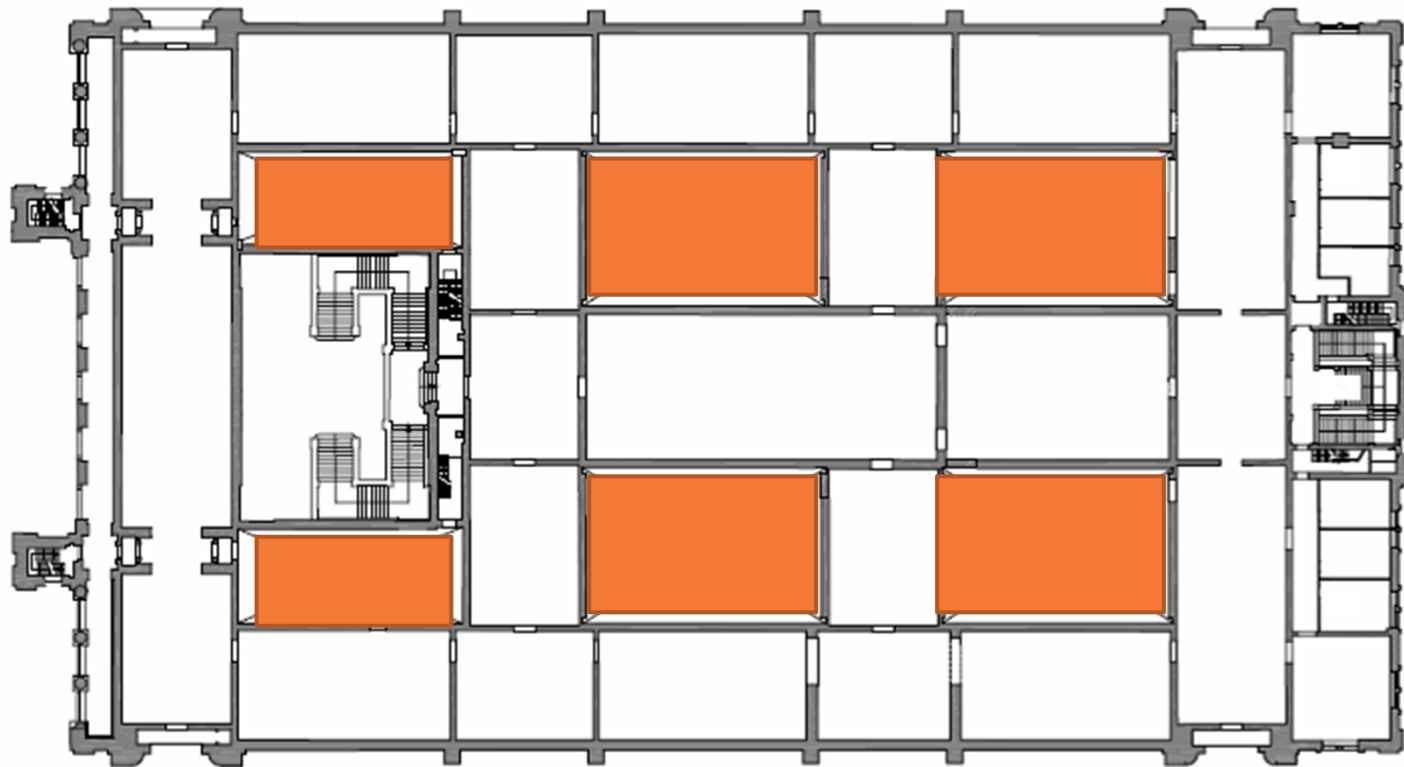
The museum no longer met the standards for the infrastructure of a museum. There was a problem due to the presence of asbestos, a leaky roof and inadequate heating and air conditioning.

1. Master plan for an enlarged and renovated museum building





1. Master plan for an enlarged and renovated museum building



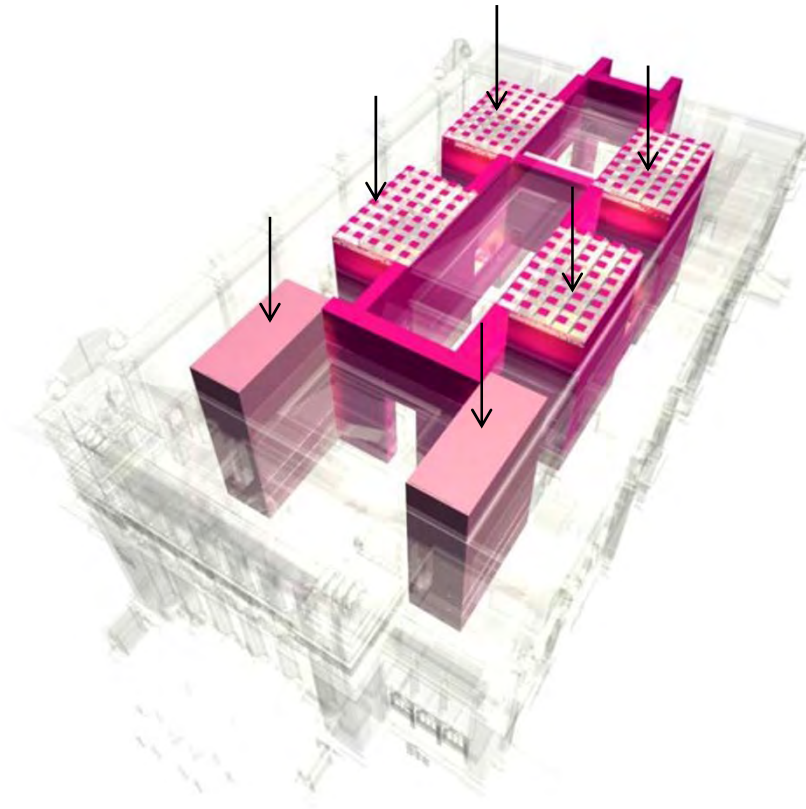
1. Master plan for an enlarged and renovated museum building

- 2003 the Flemish Government Architect launched a call for public tenders.
- 2004 the Rotterdam-based firm of Claus and Kaan Architects was commissioned to design a master plan
- 2006, K&C presented a renovation project in six phases. This plan was subsequently reduced to two phases because of budgetary constraints.
 - ▣ Phase 1: demolition work and the construction of a new storage area.
 - ▣ Phase 2: refitting of the building and installation of a new roof.
 - original route through the museum will be reinstated and the surface expanded.

1. Master plan for an enlarged and renovated museum building

- By adding floors in the 4 large courtyards a modern ‘vertical’ museum will be integrated in the historical building.
- The actual construction work started in autumn of 2011. If all goes according to plan the museum will reopen in 2019.

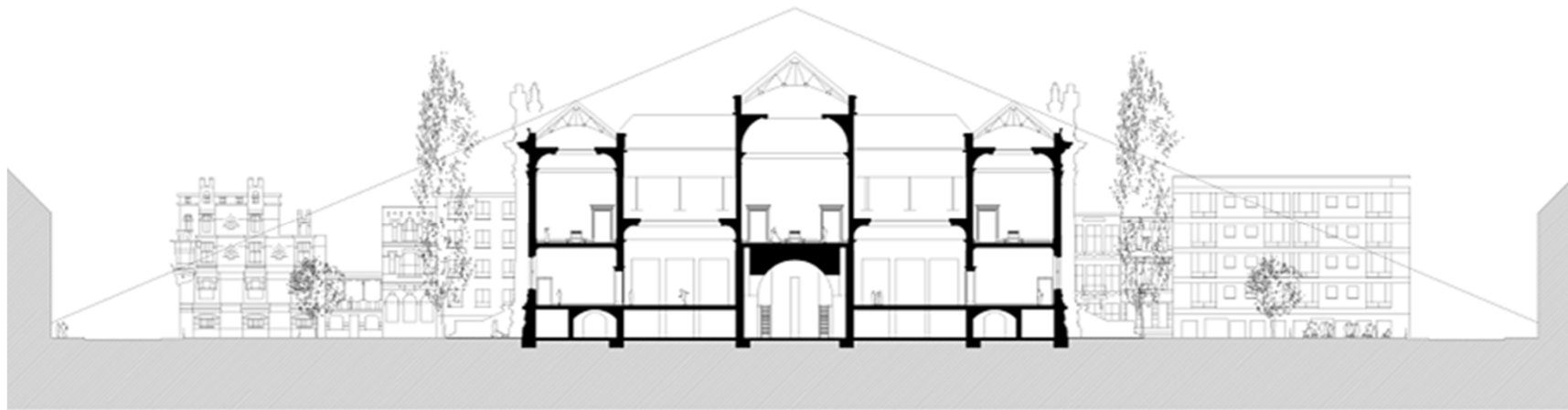
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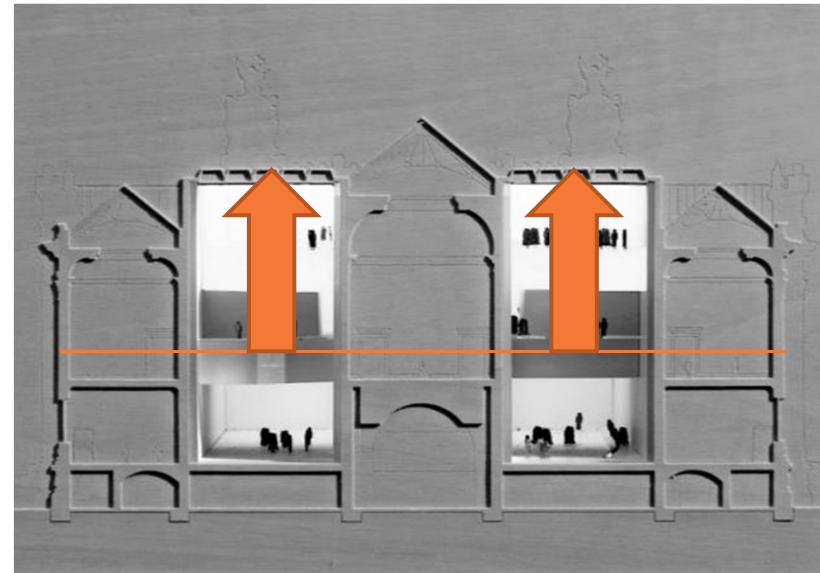
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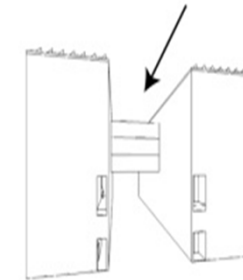
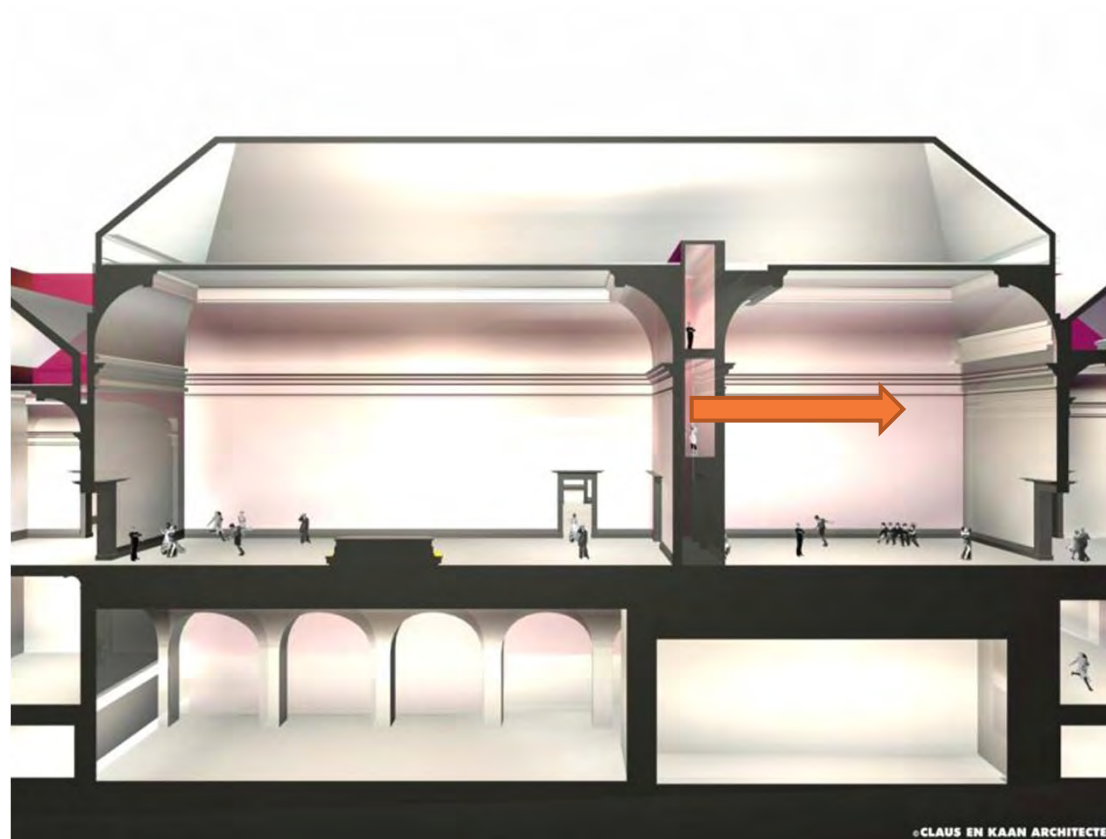
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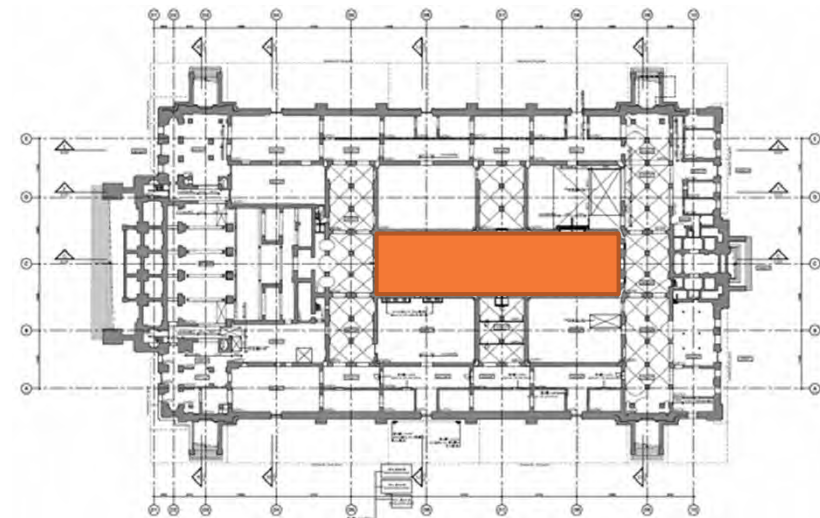


Phase 1 of the Masterplan

Phase 1: Construction of the central art storage area



internal storage area



Phase 1: Construction of the central art storage area





Phase 1: Construction of the central art storage area





Dismantling the atomic safe







Phase 1: Construction of the central art storage area

- Total space: 610 m²
- removed concrete: 540 m³ (= 1,350 ton = 1,350,000 kg)
- removed steel: 81 ton (= 81,000 kg)
- number of trucks: 48
- hours : 2,448

Phase 1: Construction of the central art storage area

- The internal depot houses a part of the collection during the further stripping and construction works.
- All the necessary facilities are installed: climat control, safety and security systems



Construction of the new depot















Stripping the museum









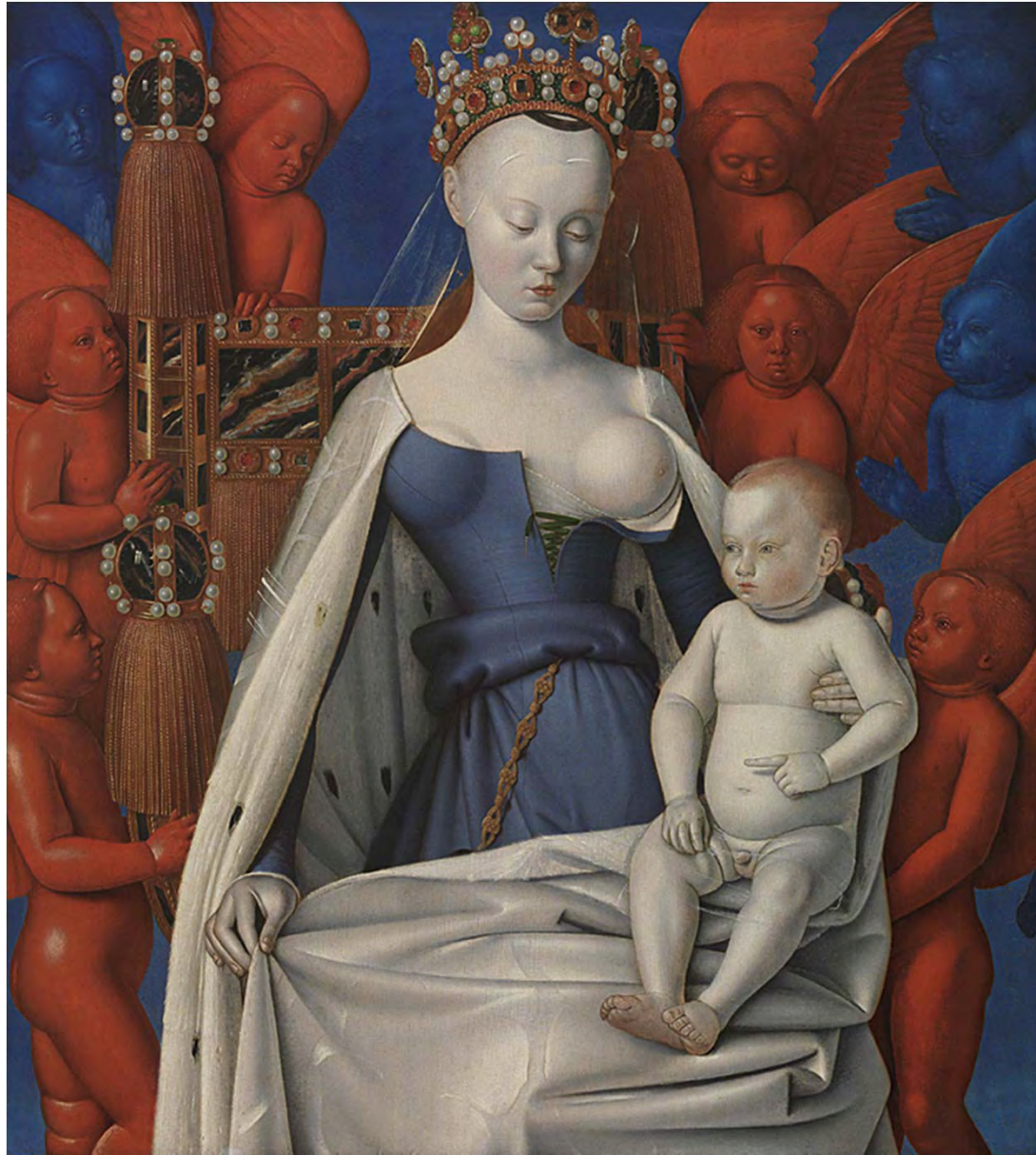


The Collection

2. What about the collection during the construction works?

- The collection
 - The collection includes 8230 works of art:
 - 2800 paintings
 - 4000 drawings and prints
 - 700 sculptures
 - 730 other works (tapestries, mixed media, etc)

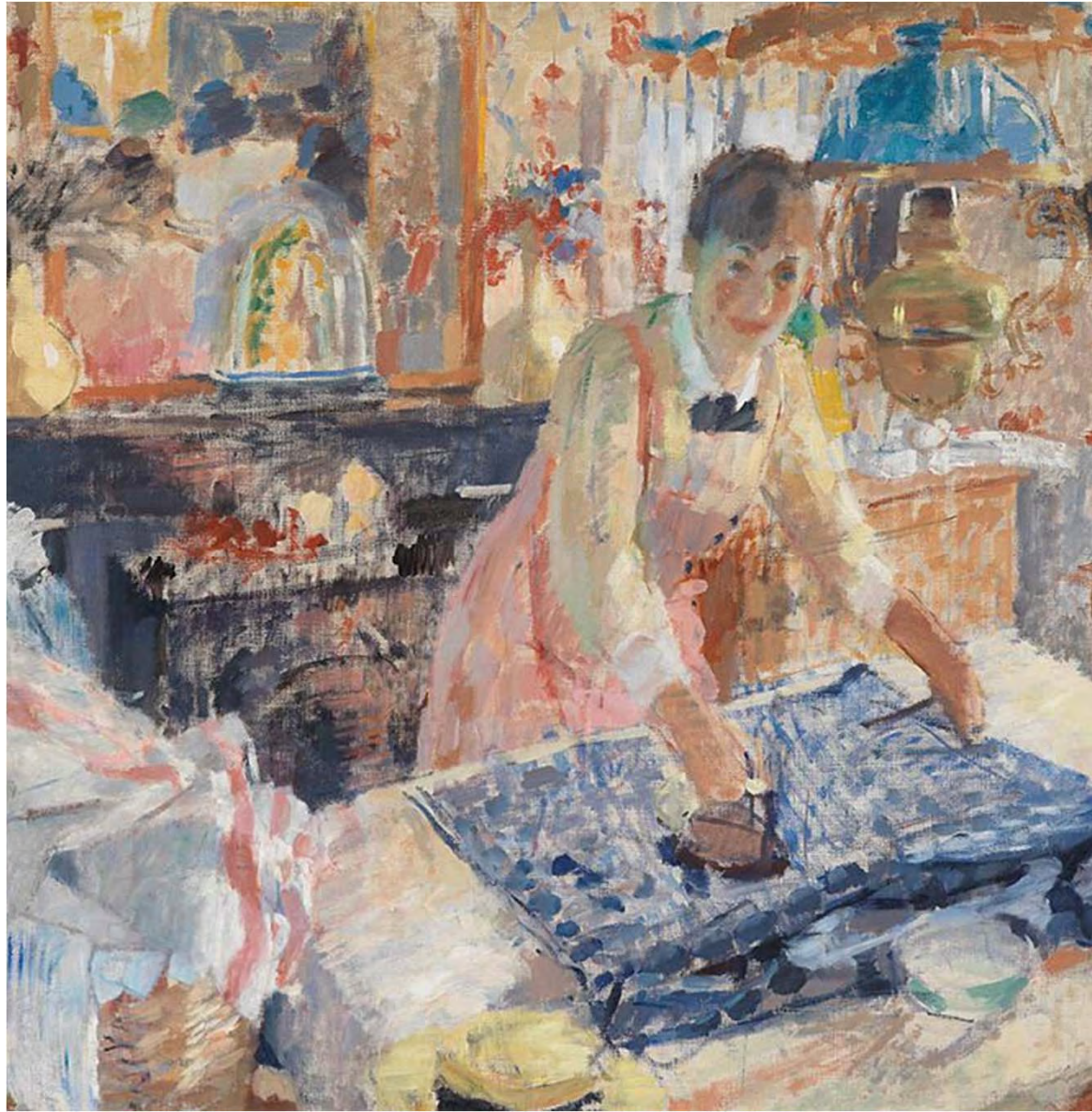
the collections contains primarily work by Flemish and Belgian artists of the 14th century until the mid-20th century













Preparation of the exodus of the collection







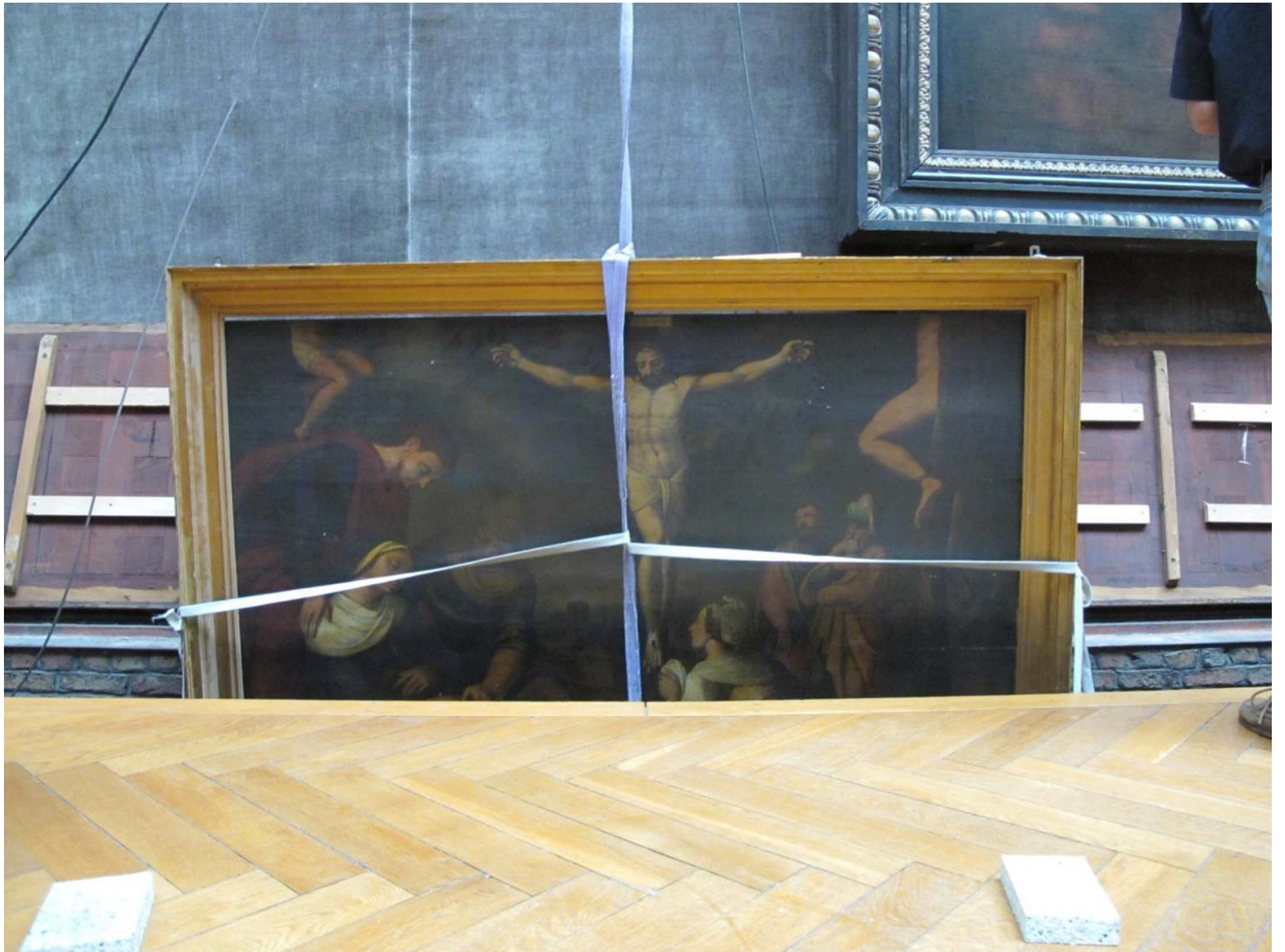


Internal moves of the collection
to secured areas of the museum building

2. What about the collection during the construction works?

- The museum closed its doors in September 2011. Shortly after that the demolition of the atom safe started.
- First all the artworks in and near the demolition area had to be moved.









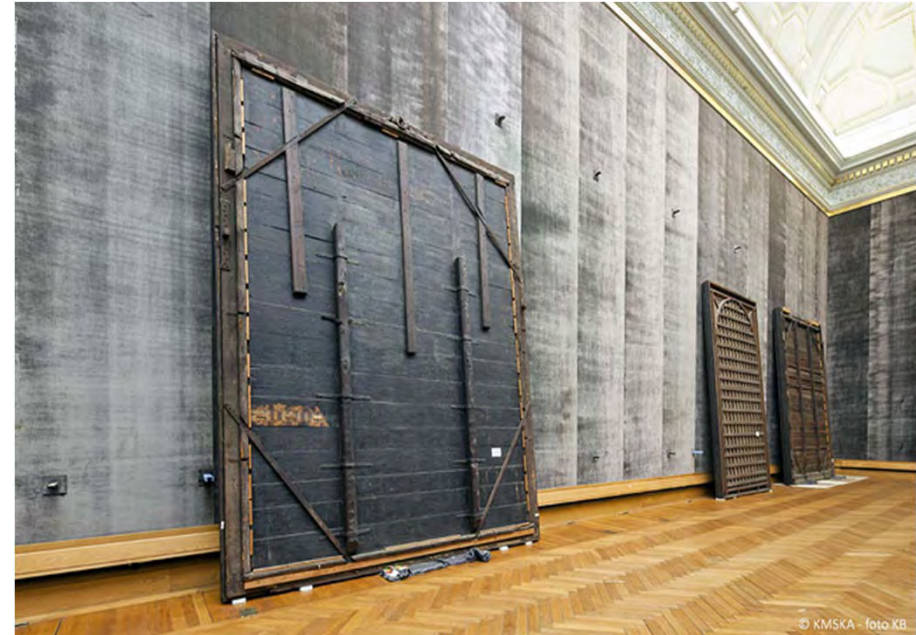
MAS



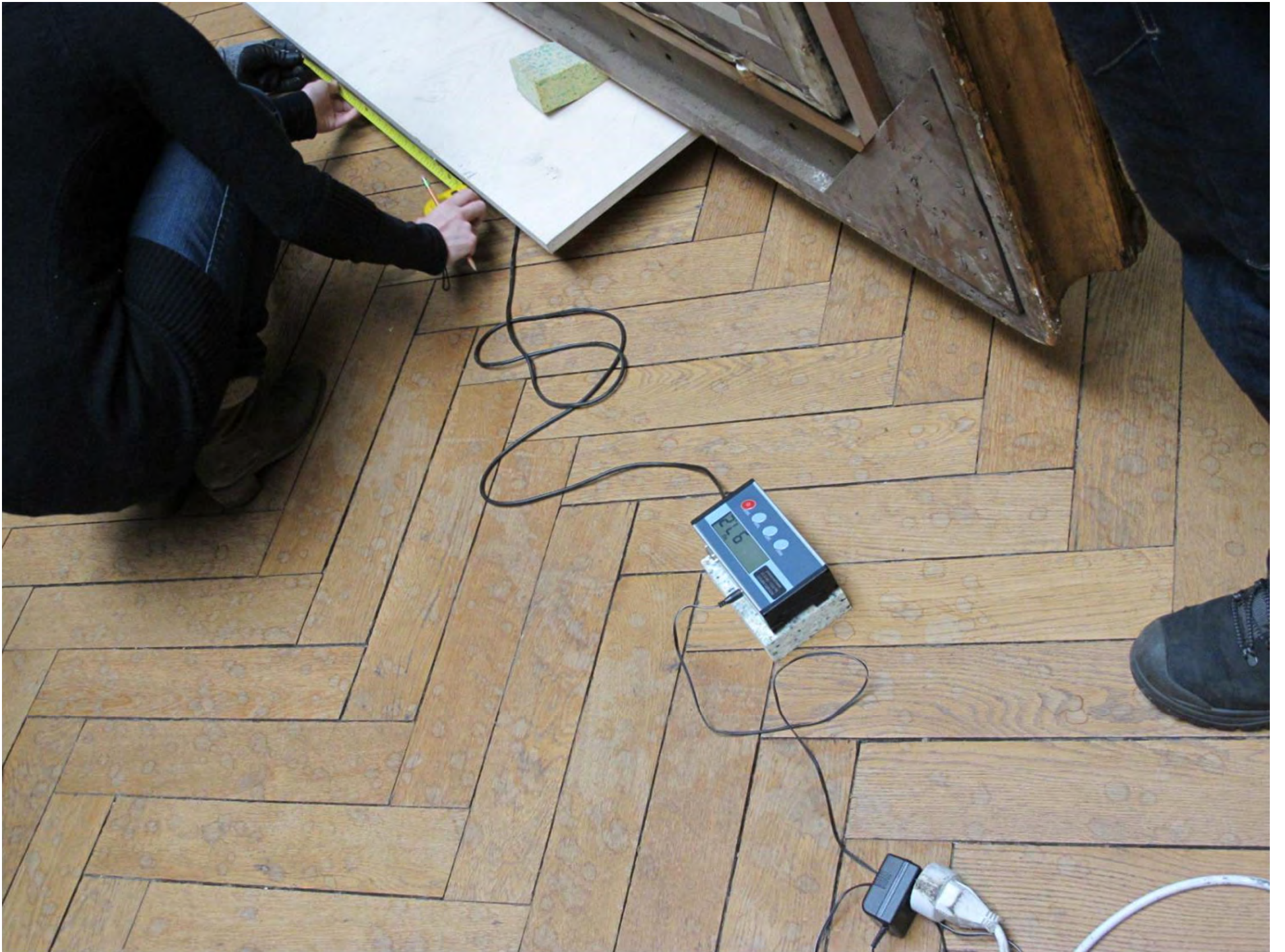


Preventing dust and vibration

2. What about the collection during the construction works?

































The Move of the Collection



Sculptures in stone and metal are moved to
a storage facility outside the city

Winter 2010

+ - 700 sculptures

Duration: 3 weeks





















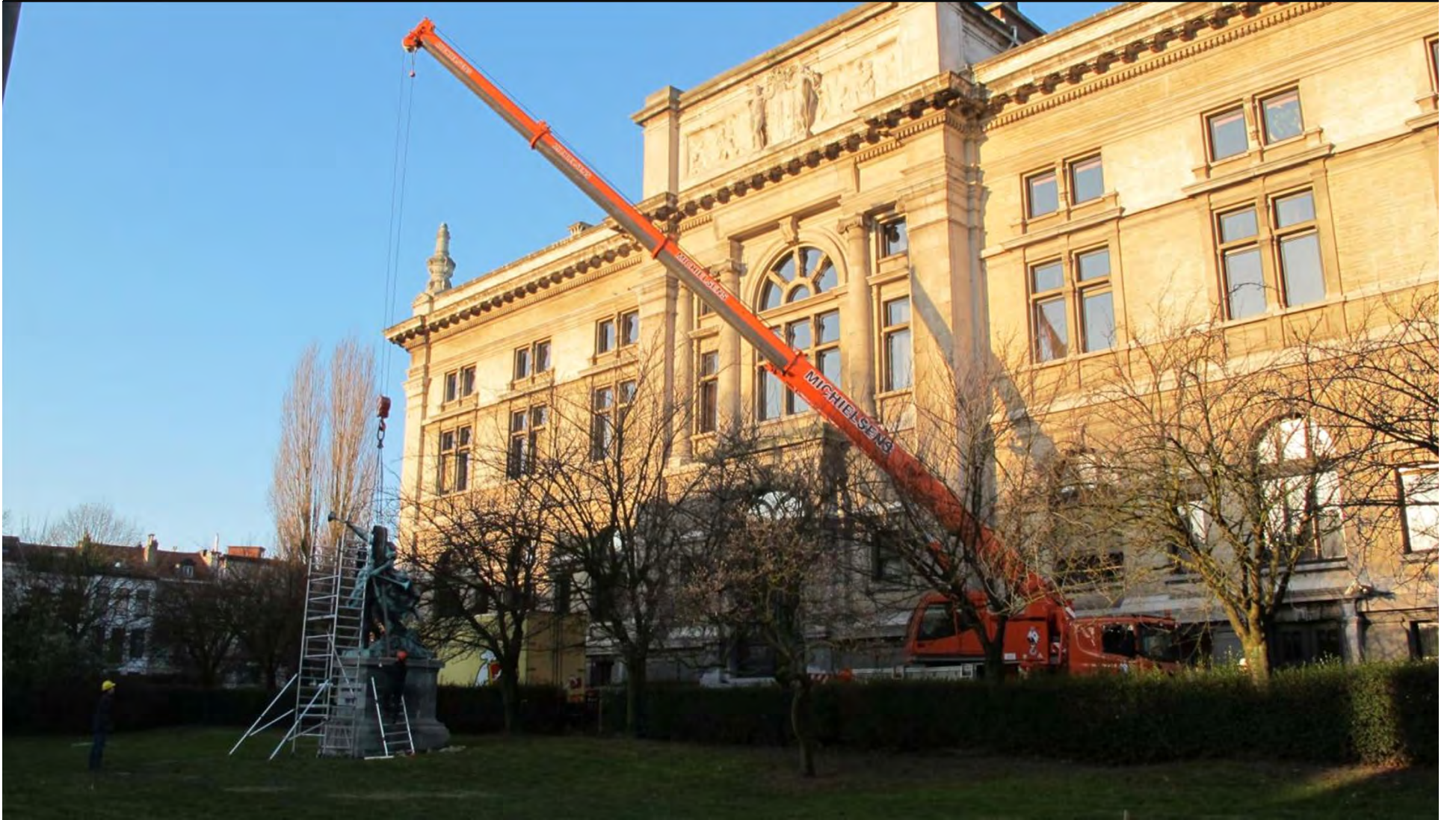




- Léon Mignon (1847-1898)
Tribute to Anthony van Dyck
Bronze, 3,80 x 1,48 x 2,08 m
2700kg

























Move of the restores studio, paintings and drawings to a storage facility outside the City

Spring 2012

+ - 4000 works on paper

+ - 800 paintings

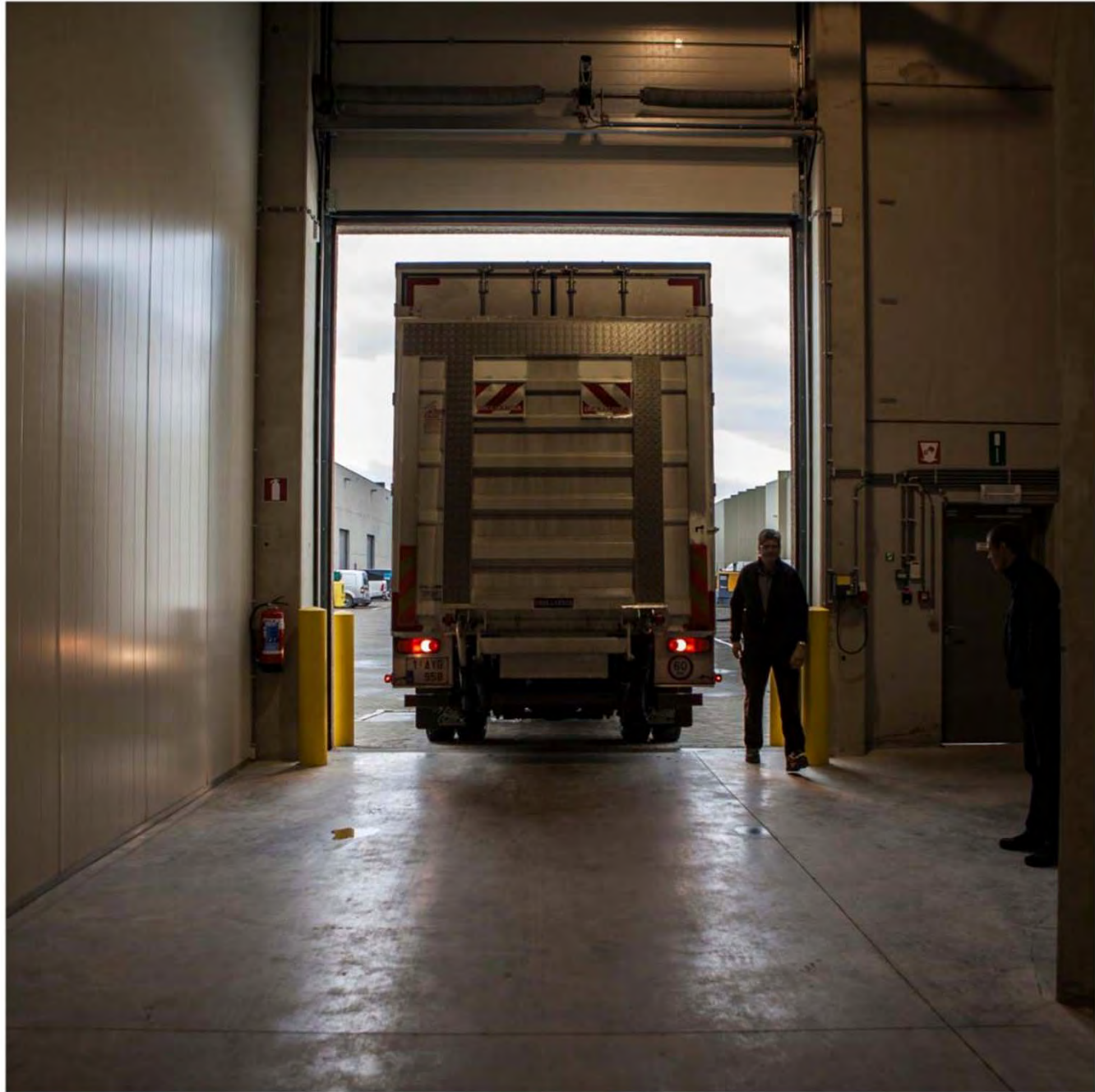
Duration 2,5 months



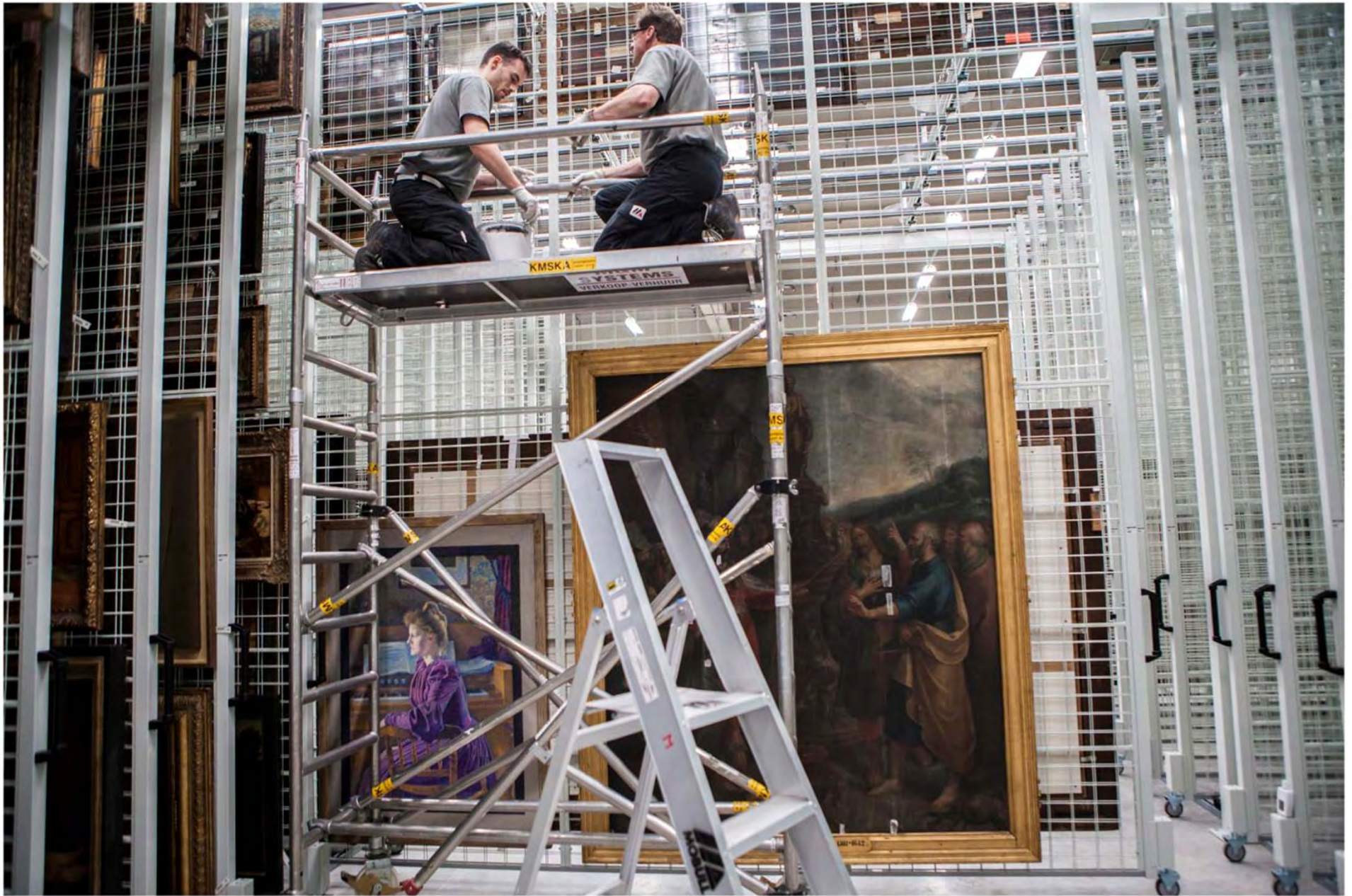
















moving in the new depot

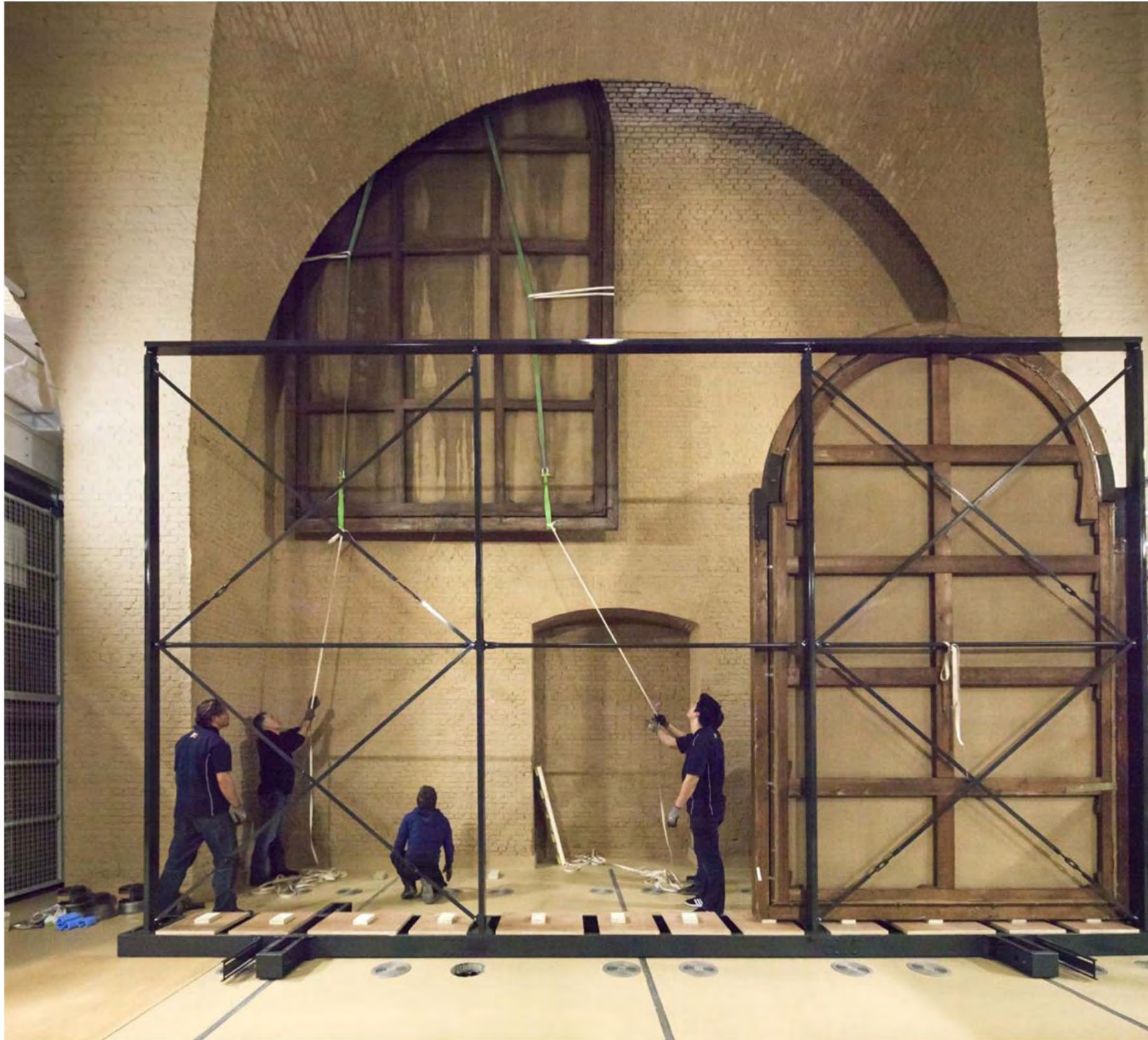
- Spring 2013
- +/- 1300 paintings
- 28 days















External collection presentations



05-06 — 15-11-2009
O.-L.-VROUWEKATHEDRAAL
ANTWERPEN

RE·UN·IE
VAN Quinten
METSIS
TOT Peter·Paul
RUBENS

MEESTERWERKEN UIT HET
KONINKLIJK MUSEUM TERUG
IN DE KATHEDRAAL

WWW.DEKATHEDRAAL.BE














































**Rogier
van der
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M | Leuven
20 september > 6 december 2009
www.rogiervanderweyden.be

— Rogier van der Weyden
H. Maria leest
Van der Weyden























The insurance of the collection during the closure and construction works



Insurance of the collection

- The State is its own insurer
- Fire insurance of the Flemish Government
- The transport policy of the museum

increased risk due to the demolition works

- Coverage maintained during demolition and construction works

Dismantling of the atomic safe

- Chemicals
- Explosives
- Reaction of the press
- Reaction of the insurance companies

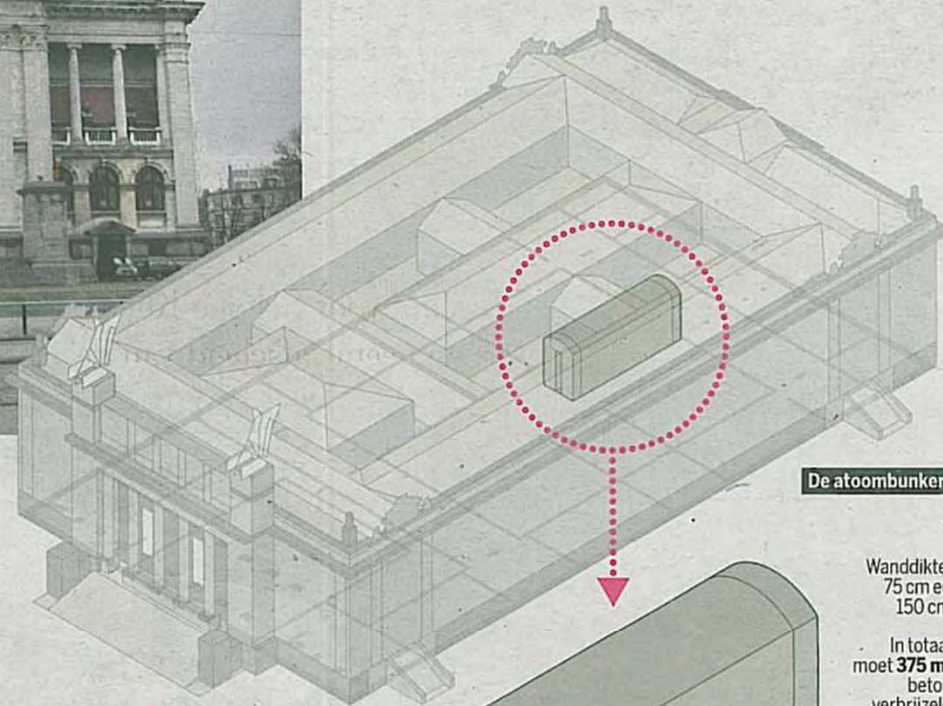


**BOM onder
Antwerps
Museum voor
Schone Kunsten**



Een bunker in het KMSK Antwerpen

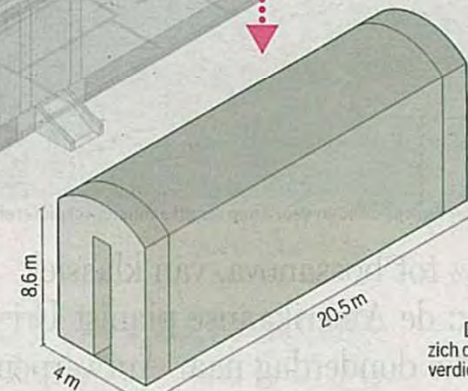
In het Koninklijk Museum voor Schone Kunsten in Antwerpen is in de jaren 1950, tijdens de Koude Oorlog, een atoombunker gebouwd om de collectie te kunnen beschermen. In het kader van het masterplan voor het museum zal die bunker binnenkort gesloopt worden. Het museumgebouw dateert van 1890 en voldoet niet meer aan de kwaliteitsnormen voor de infrastructuur van een museum.



De atoombunker

Wanddikte:
75 cm en
150 cm

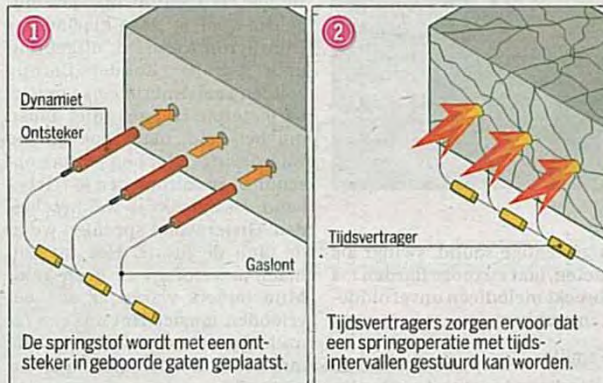
In totaal
moet **375 m³**
beton
verbrijzeld
worden.



De bunker bevindt
zich op de gelijkvloerse
verdieping in het depot
van het KMSK.

Slooptechniek

Er bestaan verschillende technieken om beton te slopen. Een mogelijkheid is om beton te verbrijzelen met springstof.



Insurance of the collection at the host venues

- The Rijksmuseum Amsterdam as a model
- Cutting down insurance costs
- Alternatives for an 'all risks' 'nail to nail' contract



- The inaugural exhibition at the MAS
- Over 100 major works of our collection on loan for one year at the MAS
- Extending the cover of the fire insurance policy
- The transport policy
- Temporarily reducing insurance values



The case of the Cathedral

- turning loans to exhibitions in to loan term loans





Position of the museum insurance vs. shared liability

- The case of the Rijksmuseum at the Scheldt

SHARED LIABILITY AGREEMENT

Collection on the move

PART I

**What is it?, What is its goal?,
Should we consider it?**

What is it?

- A mutual agreement between museums that lays down specific rules on **liability** and risk management for the lending and loaning of artworks between the museums that signed this agreement.
- Juridical form : contract, signed by the parties.

**What is the difference
between shared liability
and indemnity ?**

What is the difference between shared liability and indemnity

□ **Indemnity Scheme:**

- offered by an authority (third party) on basis of a law/decreet;
- risks transferred from the borrowing museum to the authority that grants the indemnity.

□ **Shared Liability Agreement:**

- agreed between the museums themselves on a contractual basis (no third partner);
- risks remain with the lender and the borrower.

**Goal of a shared liability
agreement : cutting the
insurance costs**

goal of a shared liability agreement : cutting the insurance costs

In case of **shared liability** cost cuts are obtained by:

the lending museum accepting that **not all risks** will be **covered by the borrowing museum** whilst the artworks are exhibited there and that the lending museum will bear itself a part of the risk,

***Why on earth should a lending
museum accept shared liability?***

Why on earth should a lending museum accept shared liability?

Lending museum says no because:

- ***It's not my problem*** : cutting the insurance cost for loans is a goal of the borrowing museum.
- ***I can't*** :
 - ▣ I got an overall deal with my insurance broker;
 - ▣ My board will not allow it;
 - ▣ Risks for damage/ theft are too high.

Lending museum says yes because

- ***It's my problem*** : next year I'm staging a big show and I want them to lend some of their major works to me at a low insurance cost (***Do ut des***);
- Long term collaboration between the museums to their mutual benefit.

***Shouldn't we prefer Indemnity to
shared liability?***

Shouldn't we prefer Indemnity to shared liability?

Yes, you should prefer Indemnity

- Borrowing museums are better off with an Indemnity Scheme:
 - all risks covered by a third party;
 - no insurance premiums to be paid.

- Lending museums are better off with an Indemnity Scheme
 - all risks covered by a third party;
 - no need to bear some of the risks.

PART II

Considering a Shared Indemnity Agreement

Considering a Shared Indemnity Agreement

see ***Guidelines for Shared Liability*** in the OMC Toolkit, published 2012 (pp 21 – 32)

link:

http://ec.europa.eu/culture/library/reports/toolkit-mobility-collections_en.pdf

Check whether you are competent to sign a shared liability agreement

- **lender and borrower** should make **absolutely sure** that they are – in legal terms– fully competent to enter into such an agreement:
 - check the statutes of the museum;
 - check with the museum board/the owner of the collection/the public authorities.

- **avoid personal liability**
By signing a shared liability agreement without being authorized to do so, the staff may become personally liable in case of damage, because they will have entered in an agreement without being entitled to do so.

Undertake a risk assessment !

(procedure similar as in the case of accepting an indemnity scheme)

- ❑ check the conservation conditions, safety and security measures and procedures:
 - ❑ facility report;
 - ❑ calamity plan.
- ❑ consider if an external or **‘joint’** risk assessment is needed.
- ❑ take appropriate measures if needed.

Content of a shared liability agreement

Content of a shared liability agreement

A shared liability agreement should clearly indicate **which museum assumes which liability in case damage occurs:**

- define *the levels of conduct* to be taken into account;
- define which party is *liable* for damage and/or loss of the object at each given *subprocess* of the **loan period**.

Museums can differ the liability to be born by the borrowing museum depending of the subprocesses:

- ❑ removal of the object from the lenders exhibition space/storage;
- ❑ packing at the lender premises;
- ❑ transport;
- ❑ unpacking at the borrowers premises;
- ❑ installation in the exhibition space of the borrower;

subprocesses

- ▣ packing at the borrowers premises;
- ▣ transport;
- ▣ unpacking at the lending museum or at the next stop in case of a travelling exhibition.

The levels of conduct to be taken into account

The **contract** should **decide** which museum is **liable** for the **damage caused by the conduct** of either of the institutions involved, their agents or subcontractors.

To do so, the contractants should **consider** the **various levels of conduct** that can cause damage:

- ❑ damage caused by *willful act (faute intentionnelle)*;
- ❑ damage caused by *gross negligence (faute lourde)*;
- ❑ damage caused by *negligence (faute)*;
- ❑ damage caused by *an involuntary act or omission without a finding of fault (sans faute)*.

The levels of conduct to be taken into account

Willful act

The damage was caused **intentionally**.

Gross negligence

The damage was not caused intentionally but was caused by a conscious and voluntary **disregard of the need to use reasonable care**, a conduct which is likely to cause foreseeable grave injury or harm to persons, property, or both.

Negligence

Negligence is the **mere failure to exercise reasonable care**.

Negligence and gross negligence differ in degree of inattention, while both differ from *willful* and *wanton* conduct, which is intended conduct that is foreseeable to cause injury.

Involuntary or omission

The damage was caused by an **involuntary act** or *omission without a finding of fault*.

Sharing the liabilities

- In general the museums will agree that the borrowing museum is always **fully liable** in case of damage caused by **willful act** or by **gross negligence** at each given sub proces of the loan.
- In the case of damage caused by **mere negligence** or by a **faultless act or omission** the museums can agree on a more **limited liability** for the borrowing museum.
- The approaches can also differ, depending on the subprocesses of the loan.

Fully liable

□ Fully liable.

Means that the borrowing museum is liable for:

- all restoration costs;
- full compensation of value loss caused by the damage;
- compensation of the full value in case of loss or theft.

Limited liability

- **Liability limited** to restorable damage and diminution of value.

Means that the lending museum agrees that it will not claim compensation in the event of total loss (for instance in case of theft or destruction by fire)

Limited liability

- **Liability limited** to restorable damage only.

Means that the lending museum agrees that it will not claim:

- compensation in the event of total loss (for instance in case of theft or destruction by fire);
- value diminution due to the damage occurred.

Essential conditions to be met when considering shared liability

Essential conditions to be met when considering shared liability

- **reciprocity**
a shared liability agreement should create a win-win situation for the engaged museums.
- **comparable quality standards**
 - similar does not mean identical.
 - unnecessarily stringent conditions are the safest way for failing to achieve a shared liability agreement.
- **equivalent risk management approaches**

PART III

The Flemish and Dutch shared liability scheme



The Flemish shared liability scheme

Which partners ?



The Flemish shared liability scheme

- **three partners :**

- *the Antwerp Royal Museum of Fine Arts (KMSKA);*
- *the Groeninge Museum in Bruges;*
- *the Ghent Museum of Fine Arts.*

- **two types of partners:**

- *1 national museum;*
- *2 city museums.*



The Flemish shared liability scheme

- ***A structural partnership***

- ***A framework contract***

The Flemish shared liability scheme (2009)

Main liability principles

□ **Liabilities during the transport between the museums:**

- the borrowing museum is fully liable;
- an all risks - insurance is required.

Main liability principles

- **Liabilities during the stay at the museum:**
 - liability of the borrowing museum limited to restorable damage to a **maximum of 500.000 euro per object**;
 - **no compensation** for depreciation due to the damaging of the object;
 - **no compensation** in the case of total loss (loss caused by theft, disappearance or complete destruction of the object) **except** for willful misconduct or gross negligence by the borrower.

The Dutch ‘Management Agreement’ for national museums (1993)

Describes the conditions under which the **national museums** (which are run autonomously) and government agencies may lend the **objects** they have **on loan from the State** to third parties:

- ▣ if the **value** of the object **decreases**, the borrower is **not liable** for the costs;
- ▣ the borrower is only **liable for the total loss** of an object (loss, theft, total loss) during **transport** to and from the lender

The Dutch ‘Management Agreement’ for national museums (1993)

- ❑ While the object is on the **premises** of the **borrower** the **State** bears the **risk for total loss**,
- ❑ the borrower is always responsible for **reparable damage** to an object;
- ❑ In consultation with the borrower there has to be determined whether the risk that remains for the borrower (reparable damage and damage/total loss during the transport) should be covered by an **insurance**;
- ❑ collection managers are urged to **limit** their **loan conditions**.



NOAH, THERE WILL BE A
FLOOD, AND IT WILL DESTROY
ALL OF CREATION

DON'T WORRY, I'VE
GOT INSURANCE

The registrars point of view



What to consider as a registrar?

- ❑ Understand how coverage/agreement works
- ❑ Know the exclusions
- ❑ What is requested from the lender/borrower?
- ❑ Does the liability agreement match with your own loan contract?
- ❑ Keeping track of things - recording information

What to consider as a registrar?

- All risks - nail to nail policy exclusions
 - Some examples
 - Loss or damage caused by wear and tear, gradual deterioration, inherent defect, rust or oxidation, moth or vermin
 - Mechanical or electrical faults or breakdown.
 - Loss, damage, costs or expenses arising directly or indirectly from biological or chemical contamination caused by or resulting from an act of terrorism.
 - Loss, damage or liability directly or indirectly caused by war, invasion, act of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power.
 - Loss or damage caused by or resulting from your property being confiscated, taken, damaged or destroyed by or under the order of any government or public or local authority.

What to consider as a registrar?

□ Indemnity schemes

□ Things to consider

- What are the exclusions?
- Is transport covered?
- Is terrorism covered?
- What will happen in case of damage?
- Is there a non-contributory threshold?
- Is there a waiver of subrogation for museum professionals?

- Use the toolkit for information

What to consider as a registrar?

- Shared liability agreements
 - Is transport covered?
 - Is there a waiver of subrogation
 - to what extent are you liable?
 - Loan standards to be met

What to consider as a registrar?

- A multitude of liability agreements/ indemnity schemes came up since 2003.
- It's important to have a good understanding of the conditions and exclusions
- Keeping track = register!

Frank and Ernest



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