

[unofficial translation]

In accordance with Section 3 of the Federal Law of 4 December 1998, Federal Law Gazette (BGBl. I) No. 181, at its meeting of 1 June 2007, the Art Restitution Advisory Board unanimously adopted the following

DECISION

It is recommended to the Federal Minister of Education, Art and Culture that the ethnographic objects from Africa, Asia and Oceania, inventory numbers 127.341–127.383, listed in the dossier entitled “Dr. Hans Abels” be returned from the Museum of Ethnology in Vienna to the heirs of Dr. Hans Abels.

An opinion by an expert in international private law will be obtained to determine the succession and to provide information as to whom the objects should be transferred to.

FOUNDATIONS

The object of this report are forty-two ethnographic objects with inventory numbers in the Museum of Ethnology, which previously belonged to the collection of Dr. Abels and which became State property. These objects are listed in the Commission for Provenance Research dossier. The Board assumes that the dossier is complete and correct.

Dr. Hans Abels and his wife Else were persecuted by the Nazis because of their origins and were obliged to emigrate in July 1939. On 25 October 1938, Dr. Abel had already given the above-mentioned ethnographic objects to the Museum of Ethnography as a “donation”. He presumably collected them during his voyages as a ship’s doctor. Except for one object, they are still in the Museum’s depot today.

In view of these facts, there can be no doubt that this donation was an invalid legal transaction in the meaning of Section 1 of the Federal Law of 15 May 1946, BGBl. No. 106. It can be assumed with certainty that the donated objects were eligible for restitution. As far as can be ascertained, however, no application for return was made, and the invalidity of the donation was not claimed. As a result of the failure to make an application under the Third Restitution Act, the State became the legal owner in accordance with Article 22 of the State Treaty in conjunction with the First State Treaty Implementation Act. The facts described in Section 1.(2) of the Art Restitution Act, namely an invalid transfer of title and a later legal acquisition by the State, therefore apply and the condition of Section 1.(2) is met. As a result the above recommendation was to be made to the Federal Minister of Education, Art and Culture.

Vienna, 1 June 2007

Chairperson: Sektionschefin Dr. Brigitte Böck

Members

Vizepräsident Dr. Manfred Kremser, Office of the Financial Procurator
Ministerialrat Dr. Peter Parenzan, Federal Ministry of Economic Affairs and Labour
Univ.-Prof. Dr. Artur Rosenauer, University of Vienna
Mag. M. Christian Ortner, Museum of Military History
Staatsanwältin Dr. Sonja Bydlinski, Federal Ministry of Justice
Doz. Dr. Bertrand Perz, University of Vienna

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