

At its meeting on 1 June 2007, the Advisory Board in accordance with Section 3 of the Federal Act of 4 December 1998, Federal Law Gazette (BGBl.) I 181, unanimously adopted the following

DECISION

It is recommended to the Federal Minister for Education, Arts and Culture that the 10 ethnographic objects from South America (one bow and nine arrows) from the Museum of Ethnology in Vienna listed in the enclosed personal dossier, labelled "Gertrude Marlé" should be returned to the legal successors of Gertrude Marlé.

GROUNDS

Gertrude Marlé was persecuted by the Nazis because of her ancestry, but was able to emigrate to England in 1938. In the same year, the Museum of Ethnology acquired a number of ethnographic objects from South America "as a gift" from Mrs Gertrude Marlé, ten of which are still in the museum.

In view of the facts described above, there can be no doubt that the donation or seizure of the objects and their subsequent transfer to the museum was a legal transaction that was null and void pursuant to Section 1 of the Federal Law of 15 May 1946 (Nullity Act), Federal Law Gazette 106. It can be assumed with certainty that the donated objects would have had to be restituted. However, an application for restitution was – as far as can be seen – filed only with regard to the property belonging to Mrs Marlé; the given nullity of the donation to the Völkerkundemuseum (Ethnological Museum) was apparently not asserted. As a result of this failure to file an application in accordance with the 3rd Restitution Act, the Federal Government lawfully acquired ownership of the objects in accordance with Art. 22 of the State Treaty in conjunction with the 1st State Treaty Implementation Act.

Thus, the factual requirements for the offence in Section 1. (2) of the Restitution Act are met,

namely a transfer of ownership that is to be considered null and void and a subsequent lawful acquisition of property by the federal government. The facts of Section 1. (2) of the Restitution Act are fulfilled and the above-mentioned recommendation was to be made to the Federal Minister for Education, Arts and Culture.

Vienna, 1 June 2007

Chairwoman: Head of Section Dr. Brigitte BÖCK

Members:

Vice President Dr. Manfred KREMSER, Finanzprokurator:

Ministerialrat Dr Peter PARENZAN, Federal Ministry of Economics and Labour:

Univ.-Prof. Dr. Artur ROSENAUER, University of Vienna:

Mag. M. Christian ORTNER, Museum of Military History:

Senior Public Prosecutor Dr. Sonja BYDLINSKI, Federal Ministry of Justice:

Doz. Dr. Bertrand PERZ, University of Vienna: