

In accordance with Section 3 of the Federal Law of 4 December 1998, BGBl. I 181, at its meeting on 8 November 2006, the Art Restitution Advisory Board unanimously adopted the following

### **DECISION**

It is recommended to the Federal Minister of Education, Science and Culture that the prehistoric objects with the shelf numbers 70139–70243 in the attached dossier “Robert and Margarete Piowaty-Lang” be returned from the Naturhistorisches Museum Vienna to the legal successors of the said persons.

An expert opinion on the succession providing information as to who should receive the objects will be obtained from a specialist in international private law.

### **GROUNDS**

The object of this report are prehistoric objects from Robert Piowaty’s collection that became the property of the State. These objects are described in the attached Commission for Provenance Research dossier entitled “Robert and Margarete Piowaty-Lang”. The Board assumes that this dossier is complete and correct.

The police doctor Robert Piowaty was persecuted by the Nazi authorities on account of his origins and committed suicide on 23 June 1938. His wife Margarete née Lang was an “Aryan”. The couple was childless, but Dr. Piowaty had a daughter Gertrude, married name Bassist, from his first marriage. As Dr. Piowaty did not leave a will, according to the law his wife inherited one-quarter and his daughter three-quarters of his estate. Margarete Piowaty-Lang died on 2 August 1972 and made her stepdaughter, Gertrude Basset, who lived in the USA, her sole heir.

On 16 October 1938, the Prehistory Department of the Naturhistorisches Museum paid RM 50 to acquire the prehistoric objects formerly owned by Dr. Robert Piowaty, which were entered in the Naturhistorisches Museum inventory book under the title E 219, with the shelf numbers 70139 to 70243. All of these objects are still in the Naturhistorisches Museum. Gertrude Bassist was persecuted as a Jew. Whether Margarete Piowaty-Lang was also persecuted after her husband’s death cannot be determined from the available documents, but it is quite conceivable.

Section 1 of the Federal Law of 15 May 1946, BGBl. No. 106/46, states that legal transactions, even in return for payment, conducted in Austria during the German occupation are invalid if they took place in the framework of the political and economic penetration by the German Reich with a view to expropriating the assets owned by natural persons on 13 March 1938. According to Section 2.1 of the Third Restitution Act, BGBl. 1947/54, an asset expropriation is invalid if the owner was subject to political persecution under the Nazis and the acquirer does not show that the asset transfer would have taken place regardless of the seizure of power by the Nazis. The rulings of the restitution commission have established that the court requires no further proof that Jews in Austria were subject to political persecution by the Nazi authorities. The invalidity under the Annulment Act, BGBl. 1946/106, needed to be claimed through an application on the basis of the restitution legislation. In the case under consideration, it may be assumed with a high degree of certainty that the conditions for the restitution of the prehistoric objects under the Third Restitution Act were met. As far as can be ascertained, however, an application for restitution was not made, and the invalidity of the sale was not claimed. As a result of the failure to make an application under the Third Restitution Act, the State became legal owner of the objects in accordance with Article 22 of the State Treaty in conjunction with the First State Treaty Implementation Act. Thus the substantive conditions of Section 1.2 of the Restitution Act, namely an invalid transfer of title and later legal acquisition of title by the State, are met. The condition of Section 1.2 of the Restitution Act is met and the above-stated recommendation was to be made to the Federal Minister of Education, Science and Culture.

The Federal Law of 4 December 1998, BGBl. I 181, refers explicitly only to "art objects", but by extension the Board also included the objects under consideration under this definition.

Vienna, 8 November 2006

Chairperson

Sektionschefin Dr. Brigitte BÖCK

Members

Vizepräsident Dr. Manfred Kremser, Finance Procurator's Office

Ministerialrat Dr. Peter Parenzan, Federal Ministry of Economic Affairs and Labour

Univ.-Prof. Dr. Artur Rosenauer, University of Vienna

Mag. Christoph Hatschek, Museum of Military History

Generalanwalt Dr. Peter Zetter, Federal Ministry of Justice

Univ.-Prof. Dr. Ernst Bruckmüller, University of Vienna