

Recommendation 24384 BCM-RESTITUTION

THE COMMISSION,

Meeting in plenary session;

Having regard to Decree No. 99-778 of 10 September 1999, as amended by Decree Nos. 2000-932 of 25 September 2000 and 2001-530 of 20 June 2001;

Having regard to Decree No. 2018-829 of 1 October 2018, addressing the establishment of a procedure for seeking out the owners, or their heirs, of cultural property spoliated during the Occupation, and particularly Article 3-1 of said Decree;

Having regard to the claim dated 13 February 2002, submitted by Mr A., born ... in ..., residing at ..., acting on his own behalf and as a representative of:

- his mother Mrs B., ...;

- his brother, Mr C., ...;

All three together benefiting from the rights of their spouse and father, Mr D., ..., and Mrs E., daughter of Mr Hugo SIMON;

Mr A. and Mr C. are acting in their capacity as sole heirs of their great-grandfather, Mr Hugo SIMON;

Mrs B. is acting in her capacity as the spouse in the line of succession of Mr D...;

Having regard to the research undertaken by the Diplomatic Archives of the Ministry of Europe and Foreign Affairs, by the Mission for Research and Restitution of Cultural Property Spoliated between 1933 and 1945, and by the Commission for the Compensation of Victims of Spoliation;

Having regard to the letter, dated 7 July 2020, from the Director of the Musée national d'art moderne - Centre de création industrielle addressed to the Head of the Mission for Research and Restitution of Cultural Property Spoliated between 1933 and 1945;

Having regard to the letters, dated 30 June and 7 July 2020, from the head of the Mission for Research and Restitution of Cultural Property Spoliated between 1933 and 1945 addressed to the Principal Rapporteur of the Commission for the Compensation of Victims of Spoliation;

Having heard the report of Mr AUGUSTIN, Rapporteur, and read the written observations of Mr DACOSTA, Government Commissioner;

And Mr SCHULMANN, Heritage Curator and Head of the Documentation and Collection Management Department at the Musée national d'Art moderne, Centre Georges-Pompidou;

Mr A. shares his observations with the Commission;

Based on the elements of the case, and particularly the statements of the claimants, Mr Hugo SIMON and his wife Mrs Gertrude OSWALD were victims of spoliation arising from Anti-Semitic legislation in force during the Occupation, their apartment and a large portion of its contents, located at 102, rue de Grenelle in PARIS (7) having been looted by the agents of the Einsatzstab reichsleiters Rosenberg (E.R.R.) in late 1940/early 1941;

Mr Hugo SIMON also specifies, in a proceeding undertaken after the war with the Art Recovery Commission that his apartment on rue de Grenelle contained multiple paintings by German expressionists, such as Max Pechstein;

The claimants claim to have lost a painting by Max Pechstein entitled Nus dans un paysage, 1912, 71 x 80 cm, located in this apartment;

The other losses resulting, among other things, from the looting are subject to separate recommendations issued by the Commission meeting today, 10 July 2020, under case numbers No. 24384 BCM and 24384 M;

The research conducted and their results on file indicate that, following the looting by the agents of the ERR, six crates of items belonging to Mr Hugo SIMON were delivered to Germany from the Musée du Jeu de Paume on 15 and 16 October 1941; the inventory prepared by the ERR listed three Max Pechstein paintings, however none of those mentioned and described matched the features of the painting entitled Nus dans un paysage; it is therefore likely that this painting was left in the apartment;

In 1966, in the reserves at the Palais de Tokyo, a set of works was discovered that included the Max Pechstein painting Nus dans un paysage, which was then listed on the inventory of stored artwork under No. 28 823 and stored at the Musée national d'art moderne under number AM 4364 P; on the back of the painting, there two scraps of paper forming a label for the "Exhibition of Twentieth Century German Art" organised in London at the New Burlington Gallery in July 1938 with the words "Modern German Art" and "Owner: Hugo SIMON";

It is not known exactly what happened to the painting between the London exhibition in 1938 and its rediscovery at the Palais de Tokyo in 1966, nor is there any evidence that the painting was gifted by its owner, Mr Hugo SIMON;

There is no record of the painting being acquired, against payment or free of charge, by the State; accordingly, there are no proceedings or other administrative actions recording the addition of the painting to the public collections;

Consequently, having regard to the elements of the case file and the opinion expressed by the competent administrative authorities, there is call to return to the heirs of Mr Hugo SIMON ..., the Max Pechstein painting entitled Nus dans un paysage, 1912, 71 x 80 cm, registered in the State collections under number 28 823 and recorded in the inventory of the Musée national d'art moderne under number AM 4364 P;

IS OF THE OPINION,

1° - That Mr A., Mr C. and Mrs B. shall be recognised as heirs of victims of spoliation arising from Anti-Semitic legislation in force during the Occupation;

2° - That there is call to return the Max Pechstein painting entitled Nus dans un paysage, 1912, 71 x 80 cm, registered in the State collections under number 28 823 and recorded in the inventory of the Musée national d'art moderne under number AM 4364 P;

REMINDS Mr A., Mr C. and Mrs B. to make it their personal business to resolve any disputes arising over the ownership of the artwork that may have been returned by the French State in accordance with this recommendation.

REMINDS the parties that this recommendation will be transmitted to the claimants.

REMINDS the parties that this recommendation will be transmitted to the Prime Minister's office in accordance with Article 1-1 of Decree No. 99-778 of 10 September 1999, as amended,

And, for information purposes:

- to the Director-General for Heritage, Ministry of Culture, 182, rue Saint-Honoré, 75033 PARIS cedex 01,
- to the Director of the Diplomatic Archives, Ministry of Europe and Foreign Affairs, 3, rue Suzanne Masson, 93126 LA COURNEUVE cedex,
- to the Director of the Musée national d'art moderne - Centre de création industrielle, 19 rue Beaubourg, 75191 Paris Cedex 04.

- The Ministry of Europe and Foreign Affairs was represented by Ms de COQUEREAUMONT;
- The Ministry of Culture was represented by Ms CHASTANIER.

The Commission was comprised of Mr JEANNOUTOT – Mr BERNARD — Mr TOUTEE – Ms DREIFUSS-NETTER – Ms BADY– Mr RUZIÉ – Ms SIGAL – Ms ROTERMUND-REYNARD – Mr RIBEYRE.

Paris, 10 July 2020

The Chargé de Mission,
Hearing Secretary

Emmanuel DUMAS

The Chairman,

Michel JEANNOUTOT