

THE COMMISSION,

Meeting in plenary session on 10 September 2021;

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 of that Decree;

**I. The facts**

Abraham BARGEBOER and his wife, Minna KIRCHHEIMER, Dutch nationals, settled in Nice (Alpes-Maritimes) before the war, where they last lived at 53 Boulevard Victor Hugo.

Fleeing Germany, where the KIRCHHEIMER family came from, due to the persecution of the Jews, Ruth KIRCHHEIMER was taken in by her paternal aunt, Minna KIRCHHEIMER, in 1942.

Having no children, Mr and Mrs BARGEBOER appointed their niece, Ruth KIRCHHEIMER, as universal legatee of their property under certain conditions, in a joint will dated 16 December 1943.

The couple were arrested at the beginning of 1944. Abraham BARGEBOER died in Nice prison at the end of January 1944. Minna BARGEBOER died during deportation a few months later. The Einsatzstab Reichsleiters Rosenberg (E.R.R.) looted their apartment as part of the "Furniture Action" shortly after their arrest.

At the same time, Ruth KIRCHHEIMER was hidden by the Sainte-Thérèse Catholic Institute, which was part of the network organised to protect Jews and hide children. She was entrusted to the Maison de la Sainte-Enfance in Digne-les-Bains (Alpes-de-Haute-Provence) and then converted to Catholicism. She entered the order under the name of Sister Marie-Thérèse.

Mr and Mrs BARGEBOER's will was read, pursuant to an order issued by the Presiding Judge of the Civil Court of Nice, dated 14 February 1947.

However, Ruth KIRCHHEIMER, the named legatee, took no interest in this bequest and made no request for it to be distributed. No steps were taken with the French and German authorities to recover the BARGEBOERS' property after the war.

Ruth KIRCHHEIMER died in 2003 in La Roche-sur-Foron (Haute-Savoie) in a house belonging to the Congregation of the Sisters of Charity, to which she had retired.

**II. The procedure**

Under the provisions of Article 1-2 of Decree no. 99-778 of 10 September 1999, as amended, the Head of the Mission for Research and Restitution of Cultural Property Spoliated between 1933 and 1945 referred a restitution case to the CIVS on 5 March 2020 concerning a work that belonged to Mr and Mrs BARGEBOER, listed as an MNR (National Museum Recovery), repatriated to France after World War II, then retained by the Commission for the Selection of Works of Artistic Recovery before being allocated in 1951 to the Louvre Museum (Paintings Department) by the Office for Private Property and Interests (O.B.I.P.).

*It concerns the painting, MNR 645, "bateaux sur mer agitée près d'une côte rocheuse", 17th century Dutch school, 80 x 65 cm, currently kept at the Château-musée de Dieppe.*

*The following beneficiaries are combined in this referral, namely:*

*- The Congregation of the Sisters of Charity, represented by Sister N..., born on ... in ..., residing at ..., as successor to the rights of Ruth KIRCHHEIMER, in religion Sister Marie-Thérèse, daughter of ..., brother of Minna KIRCHHEIMER, wife of Abraham BARGEBOER, by virtue of a holographic will of ..., by which she bequeathed her property to ..., since then absorbed by the above-mentioned congregation.*

*- Mr A., born on ... and residing at ...,*

*- Mr B., born on ... and residing at,*

*- Mr C., born on ... and residing at,*

*All three are successors to the rights of their mother, ..., previously named ... in her first marriage, previously named ... in her second marriage and named ... in her third marriage, the daughter of ..., himself the son of ..., née ..., who died during deportation and who was the sister of Abraham BARGEBOER.*

*- Ms D., born on ... in ... residing at ...,*

*- Mr E., born on ... in ... residing at ...,*

*Both successors to the rights of their father, ..., son of ...*

*- Mr F., born on ... in ... residing at ...,*

*- Mr G., born on ... in ... residing at ...,*

*- Ms H., born on ... in ... residing at ...,*

*All three are successors to the rights of their mother, ..., daughter of ..., herself daughter of ..., mentioned above.*

*- Ms I., born on ... residing at, succeeding to the rights of her mother ..., mentioned above.*

*- Ms J., born on ... in ..., residing at ..., succeeding to the rights of her mother ..., daughter of ..., mentioned above.*

*- Mr K., born on ... in ..., residing at ..., succeeding to the rights of his mother ..., daughter of ..., who died in deportation.*

*- Mr L., born on ... residing at ...,*

*- Mr M., born on ... residing at ...,*

*Both are successors to the rights of their mother ..., daughter of ..., mentioned above.*

*- Mr N., born on ... residing at ...,*

*- Mr O., born on ... residing at ...,*

*Both are successors to the rights of their father ..., son of ..., who died during deportation, the sister of the aforementioned Minna KIRCHHEIMER, wife of Abraham BARGEBOER.*

*Mr A., Mr B., Mr C., Ms D., Mr E., Mr F., Mr G., Ms H., Ms I. and Ms J. are acting as the beneficiaries of their great-uncle and great-great-uncle, Abraham BARGEBOER.*

*Mr K., Mr L., Mr M., Mr N. and Mr O. are acting as the beneficiaries of their great-aunt and great-great-aunt, Minna BARGEBOER née KIRCHHEIMER.*

*The Congregation of the Sisters of Charity, represented by Sister N..., is acting as the universal legatee of Ruth KIRCHHEIMER.*

*The following beneficiaries are absent from the procedure:*

*1/ the other beneficiaries of Abraham BARGEBOER, in particular:*

*- any beneficiaries of his brother, ... BARGEBOER,*

*- any beneficiaries of his brother, ... BARGEBOER,*

*- any beneficiaries of his nephews, ... and ..., sons of ... née BARGEBOER,*

*- any beneficiaries of his nephew, ..., the son of ... née BARGEBOER,*

- Mr ..., son of ... mentioned above,
- Ms ... née ..., daughter of ... née ... mentioned above,

2/ the other beneficiaries of Minna KIRCHHEIMER, the wife of Abraham BARGEBOER, in particular:

- any beneficiaries of her sister, ... née KIRCHHEIMER,
- any beneficiaries of her great-nieces, ... and ..., the daughters of ... née KIRCHHEIMER, herself the daughter of ... KIRCHHEIMER,
- Ms ... née ... daughter of ..., himself son of ... KIRCHHEIMER, mentioned above.

### **III. The investigation of the case**

The investigation of the application gave rise to the investigations presented in:

- the summary note and its appendices, dated 5 March 2020, of the Head of the Ministry of Culture's Mission for Research and Restitution of Cultural Property Spoliated between 1933 and 1945 (M2RS), sent to the Principal Rapporteur of the CIVS,
- the report and additional note by Mr MARCUS, Rapporteur at the CIVS, communicated to the claimants, the M2RS, the Ministry for Europe and Foreign Affairs, the Ministry of Culture, and the Holocaust Claims Processing Office (HCPO),
- the searches for beneficiaries carried out by the CIVS and HCPO services.

At the end of the investigation, the Congregation of the Sisters of Charity, represented by Sister N..., submitted its observations in writing on 24 May 2021.

The claimants were informed of the hearing of 10 September 2021.

The Commission heard the Head of the M2RS, the Judge-Rapporteur, the representatives of the Ministry for Europe and Foreign Affairs and the Ministry of Culture, and the Government Commissioner.

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The Commission considers the following to be established:

The research conducted and its results on file indicate that most of the property in the home at 53 Boulevard Victor Hugo, Nice was looted in 1944 by the Occupation authorities and transferred to Germany.

Three paintings belonging to Mr and Mrs BARGEBOER are thus described in the lists drawn up by the E.R.R., corresponding to the looting of artworks in Nice in June 1944:

- "trois pêcheurs", 22 x 27 cm,
- "plage avec bateau", 80 x 64 cm,
- copy of Jan Steen, 60 x 65 cm.

Investigations carried out by the M2RS indicate that a "seascape" was indeed seized in June 1944, at the aforementioned home, as part of the "Furniture Action" conducted on the Côte d'Azur by the E.R.R. This work was transferred to Kögl Castle in Austria. On 15 March 1946, it was recorded at the Central Collecting Point in Munich and issued a "property card". It was returned to France on 25 September 1947.

It has been established that this work, which now bears the number MNR 645, was seized at Mr and Mrs BARGEBOER's home in Nice. It corresponds to the painting entitled "plage avec bateau", which is listed as one of the "three BARGEBOER works" and is now called "bateaux sur une mer agitée près d'une côte rocheuse, XVII<sup>e</sup> siècle".

#### **IV. The Commission's opinion**

The work called "plage avec bateau" by the Occupation authorities, currently numbered MNR 645, was among the works stolen by the E.R.R. in Nice (Alpes-Maritimes) in 1944. The evidence is consistent as to the location of the spoliation and the owner of the painting.

It is certain that the last legitimate owners of this work were Abraham BARGEBOER and his wife Minna KIRCHHEIMER and that this work was taken under the anti-Semitic legislation in force in France during the Occupation.

With regard to the beneficiaries of Abraham BARGEBOER and his wife Minna KIRCHHEIMER, it is noted that a joint will is not valid under French or Dutch law.

The Commission considers, however, that although the will was not contested at the time, the bequest was also not distributed, and Ruth KIRCHHEIMER was entitled to dispose of it.

The Commission therefore considers that all the beneficiaries of Abraham BARGEBOER and his wife Minna KIRCHHEIMER should be taken into account according to their respective rights in Mr and Mrs BARGEBOER's joint ownership.

Consequently, in view of the information on file and the opinion expressed by the competent administrative authorities, the painting "bateaux sur une mer agitée près d'une côte rocheuse", listed in the Louvre's inventory under number MNR 645 and kept at the Dieppe château-musée (Seine-Maritime), should be returned to the beneficiaries of Abraham BARGEBOER and his wife Minna KIRCHHEIMER.

However, the number of beneficiaries, who are not present in the proceedings, impedes the actual handover of the work to the rightful claimants of Mr and Mrs BARGEBOER.

The Commission was informed by the M2RS that it was proposed to the beneficiaries involved of Abraham BARGEBOER and his wife Minna KIRCHHEIMER to leave the work in question at the Museum of Jewish Art and History.

At the end of the hearing, the Head of the Mission for Research and Restitution of Cultural Property Spoliated between 1933 and 1945 noted that the State cannot, nor does it wish to, keep a spoliated work, the restitution of which is recommended by the CIVS.

#### **THE COMMISSION IS OF THE OPINION,**

1° - That the Congregation of the Sisters of Charity, Mr A., Mr B., Mr C., Ms D., Mr E., Mr F., Mr G., Ms H., Ms I., Ms J., Mr K., Mr L., Mr M., Mr N. and Mr O. be recognised as beneficiaries of victims of spoliation arising from anti-Semitic laws adopted during the Occupation;

2° - That the painting, "bateaux sur une mer agitée près d'une côte rocheuse", listed in the Louvre Museum's inventory under number MNR 645 and kept at the Dieppe château-musée (Seine-Maritime), should be returned to the beneficiaries of Abraham BARGEBOER and Minna KIRCHHEIMER;

3° - That if the work is not actually returned, it may be left with the Museum of Jewish Art and History, in accordance with the proposal of the M2RS.

**REMINDS the parties that the claimants will be informed of this recommendation.**

**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 for Europe and Foreign Affairs, 3 Rue Suzanne Masson, 93126 LA COURNEUVE cedex,***

***- to Ms Connie WALSH, Deputy Director, the Holocaust Claims Processing Office (HCPO), One State Street, NEW YORK (NY 10004 1511 UNITED STATES).***

*- The Ministry for Europe and Foreign Affairs was represented by Ms CLINET,*

*- The Ministry of Culture was represented by Ms CHASTANIER.*

*During the deliberation, the Commission was composed of Mr JEANNOUTOT - Mr BERNARD - Ms DREIFUSS-NETTER - Mr TOUTÉE - Mr BADY - Ms PERIN - Mr RUZIÉ - Ms GRYNBERG - Ms SIGAL - Ms ROTERMUND-REYNARD - Mr RIBEYRE - Ms ANDRIEU - Mr PERROT.*

*Paris, 4 November 2021*

*The Chargé de Mission,  
Hearing Secretary*

*Emmanuel Dumas*

*The Chairman,*

*Michel Jeannoutot*