

Recommendation 5446 M – 5446 BCM

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 application, dated 1 April 2001, submitted by Mrs A., born on ... in ..., now deceased, acting in her personal name and as the heir of her father, Georges Mandel, Minister of the Republic, assassinated by the Militia;

Having regard to the letter from the Principal Rapporteur, dated 13 February 2002, by which the Commission provisionally closed this application as it had not received the introductory questionnaire of the application sent to Mrs A.;

Having regard to the reactivation of the application decided on in December 2017, following the request of Mr B., President of the Société des Amis de ..., son of ..., Principal Secretary of Georges Mandel; application taken over by Mrs C. successor to the rights of her mother, Mrs A., who died in 2003;

Having regard to the statutory declaration, dated 23 October 2018, drawn up by Maître ..., Notary and Partner at the Société Civile Professionnelle, ..., with a business address at ..., from which it appears that Mrs A., divorced in the first marriage from ..., wife in the second marriage of Mr D., born on ... in ..., residing at ..., heir to everything of her father, Georges Mandel, left as heirs, with equal shares, her daughter, Mrs C., the claimant and her husband Mr D.;

Having regard to the resumption of this application by Mr D. following the death of Mrs C. on ...;

Mr D. acting as the spouse entitled to succeed, is represented by Maître ..., whose office is at ...Paris;

Having regard to the deed of acceptance of the estate of Mrs C. drawn up on 25 September 2020 by Maître ..., Notary, practising at ..., by which Mr E., born on ... in ..., residing at ..., in his capacity of universal legatee appointed by a notarised will dated 5 November 2019, accepts, with liability for estate debts limited to the net assets (known as benefit of inventory), the estate of Mrs C.;

Having regard to the e-mail dated 21 January 2021, sent to the Commission, in which Mr E., neither assisted nor represented, involved himself in this application;

Having regard to the research undertaken by the Diplomatic Archives of the Ministry for 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 24 February 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 regard to the last report by Mr AUGUSTIN, Rapporteur, dated 4 January 2021;

Having regard to the statement of Maître ..., dated 10 February 2021, drawn up in the interests of Mr D.;

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

Mr E. was informed of the date of this hearing.

Mr D. and his counsel, Maître ..., appeared before the Commission to make their observations known.

Firstly, it should be noted that the Commission was informed by the Stiftung Preußischer Kulturbesitz, a cultural foundation based in Berlin (10785 - Germany), Von der Heydt, Straße 16-18, of the existence in its collections at the Berlin State Library and Dresden University Library of three books that belonged to Georges MANDEL stolen from his library in PARIS when his apartment was looted by German soldiers in August 1940. These are the following works:

- "De l'Alsace à la Flandre. Le mysticisme linguistique" by René GILLOUIN;*
- "Syrie terre irrédente. L'histoire secrète du traité franco-syrien" by Marcel HOMET;*
- "Air-Afrique. Voie impériale" by Gaston BERGERY;*

As the Foundation expressed its unreserved intention to return these works to Georges Mandel's heirs, the Commission therefore invited the claimants and the Foundation to contact each other in order to mutually agree on the terms and conditions of these restitutions, with the claimants assuming responsibility for sharing these works between them.

Secondly, according to the evidence on file, corroborated by the statements of the claimants and Maître ..., it appears that Georges Mandel was the victim of spoliation as a result of the anti-Semitic legislation in force during the Occupation, namely:

- the looting of personal property with museum value, including the artworks, in the home occupied by Georges Mandel, his partner ... and his daughter Mrs A., at 67 Rue Victor Hugo, Paris (16th arrondissement),*
- the looting of basic household effects at the home with the same address,*
- the looting of Georges Mandel's library, which was located there,*
- the confiscation of gold bars that Georges Mandel had on him at the time of his arrest,*
- the confiscation of the possessions and valuables that Georges Mandel must have had on him at the time of his internment in the Buchenwald camp and then in the Prison de la Santé before being murdered by the Militia in Fontainebleau forest.*

It should be clarified that the nature and quality of the spoliated property preclude any distinction between cultural and so-called material property, with the result that the Commission is obliged to give its ruling in one single opinion.

The research carried out and the results of this research, which are on file, reveal that Georges Mandel's apartment, located at 67 Avenue Victor Hugo, Paris (16th arrondissement), was looted as early as August 1940, at the request of Otto Abetz, the ambassador of the Third Reich in France; in January 1941, 45 boxes of unidentified objects were removed from the apartment; as of 9 April 1941, the Rassemblement National Populaire [National Popular Rally] set up its headquarters there and the rest of the apartment's contents were entirely moved out in early December 1942;

In particular, 14 paintings were stolen by the occupying troops, transported to the Reich embassy in Paris and most probably sent to Germany, while art objects from Georges Mandel's collection were listed in the inventories of the Einsatzstab Reichsleiters Rosenberg (E.R.R.).

Mrs A., daughter of Georges Mandel and a minor at the time, represented by her guardian ..., took various steps during the immediate post-war years seeking the restitution of his spoliated property from the French and German authorities. She drew up an inventory on 31 October 1944.

It contained many valuable, even very valuable, objects (antique or period furniture, antique tapestries, sculptures, a library of 15,000 or 17,000 books according to the documents, stamp collections, silverware, jewellery and a Pleyel upright piano) and in particular artworks, some of which were signed by leading artists (BOUCHER, COURBET, UTRILLO, ROSA BONHEUR, PANNINI, TENIERS, RODIN, CANALETTO), as well as a large quantity of documents and archives.

Although some property was returned between 1946 and 1950, the restitutions mainly concerned furniture (two inlaid chests of drawers, a Chinese screen, two tapestries, one from Flanders (18th century) "Enfant cueillant des fleurs" and the other from Aubusson "Animaux et architectes"), around 300 books and various "painted works" (in particular a painting designated as follows: "École flamande XVIIème- La galerie des tableaux" attributed to David TENIERS, two large canvases by PANNINI entitled "Ruines et personnages", a "portrait de femme assise" by BONVIN, a "portrait d'Astruc" by Carolus Duran, and a seascape by Isabey), as well as boxes of archive papers.

The reality of this looting was recognised after the war by the French authorities, which awarded compensation for war damage of FRF 887,100, and by the German authorities, which, in application of the Brüg Act, awarded compensation of DEM 1,900,000, approved by the German Restitution Offices in June 1960, paid in three instalments between 1961 and 1968, with interest on arrears.

Mrs A. received in total the equivalent of €3,699,110 after conversion to current value.

In her initial application to the German authorities in 1959, she had estimated the replacement value of the looted property at DEM 5,480,000, or €11,481,600 after conversion, but then claimed total compensation of FRF 197,164,000, i.e. DEM 2,366,308, or €4,593,004 after conversion, on the basis of the estimate made by Maître Maurice RHEIMS in 1959 at the earliest.

Regarding the method used to calculate the compensation, it should be noted that the German authorities did not base it either on the lump-sum method that they usually used or on the amount covered by any insurance policy that Georges Mandel might have taken out before the war.

It is highly likely that the German authorities followed the valuation of Maître Maurice RHEIMS for the property in the inventory produced by Mrs A. and the expert's valuation of the stamp collections. The books belonging to Georges Mandel were not included in these valuations.

Consequently, the Commission considers that the compensation paid did not fully compensate the damage suffered. Since the compensation paid by the German authorities under the Brüg Act necessarily covered a very large proportion of the artworks, the compensation already paid in this respect should be supplemented. The Commission therefore retains the expert valuations as relevant elements for determining the amounts.

However, the amounts for furniture and artworks already returned should be deducted from this compensation, namely:

- *Artworks and tapestries, amounting to €223,545 at current value,*
- *Two chests of drawers, with a current value of €3,830,*

▪ *“Portrait d’une jeune femme assise” by Thomas COUTURE, a canvas returned to Mrs C. in 2019, with a current value of €21,290.*

It is also necessary to take into account the valuation of Maître Maurice RHEIMS, which includes the works and objects already returned to Mrs A. several years earlier.

The Commission also considers that Georges Mandel’s library has only been partially returned and that additional compensation should be awarded for this.

Mr B. stated before the Commission that although Georges Mandel was indeed in possession of “two bars of gold” on the day of his arrest in Morocco in 1940, a decision by an investigating judge in Algiers in March 1942 ordered the return of the gold to ...; consequently, there is no reason to grant the application in this respect.

Considering the last head of damage, namely the possessions and valuables that Georges Mandel had on him at the time of his arrest, the Commission considers it fair that compensation be awarded, as no compensation has been paid to date.

Consequently, in the light of the Rapporteur’s investigations, which are detailed in his report and developed during the hearing, it is fair to recommend that the claimants be awarded compensation of €250,000 for all causes of loss (additional library items, additional artworks, additional furniture, and possessions and valuables confiscated at the time of the arrest).

THE COMMISSION IS OF THE OPINION,

1° - That Mr E., as universal legatee of Ms C., and Mr D. should be recognised as heirs of a victim of spoliation arising from anti-Semitic legislation during the Occupation;

2° - That total compensation of €250,000 be awarded, with the sum to be distributed as follows:

- ½, i.e. €125,000 to Mr D.,*
- ½, i.e. €125,000 to Mr E.;*

NOTES that the recommendation will be transmitted, for information, to the Cultural Foundation Stiftung Preußischer Kulturbesitz, located in BERLIN (10785 - GERMANY), Von der Heydt, Straße 16-18, either to:

- Hermann PARZINGER, President of the Foundation,*
- Carola THIELECKE, Head of Legal Affairs,*
- Jana KOCOUREK, Manuscript Department.*

NOTES that the claimants will have to personally handle any sharing of the compensation awarded with any known or future heirs.

NOTES that this recommendation will be transmitted to the Prime Minister’s office and notified

- to the claimants,*
- to Mr B.,*
- to Maître*

-The Ministry for Europe and Foreign Affairs was represented by Mr CHAUFFOUR,

- The Ministry of Culture was represented by Ms CHASTANIER.

During the deliberation, the Commission was composed of Mr JEANNOUTOT - Mr TOUTÉE - Mr BADY - Mr RUZIÉ - Ms DRAI - Ms ANDRIEU - Ms ROTERMUND-REYNARD - Mr RIBEYRE.

Paris, 12 February 2021

*The Chargé de Mission,
Hearing Secretary*

Emmanuel Dumas

The Chairman,

Michel Jeannoutot