

[unofficial translation]

In accordance with Section 3 of the Federal Law of 4 December 1998, Federal Law Gazette (BGBl) I 181, at its meeting of 28 June 2006 the Advisory Board unanimously adopted the following

### DECISION

It is recommended to the Federal Minister for Education, Science and Culture that the special reprint of a newspaper article SA 2866 "Die Mähmaschine in Österreich: Skizzen zur Geschichte der landwirtschaftlichen Geräte" by Siegfried Gerstl, Vienna, 1900, listed in the attached dossier "Siegfried Gerstl" be transferred from the Technisches Museum Wien mit Österreichischer Mediathek to the legal successors of Siegfried Gerstl.

### FOUNDATIONS

Siegfried Gerstl was a Kommerzialrat and court-sworn expert for agricultural machines. He was persecuted on account of his origins and died on 23 September 1938.

On 4 August 1938, Gerstl wrote a letter to the Technisches Museum offering his book collection, old magazines and glass slides (approx. 150 items) as a gift. He stated: "As I might be forced as a Jew to leave ... my home and will be unable to take the above-mentioned books, etc., with me, I would like to ask whether you would be interested in taking them free of charge in the event that I am obliged to emigrate." On 6 August 1938, the director of the Technisches Museum informed Gerstl that the museum was willing to take the books and glass slides offered by him. On 9 August 1938, Gerstl sent the Technisches Museum the said special reprint of his article "Die Mähmaschine in Österreich". The Technisches Museum gratefully confirmed receipt of the reprint in a letter of 10 August 1938. On 22 September 1938, Gerstl informed the Technisches Museum that 200 glass slides and the corresponding negative plates along with over 500 books were ready to be picked up for the museum. These objects were not picked up, probably – as mentioned above – because Gerstl died on 23 September 1938, the day after he wrote to the Technisches Museum urging it to pick up the objects under consideration. Apart from the reprint under consideration, no other volumes from Gerstl's library have in fact been found in the Technisches Museum.

In view of these facts, there can be no doubt that the gift was invalid as a legal transaction under Section 1 of the Federal Law of 15 May 1946, BGBl. 106. According to Section 2.1 of the Third Restitution Act, an asset expropriation is invalid if the owner was subject to political persecution by the Nazi authorities and the acquirer of the asset cannot demonstrate that the asset transfer would also have taken place regardless of the seizure of power by the National Socialists. In its legal decisions, the Restitution Commission has determined that no further proof is required by the court that "Jews in Austria were subjected to political persecution by the Nazi authorities." There can be no doubt that the special reprint under consideration was to be restituted.

As far as can be seen, however, no restitution claim was made, and the invalidity of the gift was not asserted. As a result of this failure to claim under the Third Restitution Act, the State obtained legal title to the special reprint in accordance with Article 22 of the State Treaty in conjunction with the First State Treaty Implementation Act. The material conditions of Section 1.2 of the Restitution Act, namely an invalid transfer of title and a subsequent legal acquisition of title by the State, are therefore met. The conditions of Section 1.2 of the Restitution Act are met and the above-stated recommendation was to be given to the Federal Minister for Education, Science and Culture.

Although the Federal Law of 4 December 1998, BGBl. I 181, refers explicitly only to "art objects", the Board extends this meaning to include the objects under consideration.

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Vienna, 28 June 2006

Chairperson

Sektionschefin Dr. Brigitte Böck

Members

Vizepräsident Dr. Manfred Kremser, Office of the Financial Procurator  
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

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