



RETURN TO AN ADDRESS OF THE
HONOURABLE THE HOUSE OF COMMONS
DATED WEDNESDAY 11 JUNE 2008 FOR THE

**REPORT OF THE SPOILIATION ADVISORY
PANEL IN RESPECT OF PIECES OF
PORCELAIN NOW IN THE POSSESSION
OF THE BRITISH MUSEUM, LONDON
AND THE FITZWILLIAM MUSEUM,
CAMBRIDGE**

The Right Honourable Sir David Hirst

*Ordered by the House of Commons
to be printed Wednesday 11 June 2008*



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REPORT OF THE SPOILIATION ADVISORY PANEL IN RESPECT OF PIECES OF PORCELAIN NOW IN THE POSSESSION OF THE BRITISH MUSEUM, LONDON AND THE FITZWILLIAM MUSEUM, CAMBRIDGE

Introduction

1. In these two cases we are considering claims by Mrs Bertha L Gutmann of Caldwell, New Jersey, against the British Museum and the Fitzwilliam Museum in respect of pieces of porcelain in their collections. Mrs Gutmann (the claimant) makes her claim as the sole heir of her uncle Heinrich Rothberger (1868-1953), from whom she asserts the Gestapo seized the porcelain in Vienna in 1938. She has asked the Panel to consider jointly the two claims, which overlap to a significant degree. Both Museums assent to this joinder and do not dispute her claims.

The Panel's Task

2. The task of the Spoliation Advisory Panel is to consider claims from anyone, or from their heirs, who lost possession of a cultural object during the Nazi era (1933-45) where such an object is now in the possession of a UK museum or gallery established for the public benefit, such as these two museums, and to advise the Secretary of State for Culture, Media and Sport on what action should be taken in relation to the claim (see our Constitution and Terms of Reference at Appendix).

3. In making this report we have considered in each case the joint submission by the Museum and the claimant, in order to decide whether Heinrich Rothberger was deprived of the pieces as a result of spoliation and, if so, to assess the moral strength of the claimant's case, to decide whether any moral obligation rests on the institutions and to recommend the appropriate remedy.

Heinrich Rothberger's business and collection

4. The history of Heinrich Rothberger (Heinrich) and of the fate of his art collection has been authoritatively researched and published in 2003 by Sophie Lillie in *Was Einmal War: Handbuch der enteigneten Kunstsammlungen Wiens*, (Vienna, 2003) (What Once Was: a Handbook of Vienna's Expropriated Art Collections). Heinrich was one of the eight children of Jacob Rothberger (the claimant's grandfather) who in 1886 founded a department store facing on to the Stephansplatz, Vienna's central square. Following Jacob's death in 1899, the firm was run by Heinrich and his brothers, who successfully carried on the business through the First World War and into the 1930s. In 1938, following the *Anschluss* of Austria to Nazi Germany, the firm was "aryanised" and Heinrich's collection was seized by the Gestapo and dispersed. Heinrich fled with his wife via Cuba to Canada, where he died in 1953.

Mrs Gutmann's status as claimant

5. Mrs Gutmann has conclusively established her title as Heinrich's sole heir through a sequence of family wills, starting with Heinrich's, all of which are in evidence before us.

The British Museum Claim

6. This claim relates to a rare and distinctive Viennese (Du Paquier) dish (or plate) of hand-paste porcelain ("the dish"). The size and décor of the dish mark the piece as exceptional for the Du Paquier factory around 1725-30. Only four other examples have been traced. The British Museum ranks it as an item of considerable importance to its collection.

7. The British Museum has submitted a report dated 18 July 2007 by Dr Aileen Dawson, Curator, Department of Pre-History and Europe, which states as follows:

“I am responsible for British Museum collections dating between 1660-1800 and have worked as a curator in the Department, now known as Prehistory and Europe, since 1976. I have published widely on post-medieval glass and ceramics in the Museum collections.

I think it very likely that the Du Paquier (Vienna) porcelain dish (reg. no. 1939,3-2,1) was the dish that was in the Rothberger Collection when it was published by J. Folnesics and Dr E.W. Braun, *Geschichte der KK Wiener Porzellan-Manufaktur*, Vienna, 1907, Tafel II, no. 4. No other dish like this one had been traced, and pieces of this size and décor are rare, so it is not unreasonable to identify the British Museum example with the illustration in this volume. Although the illustration was evidently hand-coloured, since colour printing had not yet been introduced, close comparison of the colour plate with the porcelain dish strongly suggests that the Museum dish is the one shown in the 1907 publication. On p.19 the dish is described by Folnesics and Braun as ‘ein interessantes vereinzelt Stück’, i.e. ‘an interesting and singular piece’, showing that in the opinion of these eminent scholars it was a highly unusual example.

The dish is one of the most attractive and important examples of early Vienna porcelain in the British Museum collection, which includes the earliest dated piece, as well as several other exceptional products from this factory. The judgement of the two eminent scholars Folnesics and Braun on the dish is still valid today.

It seems likely that the dish remained in the Rothberger family, since it is an exceptional and attractive piece, and the family had no need to disperse their collections in the following decades. This would accord with general collecting practice in wealthy European families, such as the Rothschilds, for instance, who maintained their collections intact over a long period of time. The dish is particularly associated with Viennese history and culture, and so it is unlikely that it would have been sold. Dispersal of the collection because of deaths in the family is also unlikely, as shown by the short family tree.

It is therefore not only possible but likely that the dish was still in the Rothberger family in 1938 when items of porcelain were seized by the Nazis. On a surviving list of pieces confiscated by the Gestapo in summer 1938, published by Sophie Lillie in *Was Einmal War* (Vienna, 2003), are two Vienna plates, one of which might well have been the British Museum piece. In the sale held in Berlin by Lange on November 18-19 1938, only lot 607 can be identified with the dish in the British Museum, but this lot is excluded from the list of pieces owned by ‘R’ (i.e. Rothberger) given at the front of the sale catalogue. On the evidence of the 1907 catalogue, there may be an error in the 1938 sale catalogue, since the dish appears to be unique.

The dish was presented to the British Museum in 1939 by William King, a member of staff of the Museum and former employee of the Victoria and Albert Museum. It is not known how he acquired it, but it is likely that, as a ceramic specialist of considerable experience who was fluent in several European languages and had wide contacts in Europe, he knew the Rothberger collection and might have seen it in Vienna.”

8. The 1907 Folnesics and Braun catalogue, the 1938 list published by Sophie Lillie and the 1938 Lange sale catalogue are all in evidence before us.

9. We accept Dr Dawson’s conclusion that the British Museum dish is the self-same object as that portrayed in the 1907 catalogue, seeing that it is a rare object, the size, pattern and colouring of which are virtually identical with that illustrated as lot 607, after making due allowance for the hand-colouring in the catalogue.

10. We also consider that, for the reasons given by Dr Dawson, it is unlikely that the dish would have been sold between 1907 and 1938, and that it is therefore probable that it formed part of the collection seized by the Gestapo in 1938, as is borne out by the inclusion in Sophie Lillie’s list of the two Vienna plates, one of which may very well be the dish in question.

11. Lot 607 in the Lange catalogue can be identified with the dish, but is not listed among the enumerated list of items marked 'R Wien' which are attributable to the Rothberger collection. However, since Lot 607 is not mentioned in any of the other enumerated lists attributable to other collections seized at the same time, we accept Dr Dawson's opinion that on the balance of probabilities, Lot 607 was omitted in error from the Rothberger list.

12. The British Museum's legal title to the dish is impregnable, since any legal claim to it is time-barred under the Limitation Act 1939 (as amended) which extinguishes an owner's right to sue, even against a thief. However, under our Terms of Reference, paragraph 12(e), we must "give due weight to the moral strength of the claimant's case".

13. Manifestly, the claimant, as Heinrich's sole heir, has a strong moral claim, given the clear evidence of spoliation in 1938.

14. We have no doubt that the British Museum acquired the dish in good faith from William King in 1939. Nowadays, it would be a standard precaution to investigate its provenance at the time of acquisition, but this was far from being the universal practice in 1939 and we do not criticise the British Museum for not having done so at that time.

15. The parties propose as a preferred solution the following:

"Mrs Gutmann be compensated on an ex gratia basis in a sum recommended by the Panel and reflecting the value of the dish to be established in the light of independent valuations provided to the Museum by Bonhams (in March 2006) and to Mrs Gutmann by Sotheby's and any valuations on behalf of the Panel;

the dish remains in the collection of the British Museum; and that

the Museum will, whenever the dish is published or exhibited, acknowledge that it once belonged to the collection of Heinrich Rothberger and rehearse the circumstances of its expropriation and sale by the Nazis, and the generous goodwill of the heir of Heinrich Rothberger in agreeing that it should remain in the British Museum."

16. This proposal reflects the fact that restitution of the dish is debarred by Section 5 of the British Museum Act 1963.

17. We expect that, had restitution been available, the claimant would have sought it, as she has done in the Fitzwilliam Museum case (see below). In our 2003 report in respect of the British Library manuscript (HC 406), we recommended that the 1963 Act should be amended so as to permit restitution in cases where the Panel has upheld a claim in respect of an object wrongfully taken during the period 1933-1945. This recommendation has not been implemented and, so far as we can judge, is not likely to be in the near future. Therefore it would not be realistic or fair to the claimant to defer our decision in the present case.

18. We have been furnished with three valuations, by Sotheby's on behalf of the claimant, by Bonhams on behalf of the British Museum, and by Mr Errol Manners on behalf of the Panel as follows:

Sotheby's	£12-£18,000
Bonhams	£16,000
Manners	£20,000

19. Mr Manners comments that the pattern is "distinctive and unique to the factory, the parrot being particularly attractive to a collector".

20. Taking the three valuations into account, and bearing in mind that if the dish had remained in the family's possession they would probably have incurred insurance expenses, we have concluded that a fair valuation is £18,000.

21. In previous reports (e.g. our 2001 Report on the Tate Gallery painting, HC 111) we have recommended an *ex gratia* payment by the Government in accordance with the advice received from the Lord Chancellor that, in such circumstances, it will be the Government which will have to provide financial compensation or introduce legislation to enable the object to be returned (see Tate Report, paragraph 67(2)).

22. This appears to us to be a reasonable outcome, seeing that we are informed by the British Museum that the dish has been exhibited and studied, and that it is and will continue to be publicly available by appointment for study at its Ceramic Study Centre in Montague Street. This policy will secure a public benefit and consequently we think it is fair for the taxpayer to fund the *ex gratia* payment.

23. We therefore recommend in the British Museum case that the Government should make an *ex gratia* payment of £18,000 to the claimant, and that the British Museum should provide the acknowledgement proposed in the parties' preferred solution recorded in paragraph 15 above.

The Fitzwilliam Museum Claim

24. This claim concerns a *Sèvres seau crennelé* or monteith used for cooling glasses ("the monteith"). It forms part of a service manufactured in the Sèvres factory in 1768.

25. The then Director of the Fitzwilliam Museum, Mr Duncan Robinson, has submitted evidence as follows:

"The claim relates to a distinctive *Sèvres seau crennelé* (monteith) of soft-paste porcelain registered in the collection of the Museum as C.38-1961. The monteith bears the factory mark, interlaced Ls enclosing the date letter P for 1768, with above cp the mark of the painter, Antoine-Joseph Chappuis. The *seau crennelé* is decorated with a *bleu celeste* ground, polychrome bird painting in the two reserves, and gilding. The underside is inscribed in black enamel: 'petit mankuin/La pompadour' and 'pie bleu/des Indes/pie de D'anemare'. On the base of the dish is a narrow rectangular paper label hand-written in black ink 'Collection of/Rothberger/Vienna'. The monteith belongs to a group surviving from a service whose gilding features swags of husks, and frames to the reserves tooled with scrolling leaves. The Museum also has two *comptiers ronds* from this service, and two *plateaux-corbeilles lozanges à jour*, which have the same gilding design and are possibly additions to the service, dated 1769. The monteith is therefore of considerable importance to the Museum's collection.

The story of Heinrich Rothberger and the fate of his porcelain collection after the Anschluss has been authoritatively researched and published in German by Sophie Lillie in *Was Einmal War: Handbuch der enteigneten Kunstsammlungen Wiens* (What Once Was: Handbook of Vienna's Plundered Art Collections (2003; ISBN 3-7-76-0049-1). Briefly, the family department store was "aryanised" in 1938 and the Gestapo seized the family's assets including Heinrich Rothberger's collection. Sophie Lillie's book includes a list of items removed from the Rothberger apartment. This does not include a *seau crennelé*, but does include '1 Sèvres-Blumenschale' which might have been the description given to it by a person who did not know its function. Rothberger fled with his wife to Cuba and after the end of the War settled in Canada. On 18 and 19 November 1938 a sale was held by Hans W. Lange of Berlin which included 'Porzellan aus Sammlung R., Wien', a reference to the Rothberger porcelain collection.

Lot 747 in the sale was described on page 102, in terms which reasonably resemble the description of the monteith in the Museum's collection, but identified the date letter P as 1767 instead of 1768, 'Ovale Jardinière mit zwei Blattgriffen und stark gewelltem Rand. Türkisblauer Fond, darin zwei ovale Reserven mit farbigen Vögeln in Landschaften. Reicher radierter und geshöhter Golddekor. Doppel-L-Marke und Jahresbuchstabe p. Sèvres, 1767. H. 13 cm, Durchm. 30: 13 cm'. On the page of the sale catalogue which listed the lots alongside the names of the owners, this lot, 747, was included in the property of 'R. Wien'.

The Panel will note that the description of Lot 747 does not mention the names of the birds written on the base of the object. While it is not unusual for sale catalogue entries to omit details, in this case the omission creates an element of doubt because Lot 747 was not illustrated, and because we are not certain of its provenance before Heinrich Rothberger. The service to which the Fitzwilliam's C.38-1961, and the two *compotiers ronds* in the Fitzwilliam with similar gilding designs belonged, has been identified by David Peters, as probably part of a service sold by the factory on 5 November 1768 which included six *seaux crennelés* (see David Peters, *Sèvres Plates and Services of the 18th Century*, vol. II, pp. 401-2). In 1906 four monteiths from this service, two said to be painted by Aloncle and two by Chappuis, were exhibited in London by Asher Wertheimer and were subsequently sold. Two of these, one dated 1768 by Aloncle, and one undated are now in the Dodge Collection in the Detroit Institute of Arts. The Museum has not so far been able to discover if its monteith was one of the two attributed to Chappuis, or one of the two others known to have existed but not traced. Neither have we discovered whether the one sold in 1938 was one of those sold by Wertheimer or one of the other two.

The *seau crennelé* in the Museum's collection was bequeathed to it in 1960 by Louis C.G. Clarke, LL.D., Director of the Fitzwilliam Museum 1937-46. It had entered his collection at Leckhampton, Cambridge, before October 1948 when the collection was valued there by Sotheby's. It was in the 'Plum Room Cabinet', and was stated to be 'From the Rothberger Collection, Vienne' (*sic*). The *seau crennelé* was described as a 'Sèvres oval jardinière of crinkled Monteith-type rim . . .', and was valued at £230. There was no indication in the valuation of how Clarke acquired the piece, nor has the Museum been able to ascertain the circumstances of his acquisition.

The Museum believes that, despite the element of uncertainty described above, given its size, form, and decoration, the monteith C.38-1961, is likely to be that described in the sale catalogue of 1939, and this is supported by the label on its base, and the statement in Sotheby's inventory of Louis C.G. Clarke's collection in 1948. The description of the monteith as a 'jardinière' in the sale catalogue and in Clarke's inventory would appear to support the likelihood that it could have been the object listed as a '1 Sèvres-Blumenschale' in the list of porcelain in Rothberger's apartment published by Lillie. On the basis of the known research there is no reasonable basis to suppose that the proceeds from the 1938 sale were used to discharge any genuine liability of Heinrich Rothberger to the German State. Nor is there evidence that he ever received any of the sale proceeds himself. The evidence is that the porcelain collection was wrongfully taken from Heinrich Rothberger by the Nazi regime."

26. Although, as Mr Robinson indicates, the description in Sophie Lillie's list is not conclusive, we consider that his appraisal, coupled with the attribution to the Rothberger collection, both on the label and in Dr Clarke's valuation list, is sufficient to prove, on the balance of probabilities, that the monteith formed part of the Rothberger collection prior to 1938. This evidence is reinforced by the inclusion of the monteith in the Lange sale which links it directly to the Rothberger collection, as shown in the ensuing paragraph.

27. The evidence that the monteith was included in the Lange sale as Lot 747 is notably strong. Apart from the date, the description in the catalogue is entirely consistent and we do not regard the erroneous date, or the omission of the birds' identification, as grounds for significant doubt, particularly bearing in mind that Lot 747 is listed among the enumerated Rothberger items marked 'R. Wien'.

28. For the same reason as that given in paragraph 12 above, the Fitzwilliam Museum's legal title to the monteith is impregnable, so the case hinges on the moral strength of the claim.

29. In this case, it is manifest that the claimant has a strong moral claim.

30. We have no doubt that the Fitzwilliam Museum acquired the monteith in good faith from its one-time Director, Dr Louis Clarke, as a bequest from his private collection. The question does, however, arise whether the Fitzwilliam Museum should have investigated its provenance when it was acquired in 1960. That it originated in the Rothberger Collection was apparent both from the Clarke valuation list and from the label.

31. Mr Robinson testifies that, although the Fitzwilliam Museum was aware that the monteith's provenance between 1933 and 1945 was unaccounted for, it was not aware of the circumstances of the disposal of the Rothberger collection until 2003 when it received information about the sale, together with the relevant pages of Sophie Lillie's book, from the British Museum. It was listed on the National Museum Directors' Conference (NMDC) Spoliation website in early 2006.

32. In response to a further enquiry to the Fitzwilliam Museum from the Panel, Dr Julia Poole FSA, Keeper of Applied Art, responded as follows:

“Until I was told by the British Museum that the Rothberger Collection in Vienna was one which had been seized and sold against its owner's wishes, the Museum had regarded the provenance given in Louis Clarke's 1948 inventory and the label on the bottom of the object as evidence of it having been in an ordinary private collection in Vienna. There was no indication that it had been bought in a sale, or from whom Louis Clarke bought it. Unfortunately in the crucial period 1933-45 and until the 1960s many very large collections of European and Oriental decorative art came into the Museum, and the amount of research of any kind which could be done was limited. There was no Keeper or Assistant Keeper of Applied Art then. J.P. Palmer, the first Keeper, began to catalogue the Vincennes and Sèvres, and his notes show that he did research provenances, but he did not discover the history of this piece.”

33. Supplementing his evidence, Dr Poole informed us that in 1960 there was no Department of Applied Art in the sense of a department with dedicated staff. Cataloguing was carried out by the Assistant Director and by volunteers, and the amount of time which this tiny group of staff could have devoted to provenance research would have been very small.

34. The Clarke bequest was, in Dr Poole's words, “huge”. It was described in the Museum's 1961 Annual Report as one of the most important bequests received by the Museum both in quality and extent. The bequest comprised hundreds of Old Master paintings, drawings and miniatures, a large quantity of porcelain including 72 pieces of French porcelain from the Vincennes and Sèvres factories, a wealth of other precious objects and hundreds of manuscripts and original letters, including for example 336 letters of Voltaire, mostly autograph.

35. In the light of this evidence, it is clear that the Museum was understaffed and lacked the professional expertise to undertake the necessary research. Consequently, we do not think that the Museum should be criticised for failing to establish, at the time of acquisition, the provenance of this one item from this enormous collection.

36. The claimant seeks restitution and, as already noted, has a strong moral claim. There is no statutory bar affecting the Fitzwilliam Museum. The monteith forms part of a surviving group from a service featuring four other pieces owned by the Museum and is therefore, in Mr Robinson's words, of considerable importance to the Museum's collection. On balance, however, we have concluded that restitution is the appropriate remedy.

37. Accordingly, in the Fitzwilliam Museum case, we recommend that the monteith should be restituted to the claimant.

DATE Wednesday 11 June 2008

The Rt Hon Sir David Hirst – Chairman
Sir Donnell Deeny
Professor Richard J Evans
Sir Terry Heiser
Professor Peter Jones
Martin Levy
Peter Oppenheimer
Professor Norman Palmer
Ms Anna Southall
Dr Liba Taub
Baroness Warnock

Appendix: Terms of Reference

APPENDIX

SPOLIATION ADVISORY PANEL CONSTITUTION AND TERMS OF REFERENCE

Members of the Panel

1. The members of the Spoliation Advisory Panel (“the Panel”) will be appointed by the Secretary of State on such terms and conditions as he thinks fit. The Secretary of State shall appoint one member as Chairman of the Panel.

Resources for the Panel

2. The Secretary of State will make available such resources as he considers necessary to enable the Panel to carry out its functions, including administrative support provided by a Secretariat (“the Secretariat”).

Functions of the Panel

3. The task of the Panel is to consider claims from anyone (or from any one or more of their heirs), who lost possession of a cultural object (“the object”) during the Nazi era (1933 -1945), where such object is now in the possession of a UK national collection or in the possession of another UK museum or gallery established for the public benefit (“the institution”). The Panel shall advise the claimant and the institution on what would be appropriate action to take in response to such a claim. The Panel shall also be available to advise about any claim for an item in a private collection at the joint request of the claimant and the owner.

4. In any case where the Panel considers it appropriate, it may also advise the Secretary of State:

(a) on what action should be taken in relation to general issues raised by the claim, and/or

(b) where it considers that the circumstances of the particular claim warrant it, on what action should be taken in relation to that claim.

5. In exercising its functions, while the Panel will consider legal issues relating to title to the object (see paragraph 7(d) and (f)), it will not be the function of the Panel to determine legal rights, for example as to title.

6. The Panel’s proceedings are an alternative to litigation, not a process of litigation. The Panel will therefore take into account non-legal obligations, such as the moral strength of the claimant’s case (paragraph 7(e)) and whether any moral obligation rests on the institution (paragraph 7(g)).

7. Any recommendation made by the Panel is not intended to be legally binding on the claimant, the institution or the Secretary of State.

8. If the claimant accepts the recommendation of the Panel and that recommendation is implemented, the claimant is expected to accept the implementation in full and final settlement of his claim.

Performance of the Panel’s functions

9. The Panel will perform its functions and conduct its proceedings in strictest confidence. The Panel’s “proceedings” include all its dealings in respect of a claim, whether written, such as in correspondence, or oral, such as at meetings and/or hearings.

10. Subject to the leave of the Chairman, the Panel shall treat all information relating to a claim as strictly confidential and safeguard it accordingly save that (a) such information which is submitted to the Panel by a party/parties to the proceedings shall normally be provided to the other party/parties to the proceedings in question; and (b) such information may, in appropriate circumstances, including having obtained a confidentiality undertaking if necessary, be communicated to third parties. "Information relating to a claim" includes, but is not limited to the existence of a claim, all oral and written submissions, oral evidence and transcriptions of hearings relating to a claim.

11. In performing the functions set out in paragraphs 3 and 4, the Panel's paramount purpose shall be to achieve a solution which is fair and just both to the claimant and to the institution.

12. For this purpose the Panel shall:

(a) make such factual and legal inquiries (including the seeking of advice about legal matters, about cultural objects and about valuation of such objects) as the Panel consider appropriate to assess each claim as comprehensively as possible;

(b) assess all information and material submitted by or on behalf of the claimant and the institution or any other person, or otherwise provided or known to the Panel;

(c) examine and determine the circumstances in which the claimant was deprived of the object, whether by theft, forced sale, sale at an undervalue, or otherwise;

(d) evaluate, on the balance of probability, the validity of the claimant's original title to the object, recognising the difficulties of proving such title after the destruction of the Second World War and the Holocaust and the duration of the period which has elapsed since the claimant lost possession of the object;

(e) give due weight to the moral strength of the claimant's case;

(f) evaluate, on the balance of probability, the validity of the institution's title to the object;

(g) consider whether any moral obligation rests on the institution, taking into account in particular the circumstances of its acquisition of the object, and its knowledge at that juncture of the object's provenance;

(h) take account of any relevant statutory provisions, including stipulations as to the institution's objectives, and any restrictions on its power of disposal;

(i) take account of the terms of any trust instrument regulating the powers and duties of the trustees of the institution, and give appropriate weight to their fiduciary duties;

(j) where appropriate assess the current market value of the object, or its value at any other appropriate time, and shall also take into account any other relevant circumstance affecting compensation, including the value of any potential claim by the institution against a third party;

(k) formulate and submit to the claimant and to the institution its advice in a written report, giving reasons, and supply a copy of the report to the Secretary of State, and

(l) formulate and submit to the Secretary of State any advice pursuant to paragraph 4 in a written report, giving reasons, and supply a copy of the report to the claimant and the institution.

Scope of Advice

13. If the Panel upholds the claim in principle, it may recommend either:
- (a) the return of the object to the claimant, or
 - (b) the payment of compensation to the claimant, the amount being at the discretion of the Panel having regard to all relevant circumstances including the current market value, but not tied to that current market value, or
 - (c) an ex gratia payment to the claimant, or
 - (d) the display alongside the object of an account of its history and provenance during and since the Nazi era, with special reference to the claimant's interest therein; and
 - (e) that negotiations should be conducted with the successful claimant in order to implement such a recommendation as expeditiously as possible.
14. When advising the Secretary of State under paragraph 4(a) and/or (b), the Panel shall be free to recommend any action which they consider appropriate, and in particular may, under paragraph 4(a), direct the attention of the Secretary of State to the need for legislation to alter the powers and duties of any institution.



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