

**Sotheby's Restitution symposium, Vienna Friday 11th May 2007**

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**ca. 15 min.**

## The National Fund – Activities in Art Restitution

Ladies and gentlemen,

As all of you will be well aware, the story which one can tell about Austria since 1945 is quite long and pretty complex. Questions of restitution and compensation for those who suffered persecution from the National Socialist Regime are one essential aspect of Austria facing her own history. Decades have passed during which the attitude towards reparation in Austria continually changed and a more critical review of Austria's role during World War II was attempted. In my capacity as Secretary General of the National Fund I would like to focus in particular on the steps undertaken over the last decade in the search for historical truth and compensation.

When looking at Austria's attempts to confront her past and face responsibility for persecution perpetrated during the Nationalist Socialist

regime, we need first to ask, what the **meaning of “compensation”** could possibly be in this context. In fact, faced with the most hideous crimes ever to have been committed against humankind, the question arises whether there can be any compensation at all.

As all of us are aware, **no** payment can make up for the losses which these people sustained.

More generally, a legal and an ethical interpretation could be given to the idea of compensation. The legal definition seems ready at hand: restitution or monetary reparation given to the victims and their heirs. On the other hand, it seems very difficult to give any ethical definition. Terms come to mind like recovery of dignity, freedom, and identity. Quite separate from this, another aspect of this ethical answer will most likely include a quest for historical truth and the acknowledgment of moral responsibility.

For a long time, Austria has given only a **legal answer** about her role during World War II. From the point of view of international law as well as national politics, Austria heavily relied on the Moscow Declaration. In that declaration, the governments of the United Kingdom, the Soviet Union, and the United States agreed already in 1943 – well before the war

ended – on a formula stating that Austria was the first country to fall victim to Hitler’s aggression. As an occupied country of Nazi Germany liberated by the Allies, Austria after the war could not be held legally responsible for the wrongful acts carried out by the Nazi regime of the German Reich on Austrian territory.

In fact, the official Austria assumed willingly her role as the first victim of the aggression-politics of Hitler’s Germany. This legal position, soon to be called the “Victim’s Theory”, became a synonym for the reluctance to face responsibility. For many years, Austrian society’s dealings with its role under the National-Socialist Regime seemed effectively overshadowed by a taboo. In this atmosphere of denial, on the one hand, and a democratic redefinition of a society in the aftermath of war and terror, on the other, the restitution of looted property to the victims became only one of the facets of coming to terms with the past.

Several Restitution acts were adopted in the first decade after WW 2, but still to many gaps and deficiencies remained unfilled in the compensation and restitution of stolen property.

It is only during the last few years that the other provision contained in the *Moscow Declaration* was fully observed: Austria “has a responsibility

which she cannot evade for participation in the war on the side of Hitlerite Germany”.

The overall atmosphere changed considerably during the presidential election campaign in 1986. It was overshadowed by a discussion on the responsibility of Dr. Kurt Waldheim for his participation in World War II. His statement: “I only did my duty” gave way to a major discussion on the “why” and “how” of history as well as the understanding that an in depth discussion was in highest need.

In the wake of this new political era of confrontation with the past, Austria has left behind her purely legal interpretation of compensation for the victims, and, in view of a more ethical interpretation, has started to assume its part of the moral responsibility in the crimes perpetrated by the Nazi regime. As a result, new compensation laws have been enacted

On the occasion of the Republic of Austria’s 50<sup>th</sup> anniversary in 1995 the law creating the National Fund was enacted.

The former President of the National Assembly, who was also the chairperson of the board of trustees of the National Fund, Heinz Fischer said, that *“the establishment of the National Fund should represent the*

*recognition of our moral responsibility and the wrong inflicted on humanity in Austria by Nazism, and recognise that **special help** should be given to the victims, recognising the fact that the suffering can in no way be “repaired”.*”

Since 1995, more than € 150 million have been paid out to more than 29.400 individuals. Most of the victims live today in the USA, Israel and Great Britain, some as far as Malawi, Zambia and Thailand.

Beyond this, for several years we have also been active in the field of art restitution. By searching for heirs the National Fund supports art restitution institutions and, since October of last year, conducts an art database.

How did this come about?

Pursuant to the **Art Restitution Law of 1998**, art objects which are still wrongly located in Austrian federal museums and collections are supposed to be handed over to their original owners or their legal successors. The Art Restitution Law authorizes the responsible Federal Minister to transfer those objects whose owners cannot be established for further use to the National Fund.

In 1999, the City of Vienna per decision of the local council has implemented a comparable regulation. Equally, in most provinces, laws or resolutions concerning art restitution were passed. Beyond that, the Tyrol Regional Museum Ferdinandeum is making efforts in clarifying the museal holdings and in investigating possible beneficiaries.

The appointment of the National Fund with this task explains itself as already mentioned from the fact that the Fund was installed 1995 with the National Assembly with the aim of “expressing the special responsibility towards victims of National Socialism.”

## **Use**

The dedication of the proceeds coming from the “heirless” art objects, which will be transferred after the conclusion of the provenance research to the National Fund, underlies a separate regulation in the National Fund Law. Pursuant to Sec. 2a of the National Fund Law only those persons are entitled to receive payments who have suffered damages and losses due to direct persecution by the National Socialist regime. However, not so their heirs. Beyond this, projects for the aid and support of victims of the National Socialist regime can be funded.

## **Searching for Heirs**

For many years now, the National Fund has been represented as a critical observer in institutions for provenance research of the Republic of Austria and of the City of Vienna and has supported institutions entrusted with the search for heirs by contacting the legal owners as well as their legal successors. Further, very often the National Fund or the General Settlement Fund, respectively, is the first point of reference for persons who are in search of art objects which have been seized during the National Socialist regime. For instance, we have been working together for many years with the Commission for Provenance Research of the Federation and of the City of Vienna. At this point, I sincerely would like to thank them for this fruitful cooperation.

## **Art Database**

In order to sensibly use the time passing until the use of the objects, which have been transferred to the Fund as “without heirs”, the idea of an art database was conceived in the National Fund. This database was supposed to record and publish the object data necessary for a future auctioning. Through this, we also wanted to make it possible for former owners and heirs to regain art objects before a possible public sale.

Since summer 2005, during talks with museums, provenance research institutions and the Jewish Community, it became clear that the database should also contain objects, which – apart from heir search – also need the search for further indications of questionability respectively harmlessness.

The art database is online since mid-October of the foregoing year. Since then it has been accessed more than 55000 times.

The database contains a catalogue arranged according to categories with several thousand cultural and art objects which today are located in museums and collections of the Republic of Austria or of the City of Vienna. According to the most current results of provenance research a part of these objects was seized during National Socialism. In regard to other objects, the questionability of the provenance is still to be clarified. Especially the publication on the internet is supposed to make a contribution here.

Among other information, descriptions of the state, size and origin as well as information on a possibly pending art restitution procedure can be looked into. This data is regularly submitted to the National Fund by the

museums and institutions for provenance research. This cooperation makes it possible to regularly update and complete the art database. Through this it is possible to allow for an update according to the latest results of provenance research.

### **Number of Objects**

Currently the art database contains approximately 8000 objects from federal museums (approx. 4000) and from the City of Vienna (approx. 4000). Further 1000 records are currently being processed.

About 6500 objects are print works, manuscripts as well as photographs and prints. The categories paintings, drawings and handcraft contain information on further 800 objects. The remaining objects are allocated in other categories like coins, clothing and furniture.

2620 objects from the mentioned 8000 objects have been declared as restitutable by the Restitution Commission Vienna. This means that these objects have definitely been seized and, should it be possible to find prior owners or their descendants, are to be restituted to them. In regard to the remaining objects the restitutability respectively the questionability concerning their origin is still to be clarified. Through the

publication of these objects in the art database we hope to obtain useful indications.

Should it be impossible to find entitled persons, the National Fund will comply with its legal assignment to sell those objects handed over to the Fund. A concrete date for this can only be contemplated after the clarification of which objects are actually going to be transferred to the National Fund.

The holdings of the database embrace different kinds of art and cultural objects. The largest part represents personal objects as books, photos and letters as well as furnishings to paintings. Examples for the variety of the objects can be found in the art database under “selected exhibits” as for example the sculpture “Fo-Dog” (from the MAK collection) or the musical manuscript “Boy Scouts’ March” by Benedikt Walter (from the Austrian National Library).

Currently the art database is available on the internet in German under [www.kunstrestitution.at](http://www.kunstrestitution.at). The English version will be ready hopefully within the next 2 months.

## **Search for Art Objects**

It is possible to selectively search the art database by objects as well as according to art genres (categories) and other individual aspects. Further, the database is conceived in such a way so that it can be easily and quickly utilized also by unpractised internet users.

If art objects are recognized in the art database or should somebody have information concerning their origin the databank users can directly contact the respective museum or the Federal Commission for Provenance Research. Concerning each object, the museum, in which the respective object is to be found, can be contacted by point-and-click. These enquiries are than directly processed by the responsible provenance researchers in the museums.

However, we also clarify in the art database that the information published in the database represents temporary results of provenance research in Austria and for this reason an entitlement to the restitution of the objects cannot automatically be deduced.

## **“Success”**

In certain cases, in cooperation with the Vienna Museum, the National Fund was able to determine potential legal successors already before

the art data base went online. Such as the cases regarding the work of the Viennese painter Malva Schalek [murdered in Terezin] (portrait of Max Pallenberg) or regarding the Leopold Weinstein collection (paintings by Windhager and Hampel).

Further, in cooperation with the Commission for Provenance Research, we were able to find the heiress of the painting by Egger-Lienz “Dance of Death III” in California. Due to indications made to the Fund, it was possible to find an American group of inheritors of the collection which belonged to the sisters Elise and Helene Richter (mainly documents and books from the National Library as well as from the Vienna Library). However, in this case it hasn’t been clarified yet whether these are the only heirs.

Since its existence, numerous requests have been made and the art database has been accessed as mentioned before more than 55000 times. During the first weeks after the database went online, the “Commission for Looted Art” in London was able to definitely identify a painting directly in the art data base of the National Fund and to contact the museum in question (Adriaen von Ostade, “In a Farmhouse Room”, Museum of Art History).

## Summary

However, the success of the art database cannot be reduced to the number of single accesses to the data or the enquiries made with the museums.

One of our main goals and concerns was the linking and standardized presentation of the data, which result in the creation of an overall picture of contemporary provenance research in museums of the Republic of Austria and the City of Vienna as well as the increase of transparency in the field of art restitution. Through this we wish to make a contribution to Austrian provenance research.

Apart from this contribution to the transparency of the ongoing provenance research the art database of the National Fund is a further component in raising people's awareness of a problematic legacy. By placing publicly owned objects with a provenance in Austria's Nazi past in the world wide web the National Fund is also contributing to a self-critical and at the same time open minded cultural memory of this country.

But above all - Memory is a key word for our work and the essential commitment of the National Fund: As much as our efforts in enabling the restitution of stolen property to its rightful owners is of importance, there lies an even deeper importance in the safekeeping and the publication of art collections and other valuables linked to this country's past: What is important are not art collections or bank accounts as such, but the memory of the victims they belonged to. Sometimes the only thing which is left from a whole family is a personal link to an object of art reappearing after 60 years in a museum. It is now our legacy to keep this memory alive or as Eli Wiesel put it:

“Memory is our fortune, our only fortune”.