PRESS RELEASE

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Restitution

**Ukraine returns Koenigs’ drawings**

But the 139 works go to Dutch State, not collector’s heirs

A group of 139 looted Old Master drawings has been returned from Ukraine to the Netherlands: heads Martin Bailey July 2004 in The Art News Paper.

Ten years later, April 30, 2014 the Restitution committee affirms Martin Bailey’s insight, by handing their advice on the Koenigs’ drawings restituted by Ukraine (RC 1.35) to the Minister of Culture. The collector’s heirs are denied restitution.

EXHIBITION OF THE KOENIGS DRAWINGS FROM KYIV

July 8, 2004 President Kuchma transferred title of the Koenigs drawings from Ukraine to the Netherlands. The return was celebrated by exhibiting the Koenigs-Kyiv drawings at the Rotterdam Museum. President Kuchma accompanied by Prince (now King) Alexander and Princess (now Queen) Maxima opened the exhibition of the 139 drawings. The Netherlands upon the knowledge of its return contracted the Rotterdam Boijmans Van Beuningen Museum to care for the Koenigs-Kyiv drawings on the bases of a long-term loan.

‘The Loot’ restored to the Netherlands seemed to follow its natural course by flowing back to the very museum the collector had entrusted with his world famous collection; all’s well that ends well.

Except that the Franz Koenigs drawings were not looted by Hitler’s agent, as quoted, but sold voluntarily to Hitler for an enormous profit. The collector’s worse nightmare took shape.

A DISASTER FOR THE MUSEUM

Franz Koenigs (1881-1941) loaned in 1935 his fully registered and described Collection of Old Master Drawings (his collection mark in Lugt L1023a) and Old Master Paintings to the Rotterdam Museum. Therefore the Rotterdam Museum held the key to his collection when, September 1939, after the declaration of war, Franz Koenigs announced that his collection would have to leave the museum next year. His main pre-occupation was to safeguard his collection from Hitler. Franz Koenigs acted in a sequence of events. Few month before he already had denounced the Nazi regime by naturalizing from German to Dutch, hence the famous F. Koenigs Collection is considered Dutch Cultural Heritage since his naturalization February 1939. Fueling his pre-occupation he informed at the same time the British and French intelligence services of Germans Nazi developments.

The Museum director, receiving note by Franz Koenigs alarmed the board members of the museum. In their meeting of 26 October 1939 the director described the importance of the collection for the museum and the disaster if it was to leave the museum.

With the approval of Franz Koenigs ways had been sought to buy the collection for the Museum. To no avail.

FOR FREE

However months later, with time running out, one of the Museum’s board members Mr. D.G. Van Beuningen opted to buy the F. Koenigs Collection. After selling to Hitler he promised to donate the remains of the Koenigs collection to the Boijmans Museum. The Museum director went along with Van Beuningen’s proposal realizing his chance to get a significant part of the world famous Franz Koenigs Collection for free.

THE LUMP SUM OF 1 MILLION

The Franz Koenigs Collection was insured by the Rotterdam Museum for DFL 4.5 million. In 1931 as a consequence of the German financial crisis, Franz Koenigs’ bank in need of liquidity received a credit of DFL 1.5 million from a group of Jewish owned bankers from Hamburg, Germany, associated with the Lisser & Rosenkranz bank in Amsterdam. Franz Koenigs put his collection up as security for the credit-arrangement. When in 1935 Franz Koenigs loaned his collection to the Museum in Rotterdam, Franz Koenigs and Lisser & Rosenkranz précised the credit agreement between them.

However in September 1939, when Franz Koenigs announced the withdrawal of his collection from the Museum, it was evident that not only his collection, but also the group of Jewish owners of the Lisser & Rosenkranz bank needed to be safeguarded. Lisser & Rosenkranz though financially sound, decided to bring their firm into liquidation, in order to remain in its liquidated form undetected by the Nazi regime. The liquidation took effect on April 2, 1940, the very same day Franz Koenigs signed his collection, which was worth considerably more than the outstanding credit, over to Lisser & Rosenkranz. The transfer of ownership of a collateral by means of settling a debt is null and void according to Dutch civil law Art. 1200 BW (old).

TRANSPORT TO LISBON

The intent was that the Bank then would transport the collection to Lisbon and the museum was accordingly notified to prepare the collection for shipment. The Museum Boijmans having acknowledged the disaster if the collection was to leave the museum, prevaricated and did not prepare the collection for transport but started bidding instead. A week later on April 9, 1940, the day Hitler invaded Norway and Denmark, the board member Van Beuningen, supported by the director of the Museum, offered a lump sum of DFL 1 million in an ultimatum offer that would expire at 10 pm that evening. Within 2 hours, Lisser & Rosenkranz sold the entire collection not to the museum but to Van Beuningen. DFL 1 million was paid for 2140 drawings and 12 paintings (4 by Hieronymus Bosch and 8 by Rubens) by Van Beuningen.

DO NOT LOOK GIFT HORSES IN THE MOUTH

Van Beuningen, virtually immediately started negotiations with the Nazi-regime and on December 3, 1940, sold a quarter of the 2140 drawings (528 drawings) for DFL 1.5 million to Hitler’s agent. The director of the Museum received the high position as Head of the Dutch museums by the German Reich commissioner Seyss-Inquart. In 1942 the museum made public that Van Beuningen had donated the remains of the F. Koenigs Collection to the Rotterdam Boijmans Museum. The year before on May 6, 1941, described as an accident, Franz Koenigs had been murdered.

BOTH PERPETRATORS WERE WELL REWARDED

Van Beuningen made an immediate profit of DFL 0.5 million, on the sale of 528 drawings, and he received important paintings at no cost to himself. The Rotterdam museum received much of the Franz Koenigs Collection for free, as a gift from Van Beuningen. For this gift his name was attached in 1958 to the museum hence the Boijmans Van Beuningen Museum. Moreover, the Dutch State returns the restituted drawings to the Museum and enriches the Rotterdam Museum that way. The Dutch State also did not forget the (late) director of the Boijmans, he was reinstated as Lord of the Castle at ‘Castle Weldam’ in Goor and later in 1958 he received ‘Castle Nijenhuis’ in Heino in his care.

A CLASSIER ATTITUDE

Most disappointing is the advice of the Restitution Committee

In their advice RC 1.35 (like in the revision RC 4.123) the Restitution Committee argues that Dutch civil law arguments applicable at the time to protect citizens from undue influence are outside the scope of restitution policy and consequently outside the Committee’s terms of reference and therefore do not come within the Committee’s mandate. Clearly the Restitution committee does not recognize the moral aspects involved.

Establishing that their mandate is insufficient the Committee should have returned the heirs request for restitution to the minister as ‘impossible to adjudicate within their mandate’. They did not do so. Instead their advise is based on the unjust apprehension that transferring of title which freed Koenigs of his debt, was legal. Continuing to conclude that Koenigs therefore lost title and that he was far removed from the sale of Lisser & Rosenkranz to Van Beuningen. Instead according to Dutch law -not recognized by the Restitution committee- Franz Koenigs never lost title to Lisser & Rosenkranz. Their sale was under duress by an acute and threatening invasion of the Nazi regime coerced by pressure from the director and its mecenae board member. Lisser & Rosenkranz sold to Van Beuningen the Franz Koenigs Collection of 2140 drawings and 12 paintings for just DFL 1 million. ‘Just’ because a minor ten percent needed to be paid to their middleman Jacques Goudstikker.

CIVIL LAW

Civil Law, imbedded in moral reasoning, would have protected Franz Koenigs. Due to the Nazi regime it was impossible to apply this law at the time. Today we are no longer dealing with a Nazi regime, instead a Restitution committee is installed. Not recognizing the undue influence of such law today is denying the moral aspects of the law involved. This law would have protected Franz Koenigs’ signing over his collection as a way to pay his debt, and all undue influence deriving from such act. Such signing over is null and void under Article 1200 BW (old) of the Dutch civil law.

THE MORAL ASPECT

The moral aspect is clear. Not only did Franz Koenigs naturalize from a German citizen to a Dutch citizen (on February 9, 1939); which transferred the title of his collection from German to Dutch but it also put him at stake. According to the Nazi regime he had no reason to naturalize (other than Jews) but for being opposed to the regime. He therefore posed a threat to the Regime. The Reich, not unlike the Boijmans did not like to see the world famous collection go. The Restitution committee not considering the undue influence of accepting the unlawful transfer of title of the Collection to Lisser & Rosenkranz argues that Franz Koenigs was far removed from the sale of Lisser & Rosenkranz to Mr. Van Beuningen. Establishing he was no longer the owner of his collection. However, recognizing such law, the transfer of title was null and void. Therefore Franz Koenigs was still owner. An owner in debt for DFL 1.8 million (interest included) to Lisser & Rosenkranz. Therefore it affected Franz Koenigs that the transport to Lisbon to safeguard his collection did not take place. Therefore it affected him when Lisser & Rosenkranz under force of the real and acute thread of an invasion of the Nazi regime, enforced by the pressure applied by Van Beuningen and the museum sold his collection to Van Beuningen. Clearly it affected him when only DFL 1 million was paid for his collection of Old Master Drawings and 12 major paintings, when even a few weeks before his asking price had still been DFL 2,200,000.-. The same would have affected him when the collection would have been sold for DFL 3.5 million. The debt would have been repaid and half of the money would have flown back to him. Or the sale would have stopped when the outstanding credit was reached and Franz Koenigs would have been reinstalled of the remainder of his art. Clearly it affected him when his collection was offered to Hitler. All this, the Restitution committee did not consider.

A JEWISH COLLECTION

The argument to deny the request for restitution is that Franz Koenigs was no longer the owner of his collection. This argument is at flaw, for not only does it not recognize Franz Koenigs position, but also it denies the coerced position of Jews. Jews were forced under duress to sell for the minor sum of DFL 1 million a collection worth DFL 4.5 million, while outside the army of the Nazi regime was threatening to invade the Low-countries.

The Restitution Committee does not recognize the position of Franz Koenigs, but she neither recognizes title of the collection to the Jewish owned bank.

THE WASHINGTON PRINCIPLES

The principles of Washington to reach a fair and just solution are not applied to this case. Franz Koenigs was confronted by the museum and Van Beuningen who played the Jewish card to the full under thread of the Nazi-regime, to sell to the regime, in order to obtain the collection for free. Franz Koenigs who wanted to safe guard his collection for Hitler, instead witnessed his collection being sold to Hitler, by the museum he had entrusted for five years his collection to. Apart from the Washington Principles and the moral aspects being ignored here, the Restitution committee advised the minister that civil law arguments are beyond her scope and mandate and therefore are not being considered.

Clearly the Minister should not have based her decision on such ill given advice.

THE 139 DRAWINGS FROM KIEV

The works are mostly by 15th- and 16th- century German artists, including Holbein, Wolf Huber, Heinrich Aldegrever, Albrecht Altdorfer, Jost Amman, Hans Baldung, Barthel Beham, Jörg Breu, Hans Burgkmair, Hans Kaldenbach, Albrecht Dürer and so on. The 528 drawings sold by Van Beuningen to Hitler were in 1945, taken as loot by the Russians to the Soviet union. In 1947 Stalin presented Ukraine with 139 of the drawings, the other 309 drawings are still kept in the Pushkin Museum today.

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