

In accordance with Section 3 of the Federal Law on the Restitution of Art Objects from Austrian Federal Museums and Collections (Art Restitution Act), Federal Law Gazette (BGBl. I) No. 181/1998 as amended by BGBl. I No. 117/2009, at its meeting on 25 September 2020, the Art Restitution Advisory Board unanimously adopted the following

DECISION

It is recommended to the Federal Minister for Arts, Culture, the Civil Service and Sport that the Theatermuseum (KHM-Museumsverband) should proceed as follows with the objects formerly owned by Wilhelm Bermann/Werkstätte für dekorative Kunst listed in the supplementary dossier from 2020 to the provenance research dossiers of 2008, 2009 and 2014:

- I. The fifty-one objects acquired in 1938 and 1939 from Wilhelm Bermann should be returned to the legal successors *causa mortis* of Wilhelm Bermann;
- II. The objects sold by Karl Lambert Hofer in 1959 and 1961 to the Theatersammlung der Nationalbibliothek [National Library Theatre Collection], as it was at the time, should not be returned.

FOUNDATIONS

At its meeting on 21 November 2008, the Art Restitution Advisory Board already considered objects from the stage decoration company Werkstätte für dekorative Kunst owned by Wilhelm Bermann and, on the basis of the dossier at the time, recommended that the 1,553 objects listed in it should be transferred to the legal successors of Wilhelm Bermann. On the basis of the results of the provenance research available at the time, however, it was also assumed – through manufacturer's markings by Werkstätte für dekorative Kunst, for example – that further objects in the Theatermuseum could be of the same provenance. During preparations for the restitution of the 1,553 objects and the detailed verification of the accession numbers in the Theatersammlung accession book, a further fifty-one objects belonging to Wilhelm Bermann's company, which was "Aryanized" in 1938, were indeed identified. The supplementary dossier now available, which summarizes the new research findings, establishes the following facts of relevance to the decision.

Wilhelm Bermann was born on 15 November 1874 in Temeswar in the Banat of Temes in the Austro-Hungarian Monarchy (now Timișoara, Romania). On 24 December 1899 he married Sidonie Bermann, née Silbermann (born 23 September 1880 in Temeswar). The couple had four children: Friedrich (b. 1900), Johanna, married name Windholz (b. 1902), Margarethe (b. 1904) and Alfred (b. 1906).

From 1907 at the latest, Wilhelm Bermann worked in the stage and theatre decoration sector, first as Prokurist [authorized signatory] and managing director of various companies, later as partner and then sole proprietor of his own company. In April 1916 he established the Österreichische Werkstätte für dekorative Kunst together with the Berlin company Hugo Baruch und Cie, with himself as director. In September 1930 he became sole proprietor of what was now called Werkstätte für dekorative Kunst. After bankruptcy proceedings were concluded in March 1933 with a compulsory settlement [Zwangsausgleich], Wilhelm Bermann continued to run the company until 1938.

After the annexation of Austria to the German Reich, Wilhelm and Sidonie Bermann were persecuted as Jews. Subsequently, Wilhelm's business also ceased. No doubt in view of the financial difficulties this caused, he was obliged to sell some of his company's inventory and ultimately the

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company itself. On 9 May 1938, he made an offer to the Theatersammlung der Nationalbibliothek (now Theatermuseum in the KHM-Museumsverband) to sell 115 original figurines (costume designs) by Alfred Roller, 174 original copies after Alfred Roller, 271 costume figurines by Heinrich Leffler and 21 decoration sketches for RM 3,895. In June 1938, the Theatersammlung ultimately purchased all the original figurines and original copies by Alfred Roller for RM 3,050. A handwritten draft reply on the document testifies to the Sammlung's (purchase) interest and to the coercive nature of the transaction.

If you have other Roller originals, you are obliged to offer them to the library – [B]ibliothek. Through these items, significant originals and original copies in your possession are hereby transferred to the Th[eater]s[ammlung].

Recent verifications have now revealed that in fact more than the 289 objects in the 2008 decision were acquired from Wilhelm Bermann by the Theatersammlung, namely a further forty-eight objects, fifteen of which cannot currently be located. These 337 acquisitions are listed in the accession book under the numbers 131.309–131.644a+b. It is not known whether Wilhelm Bermann actually received payment. There is another entry in the accession book on 24 November 1939 referring to the purchase of objects from Bermann's Werkstatt für dekorative Kunst for RM 750. In addition to the 1,264 acquisitions noted in 2008, a further three objects have now been identified (accession book numbers 137.578–138.844).

At around the same time that Wilhelm Bermann offered the objects for sale to the Theatersammlung, his company was "Aryanized". On 2 May 1938 he was given permission from Wilhelm Keppler, Reich representative for Austria, [Reichsbeauftragter für Österreich] to offer his company, subject to a final purchase agreement, to a Reich German company. It was ultimately sold on 10 October 1938 for RM 21,500 to Theaterkunst Ges.m.b.H. Kostüme und Requisiten für Theater und Film in Berlin. The agreement of 2 September 1938 between Wilhelm Bermann and the lawyer Ernst Höpler, representing Theaterkunst, stated that the decoration company to be established should acquire the entire inventory, consisting of costumes, figurines, books, etc. Bermann also undertook to renounce his trade licence and agreed to the continued use of the company's name by Theaterkunst. Werkstätten [sic] für dekorative Kunst was entered in the commercial register on 25 October 1938 with Adolf Nau, director general of Theaterkunst in Berlin, as managing director and partner. Bermann's Werkstatt für dekorative Kunst was deleted from the commercial register in Vienna on 4 November 1938 and his trade licence revoked. In 1941, Adolf Nau ceded his share in Werkstätten für dekorative Kunst to Theaterkunst in Berlin, making it the sole proprietor of the Viennese company. At an extraordinary general meeting of Werkstätten für dekorative Kunst at the end of 1943, it was decided to change the name to Theaterkunst, which the company retained until it went bankrupt in 1953.

Wilhelm and Sidonie Bermann, who had been registered since 1906 at Kasernengasse 4 in the 6th district of Vienna, were forced to move to a collective apartment at Judengasse 5/5 in September 1941, from where they were deported to Litzmannstadt/Łódź on 15 October 1941 together with their daughter Johanna Windholz. Their son Alfred Bermann was also deported. At the request of Friedrich Berman, the only member of the family to survive the Nazi period (Margarethe Berman had already died in 1924 at the age of nineteen), Wilhelm and Sidonie Bermann and Johanna Windholz were declared dead on 18 June 1948 by the Landesgericht für Zivilrechtssachen (provincial court for civil law matters) with effect from 8 May 1945.

On 20 October 1951, the lawyer Ernst Höpler, representing Theaterkunst, stated that the assets of Wilhelm Bermann's Werkstatt für dekorative Kunst, which had existed until October 1938, had

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been expropriated during the Nazi period. Prior to this, restitution proceedings under the Third Restitution Act at the Vienna Landesgericht für Zivilrechtssachen had ended in a settlement, according to which Theaterkunst was required to pay ATS 15,000, the equivalent of the purchase price of RM 21,500 paid to Wilhelm Bermann in 1938, to Friedrich Bermann and Georg Windholz, the son of Johanna Windholz. According to the transcript of this settlement in VEAV file 1620, Bz.6, 50 RK 867/48 in the Vienna City Archives, all reciprocal claims of whatever kind were deemed thereby to have been settled.

It was not until the recommendation by the Art Restitution Advisory Board in November 2008 that an undated typed Theaterkunst catalogue was found in the collection of drawings in the Österreichisches Theatermuseum. It was a company inventory of a kind listing over 16,000 figurines, costumes and costume components which, on the basis of the name Theaterkunst, had been acquired between 1943 (the year of the renaming) and around 1953, when bankruptcy proceedings against Theaterkunst Ges.m.b.H. were opened. In these proceedings, Karl Lambert Hofer (1907–1997), son of the founder of the costume rental company Lambert Hofer in Vienna's 4th district, bought up the company and continued to run it from 1955 as Wiener Theaterkunst-Werkstätte Karl Lambert Hofer. A comparison of this inventory with the Theatersammlung accession book revealed that Hofer subsequently sold the over 16,000 objects in 1959 (E 495 figurines from Vienna theatres of the first half of the twentieth century) and 1961 (E 756 figurines from Viennese theatres, particularly *Venedig in Wien* and G. Steiner sets) to the Theatersammlung. These objects are marked as being the possessions of Wilhelm Bermann's Werkstätte für dekorative Kunst and its predecessor companies.

The Advisory Board considered the following

According to Section 1.(1).2 of the Art Restitution Act, objects that became the property of the State that had previously been the object of a legal transaction or legal act under Section 1 of the 1946 Annulment Act, BGBl. No. 106/1946 (or equivalent), may be returned to their original owners or legal successors *causa mortis*.

Regarding I

As the Advisory Board already determined in its recommendation of 21 November 2008, it is beyond doubt that Wilhelm Bermann made the offer to sell on 9 May 1938 because of the lack of business as a result of persecution and the preparations for the "Aryanization" of his company. The coercive nature of the transaction is evident in particular from the handwritten remark cited above by a representative of the Theatersammlung to Bermann's offer 1938 obliging Bermann to offer further objects to the Theatersammlung.

In accordance with Section 1 of the Annulment Act, BGBl. No. 106/1946, the subsequent purchase made by the Theatersammlung of 337 figurines may thus be considered invalid. As already determined by the Advisory Board in 2008, this also applies to the acquisition of 1,267 further objects, as noted in the accession book entry for 24 November 1939, regardless of whether they were acquired from Wilhelm Bermann or from Theaterkunst after it had taken over his company, because this transfer is also considered invalid, as the 1951 settlement demonstrates.

The conditions of Section 1.(1).2 of the Art Restitution Act are therefore met and the recommendation was therefore to be made to the Federal Minister for Arts, Culture, the Civil Service and Sport that the 1,604 and 51 newly identified objects be transferred to the legal successors of Wilhelm Bermann. This also applies to the currently missing fifteen objects, should they be identified in the course of further research into the Theatermuseum holdings.

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Regarding II

Karl Lambert Hofer acquired Theaterkunst after 1953, following the company's bankruptcy and hence also after the 1951 restitution settlement. This settlement provided for the payment of ATS 15,000 (equivalent to RM 21,500 in 1938) by Theaterkunst Ges.m.b.H. to the aggrieved parties / successors of Wilhelm Bermann, such that all mutual claims of whatever kind were deemed to have been settled. Section 13.1 of the Third Restitution Act states that claim settlements are valid provided they were concluded after 27 April 1945. The Advisory Board therefore determines that the objects from Wilhelm Bermann's former Werkstätte für dekorative Kunst, sold in 1959 and 1961 by Karl Lambert Hofer to the Theatersammlung der Nationalbibliothek, do not meet the conditions of Section 1.(1) of the Art Restitution Act and the Board does not therefore recommend a transfer of these objects.

Vienna, 25 September 2020

Univ.-Prof. Dr. Clemens Jabloner (chairperson)

Members

Ministerialrätin Dr. Ilsebill Barta
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