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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 15 May 2023, the Art Restitution Advisory Board unanimously adopted the following

DECISION

It is recommended to the Federal Minister of Education, Science and Research and the Federal Minister of Art, Culture, Civil Service and Sport that the works listed in the Commission for Provenance Research collection dossier "Dr. Otto Brill" (02/2023) from the aforementioned museums

I Academy of Fine Arts Vienna:

- Robin Christian Andersen
Set of sketches and hand drawings
inv. nos. HZ 27.391–27.396, 27.398, 27.401–27.402
- Robin Christian Andersen
3 Grass and Leaf Studies (Study for the "Reihergobelin")
inv. nos. HZ. 27.397, 27.399, 27.400
- Oscar Larsen
Set of 24 sketches
inv. nos. HZ 27.421–27.444
- Felix Albrecht Harta
Joseph and Potiphar
inv. no. HZ 27.473
- Anton Peschka
Farmers' parlour
inv. no. HZ 27.474
- Anton Peschka
Chest and suitcase
inv. no. HZ 27.475

II Albertina:

- Herbert Boeckl
Sketchbook with 50 sheets
inv. nos. 28033/1–28033/42
- Stefan Pichler
Horse
inv. no. 28034

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- Robin Christian Andersen
Standing female nude
inv. no. 36644

should **not** be transferred to the legal successors *causa mortis* of Livia and Dr. Otto Brill.

GROUNDS

The Art Restitution Advisory Board already dealt with objects from the collection of Livia and Otto Brill in its meetings on 27 March 2000 and 10 April 2002. Now the Advisory Board has received the above-mentioned dossier of the Commission for Provenance Research on objects in the Academy of Fine Arts Vienna and the Albertina. Accordingly, the following facts are relevant to the decision:

Otto Brill, born on 27 September 1881 in the northern Bohemian town of Pardubitz/Pardubice, was the second oldest of four children of the Jewish leather merchant Mori(t)z Brill (1848–1908) and his wife Amalie née Thein (1855–1935). After the premises of the leather trading business founded by his father in 1877 were destroyed in a fire, the family moved to Vienna in the mid-1880s. In 1897 Moriz Brill had his new company, which now concentrated on the manufacture of transmission belts, entered in the commercial register, with Amalie acting as authorised signatory. The social and economic rise of the family was accompanied by Moriz Brill's political commitment as well as his lively activity in associations, for example in the Association of House Owners in the 2nd District or in the Industrialists' Committee. He acquired and built several properties, including the so-called Industriepalast, a seven-storey office building at Franz-Josefs-Kai 7–9, where numerous companies had their headquarters, and, among other things, the Hotel Post at Fleischmarkt.

The family thus quickly became wealthy in Vienna and regularly stayed with their staff for summer holidays in Baden near Vienna, Bad Ischl or Bad Aussee. When Moriz Brill died in his house on Taborstraße on 17 October 1908, he left behind five houses in the first and second districts of Vienna, properties in Ottakring and Salzerbad in Kleinzell, as well as securities, in addition to the transmission belt factory. According to his will, Amalie was her deceased husband's universal heir, and the four children were granted the compulsory portion. Objects of art were not mentioned in the account of the estate.

The company was taken over by the only son Otto, who was ultimately to end his scientific career for it. He had studied technical chemistry at the Technical University in Vienna from 1898 to 1902 and, after completing his military service, was awarded a doctorate in technical sciences in 1905. In 1907/08, he did research for some time at University College London, in the laboratory of William Ramsey, and in 1912, in the USA. The following year, he was briefly the head of the 15-member

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research team of the Pittsburgh-based Radium Chemical Company and was also, for example, in contact with Marie Curie.

With the beginning of World War I, Otto Brill was transferred to active military service - in November 1914 he was appointed first lieutenant, and in November 1917 he was appointed cavalry captain in the reserve. The members of the Brill family invested in war bonds with large sums of money and participated in actions of the War Welfare Office.

As a result of the collapse of the Habsburg Empire and the post-war inflation, Otto Brill lost a large portion of his fortune. In September 1921, at the age of 40, he married Livia Gunszt, called Lilly, who was born in Budapest on 3 October 1895. Although Livia was considered non-denominational, the births of her three children, Eva Renata (1922), Agathe Annemarie (1924) and Hans (1930) were recorded in the birth register of the Jewish Community of Vienna. In 1923 Otto Brill acquired the property at Obere Donaustraße 35 in Vienna's second district, where the family lived on the first floor. Only one year later, however, the housing office claimed the rooms in accordance with the Federal Law of 7 December 1922, concerning housing requisition, BGBl. 873/1922, as they were classified as "inadequately used" in terms of occupants and living space. As a result of the flat inspection carried out at Otto Brill's request, the Federal Monuments Authority drew up a report which states, among other things:

The flat contains:

A vestibule with remarkable panelling and wooden ceiling (modern decorative arts) artistically remarkable wooden sculptures, 16th to 18th century majolica, small works of art, Empire clock, paintings including by Kasimir, chinoiserie, chest dated 1702, copper pots, carpets, glass chandeliers.

a dining room with tasteful furnishings designed by the architect Willemans. Stained glass by Remigius Geyling, a wooden ceiling in rich gilding and carving (remarkable work), with fixed fixtures such as furniture, columns, richly carved furniture, chandeliers, etc.

a music room with a remarkable fireplace by Herta Pucher [Hertha Bucher], paintings by Helene Funke, Oskar Laske, Peschka, a late Gothic wooden figure in its original version, decorative furniture. Fixtures, fabric sets, etc.

a salon with inlaid floor and stucco ceiling.

The family's eviction was then averted in order to preserve the "artistically or historically valuable rooms". However, the insights gained by the Federal Monuments Authority were to have momentous consequences for Otto Brill after the annexation of Austria to the Nazi German Reich in 1938.

The late 1920s and early 1930s were marked by consolidation and prosperity for the Brill family. Otto Brill had given up his scientific career altogether and was the owner of the company, which employed up to 19 workers. When his mother Amalie died on 2 June 1935, Otto Brill was bequeathed the house at Taborstraße 71, in order, as it says in her will, "to be able to run his father's business there undisturbed". In his spare time, he was active in various institutions, like his father before him, such as

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the Oesterreichischer Touring-Club or the board of the Hakoah swimming club, and devoted himself in particular to art and collecting. In the "Handbook of the Art Market" published by Max Osborn in 1926, he appears as a collector of modern art and Gothic wooden sculpture. He bought directly from artists as well as at auctions in Germany and abroad; for the years 1935–1937, there is also evidence of his partnership in the Würthle Gallery run by Lea Bondi-Jaray (1880 Mainz – 1969 London). The works he included in his private collection were usually stamped "Sammlung OB" on the back. Otto Brill commissioned the artist Sascha Kronburg (1893 Vienna – 1985 New York) to design a bookplate for his library, which was also extensive, depicting a scholar sitting on a book tower, engrossed in his research. In 1937 he lent the drawings "Self-Portrait" and "Costume Study" to the Austrian Museum of Art and Industry (today's MAK) for an Oskar Kokoschka exhibition. One of Otto Brill's last documented acquisitions in Austria was the watercolour "Kleiner Hafen mit Schiffssteg" (Small Harbour with Pier) by Ernst Huber, who dedicated it to the collector in 1937.

Immediately after the annexation, Otto Brill was arrested on the night of 15 March 1938 and transferred to the Rossauer Lände police prison. The Gestapo had his assets confiscated, including his Lancia Astura car, which was subsequently used by the Property Transaction Office as an official vehicle. In April he was transferred to the provincial court for criminal matters, Vienna VIII, where he was taken into "protective custody". In a letter dated 25 May 1938, Livia Brill wrote to her husband:

After careful consideration and consultation, I ask you to sign letters from your tax advisor when he comes to you, refusal is groundless and pointless, we have nothing to hide and your release is the most important thing. If renunciation is the price of your release, please do not hesitate for a moment!

The Brill transmission belt factory, which had been under provisional administration since 5 April, was confiscated by the Gestapo on the basis of the Regulation on the Confiscation of Anti-Popular and Anti-State Property in the State of Austria, RGBl. I 1938, 1620f, and "ordered to be de-Jewified"; the house at Obere Donaustraße 35 was also confiscated in favour of the State of Austria, and the industrial palace built by Moriz Brill, which had belonged to the siblings jointly, was "aryanised" and used by various offices of the Wehrmacht from 1939 onwards.

During Otto Brill's imprisonment, his wife initially took care of the children's emigration - with the help of Otto's pre-war contacts, they were able to flee to England in June 1938. At the same time, she made efforts to ensure her and Otto's escape by asking friends and acquaintances for the guarantees needed to issue visas. Otto Brill was released from "protective custody" at the end of June. The connection between the "donation" of approx. 64 books to the prisoner library of the Provincial Court for Criminal Matters and his release could not be ascertained; only the "Ausfolgeschein" dated 11 July 1938 has been preserved in the Otto Brill victim welfare file.

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On 29 June 1938 Franz Richter, briefly Gauleiter of Vienna and 1st Vice-Mayor of the City of Vienna appointed by the National Socialists - and a strapmaster's assistant (Riemergehilfe) by profession - applied to the Property Transaction Office to privately acquire the Brill'sche Treibriemenfabrik. While the "Aryanisation" of the business was being negotiated, Livia and Otto Brill declared their assets on 13 and 14 July 1938 respectively. While Livia listed the house in Obere Donaustraße as well as securities, jewellery, luxury and art objects that belonged to her together with her husband in the "Register of Jewish Assets", Otto Brill listed the following under "IV. g.) Objects made of precious metal, jewellery and luxury objects, art objects and collections" with the value of "RM 8000" and referred to the joint ownership. In an enclosed, undated letter to the Property Transaction Office, Brill listed the objects in more detail. Accordingly, the items were a Steinway grand piano, "10 pictures by modern painters, average of 200.-", "4 wooden figures (sculptures) average of 200.-", a "collection of 400 modern mostly expressionist hand drawings and watercolours average of 10 M." and "various smaller items of jewellery". In view of the imminent flight, Otto Brill applied to the Central Monument Protection Office for the export of the art collection on 26 July 1938; no destination or country of destination was noted. In the respective file of the Federal Monuments Authority, a list of those art objects that were in the couple's flat was prepared and annotated by the Monuments Authority. The two-page list, written on a typewriter, included oil paintings, framed watercolours, gouaches and drawings, framed engravings and lithographs, sculptures, hand drawings and watercolours (self-portraits), 50 portfolios with 400 drawings, sketches and watercolours, Viennensia engravings and etchings, and "old illustrated books". However, the works were listed only in summary form, only the artist's name, but no further details such as title, dimensions, etc. were mentioned. Accordingly, the Brill couple owned works by Max Florian, Anton Hanak, Sergius Pauser, Franz Lerch, Albert Paris Gütersloh, Ferdinand Kitt, August Herbin, Ernst von Dombrowski, Max Liebermann, Max Slevogt, Wilhelm Thöny, Josef Floch, Beni Ferenczy, Alphonse Ruy, Albert Marquet, Lesser Ury, Johannes Fischer, Egon Schiele, Alfons Walde, Georg Merkel, Carry Hauser, Maurice Utrillo, Walter Sickert, Egon Hofmann, Anton Faistauer, Viktor Tischler, Oskar Kokoschka, Franz Elsner, Albin Egger-Lienz, Oskar Laske, August Xaver Karl Ritter von Pettenkofen, Anton Romako, Ernst Huber, Wassily Kandinsky, Marie Laurencin, Max Pechstein, Karl Hofer, Franz Hofer, Emil Orlik, Ernst Oppler, Edvard Munch, Wilhelm Trübner, Gustav Klimt, Hermann Samwald, Charles François Daubigny, Jean Metzinger, Emil Nolde and Otto Modersohn, among others.

A comparison of this annotated version, to which Josef Zykan added handwritten notes on the part of the Monuments Authority, with the list that was finally enclosed to the application for an export authorisation, revealed that "1 Gothic relief sculpture (Praying Nun)" was withheld and three self-portraits (by Hanak, Slevogt and Faistauer) were purchased by the Albertina as well as seven books

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"from the National Library". The list "purged" of these works was attached to the export authorisation valid until 26 October 1938, which was thus ultimately "granted after consulting the Albertina, the National Library, the Municipal Collections and the Austrian Gallery". A total of 20 drawings (mainly self-portraits) had been submitted to the Albertina, three were purchased, the remaining 17 were not considered for the Albertina and were taken back by Lea Bondi-Jaray, who acted as an intermediary here, on 17 July. A few days later, the Brill couple sold two Egger-Lienz drawings and, shortly afterwards, another five sheets to the Albertina - for the latter, there is a receipt signed by Livia for the payment of a total of RM 1,000. These works were recommended for return by the Art Restitution Advisory Board in 2000 and 2002 respectively. The whereabouts of the retained relief sculpture and the seven books acquired by the National Library in 1938, on the other hand, cannot be clarified. The Brill couple managed to escape to London in September 1938. From exile, Otto Brill contacted Franz Richter, his former employee, whose father Wilhelm Richter, himself a belt trader, had ultimately, together with Alois Pizl and in agreement with the temporary administrator Heinrich Staretz and the lawyer of the NSDAP Richard Lugner, carried out the "Aryanisation" and renaming of the "Riemenfabrik M. Brill" to "Richter & Pizl". Brill wrote to Richter in May 1939:

I hear that you have bought or taken over the Brill company from the people who robbed it from me. You have done me a lot of harm and I will never make a secret of what I think of the methods of your friends.

Otto Brill initially lived with his family in London before settling in Penarth in Wales. The couple built up a new existence and founded the company "Livia Leather Goods, Ltd." in October 1939, which specialised in the manufacture not only of handbags, luggage, but also of leather seats for the Royal Air Force. Although, as Austrians, they were classified as "enemy aliens" after the start of the war, they were spared internment after an investigation by the "Internment Tribunal" in the Cardiff district. Together with Lea Bondi-Jaray, who had also emigrated to London after the forced sale of her Vienna gallery Würthle to the art dealer Friedrich Welz, Otto Brill joined the "St. George's Gallery LTD" run by Arthur R. Howell, which they took over in 1943 and managed together until 1950.

After the end of the war, the Brill family remained in Great Britain, only Otto Brill's daughter Eva, who had been active in the exile organisation "Young Austria" during the war, returned to Austria in 1946. On 19 June 1948, Otto Brill filed an application for "restitution pursuant to the Nullification Act and III Restitution Act No. 106/46 and 54/47 BGBl" of his Vienna transmission belt factory. On 16 February 1950, a legally binding partial verdict was issued, according to which Alois Pizl and Wilhelm Richter were found "jointly and severally guilty", since "[b]y acquiring the company [...] the rules of honest dealings [...] had not been observed". It was decided to reconstitute the "Richter & Pizl Company", now operating at Eisvogelgasse 6, in Vienna's 6th district, but Brill felt unable to take it over due to the

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company's debts. He did not live to see the end of the proceedings - he died in London on 6 March 1954. From then on, Livia Brill continued the fight against the Austrian and German authorities. The "Application for Restitution Claims against the German Reich and Equivalent Entities" submitted to the Berlin Restitution Office in 1958 concerned bank deposits, securities, gold, silver, jewellery and the car confiscated by the Gestapo. The application concerning the bank balance was rejected on 22 February 1960, on the grounds that cash was "not to be regarded as an ascertainable asset" and "a claim under restitution law only exists in the case of the seizure of so-called ascertainable assets". An application for restitution of securities filed in Germany was also rejected, but after the case was forwarded to the Berlin Provincial Court, a settlement in the amount of DM 12,518 was reached. In Austria, Livia Brill was compensated in five instalments between 1962 and 1971, with 80,096.64 schillings for the shares, securities and assets in foreign bank accounts confiscated by the Nazi regime from the Fund for Compensation of Loss of Assets of Political Persecutees – this corresponded to only a part of the original value. At this time, the restitution of the business had still not come to an end. As of 8 November 1961, Livia Brill withdrew the application in relation to the transmission belt factory "in order to avoid further costs".

With regard to the real estate, Otto and Livia Brill had achieved the restitution of the house on Obere Donaustraße and the property on Taborstraße. The "Industriepalast" was restituted to the family in 1955, after Otto Brill's death, and ten years later, Livia Brill received 1,720 schillings as compensation for Otto Brill's months in prison in 1938. She died in London in 1987, at the age of 91. As explained, Otto Brill had managed to export most of his collection to Great Britain in 1938. After his death, his wife Livia and his son Hans were appointed as his heirs. There is no information in the will about the art collection, which he had apparently already divided among his children beforehand. In the 1950s, his daughter Eva Köckeis sold works with her father's collector's stamp on them on the Austrian art market, as evidenced, for example, by the sales records of Galerie Würthle.

The works in question, which are now in the Academy of Fine Arts and bear Otto Brill's collector's stamp, presumably belong to the works that were approved for export in 1938 due to a correspondence between the artists' names. These include a set of twelve sketches and hand drawings by Robin Christian Andersen, HZ 27.391–27.402, acquired at the Dorotheum at the 1059th auction, 30 September to 3 October 1958, for a total of 165 schillings, as well as a set of 24 small drawings and sketches by Oscar Larsen, inv. nos. HZ 27.421–27.444, acquired at the 1062nd auction, 21 to 24 October 1958, for 220 schillings; it has not been possible to identify the consignor. "Joseph and Potiphar" by Felix Albrecht Harta, inv. no. HZ 27.473, as well as Anton Peschka's "Farmers' parlour", inv. no. HZ 27.474, and "Chest and suitcase", inv. no. HZ 27.475, on the other hand, were purchased

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by the Academy from the lawyer and art collector Rudolf Hintermayer (1917–1983). Hintermayer bought the sheets at auction at the Dorotheum in November 1958.

As shown, all these sheets were exported to Great Britain in 1938, since they had not been retained by the Central Monument Protection Office. Subsequently, they probably entered the art trade through Otto Brill's daughter after 1945 and were brought to the Dorotheum twelve years later.

Of the sheets relating to the Albertina, the drawing "Standing Female Nude" by Robin Christian Andersen, inv. no. 36644, dedicated in 1971 by the *Verein der Freunde der Albertina* (Society of Friends of the Albertina), can also be assigned to the Brill Collection on the basis of the collector's stamp. As already mentioned with regard to the Academy, the matching of the artist's name indicates that it was also exported to Great Britain in 1938; thus, it too was probably brought onto the Viennese art market by the family only after 1945.

Although Herbert Boeckl's sketchbook, inv. no. 28033, is found in the Albertina's inventory book among those works that the Advisory Board recommended for restitution in 2000 and 2002, which previously led the literature to assume that it too had been seized as a result of Nazi persecution (Lillie, *Was einmal war*, 2003, 252), research revealed that this was a subsequent inventory made in 1938. A receipt dated 10 December 1934 found in the Albertina archives proves that the sketchbook was acquired three days earlier at an auction in the Dorotheum. The drawing of a horse by the Boeckl student Stefan Pichler, born in 1911, also attributed by Lillie to the Brill Collection, does not come from the Brill Collection either, despite the intervening inv. no. 28034. The artist himself had submitted it to the Albertina at an unknown date with the intention of selling it. Although the sheet had been assigned inv. no. 28034 as a result of the presentation, Pichler was asked in a letter of 8 April 1949 to take back his total of three sheets offered for sale – in addition to the horse study "Canalscape. Nymphenburg", inv. no. 28653, and "Female Portrait Head", inv. no. 28692, which had been inventoried in 1940. However, Stefan Pichler was no longer able to respond to this appeal. He had deserted while on home leave from the front in 1943, and stayed in Vienna until his denunciation, where he received support from his teacher Herbert Boeckl. Initially sentenced to death, his sentence was commuted to front-line parole until the end of the war. He fell in Kurland (Latvia) in December 1944. As a result of not having been picked up, the works were kept at the Albertina.

The Advisory Board considered the following:

According to Section 1.(1).2 of the Art Restitution Act, objects that legally became the property of the State but had previously been the object of a legal transaction or legal act under Section 1 of the 1946 Annulment Act, or comparable legislation, may be transferred to their original owners or legal successors *causa mortis*.

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According to Section 1 of the Nullity Act 1946 "*legal transactions against payment or free of charge and other legal acts during the German occupation of Austria are null and void if they were undertaken in the course of its political or economic penetration by the German Reich in order to deprive natural or legal persons of property or property rights which they were entitled to on 13 March 1938.*"

In contrast to those works from Otto Brill's collection that were the subject of the decisions of the Art Restitution Advisory Board in 2000 and 2002, the Advisory Board considers it a given that the representational works by Otto and Livia Brill now in the Academy of Fine Arts could have been exported as of 28 September 1938 – they were not among those objects that had to be withheld by the Monument Protection Office or sold before fleeing; rather, Otto and Livia Brill succeeded in taking them with them to emigrate to Great Britain after their export had been approved. After Otto Brill's death in 1954, the art collection was divided among his children Eva, Agathe and Hans; parts of it subsequently turned up in the Viennese art trade, so that in 1958 the Academy of Fine Arts was able to acquire a set of twelve sketches and hand drawings by Robin Christian Andersen, HZ 27.391–27.402, as well as a set of 24 small drawings and sketches by Oscar Larsen, inv. no. HZ 27.421–27.444, from the Brill Collection at auctions at the Dorotheum; it was there that the art collector Rudolf Hintermayer bought the hand drawings "Joseph and Potiphar" by Felix Albrecht Harta, inv. no. HZ 27.473, as well as "Farmers' parlour", inv. no. HZ 27.474, and "Chest and suitcase", inv. no. HZ 27.475, by Anton Peschka, which he then sold to the Academy shortly afterwards. As shown, the Brill couple exported all these sheets to Great Britain in 1938, after they had not been retained by the Central Monument Protection Office. After 1945, they probably entered the art trade through Otto Brill's daughter and were brought to the Dorotheum twelve years later. With regard to the works in the Albertina, provenance research has shown that the 1938 inventory of Herbert Boeckl's sketchbook, inv. nos. 28033/1–28033/42, was a subsequent inventory from 1934; it was thus acquired years before Austria's annexation to the Nazi German Reich.

Based on the collector's stamp, Robin Christian Andersen's drawing "Standing Female Nude", inv. no. 36644, can be clearly assigned to the Brill Collection. Even though the path of the drawing until it was acquired as a gift by the "Verein der Freunde der Albertina" (Society of Friends of the Albertina) in 1971, analogous to the acquisitions of the Academy, cannot be determined without gaps, the Advisory Board assumes that this drawing was also taken to Great Britain by Livia and Otto Brill in September 1938 and entered the art trade only after 1945.

The Federal Minister of Education, Science and Research, respectively the Federal Minister of Art, Culture, Civil Service and Sport, is therefore to be advised **not** to transfer the property to the to the legal successors' *causa mortis* of Livia and Dr. Otto Brill.

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The origin of the drawing of a horse by Stefan Pichler, inv. no. 28034, was also clarified. Pichler himself had submitted it to the Albertina. In a letter dated 6 April 1949, he was asked to take back the three drawings he had submitted. However, Pichler was no longer able to respond to this appeal; after having been sentenced to death as a Wehrmacht deserter but having his sentence commuted to parole from the front, he was killed in December 1944. As a result of the works not having been collected, they were kept at the Albertina. The Advisory Board therefore considers it advisable to contact Stefan Pichler's descendants in an appropriate manner and to inform them about the works once submitted to the Albertina.

Vienna, 15 May 2023

Univ.-Prof. Dr. Clemens JABLONER (chairman)

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