

[unofficial translation]

In accordance with Section 3 of the Federal Law on the Restitution of Art Objects and Other Movable Cultural Property from Austrian Federal Museums and Collections and from Other Federal Property (Art Restitution Act - KRG), as amended by Federal Law Gazette (BGBl.) I No. 158/2023, at its meeting on 27 September 2024, the Art Restitution Advisory Board adopted the following

DECISION

It is recommended to the Federal Minister of Art, Culture, the Civil Service and Sport not to transfer the "Wiener Werkstätte cutlery from the former property of Lili and Fritz Waerndorfer", Inv. No. GO2009, from the MAK - Museum of Applied Arts Vienna to the legal successors causa mortis of Dr. Ernst Bunzl, as listed in the dossier of the Commission for Provenance Research 13/2024.

FOUNDATIONS

In its resolution of 11 January 2019, the Advisory Board recommended the transfer of ownership of an object from the MAK to the legal successors of Dr. Ernst Bunzl. In response to a suggestion from this side, the Commission for Provenance Research has now also researched the cutlery with the monogram of Lili and Fritz Waerndorfer "LFW" in question. Accordingly, the following facts are relevant to the decision:

Ernst Adolf Bunzl, the son of the court lawyer Theodor Bunzl and his wife Isabella Bachstetz, was born in Vienna on 23 October 1888. He was baptized a Catholic - in 1890 his parents also left the Jewish community and converted to the Catholic faith. Ernst Bunzl completed his law studies in 1913 and worked as a lawyer from 1920. In 1922, he married Helene Waerndorfer, born on 26 August 1897, the daughter of Lili and Fritz Waerndorfer. One year after the wedding, Ernst Bunzl took over Eduard Uhl's law firm at Naglergasse 6 in Vienna's city center. The Bunzl couple lived in the same district at Josefstädter Straße 46; the marriage remained childless. Helene died in the Fürth Sanatorium in Vienna in January 1938. While there is no mention of an art collection or silver objects in her probate file, Ernst Bunzl stated in the restitution proceedings under the German Federal Restitution Act at the Administrative Office for Internal Restitution in Berlin in 1958 that his deceased wife Helene had had a significant collection of hand drawings, numerous works of art and a collection of Asiatica.

After the "Anschluss" of Austria to the National Socialist German Reich, Ernst Bunzl fled Vienna on 17 September 1938. He reached France via Yugoslavia. In 1958, he stated that he was able to reach an agreement with the Gestapo regarding his escape.

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"In the course of proceedings which the GESTAPO was conducting against me, I succeeded in reaching an agreement with the GESTAPO, according to which they agreed to discontinue the proceedings pending against me for various reasons, above all because of my political activities, (payment of a large sum for the so-called Schuschnigg donation (election fund) as a member of the executive committee of a large joint-stock company and other alleged criminal acts) if I undertook to leave the Reich within four weeks and swore never to return. I was required to renounce all other assets and claims in Germany, but I was allowed to take my furniture with me. This solution was possible, primarily because I had been wounded several times and decorated as an officer in the First World War. This situation naturally forced me to emigrate. I would like to point out that, fortunately, the GESTAPO was unaware of the great value of the furniture and furnishings released to me and had probably assumed that these were standard furnishings for an apartment."

Ernst Bunzl also stated that the inventory and transportation of goods for his apartment furnishings had been carried out in his absence by the Hausner & Co forwarding company. On 22 September 1938, this company submitted a removal certificate for the relocation goods to the district authority for the 8th district. On six pages, 273 items were listed, art and silver objects were listed cursorily, various pieces of cutlery were mentioned in summary: item 144 mentions "1 set for 12 persons (80 pieces) silver", item 145 one [set] for "6 persons" and "34 pieces", further silver objects and special cutlery (including children's cutlery, fruit cutlery, crab cutlery) are also mentioned. The removal goods were sent in the presence of Gertrude Clarice Hausner, the daughter of the freight forwarder Heinrich Hausner, who married Ernst Bunzl in Paris on 17 December 1938, and subsequently emigrated with him to São Paulo, Brazil.

Ernst Bunzl reported in 1958 that the removal boxes also contained objects, mainly made of silver, belonging to his (first) mother-in-law Lili Waerndorfer before they were sent to Paris on 2 November 1938. According to Bunzl's later statements, however, he was unable to retrieve his belongings in Paris as he had neither a removal certificate from the French consulate in Vienna nor a permit for permanent residence in France. The removal goods were confiscated by the German occupying forces in Paris in 1941, handed over to the central customs office in the 10th arrondissement of Paris and later shipped to the German Reich. What happened to the movables is unknown.

After the end of the war, Ernst Bunzl tried from his new home in Brazil to get back his confiscated property or to be compensated for the loss of it. In addition to a letter to the Austrian Federal Ministry of Finance dated 23 January 1956, in which his legal representative Josef Geiringer announced that he had to "hand over his law firm, leave behind his apartment with valuable furnishings, collections, silver, etc., hand over jewelry without compensation and pay discriminatory taxes", Ernst Bunzl applied to

the Berlin restitution offices for compensation for his lost removal goods. The records, documents, affidavits and witness statements provide detailed information about the composition of the removal goods and in particular about works of art, valuable furnishings and silver. A silver set inherited from Ernst Bunzl's grandmother, which bore the monogram "EB", is mentioned in several places and letters, probably referring to Ernestine Bachstetz's silver set:

"4.) Silver, both I and my deceased wife [Helene Bunzl, neé Waerndorfer, note] had very large holdings of silverware, partly through inheritance. Among this silver was old Viennese silver with my monogram which I myself had inherited, an almost complete service with the hallmark, Vienna 1854.

My wife owned a large number of silver objects from the early Wiener Werkstätte, some of which were one-off pieces made to order for special occasions and designed by Josef Hoffmann, Kolo Moser and other artists and bore their signatures. This collection was the result of years of collecting silver objects from the early Wiener Werkstätte that I happened to come across in the art trade. I must mention here that at the time Hausner & Co. had quite a number of silver objects from the Wiener Werkstätte in its warehouse, to which the silver was added at the last moment, even though they were not covered by the authorization, after my mother-in-law, who was still alive at the time, had given them to me as a gift. In fact, the removal goods contained a total of 60 kg of real silver, some of which had a special collector's value above and beyond that of everyday silver."

Numerous written testimonies were submitted and confirmed the loss of the household effects. For example, Dr. Jolande Jacobi, whose deceased husband had been a business partner of Ernst Bunzl, reported that the Bunzl couple owned extensive silverware, among other things,

"including an almost complete set of silver cutlery, Altwien hallmarked, from the 1950s with his grandmother's monogram (E.B.), a lot of special pieces from the Wiener Werkstätte, so much silver that his wife once told me she could cover almost 60 people with different silver."

In her detailed statement, Gertrude Clarice Holme also provided information on Ernst Bunzl's silver collection, among other things:

"I remember that Dr. Bunzl showed us a complete set of silver cutlery with an old Viennese hallmark from around 1850, monogrammed with EB, which came from his grandmother. In addition to numerous pieces of later silver from his family's possessions, he drew our attention to many silver objects, sets, vases and boxes of all kinds from the early period of the Wiener Werkstätte, founded by his father-in-law Fritz Waerndorfer, which bore both the WW mark and in many cases the designer's monogram, whereby I noticed the marks JH (Prof. Josef Hoffmann) KM (Kolo Moser) and others. However, it was added that there were several pieces among them that had been made as individual pieces for the Waerndorfer family based on the designs of Josef Hoffmann and Kolo Moser. He also detected that he and his wife had always used every opportunity to acquire old WW pieces. [...] I would like to point out that I was very surprised that there was silver cutlery for all conceivable purposes, apart from the normal ones, and that I had never seen anything like it before. There was cutlery of all sizes and types, so in addition to the normal cutlery and fish and fruit cutlery and

ice-cream spoons, etc., there was also crab cutlery, asparagus tongs and much of it was there in multiples, i.e. for 8 and 12 people."

His grandmother's monogram is also mentioned in Ernst Bunzl's subsequent declaration on the "breakdown and valuation of the relocation property and the art collection" of 23 January 1962:

"As almost all the silver was inherited, there were also pieces of collector's value, such as a complete set of silverware hallmarked Vienna 1856 with my grandmother's monogram and a number of old Viennese silver pieces. Apart from that, there were unique pieces specially commissioned by Josef Hoffmann and Kolo Moser, which had been produced by the Wiener Werkstätte for the Waerndorfer family (my father-in-law Fritz Waerndorfer was the founder and first owner of the Winer [sic!] Werkstätte), i.e. unique pieces of art-historical interest."

However, no mention was made of cutlery with the monogram "LFW".

Ernst Bunzl died in Locarno, Switzerland on 21 February 1962. His widow Gertrude Clarice Holme, who after 1945 became managing director of her father's previously "Aryanized" company Hausner & Co, which had been returned to her, continued to seek compensation payments for her husband's property which had been confiscated in Paris. The restitution offices in Berlin finally awarded her compensation payments for the loss of her household effects and Ernst Bunzl's art collection. Gertrude Holme died in Vienna in 1993.

The 107-piece cutlery set in question, which features a special hallmark and the monogram "LFW", was produced by the Wiener Werkstätte in 1904, and was based on a design by Josef Hoffmann for the married couple Lili and Fritz Waerndorfer. Lili Jeanette Waerndorfer was born in Vienna in 1874 as the daughter of Bernhard and Lina Hellmann (née Singer). In November 1896, she married the entrepreneur, art collector and later co-founder of the Wiener Werkstätte Friedrich (Fritz) Waerndorfer (1868-1939). The couple, who joined the Protestant Church in 1902 after leaving the Jewish Community, lived with their three children Helene (1897- 1938), Karl Richard (1899-1983) and Herbert (1905-1924) in an exquisitely furnished villa at Carl-Ludwig-Straße 45 (today: Weimarer Straße 59) in the cottage quarter in Vienna-Währing. In the 1910s, they ran into severe financial difficulties and lost their entire fortune in 1914. Fritz Waerndorfer had to leave the Wiener Werkstätte and sell parts of his art collection. In spring 1914, he moved to the USA. His son Karl followed him, Lili stayed behind in Vienna with Herbert and Helene and had to move in with her mother as a subtenant at Stadiongasse 2 in the centre of Vienna. Due to financial pressure, she commissioned the Viennese architect Friedrich Schön to sell the villa and its furnishings. Schön offered the furnishings to the then Museum of Art and Industry; these efforts were unsuccessful after Josef Hoffmann had already approached the museum on the same matter, probably at Lili Waerndorfer's request. In 1916, the "Waerndorfer House" was acquired by Wilhelm and Martha Freund from Baden.

Lili Waerndorfer would later describe her predicament in the divorce proceedings she initiated in 1930. With her new residential address in Stadiongasse, Lili Waerndorfer was now in the immediate vicinity of the company of the artisan Wilhelm Exinger, whose daughter Maria Kirrer was to sell the cutlery to the MAK in 1967:

Parts of the cutlery set were shown from 22 May to 20 August 1967 as part of the exhibition "Die Wiener Werkstätte: Modern Arts and Crafts from 1903-1932" at what is now the MAK. Shown in the catalogue as plate 10 with the title "Josef Hoffmann, Teile eines Besteckes, 1904", it is described as follows under catalogue number 52 with the note "Privatbesitz":

"Silver, clear, functional shape, the handles monogrammed LFW (Lilly and Fritz Waerndorfer), finished with four silver balls [...].
Design: Josef Hoffmann, execution WW
Stamped: WW monogram, JH, Viennese silver hallmark".

In the catalogue, "Maria Kirrer-Exinger, Vienna" was listed as the lender. Research revealed that Maria Kirrer was born in Vienna on 25 October 1893, as one of six children of Wilhelm Exinger (1858-1936) and his wife Ida (née Bernhard, 1862-1936). Her father was the owner of the Wilhelm Exinger company of the same name located at Reichsratstraße 1 in the first district of Vienna. The "Etablissement für vollständige Wohnungs-Einrichtung" continued to exist after Exinger's death in 1936 and was formally deleted from the commercial register in 1940.

In December 1967, the MAK acquired the cutlery in question with the monogram "LFW" from Maria Kirrer for S 28,000, probably as a follow-up to the 1967 exhibition mentioned above. Pieces from "Dr. Ernst and Clarice Bunzl" were shown at the same exhibition, as the list of lenders in the exhibition catalogue attests. In 1964, Gertrude Clarice Holme had donated two pieces of jewelry from the Wiener Werkstätte to the MAK in memory of her late husband and his first wife Helene. These were also on display in the 1967 exhibition (catalogue numbers 170 and 209; these are the current MAK inventory numbers BJ 1495 and BJ 1564).

Despite extensive research, it has not been possible to clarify how long the cutlery in question, which was made for the Waerndorfer couple in 1904, was in their possession, nor when and from whom Maria Kirrer received or purchased it.

The Advisory Board considered the following:

According to Section 1. (1). 2 of the Art Restitution Act, objects that were the property of the State but had previously been the object of a legal transaction or a legal act under Section 1 of the Nullity Act 1946 may be transferred to their original owners or legal successors *causa mortis*. Section 1. (1) . 2a of the Art Restitution Act extends this to objects which, although legally transferred to the ownership of the federal government, were transferred between 30 January 1933 and 8 May 1945,

were the subject of a legal transaction or legal act in the territory of the German Reich outside the territory of the present-day Republic of Austria, which are comparable to legal transactions or legal acts in accordance with Section 1 of the Nullity Act 1946.

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."

As the Advisory Board has already stated several times with reference to the relevant case law of the Restitution Commissions, relevant legal transactions by persons who are to be attributed to the group of persecuted persons are generally to be assessed as null and void within the meaning of Section 1 of the Nullity Act 1946. Dr. Ernst Bunzl belongs to this group. Since the Chinese "Head of a Dignitary" was still seen in his apartment in 1936/37 and was demonstrably donated to the MAK in the 1940s following the death of the art dealer Anton Exner and was inventoried in 1952, the Advisory Board assumed in its meeting on 11 January 2019 that the figure had been confiscated from Dr. Ernst Bunzl after the "Anschluss" due to persecution. Whereas the present file shows that the whereabouts of the cutlery in question are unknown from the time of its production for the Waerndorfer couple by the Wiener Werkstätte in 1904 until its purchase by the MAK in 1967. The MAK acquired it from the lender Maria Kirrer in 1967, probably in the course of the exhibition

"The Wiener Werkstätte: Modern Arts and Crafts from 1903-1932". In the 63 intervening years, there is no documented mention of the cutlery, not even in Ernst Bunzl's restitution efforts and applications for compensation before Austrian and German authorities after 1945. The indication of the striking features of the Waerndorfer family cutlery, such as its unique design including monograms and unique hallmark, would undoubtedly have been of great relevance and in the interest of the claimant in the compensation proceedings, especially with regard to the amount of the damages to be calculated and the compensation payment to be expected - just as Dr. Ernst Bunzl did point out with the repeated and explicit mentioning of his grandmother Ernestine Bachstetz's old Viennese silver cutlery with the monogram "EB" in the compensation proceedings before the restitution offices in Berlin. In these proceedings, several witnesses also specified the family cutlery marked with "EB", and thus clearly identifiable, in their statements or affidavits - however, silver marked with "LFW" was not mentioned at any point. With regard to the exhibition at the MAK in 1967, it should be noted that in addition to the cutlery lent by Maria Kirrer, objects from Dr. Ernst Bunzl, his wife Helene - daughter of Lili and Fritz Waerndorfer - who died in January 1938, and from his second wife Gertrude Clarice Holme were also shown. It stands to reason that Clarice Holme

- especially since it is proven that she lived in Vienna at least temporarily and was the managing director of the Hausner & Co forwarding company after 1945 - visited the exhibition and saw the cutlery with the monogram "LFW" or knew the catalogue with her earlier donations (catalogue numbers 170 and 209) as well as parts of the cutlery in question from "private property", marked with the monogram "LFW (Lili and Fritz Waerndorfer)" (catalogue number 52). However, there is no written record or any other sources which - if the cutlery had been withdrawn in the meantime - would display such an identification or recognition or any claims arising from it. It is very likely that the cutlery was sold to Wilhelm Exinger and Maria Kirrer as a result of the Waerndorfer couple's difficult financial situation in the course of Fritz's emigration to the USA in 1914 and their divorce in the early 1930s. - The furniture store of the artisan Wilhelm Exinger, whose daughter Maria Kirrer sold the cutlery to the MAK in 1967, was located in the immediate vicinity of Lili Waerndorfer's home address in Vienna's first district from 1915. This could be a plausible explanation for a transfer of ownership from Waerndorfer to Exinger or subsequently to his daughter, even if the evidence is lacking.

Despite extensive research, the whereabouts of the cutlery in question between 1904 and 1967 remain unknown. It is not possible to determine how long it remained the property of Fritz and Lili Waerndorfer, nor when and how it came to Maria Kirrer. A return is therefore not recommended.

Vienna, 27 September 2024
Prof. Dr. Clemens JABLONER (Chairman)

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