

[unofficial translation]

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 14 June 2019, the Art Restitution Advisory Board unanimously adopted the following

DECISION

If the musical instrument, the fortepiano made by Michael Rosenberger, Vienna 1810, Inv. No. SAM 550, which was referred to in the Deutscher Orden dossier (Kunsthistorisches Museum / University of Music and Performing Arts Vienna) were owned by the Federal Government and if the Art Restitution Act BGBl. I No. 181/1998 as amended by BGBl. I No. 117/2009 were therefore applicable, the Advisory Board would recommend that it be transferred to the German Order.

GROUNDS

The Advisory Board has the above-mentioned dossier of the Commission for Provenance Research. The following facts from this dossier are relevant to this decision:

On 24 April 1939, the Commissarial Director of the Kunsthistorisches Museum Fritz Dworschak asked an employee of the Abwicklungsstelle des Stillhaltekommissars (Liquidation Commissar for Societies, Organizations and Associations) to inspect the possessions of the Teutonic Order located in what was then the Reichsgau Sudetenland. The Abwicklungsstelle assured Dworschak that the "*holdings of the Teutonic Order in Freudenthal [...] have been secured by us, and there is no danger of anything being taken away in the meantime*". On 7 May 1940, the "Aufbaufonds Vermögensverwaltungs-Gesellschaft m.b.H." ("Development" Asset Management Company Ltd.) informed the directorate of the Kunsthistorisches Museum that there were still art objects in Freudenthal Castle, which had belonged to the dissolved Teutonic Order, that could be of value to the Kunsthistorisches Museum. After visiting Freudenthal Castle, Fritz Dworschak informed the Stillhaltekommissar (Liquidation Commissar) on 4 June 1940 that he was interested in a portrait of the Grand Master Archduke Karl, a wooden relief and the fortepiano in question here. On 17 June 1940, Fritz Dworschak was informed that the Stillhaltekommissar (Liquidation Commissar) agreed to the transfer of these objects and that he should contact the Gauselbstverwaltung in Reichenberg, to which the administration of Freudenthal Castle, among other things, had been transferred. After lengthy correspondence, especially with the Reichsstatthalterei in the Sudetengau, Fritz Dworschak finally confirmed in a letter dated 20 March 1942 that the fortepiano and the portrait of the Grand Master Archduke Karl had arrived at the Kunsthistorisches Museum. The further whereabouts of this portrait could not be clarified in course of

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compiling the dossier, but the fortepiano was inventoried in the Collection of Historic Musical Instruments and handed over to what at that time was called the Academy of Music and Performing Arts in January 1948.

In a letter dated 22 March 2019, the Federal Ministry of Education, Science and Research provided the information that, in accordance with Section 139(1) UG 2002, the fortepiano in question had become the property of the University of Music and Performing Arts Vienna.

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 a legal act under Section 1 of the 1946 Nullity Act , or comparable legislation, may be transferred to their original owners or their legal successors *causa mortis*.

The fortepiano discussed here is not owned by the State, but by the University of Music and Performing Arts Vienna, at whose request the Advisory Board is dealing with the present dossier.

As can be seen in the present dossier, the fortepiano in question was handed over to the Kunsthistorisches Museum after the dissolution of the Teutonic Order by the appointed Stillhaltekommissar (Liquidation Commissar) or the administration of the Reichsgau Sudetenland. Therefore, there can be no doubt that these dispositions are to be judged as null and void legal acts in accordance with Section 1 of the 1946 Nullity Act (or as legal acts to be treated as such in accordance with Section 1 para. 1 no. 2a of the Art Restitution Act).

The Advisory Board therefore comes to the conclusion that the facts of Section 1 (1) item 2 (or 2a) of the Art Restitution Act would be fulfilled if the fortepiano were (still) owned by the State today.

Vienna, 14 June 2019

Rector Eva BLIMLINGER
(Deputy Chairperson)

Members:

Ministerialrätin
Dr. Ilsebill BARTA

Alternates:

Hofrat
Mag. Dr. Christoph HATSCHEK

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Univ.-Prof. Dr. Artur ROSENAUER

Ministerialrat

Dr. Reinhard BINDER-KRIEGLSTEIN

Hofrat d VwGH Dr. Franz Philipp SUTTER

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