

In accordance with Section 3 of the Federal Act on the Restitution of Art Objects from Austrian Federal Museums and Collections, Federal Law Gazette (BGBl.) I No. 181/1998, as amended by Federal Law Gazette (BGBl.) I No.117/2009, at its meeting on 8 March 2013, the Advisory Board unanimously adopted the following

## DECISION

The Federal Minister of Defence and Sport is recommended to transfer the work listed in the "Dossier Eduard Epstein"

Watercolour miniature by Carl Graf Gleispach,  
signed and dated 1847,  
made by Albert Theer,  
Inv.Nr. 1940/18/BI21806

from the Museum of Military History to the legal successors *causa mortis* of Eduard Epstein (born 29 February 1876).

## GROUNDINGS

The Advisory Board has received the aforementioned dossier from the Commission for Provenance Research, on the basis of which the following facts have been established:

On 12 April 1940, according to the entry in the inventory book of the Museum of Military History, the watercolour miniature of Carl Graf Gleispach, second lieutenant of the 4th Lower Austrian Cuirassier Regiment, was purchased from "*Eduard Isr. Epstein*" for RM 100. As the act of purchase mentioned in the inventory book by the transaction number does not exist, the Viennese police reports under the name "Eduard Epstein" from the 1930s and 1940s were checked in order to identify the seller more precisely. Three persons were found to have resided in Vienna during this period, of whom one person with this name can be excluded as the seller because he was registered in Vienna only between 18 September 1937 and 2 October 1937 and stated Barcelona as his place of origin or departure.

One of the other two people with this name is Eduard Epstein, born in 1920, who was Roman Catholic, according to the registration data, and categorised as a "first-degree Mischling" in Nazi terminology; his occupation is listed as "*waiter, steward, labourer*"; for the years 1942 and 1944 there are references to stays in the "*police detention centre*" or in "*prison*". Eduard Epstein remained registered in Vienna and died in 1989.

Finally, there is registration data on Eduard Epstein, born in 1876; he submitted a declaration of assets in 1938 and had to flee to the USA with his wife Margarethe Epstein in May 1941. Although no concrete evidence of an art collection or the watercolour in question could be found, it is clear that he had a share in a company, a property in Vienna's 3rd district, securities, jewellery, coins and silver objects which were seized from him as a result of persecution. Attempts to sell his assets led to criminal proceedings under the Foreign Exchange Management Act and his imprisonment between 3 May 1939 and 7 March 1940.

The Advisory Board considered the following:

According to the registration data, two persons with the name Eduard Epstein were residing in Vienna during the period of the purchase of the watercolour, and could therefore be possible sellers. As the Museum of Military History has no further files on the purchase, the attribution can be made solely on

the basis of the known circumstances of the two persons in question. After analysing these circumstances, it seems convincing to the Advisory Board that the seller was the Eduard Epstein, who was born in 1876. He was registered in his flat in Vienna's 8th district until 1 June 1940 and then in a boarding house until his escape in May 1941. As he was imprisoned until 7 March 1940, the sale of the watercolour coincides with the period between his release from prison and his move to the boarding house (which can be seen as preparation for his escape). It stands to reason that it was precisely during this period that the last remaining valuables were sold to finance his living expenses and escape. In contrast, a sale by the Eduard Epstein, who was born in 1920, seems less likely due to his social background and his age at the time, especially as the entry in the inventory book of the Museum of Military History contains the suffix "Israel", which he, who was persecuted as a "first-degree Mischling", was not required to use.

As the Advisory Board has already stated on several occasions with reference to the relevant case law of the Restitution Commission, legal transactions by persons who can be attributed to the group of persecuted persons are in principle to be assessed as null and void in accordance with Section 1 of the Nullity Act 1946. Eduard Epstein, born in 1876, can in any case be categorised as belonging to this group.

The Advisory Board has therefore come to the conclusion that the facts of Section 1. (1). 2a of the Art Restitution Act are fulfilled, which is why the transfer of ownership to the legal successors *causa mortis* was to be recommended to the Federal Minister of Defence and Sport.

Vienna, 8 March 2013

Univ.Prof. Dr. Dr.h.c. Clemens Jabloner  
(Chairman)

Members:

Ministerial Councillor  
Dr. Ilsebill BARTA

Rector  
Mag. Eva BLIMLINGER

Univ.-Prof. Dr. Artur ROSENAUER

Counsellor of the VwGH  
Dr. Franz Philipp SUTTER

Former Advocate General  
Dr. Peter ZETTER

Alternates:

Mag. Dr. Christoph HATSCHEK