

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 3 July 2015, the Art Restitution Advisory Board unanimously adopted the following

DECISION

It is recommended to the Federal Minister of Art and Culture, Constitution and Media that the object listed in the Commission for Provenance Research dossier “Dr. Alfred and Rosa Kraus” (3/2015)

Max Oppenheimer, *Portrait of Rosa Kraus*, 1909/10
inv. no. B 677

be transferred from the Museum Moderner Kunst Stiftung Ludwig Wien (MuMoK) to the legal successors *causa mortis* of Alfred and Rosa Kraus.

FOUNDATIONS

The Art Restitution Advisory Board considered the above-mentioned dossier of the Commission for Provenance Research and established the following facts.

The painting under consideration was acquired by a Viennese art dealership as *Portrait of a Lady* at the Sotheby's auction “Vienna 1880–1930 Paintings and Drawings” on 8 October 1986 and donated two years later to the MuMoK. According to Sotheby's, the painting was submitted by Walter Rosna, a lawyer in Baden. His daughter recalls that the painting was already in his lawyer's office in the 1960s. Walter Rosna had regularly acquired works of art and then sold them again. No further details of the acquisition could be determined, however.

According to information given by Raimund Reichel, son of the major Viennese art collector Oskar Reichel (1869–1943), to Marie-Agnes von Puttkamer, author of the Max Oppenheimer catalogue raisonné, the subject is Rosa Kraus, wife of Alfred Kraus (1867–1938, brother of Karl Kraus), who owned a collection of works by Oppenheimer. He commissioned the painting in 1909.

Alfred Kraus, who, like his wife, was persecuted by the Nazis as a Jew, died on 1 August 1938 in Vienna. His widow Rosa Kraus and the two children had to flee from Austria in early 1939. A grandson of Alfred Kraus inquired in the year 2000 with the Commission for Provenance Research regarding certain valuables in his grandfather's apartment in the 3rd district of Vienna furnished in 1908 by Adolf Loos, where Alfred Kraus was registered from 1909 until his death. The portrait of Rosa Kraus under consideration was not included, but he stated that his mother Marianne Winterberg, née Kraus, had attempted

shortly after the war to inquire personally in various offices in Vienna about what had happened to the apartment designed by the architect Adolf Loos and its contents, but without success. I myself was fourteen years old when I fled from the apartment with my mother. We had lived there since 1934 and I went to school until then at the Theresianum.

Parts of the apartment are documented in three photographs in the Adolf Loos archive. Paintings can be seen on the wall, but not the painting under consideration. As it was only commissioned in 1909, it is likely that the commission was in connection with the newly occupied apartment.

The Advisory Board considered the following:

According to Section 1.(1).2 of the Art Restitution Act, objects owned by the State that were the object of a legal transaction or act under Section 1 of the 1946 Annulment Act, BGBl. No. 106/1946, may be transferred to their original owners or legal successors *causa mortis*.

As it is known that Alfred Kraus owned works by Max Oppenheimer, it is almost certain that the portrait was still owned by Alfred and Rosa Kraus at the time of the annexation of Austria to Nazi Germany. The whereabouts of the portrait thereafter could not be ascertained, in particular how it was acquired by Walter Rosna (presumably) through the art market. It can be assumed from the statement by Alfred and Rosa Kraus's grandson, however, that the furnishings were lost in direct connection with the persecution and flight.

As the Board has established on several occasions with reference to the rulings of the restitution commission, relevant legal transactions by persons considered to have been persecuted are invalid in principle in the meaning of Section 1 of the 1946 Annulment Act. All sovereign and other legal acts resulting from the persecution are also invalid.

The Board is aware that the specific legal act or transaction by which the portrait was expropriated cannot be established. As the grandson has documented that the apartment furnishings were lost, there is no reason to assume that the portrait – by whatever legal act or transaction – was not expropriated as well.

The Board therefore concludes that the condition of Section 1.(1).2 of the Art Restitution Act is met, and the recommendation is therefore made to the Federal Minister for Art and Culture, Constitution and Media that the oil painting be transferred to the legal successors *causa mortis* of Alfred and Rosa Kraus.

Vienna, 3 July 2015

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

Members

Ministerialrätin Dr. Ilsebill Barta
Rektorin Mag. Eva Blimlinger
Univ.-Prof. Dr. Artur Rosenauer
Hofrat d VwGH Dr. Franz Philipp Sutter
Generalanwalt i.R. Dr. Peter Zetter

Alternate

Mag. Dr. Christoph Hatschek