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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 5 November 2021, the Art Restitution Advisory Board adopted the following

DECISION

It is recommended to the Federal Minister for Art, Culture, the Civil Service and Sport that the 121 minerals (119 inventory numbers) in the Commission for Provenance Research dossier “Hans Leitmeier” (04/2021) be transferred from the Naturhistorisches Museum to the legal successors *causa mortis* of Hans Leitmeier.

FOUNDATIONS

The Board considered the above-mentioned dossier from the Commission for Provenance Research and has established the following facts.

Hans Leitmeier was born in Vienna on 24 October 1885 as the son of the commercial clerk Josef Leitmeier and his wife Christine, née Rospini. After the early death of the father, the family moved in 1893 to Graz, where Hans, after completing his schooling at the I. Staatsgymnasium in 1904, studied mineralogy, petrography, geology and chemistry. Directly after completing his doctorate in 1908, he followed his teacher Cornelio Doelter (1850–1930) to Vienna and took a position a year later as a demonstrator in the University of Vienna Mineralogy Institute. That same year he married Bertha Bennesch (1886–1974), with whom he lived in the 8th district of Vienna. The two sons from this first marriage died in the 1930s and the marriage is thought to have been dissolved in 1933. At the end of that year, Leitmeier moved to Bleichergasse 15 in the 9th district, where he lived until his death in 1967.

He was appointed a university assistant in 1912, and in 1916 was awarded habilitation at the University of Vienna with the mineralogical work “On carbonates” but continued to receive the salary of an assistant. From May 1925 until 1938 he was also secretary of the public courses at the University of Vienna, which offered an additional source of income. In this subject he was subordinate to the palaeontologist and palaeobiologist Othenio Abel (1875–1946), under whose

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direction these courses were politicized in an antisemitic, German nationalist direction. At this time, Leitmeier was also a member of the acknowledged antisemitic and German nationalist “Bärenhöhle” (bear’s cave) led by Abel and other German nationalist university professors, which had a great influence on university appointments. Leitmeier’s membership of this group is documented in a political appraisal by his colleague, the Nazi Gaudozentenbundsführer (head of the association of lecturers) Arthur Marchet (1892–1980), in 1938.

The extent to which Leitmeier subscribed to the Bärenhöhle ideology or whether he hoped by joining the group to advance his career is not documented. It is also unclear whether his appointment as extraordinary professor in 1929 was due to this network. At any event, he fell out of favour with German nationalist and National Socialist colleagues after his marriage on 13 January 1934 to the Budapest-born anthropologist Daisy, née Solomonica, divorced Horwitz (1905–1993), who had left the Jewish community only a few days before. The couple converted thereafter to Catholicism.

Leitmeier’s academic work from 1928 to 1936 was mainly concerned with microchemical verification reactions, which he conducted together with the chemist Fritz Feigl (1891–1971). Some of the reactions found by them are still used today. The research cooperation came to an abrupt end in 1938, however, because the Social Democrat Feigl was persecuted on both political and racial grounds and was forced to flee.

Leitmeier was awarded the title of ordinary professor on 10 February 1938. Following the annexation of Austria to the Nazi German Reich a short time afterwards, high officials of the Reich Ministry of Education in Berlin held discussions about “university issues” with Oswald Menghin (1888–1973), Minister of Education in Vienna, with particular reference to the removal of all persons deemed to be Jewish from the ministries and university. As the Regulation on the Reorganization of the Austrian Civil Service had not yet entered into force – it was not promulgated until 1 June 1938 – the persons concerned were initially to be suspended on leave and later legally dismissed. The deans’ offices drew up corresponding lists for the ministry. By order of the Ministry of Education in Vienna on 28 May 1938, twelve extraordinary and ordinary professors in the Philosophy Faculty, including Hans Leitmeier, were ordered to take “early retirement” with effect from 31 May 1938. The legal basis was Article III.(1) of the Federal Law of 7 August 1934 on University Measures, BGBl. 208/1934. The teachers who were retired for political and racial grounds included the ethnologist Wilhelm Koppers

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(1886–1961), who was classed as a political enemy, the Jewish physicists Karl Przibram (1878–1973) and Felix Ehrenhaft (1879–1952) and the psychologist Karl Bühler (1879–1963), who was forced to retire because of his Jewish wife – as was Hans Leitmeier. After the annexation, Daisy Leitmeier was persecuted as a Jew but was protected from deportation by her “Aryan” husband. While her sister Stella (b. 1902) and her brothers Marcel (1897–1972) and Paul (1908–1953) managed to escape, her mother Clara (b. 1868) and her sister Lucy (b. 1898) were murdered in 1942 in Theresienstadt and Maly Trostinec, respectively.

At the same time as Leitmeier’s “early retirement” pursuant to the 1934 law, the Nazi Regulation on the Reorganization of the Austrian Civil Service, RGBl. I 1938, pp. 607ff, was promulgated. Section 3.(1) of the legislation regulated the status of civil servants in so-called “mixed marriages” (“Mischehen”): “Officials married to a Jew [...] are to be retired.” In Leitmeier’s case the driving force behind his retirement under this regulation was Arthur Marchet, NSDAP member since July 1932, as his statement to the Gau personnel department in September 1938 demonstrates:

“Hans Leitmeier is not very important academically. His early retirement is on account of his second wife, a full Jew. He is of weak character and is easily influenced by others. At the end of the war [First World War] he tended to support the Social Democrats. Through the influence of nationalist colleagues, he became nationalist and antisemitic. He then also supported the nationalist cause at the university. As he talked too much, however, he was not considered trustworthy during the period of prohibition. He met his present wife, who was one of his first wife’s students, divorced and married the Jew, under whose influence he now stands. He has never carried out any hostile actions against the National Socialists, however.”

This description of Leitmeier formed the basis for the application by the Gau leadership of the Vienna NSDAP of 21 September 1938 for Leitmeier to be permanently retired. Leitmeier protested against what he claimed was a “completely unlawful” procedure, but his appeal was to no avail. Marchet profited from Leitmeier’s dismissal from academia and also from the retirement on political grounds of the then head of the Mineralogy Institute Emil Dittler (1882–1945). Marchet became professor of petrology in 1940 and was also made head of the Institute that same year. He continued to become deputy dean and then in 1943 dean of the Philosophy Faculty of the University of Vienna.

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The forced retirement had dire consequences for Leitmeier and his financial situation. He stated his losses in his personnel file as a tenured member of the University of Vienna on 1 August 1945 as follows: "Difference between active salary and pension, loss of college payment, loss of payment as secretary of the public university courses." As he stated in his 1938 asset declaration, his annual net income as an extraordinary university professor was reduced through the forced retirement from June 1938 by 22 per cent from RM 6,229.92 to RM 4,852.14. Under the University Teacher Salary Act of 17 February 1939, he would have been entitled from October 1938 to a pay rise. Depending on his grade, he thus suffered a loss of earnings of between 36 and 58 per cent. He was also deprived of the income from his additional work as secretary of the public university courses and from lecturing.

Apart from the financial loss, the academic demotion was also clearly felt in his career, research activities and academic work. For example, he was cut off from the academic network and the work and research facilities of the University of Vienna. After 1945 he stated that after Marchet took over he was refused admission to the Mineralogy Institute and the Petrography Institute. By virtue of a decree of Department IV of the Ministry of Internal and Cultural Affairs of 17 December 1938, he was also forbidden from using the library and collections and the laboratories of the Mineralogy Institute and the Chemistry Institute, thereby putting an end to his chemical research as well.

After the war, the Political Cabinet Council of Renner's Provisional State Government decided on 14 November 1945 that Leitmeier should be appointed an ordinary professor of mineralogy and petrography at the University of Vienna with retroactive effect to 27 April 1945. The years from 1938 to 1945 were counted towards his promotion to a higher pay grade, but he was not reimbursed for the loss of income as a result of the forced retirement. At the same time as the professorship, Leitmeier also became head of the Mineralogy and Petrography Institute, a position he held until his retirement on 30 September 1957. He was subsequently elected as a corresponding member of the Austrian Academy of Sciences. In the academic year 1949/50, when Leitmeier was also dean of the Philosophy Faculty, the educator Richard Meiser (1881–1964) was the university rector. As both Meiser and Leitmeier had been active in the Bärenhöhle, it is possible that they collaborated on university policy at least in 1949/50. Meiser himself stated his support for retaining "valuable members of staff even if they had been members of the NSDAP". Similarly, Leitmeier stated his attitude in principle to former Nazis in a 1957 letter to the office of the dean of the Philosophy Faculty:

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“Nevertheless, I have never undertaken anything since 1945 against any National Socialist, but all of my colleagues know how much I have supported and helped recognized researchers, despite their Nazi activities, to retain their positions or to be reinstated soon in a position that their work merited. I did this not only in the relevant commissions but also in the faculty. I mention names such as [Kurt] Leuchs, Köhler, [Georg] Stetter, [Lothar] Geitler and [Heinz] Kindermann, who were reinstated as teachers in our faculty.”

It is not known whether Leitmeier also supported the return and reintegration of academics persecuted by the Nazis. He saw himself as a victim of National Socialism. On 30 December 1952 he applied to Municipal Department MA12, Victim Welfare, for issuance of a victim ID. After several summons by the authorities to appear in person, which he also signed for but never followed up, his application for recognition as a victim in the meaning of the Victim Welfare Act was rejected. Neither Hans nor Daisy Leitmeier claimed restitution. The University of Vienna today recognizes Hans Leitmeier as a victim, and his name is listed in the Memorial Book to Victims of National Socialism at the University of Vienna.

As the husband of a Jew under the definition of the Nuremberg Laws, Leitmeier, as mentioned above, was obliged to make an asset declaration to the Property Transaction Office. In it he listed his “modern library of this century” but not his collection of minerals. We know today that he had one, in particular as a result of the documented transfer of parts of it to the Naturhistorisches Museum. The inventory records of the Mineralogy and Petrography Department lists the takeover of nineteen objects (as donations or purchases) between 1917 and 1932, and 124 objects between 1941 and 1943. The objects received between 1917 and 1923 came from Burgenland, Hungary and Serbia. In 1932 the department acquired three emerald specimens from the Salzburger Habachtal in the north of the Großvenediger area of the Hohe Tauern. Leitmeier had published several articles on this subject since 1929 and collected many pieces himself. The minerals purchased between 1941 and 1943 came from the south of the Großvenediger area of the Hohe Tauern. After 1937, Leitmeier had planned to extend his research into mineral deposits in the eastern Alps to the southern Hohe Tauern, with a view to comparing the two areas. Because of his forced retirement, he was only partially able to follow up this plan. He began in summer 1940 at his own expense to collect specimens in the area of the southern Großvenediger in the former East Tyrol, which in 1938 had become part of the Reichsgau Carinthia, and he was in contact at the time with collectors from this region. But he was unable to collect anything like enough minerals in his opinion for comparative

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research. He no doubt recognized this in 1941 when, in contrast to the individual specimens he had donated or sold to the museum in the years before, he gave up his collection – it is unclear whether it was the entire collection or just part of it – and sold it for RM 427. In 1956, he described the abandonment of his collection as follows: “Forced into years of idleness as a result of the events of 1938 and then no longer fit for the mountains, I had to pass on this work to younger researchers.”

With the exception of three items that have been exchanged, the 121 remaining minerals are still kept by the Naturhistorisches Museum.

No further acquisitions from Hans Leitmeier are documented by the Naturhistorisches Museum after 1943.

The Advisory Board considered the following:

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

According to Section 1 of the 1946 Annulment Act, “legal transactions or other legal acts with or without payment during the German occupation of Austria are null and void if they were undertaken during the political or economic penetration by the German Reich in order to expropriate from natural or legal entities assets or rights thereto that they held on 13 March 1938.”

The dossier under consideration indicates that the 121 minerals still held today by the Naturhistorisches Museum were sold to it by Hans Leitmeier from 1941 to 1943 for a total of RM 472. It had therefore to be verified whether these sales were legal transactions or acts in the meaning of Section 1 of the Annulment Act..

The Board is aware of that Leitmeier belonged to the antisemitic German nationalist Bärenhöhle network in the 1920s and that he supported and helped “recognized researchers, despite their Nazi activities, to retain their positions” after 1945, but – as the Board has determined on several occasions with reference to the decisions of the restitution commissions – relevant legal transactions

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by persons deemed to have been persecuted are invalid in principle in the meaning of Section 1 of the 1946 Annulment Act. According to the rulings of the restitution commissions, both Daisy Leitmeier, considered to be a Jew under the Nuremberg Laws, and Hans Leitmeier as her husband are deemed to have been persecuted (cf. Heller/Rauscher, *Rechtsprechung, NF, 4a zu § 2 Abs. 1 Drittes Rückstellungsgesetz*, Vienna 1949; see also the Board recommendations of 7 March 2014 on Adele Pächter). As a persecutee, Hans Leitmeier was forced into “early retirement” on 31 May 1938 in accordance with the Federal Law of 7 August 1934 on University Measures, BGBl. 208/1934. This was transformed into permanent retirement on application by the Gau leadership of the Vienna NSDAP of 21 September 1938 on the basis of the Regulation on the Reorganization of the Austrian Civil Service of 31 May 1938, which had entered into force in the meantime. The financial loss as a result of this forced retirement (and the pay rise from October 1938 that was no longer granted) was between 36 and 58 per cent, depending on the pay grade, of what he would have earned under the University Teacher Salary Act of 17 February 1939. In addition to his loss of university salary, there was also the income, which can no longer be determined, from his additional work as secretary of the public university courses and from lecturing. The years from 1938 to 1945 were taken into account in his promotion to a higher pay grade after the war, but he was not reimbursed for the loss of income as a result of the forced retirement.

Apart from the financial loss, Leitmeier was also prevented from continuing his research work after the annexation. Although he began in summer 1940 at his own expense to collect minerals in the area of the southern Großvenediger, he was not nearly able to collect enough specimens to conduct the desired comparative research. In 1941 he was therefore already forced to abandon his research activities and as a consequence to give up all or some of this collection.

In this case, the Board therefore sees no reason for departing from the basic idea that relevant legal transactions by persons deemed to have been persecuted are invalid in principle in the meaning of Section 1 of the 1946 Annulment Act. At the same time, Leitmeier’s donation and sale of 19 objects to the Naturhistorisches Museum between 1917 and 1932 are irrelevant to the political and National Socialist influence on the acquisitions under consideration here that took place after the annexation. Also to be taken into account here is the fact that before the annexation Leitmeier gave only isolated objects to the Naturhistorisches Museum, whereas after the annexation much larger quantities were involved.

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The Board is therefore satisfied that Leitmeier sold the 124 minerals to the museum in the context of the financial and academic consequences of his forced retirement by the Nazis and also of his lack of prospects for continuation and conclusion of his research work. The conditions of Section 1.(1).2 of the Art Restitution Act are thus met, and it is to be recommended to the Federal Minister for Art and Culture, the Civil Service and Sport that the remaining 121 objects be transferred from the Naturhistorisches Museum to the legal successors *causa mortis* of Hans Leitmeier.

Vienna, 5 November 2021

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

Members

Ministerialrätin Dr. Ilsebill Barta

Ltd. Staatsanwältin Hon.-Prof. Dr. Sonja Bydlinski

Assoz. Univ.-Prof. Dr. Birgit Kirchmayr

Univ.-Prof. Dr. Artur Rosenauer

Hofrat d VwGH Dr. Franz Philipp Sutter

Alternate

Hofrat Dr. Christoph Hatschek

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Item	Inv. no.	Mineral name
1941-V	K 5110	pyrite
1941-V	K 5111	pyrite
1941-V	K 5112	pyrite
1941-V	K 5113	pyrite
1941-V	K 5114	chrome zoisite
1941-V	K 5115	chrome zoisite
1941-V	K 5116	chrome zoisite
1941-V	K 5117	chrome zoisite
1941-V	K 5118	chrome zoisite
1941-V	K 5119	chrome zoisite
1941-V	K 5120	fuchsite
1941-V	K 5121	(zoisite) epidote ?
1941-V	K 5122	epidote
1941-V	K 5123	clinozoisite
1941-V	K 5124	clinozoisite
1941-V	K 5125	garnet (hessonite)
1941-V	K 5126	garnet (hessonite)
1941-V	K 5127	garnet (common)
1941-V	K 5128	serpentine
1941-V	K 5129	diopside
1941-V	K 5130	orthoclase
1941-V	K 5131	orthoclase
1941-V	K 5132	albite
1941-V	K 5133	dolomite (ankerite)
1941-V	K 5134	cyanite
1941-V	K 5135	cyanite
1941-V	K 5136	zoisite
1941-V	K 5137	zoisite
1941-V	K 5138	zoisite
1941-V	K 5139	zoisite
1941-V	K 5140	paragonite (praegrathite)
1941-V	K 5141	paragonite (praegrathite)
1941-V	K 5142	praegrathite
1941-V	K 5143	praegrathite
1941-V	K 5144	praegrathite
1941-V	K 5145	praegrathite
1941-V	K 5146	praegrathite
1941-V	K 5147	praegrathite
1941-V	K 5148	praegrathite
1941-V	K 5149	praegrathite
1942-II	K 5200	fuchsite
1942-II	K 5201	fuchsite
1942-II	K 5202	fuchsite
1942-II	K 5203	hornblende
1942-III	K 5204	pyrite
1942-III	K 5205	pyrite
1942-III	K 5206	pyrite

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Item	Inv. no.	Mineral name
1942-III	K 5207	calcite
1942-III	K 5208	calcite
1942-III	K 5209	calcite
1942-III	K 5210	calcite
1942-III	K 5211	vesuvianite (californite)
1942-III	K 5212	vesuvianite (californite)
1942-III	K 5213	vesuvianite (californite)
1942-III	K 5214	vesuvianite (californite)
1942-III	K 5215	vesuvianite (californite)
1942-III	K 5216	vesuvianite (californite)
1942-III	K 5217	vesuvianite (californite)
1942-III	K 5218	vesuvianite (californite)
1942-III	K 5219	vesuvianite (californite)
1942-III	K 5220	vesuvianite (californite)
1942-III	K 5221	epidote
1942-III	K 5222	epidote
1942-III	K 5223	epidote
1942-V	K 5474	dolomite
1942-V	K 5475	malachite
1942-V	K 5476	magnetite
1942-V	K 5477	magnetite
1942-V	K 5478	clinozoisite
1942-V	K 5479	clinozoisite
1942-V	K 5480	garnet (hessonite)
1942-V	K 5481	garnet (hessonite)
1942-V	K 5482	garnet (hessonite)
1942-V	K 5483	vesuvianite
1942-V	K 5484	paragonite (praegrathite)
1942-V	K 5485	fuchsite
1942-V	K 5486	talc
1942-V	K 5487	diopside
1942-V	K 5488	diopside
1942-V	K 5489	diopside
1942-V	K 5490	actinolite
1942-V	K 5491	actinolite
1942-V	K 5492	actinolite
1942-V	K 5493	actinolite
1942-V	K 5494	actinolite
1942-V	K 5495	actinolite
1942-V	K 5496	actinolite
1942-V	K 5497	asbestos
1942-V	K 5498	asbestos
1942-V	K 5499	asbestos
1942-V	K 5500	asbestos
1942-V	K 5501	asbestos
1942-V	K 5502	asbestos
1942-V	K 5503	hornblende

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Item	Inv. no.	Mineral name
1943-I	K6883	vesuvianite (californite)
1943-I	K 6884	vesuvianite (californite)
1943-I	K 6885	vesuvianite (californite)
1943-I	K 6886	vesuvianite (californite)
1943-I	K 6887	vesuvianite (californite)
1943-I	K 6888	vesuvianite (californite)
1943-I	K 6889	vesuvianite (californite)
1943-I	K 6890	vesuvianite (californite)
1943-I	K 6891	vesuvianite (californite)
1943-I	K 6892	vesuvianite (californite)
1943-I	K 6893	vesuvianite (californite)
1943-I	K 6894	vesuvianite (californite)
1943-I	K 6895	vesuvianite (californite)
1943-I	K 6896	vesuvianite (californite)
1943-I	K 6897	vesuvianite (californite)
1943-I	K 6898	vesuvianite (californite)
1943-I	K 6899	vesuvianite (californite)
1943-I	K 6900	vesuvianite (californite)
1943-I	K 6901	vesuvianite (californite)
1943-I	K 6902	epidote
1943-I	K 6903	epidote
1943-I	K 6904	fuchsite
1943-I	K 6905	fuchsite
1943-I	K 6906	reedy hornblende
1943-I	K 6907	reedy hornblende

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