

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 15 October 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 “Alfred and Fritz Menzel collection” (9/2015)

Karl Agricola, *Countess Harrach in a White Dress*
(inv. no. 28097)

be transferred from the Albertina to the legal successors *causa mortis* of Alfred Menzel.

GROUNDS

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

The brothers Fritz Menzel (b. 1883) and Alfred Menzel (b. 1897), living in Vienna, were persecuted by the Nazi regime as Jews. After the annexation of Austria to Nazi Germany they attempted to flee from Austria. On 30 May 1938, Alfred Menzel applied to the Central Monument Protection Office for permission to export his art collection, including the miniature under consideration. While permission was granted for the rest of the collection, the Central Office “withheld” the miniature under consideration. In a letter from the director of the Wiener Städtische Sammlungen of 11 June 1938, it reported to the mayor that Alfred Menzel “possessed various Alt Wiener art objects, namely five miniatures by the Viennese masters Agricola, Emanuel Peter and A. Richter, and a [...] porcelain service [...] with detailed topographical views”.

Alfred Menzel, who managed initially to flee to Belgium in August 1938, was interned with his wife Margarethe Menzel in Mecheln and deported from there to Auschwitz in September 1943. On 12 March 1949 on the application of his sons, Alfred Menzel was declared dead. Margarethe Menzel is noted in the declaration as “missing”.

The miniature under consideration was sold by Fritz Mendel to the Albertina for RM 150 on 4 January 1939, in other words after his brother’s flight.

In January 1940, Fritz Menzel applied to the Central Monument Protection Office for permission to export various art objects. Permission was granted except for three prints, which were temporarily withheld. Fritz Menzel was deported in March 1941 with his wife Margit Menzel to Modliborzyce ghetto in Lublin district. They were murdered after the ghetto was cleared in autumn 1942.

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 the Board has established on several occasions with reference to the rulings of the restitution commission, relevant legal

[unofficial translation]

transactions by persons considered to have been persecuted are invalid in principle in the meaning of Section 1 of the 1946 Annulment Act.

Both Alfred Menzel and his brother Fritz were persecuted. The miniature was evidently sold by Fritz Menzel to the Albertina after Alfred Menzel's flight and is documented both in the export application of 30 May 1938 and the letter of the director of the Städtische Sammlungen of 11 June 1938 as being owned by Alfred Menzel. The Board therefore assumes that the miniature originates from Alfred Menzel's assets and was left behind when he fled from Vienna.

The Board therefore has no doubt that the sale to the Albertina qualifies as an invalid legal transaction. The miniature is owned today by the State.

As the condition of Section 1.(1).2 of the Art Restitution Act is therefore met, the recommendation was to be made to the Federal Minister for Art and Culture, Constitution and Media that the miniature be returned to the legal successors of Alfred Menzel.

Vienna, 15 October 2015

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

Members

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

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