

[unofficial translation]

In accordance with Section 3 of the Federal Law on the Restitution of Art Objects and Other Movable Cultural Property from Austrian Federal Museums and Collections and from Other Federal Property (Art Restitution Act - KRG), as amended by Federal Law Gazette (BGBl.) I No. 158/2023, at its meeting on 27 September 2024, the Advisory Board adopted the following

DECISION

It is recommended to the Federal Minister of Defense that the 42 works from the dossier of the Commission for Provenance Research 09/2024, "Dr. Stephan Poglayan-Neuwall" which are listed in the annex to this decision, be transferred from the Museum of Military History to the legal successors *causa mortis* of Dr. Stephan Poglayan-Neuwall.

FOUNDATIONS

In its decision of 2 March 2012, the Advisory Board recommended the transfer of ownership of two frames from the Museum of Applied Arts / Contemporary Art (MAK) to the legal successors of Dr. Stefan Poglayan-Neuwall; the books listed, acquired by the MAK in 1949/1950, were not recommended for return. The Advisory Board has now received the above-mentioned dossier from the Commission for Provenance Research on Objects in the Museum of Military History. It contains the following facts relevant to the decision:

Stephan (Stefan) Poglayan was born on 25 December 1888 as son of Arthur Poglayan (1850-1890), a naval officer born in Fiume (now Rijeka in Croatia), and Gabriele Freiin von Neuwall (1853-1889) in Pola (now Pula in Croatia) and was baptized a Roman Catholic in January 1889. His mother was the daughter of Albert Sebastian Freiherr von Neuwall (1807-1870), a member of the Reichstag and senior civil servant in the Imperial-Royal Ministry of Finance. He came from the successful Jewish Leidesdorfer family of bankers and merchants, who gave up their previous name in the course of their ennoblement in 1817 and subsequently used the aristocratic title von Neuwall as their surname. Albert von Neuwall converted to Catholicism in 1819, the same year in which Stephan Poglayan's maternal grandmother, Karoline Regina Theresia Wernau (1809-1900), converted from Judaism to Catholicism.

Orphaned at the age of two, Stephan Poglayan was adopted by his mother's sister Henriette Freiin von Neuwall (1835-1906); from then on, he went by the double name of Poglayan-Neuwall. He remained a Hungarian citizen until the collapse of the Habsburg Monarchy; in the 1920s, he was granted Italian and later Austrian citizenship.

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Stephan Poglayen-Neuwall graduated in 1913 with his dissertation "Ein altchristl. Hochzeitsschrein aus dem Silberschatz vom Esquilin" (An Ancient Christian Wedding Shrine from the Esquiline Silver Treasure). Between 1919 and 1950, he wrote numerous art historical articles for magazines and newspapers and published individual monographs in German, Italian and Anglo-American journals. From 1932, he was the representative of the German magazine "Die Weltkunst" in Austria.

In 1920, Stephan Poglayen-Neuwall married Gabriele (called Ella) Brüll, a pediatrician born in Liptószentmiklós (in present-day Slovakia) on 24 February 1893; their son Heinz Ivo, called Ivo, was born the following year; the family lived in Vienna's second district. The marriage ended in divorce in 1927. After the "Anschluss" of Austria to the National Socialist German Reich and when the Nuremberg Laws came into force, Stephan Poglayen-Neuwall, whose maternal grandparents had been Jewish before their conversion, was considered a "Mischling of the first degree". He did not have to register his assets and was not directly affected by the "Jewish Property Levy". However, as Stephan Poglayen-Neuwall stated in his application for a victim's welfare card in 1949, he was dismissed as general representative of the magazine "Die Weltkunst" for Austria and as an author on 1 May 1938. He subsequently left Austria to go to Fiume at the end of June 1938, but returned to Vienna in September 1938, where he lived at various addresses. From September 1939 at the latest, he lived permanently in Italy and earned his living as a language teacher and translator. His son Ivo initially remained in Vienna until, at the age of 20, he followed his mother to Rome in August 1941. Gabriele Poglayen-Neuwall had fled Vienna on 12 November 1938, having been persecuted as a Jew. Her mother Ernestine Brüll, who had left the Jewish Community of Vienna in July 1938, was deported to Łódź on 15 October 1941 and murdered at an unknown date. In February 1942, the Vienna Gestapo had Ivo Poglayen-Neuwall's German citizenship revoked.

Stephan Poglayen-Neuwall returned to Austria in May 1947. In 1949, he was recognized as a victim of the Nazi regime under the Victims' Welfare Act based on official medical confirmation of his emigration-induced emaciation and hernia. Two years earlier, he had claimed an additional payment of 20,000 schillings from the Vienna City Councillor for Culture, Viktor Matejka, for the sale of Biedermeier furniture to the Vienna Municipal Collections, claiming that their director had taken advantage of his predicament in the knowledge of his Jewish ancestors. However, the director of the municipal collections rejected a compromise proposal from the city council and Stephan Poglayen-Neuwall was left without compensation. Decades later, in 2003, the Vienna Restitution Commission recommended the furniture for restitution. Stephan Poglayen-Neuwall died in Zurich on 5 March 1951. Ivo Poglayen-Neuwall had become a zoologist; he emigrated to the USA in 1954, where he worked as a zoo director, among other things.

In the fall of 1938, Stephan Poglayen-Neuwall approached what was then the Army Museum for the first time to sell objects. He was not a collector in the sense of consciously and purposefully building up a collection; rather, almost all of the objects he offered seem to have been furnishings and memorabilia from his family, such as an oil painting which had been painted by his great-uncle Moritz von Neuwall in 1827, which shows him as a cadet at the Technical Military Academy and his two brothers Leopold and Albert as pupils at the Vienna Theresianum. In 1938 and 1939, the Army Museum acquired 42 objects by Stephan Poglayen-Neuwall, of which 21 can currently be found.

In the course of the sales negotiations, he emphasized to the Army Museum the normality of his departure and his longstanding roots in Italy. He incorrectly stated that he had only ever stayed in Austria temporarily in the last ten years, and that his permanent residence was Fiume; in June and August 1939, he ended two letters to the Army Museum with the closing formula "With fascist greetings". The purchase prices offered by the Army Museum were always lower than Stephan Poglayen-Neuwall's initial asking prices, and he sometimes refused to sell at the prices offered by the museum. His difficult financial situation becomes clear in his correspondence with the museum in 1939 and 1940. He repeatedly pointed out that his son needed money.

In June 1940, he once again approached the director of the Army Museum to offer him the flag of the SMS Saida, on which his father had served decades earlier, which had already been presented in 1938 but not sold, and a photo album of a voyage of the Saida. He made it clear that this was a sale in an emergency situation, which he would rather avoid if he could still generate income in other ways. Once again, the sale of these two pieces, which he probably valued highly, did not materialise. The rejection letter, dated 1 November, 1940, was the last contact between the museum and Stephan Poglayen-Neuwall.

In 1997, during a visit to Vienna, his son Ivo Poglayen-Neuwall approached what is now the Museum of Military History in order to present it with the album of a voyage of the Saida, which his father had already wanted to sell to the museum in 1938 and 1940. Neither Ivo nor the museum staff made any connection between this gift and the purchases made in 1938 and 1939. In 1999, Ivo Poglayen-Neuwall, as he said himself, "proudly" handed over the SMS Saida flag, which he described as a family heirloom that he and his wife cherished.

The Advisory Board considered the following:

According to Section 1. (1). 2 of the Art Restitution Act, objects owned by the federal government that were the subject of a legal transaction or legal act in accordance with Section 1 of the Nullity Act 1946 may be transferred to the original owners or their legal successors *causa mortis*. In accordance with Section 1 of the Nullity Act 1946, "legal transactions and other legal acts against payment or free of charge during the German occupation of Austria are null and void if they were carried out in the course of its political or economic penetration by the German Reich in order to deprive natural or legal persons of assets or property rights to which they were entitled on 13 March 1938."

As the Advisory Board stated in its meeting on 2 March 2012, Stephan Poglayen-Neuwall was considered a "Mischling of the first degree" according to the National Socialist laws, he was therefore to be counted among the persecuted persons in accordance with the case law of the Restitution Commissions", regardless of whether the acquirer was aware that the transferor was subject to political persecution" (Rauscher, Die Rechtsprechung der Obersten Rückstellungskommission III, note 7d to Sec. 2 para. 1). Stephan Poglayen-Neuwall was dismissed as the Austrian general representative of the magazine "Die Weltkunst" and as an author on 1 May 1938; he subsequently went to Italy. In the 1949 proceedings, he was recognized as a victim of the Nazi regime in accordance with the Victims' Welfare Act. The sales made by him are therefore to be assessed as seizures, regardless of whether the initiative for the sale came from him and whether he received an appropriate price. There is also a temporal connection between the sales in 1938 and 1939 and his departure from the country and the resulting lack of money.

The conditions of Section 1. (1). 2 of the Art Restitution Act are met with regard to the sales carried out by Dr. Stephan Poglayen-Neuwall in 1938 and 1939, and the Federal Minister of Defense is to be recommended the transfer of ownership of the 21 objects. This would also apply to the (currently) untraceable 21 objects if they were to be identified in the course of further research in the holdings of the Museum of Military History.

Vienna, 27 September 2024
Prof. Dr. Clemens JABLONER (Chairman)

Members:

Univ.-Prof.ⁱⁿ Dr.ⁱⁿ
Sonja BYDLINSKI, MBA

Associate Professorⁱⁿ
Dr.ⁱⁿ Birgit KIRCHMAYR

Ministerial
Councillor Dr.ⁱⁿ Eva B.
OTTILLINGER

A.o. Univ.Prof.ⁱⁿ
Dr.ⁱⁿ Sabine PLAKOLM-FORSTHUBER

Counselor of the VwGH
Dr. Franz Philipp SUTTER

Substitute members:

Privy Councillor
Dr. Christoph HATSCHEK

Supplement

Inventory number	Object category	Object description	Status
0000/34/NI36064	Powder horn	Powder measure for oriental musket	available
1938/02/NI16553	Tunic	White tunic for generals (gala uniform)	available
1938/15/BI19755	Oil painting	Moritz von Neuwall, group portrait of three pupils in uniform, 1827	available
1939/01/NI16760	Cap	Headgear for general ("Stulphut")	available
1939/01/NI16761	Cap	Cap black, soft form for General of the k.u.k. Army, pattern 1871	missing
1939/01/NI16762	Cap	Cap black, soft form for General of the k.u.k. Army, pattern 1871	missing
1939/01/NI16763	Cap	Cap black, soft form for General of the k.u.k. Army, pattern 1871	missing
1939/01/NI16764	Cap	Cap black, soft form for General of the k.u.k. Army; pattern 1871	available
1939/01/NI16765	Chapka	Chapka for staff officer of the k.u.k. Uhlan Rgt. No. 12, 1899	available
1939/01/NI16766	Horsehair plume	Horsehair plume for headgear	available
1939/01/NI16767	Cap	Cap for members of the k.u.k. Army, field cap/camp cap without peak	available
1939/02/NI16759	Tunic	Tunic white for field marshal lieutenants (gala uniform);	available
1939/03/NI16768	Collar	A detachable collar for a general staff colonel	available
1939/15/BI20751	Oil painting	Portrait of Moritz Freiherr Ritter von Neuwall (?-1841)	available
1939/40/LBI6094	Photo album	Photo album from the 60s - 70s of the 19th century with 97 photographs of well-known personalities and members of the Neuwall family	available
1939/47/LBI6098/1	Photo	Photo from bundle "8 photographs, 5 of which with portraits of unknown officers and 3 with photos of the corvette S.M.S. Saida"	missing
1939/47/LBI6098/2	Photo	Photo from bundle "8 photographs, 5 of which with portraits of unknown officers and 3 with photos of the corvette S.M.S. Saida"	missing
1939/47/LBI6098/3	Photo	Photo from bundle "8 photographs, 5 of which with portraits of unknown officers and 3 with photos of the corvette S.M.S. Saida"	missing
1939/47/LBI6098/4	Photo	Portrait: LSchLt Anton Count AICHELBURG with his wife Maria, née Baroness BOURGUIGNON v. Baumberg (or: Viktor WICKERHAUSER (?))	available

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1939/47/LBI6098/5	Photo	Photo from bundle "8 photographs, 5 of which with portraits of unknown officers and 3 with photos of the corvette S.M.S. Saida"	missing
1939/47/LBI6098/6	Photo	Photo from bundle "8 photographs, 5 of which with portraits of unknown officers and 3 with photos of the corvette S.M.S. Saida"	missing
1939/47/LBI6098/7	Photo	Portrait NEMECIC V.Bihacgrad, Joseph Ritter, colonel and commander of Infantry Regiment No. 97 (Pola)	available
1939/47/LBI6098/8	Photo	Photo from bundle "8 photographs, 5 of which with portraits of unknown officers and 3 with photos of the corvette S.M.S. Saida"	missing
1939/47/LBI6100	Photo	Maneuvers around 1894, (1) Archduke Albrecht and Archduke Friedrich (2) in front of the maneuver tent,	available
1939/47/LBI6101	Photo	General's journey with Archduke Albrecht, Group photo	available
1939/47/LBI6102	Photo	Archdukes Albrecht and Frederick with the general staff in Teschen, group photo	missing
1939/47/LBI6103	Photo	Group picture: Maneuver shot on horseback with officers of the k. u. k. 4th Cavalry Brigade and the k. u. k. IV. Corps in the center Colonel Viktor Koller, 1904/05	available
1939/47/LBI6104	Photo	Group photo of officers of the Hussar Regiment Count Üxküll No. 16, ca. 1907	available
1939/47/LBI6105	Photo	Group photo with Hussar officers and General Major Viktor Koller, June 7, 1906	available
1939/47/LBI6106	Photo	Group picture: Equitation of the k. u. k. 4th Cavalry Brigade in Budapest with hussar officers of the k. u. k. Hussar Regiments No. 8 and 16, 1905 (center: Colonel Viktor Koller)	available
1939/47/LBI6107	Photo	k.u.k. Cavalry Brigade Budapest, Commander Viktor Koller.	available
NI30688-R203	sabre	Austrian infantry officer's sabre with scabbard from 1845	missing
NI30918-R18	sabre	Austrian cavalry sabre with scabbard M. 1858/61	missing
NI34417-R10	sabre	Austrian cavalry officer's sabre with scabbard from 1845	missing
NI36066	Morning star	Morning Star with 6-piece head and tip	missing
NI36067	battle-axe	Iron battle-axe with firing device (matchlock) and unscrewable handle with 18 cm square blade, brass handle knob in the shape of an animal	missing
NI36068	Lance tip	Four-edged lance point with round socket without feathers	missing
NI36069	Sabre	Austrian officer's sabre with scabbard from 1837	missing
Without inv. No.	Stirrup	1 pair of oriental stirrups made of sheet copper	missing
Without inv. no.	Stirrup	1 pair of oriental brass stirrups	missing

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Without inv. no	Stirrup	1 piece oriental stirrup made of brass, pear-shaped, openwork	missing
Without inv. no	Stirrup	1 piece oriental stirrup made of iron, openwork	missing

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