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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 25 September 2020, the Art Restitution Advisory Board unanimously adopted the following

DECISION

It is recommended to the Federal Minister for Arts, Culture, the Civil Service and Sport that the mollusc shells in the provenance research dossier “Göttweig Abbey” be transferred from the Third Zoology Department of the Natural History Museum Vienna (NHM) to Göttweig Abbey.

FOUNDATIONS

The Advisory Board considered the above-mentioned dossier from the Commission for Provenance Research. It contains the following observations of relevance to the decision.

Göttweig Benedictine Abbey had not only art collections comprising paintings and coins, but also natural history collections, including a very heterogeneous mineral collection. According to abbey inventories from 1886 and 1922, this contained the “nice mollusc shell specimens” under consideration here. The mineral collection was established in the second half of the nineteenth century, in particular through the abbey monk Leopold Hacker (1843–1926), who in 1876 became director of this collection.

Between 1868 and 1910, Göttweig Abbey also established a herbarium, a collection for scientific or archival purposes of dried plants or plant components pasted onto sheets of paper. Pater Benedikt Kissling (1851–1926) and Pater Ludwig Leitgeb (1844–1897) were involved in the constitution of the herbarium in Göttweig. Both were botanical researchers and members of the Imperial and Royal Zoological and Botanical Society in Vienna. Some of the dried plants came from Lower Austria, but there were specimens as well from other parts of Europe, presumably above all from the crown lands of the Austro-Hungarian monarchy. The herbarium also contained a collection of moss specimens belonging to the Austrian botanist Jacob Juratzka (1821–1878).

After the annexation of Austria to the Nazi German Reich, Göttweig Abbey was expropriated at the start of the “Klostersturm” between 1940 and 1942, during which around 300 Catholic abbeys and church establishments were seized and expropriated. Göttweig Abbey was the first of two abbeys in the Lower Danube Gau to be completely expropriated.

In February 1939, the State Commissar for the Private Economy [Staatskommissar für die Privatwirtschaft] Walter Rafelsberger appointed the mayor of Krems Franz Retter as temporary administrator [kommisarischer Verwalter] of the abbey. Alleged tax liabilities, links to Communists, and court cases concluded before 1938 relating to sexual abuse were cited as justification for this process, which also involved the dismissal of all officiators. The eight monks living in the abbey were placed under house arrest, interrogated at the Vienna Gestapo

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headquarters on Morzinplatz, in some cases beaten and finally, after their release from Gestapo detention on 29 April 1939, banned from the abbey premises. Following this eviction, the monastery was deemed to have moved from Göttweig Abbey to Unternalb.

In a letter of 6 May 1939, Hugo Jury, Gauleiter of Lower Danube, then ordered the “transfer of Göttweig Abbey to the assets to the city of Krems”. This was unusual to the extent that the abbey’s assets were expropriated in favour of the city of Krems and not the province of Austria, which was the primary intention of the Regulation on the Confiscation of Assets Inimical to the State and the *Volk* in the Province of Austria of 18 November 1938, RGBI. I 1938, pp. 1620–21. Section 1, para. 3, of the Regulation stated:

With the approval of the Reich Minister of the Interior and by agreement with the Reich Commissar for the Reunification of Austria with the German Reich, the Reichsstatthalter may also confiscate assets in favour of other legal entities.

On 13 July 1939 the Reich Ministry of the Interior (RMI) determined that the activities of the members of Göttweig Abbey “were inimical to the State and the *Volk*” and ordered the “confiscation of Göttweig Abbey in favour of the city of Krems”. This was confirmed by the RMI Regulation of 15 July 1939, which stated that expropriations could be performed by legal entities other than the province of Austria.

A subsequent Gestapo order on this matter of 1 August 1939 to the land registries of Krems and Vienna stated that in accordance with the Regulation on the Confiscation of Assets Inimical to the State and the *Volk* in the Province of Austria, all movable and immovable assets and all rights and claims of Göttweig Abbey were to be confiscated in favour of the city of Krems and title transferred to it. This order was confirmed on 3 August 1939 by the Reich Commissar for the Reunification of Austria with the German Reich. The Vienna Gestapo, the executive body of the Reichsstatthalter in Vienna, issued the official expropriation order on 15 September 1939:

All movable and immovable assets and all rights and claims of Göttweig Benedictine Abbey near Krems in Lower Danube are to be confiscated in favour of the city of Krems and title transferred to it.

The order is issued on the basis of Section 1 of the Regulation of 18 November 1938, R.G.Bl. I, p. 1620, on the Confiscation of Assets Inimical to the State and the Volk in the Province of Austria and the Decree of the Reichsstatthalter [Austrian provincial government] of 28 July 1939, Z.S.-II G-1084/39.

The order was promulgated on 20 September 1939 in the *Wiener Zeitung*.

All attempts by the abbey to oppose these orders and the asset expropriation, as well as an appeal to the Federal Court of Justice on 19 October 1939, were unsuccessful. The court, subsequently renamed Reich Court of Administration in Vienna, rejected the appeal by Göttweig Abbey on 19 November 1943.

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After 1940, most of the contents from the abbey were removed and dispersed among various institutions. They included manuscripts, books, paintings, diverse art collections (engravings, coins), porcelain and some articles of furniture. Some were exhibited in the museum in Krems, most were stored in the depot at the Minoritenkirche in Stein, a few items were auctioned in the Dorotheum, and the most attractive items used in Krems town hall and the Reichsstatthalterei Niederdonau [Lower Danube Governor's Office] or given away.

The herbarium at Göttweig Abbey had grown by 1940 to at least sixty-three fascicles, each containing several dozen sheets of dried plant specimens. After the abbey was expropriated, the herbarium was transferred initially to the Stadtmuseum in Krems, whose director and archivist Hans Plöckinger handed it over in September 1940 to the museum of Reichsgau Niederdonau at Herrengasse 9 in Vienna's 1st district. The Göttweig Abbey archive contains the following comment:

In addition, Dr. Müller was given two large herbariums in various portfolios for the Museum of Reichsgau Niederdonau from the old forestry office of the former abbey.

As the Gau museum in Vienna specialized in the collection and exhibition of cultural and natural history objects from the Lower Danube Reichsgau, it only kept the ten fascicles that came from Lower Danube and were of use to the museum for the purpose of comparison. The remaining fifty-three fascicles containing herbarium specimens from all over Europe were given to the NHM in Vienna. They were picked up by the curator of the Botany Department, Anton Krejčík, on 24 September 1940, as the signed receipt below testifies:

The Botanical Department of the Natural History Museum in Vienna confirms receipt through the undersigned of the remaining herbariums from Göttweig Abbey, in total fifty-three fascicles.

The whereabouts of these fifty-three fascicles transferred to the NHM in 1940 are unknown today. The documentation of the Botany Department provides no information, but it is thought that the Göttweig herbarium remained initially unpacked in the department. It may have been destroyed in a fire in May 1945 in Ober-Höflein near Retz, where it was stored, or it may have been exchanged for items from other institutions. As there is no concrete evidence of these hypotheses, it is possible that the NHM herbarium, the fifth-largest in the world, still contains specimens and sheets from Göttweig.

The mollusc shells under consideration here were also deposited in the Stadtmuseum Krems pursuant to the order by the Vienna Gestapo of 15 September 1939 with other art and natural history collections. The shells are thought to have been transported in a crate to the NHM in early 1941, where they were stored for the most part without unpacking in the Third Zoology Department. Correspondence in December 1940 between Hans Plöckinger and Karl Holdhaus, head of the Zoology Department, and Karoline Adametz, secretary and research assistant in the Geology-Palaeontology Department, confirm the NHM's interest in the collection. On 28

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December 1940, Plöckinger expressed his pleasure that in the “matter of the Göttweig mollusc shell collection” the collection had found “a worthy home” in the NHM.

To judge by the condition of the mollusc shells today, they were probably repacked in 1940 in the Krems museum. The open wooden crate with Dorotheum seal in the NHM (50 × 30 × 30 cm) contains mussel and snail shells, mainly in matchboxes and cigarette packets, but also in other smaller boxes. The boxes are wrapped in newspaper from 1940. Some of the shells are unpacked on the surface of the crate, while others are packed in sawdust or directly in newspaper. The objects were neither inventoried in the NHM nor investigated or exhibited. Moreover, they were ignored for years by the NHM and appear thus to have been untouched since 1941.

After 1945, Göttweig Abbey made claims for restitution, involving the natural history collections to the extent that in a settlement with the city of Krems in 1954 it demanded restitution of all movable assets still in the city’s possession or given by it to third parties. Although the abbey’s restitution claims against the city of Krems were recognized, the natural history collection was not returned to it. This is probably due to the fact that the abbey did not know the whereabouts of the herbarium or mollusc shell collection. As the abbey did not conduct any negotiations for restitution with the NHM and the museum failed to make a declaration pursuant to the Regulation on the Declaration of Expropriated Assets [Vermögensentziehungsanmeldungsverordnung] regarding the natural history collections from Göttweig Abbey, the abbey remained unaware that the NHM possessed the collections.

The Advisory Board considered the following:

According to Section 1.(1).2 of the Art Restitution Act, objects that became the property of the State but that had previously been the object of a legal transaction or legal act under Section 1 of the 1946 Annulment Act (or equivalent) may be returned to their original owners or legal successors. The objects from Göttweig Abbey described in the dossier – the mollusc shell collection and herbarium – became the property of the NHM in 1940 and 1941 via the city of Krems, the Krems museum and the museum of the Reichsgau Niederdonau in Vienna. The crate with mollusc shells is still in the NHM and is hence the property of the State. The whereabouts of the abbey’s herbarium cannot be determined at present. It is possible, however, that in the course of the ongoing provenance research at the NHM these objects or at least individual plant specimens and sheets could be found.

As the Board determined in its decision of 23 January 2009 on the Heiligenkreuz Cistercian Abbey, the restitution commissions judged that the Catholic church and its orders were not subject in general to persecution by the Nazi regime (see Rauscher, *Die Rechtsprechung der Obersten Rückstellungskommission*, IV, E 11j zu § 2). In the case of Göttweig Abbey, the Board therefore had to determine whether the objects were expropriated in the course of the political and economic penetration of Austria by the German Reich.

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The Board believes that this is the case. The order by the Gestapo, in its capacity as the body of the Reichsstatthalter in Vienna, of 15 September 1939, on the basis of the Regulation on the Confiscation of Assets Inimical to the State and the *Volk* in the Province of Austria of 18 November 1938 and with the approval of the Reich Ministry of the Interior and the Reich Commissar for the Reunification of Austria with the German Reich, called for the confiscation of the assets of Göttweig Abbey in favour of the city of Krems. As a result, from 1940 most of the movable assets, including the mollusc shell collection and the herbarium, were removed by the city of Krems and dispersed among various institutions. In this way the plant specimens and shells arrived in 1940/41 by a circuitous route in the NHM.

The Board therefore concludes that the expropriation of the objects may be regarded as an invalid legal transaction in the meaning of the Annulment Act. The conditions of Section 1.(1).2 of the Art Restitution Act are thus met, and it is recommended to the Federal Minister for Arts, Culture, the Civil Service and Sport that the shell collection be transferred to Göttweig Abbey. This would also apply to the herbarium, should it be identified in the course of further research into the NHM's holdings.

Vienna, 25 September 2020

Univ.-Prof. Dr. Clemens Jabloner (chairperson)

Members

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