

[unofficial translation]

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 29 November 2022, the Art Restitution Advisory Board unanimously adopted the following

DECISION

It is recommended to the Federal Minister for Education, Science and Research that the 83 manuscripts shown in this dossier from the University Library of Vienna / Commission for Provenience Research called “Library Albert Franz Maria Wesselski”, currently in the possession of the Republic of Austria, should **not** be transferred to the legal successor/assignee *causa mortis* of Maria Wesselski.

GROUND

The Art Restitution Advisory Board is in possession of the named dossier. According to this dossier, the following facts are relevant to this decision:

Albert Franz Maria was born in Vienna as the oldest son of the Imperial Royal communal teacher Franz Wesselsky and his wife Franziska on 3 September 1871. He was, according to his parents' faith, baptized 3 days later in the Roman Catholic tradition. Albert Wesselsky later changed the spelling of his last name, replacing the “-y” with an “-i”, which resulted in most of his official documents being issued with this new spelling.

After the early death of the father in 1871, the widow and both of her toddlers moved back to her parental home at Laudongasse 14 in Vienna's 8th district. After primary school, Albert attended the Schottengymnasium and from 1884 the Piaristengymnasium. After passing his final exams in 1888, he began to study at the Philosophical Faculty of the University of Vienna but, according to his own account, he transferred to the Technical University after eight semesters. However, no confirmation of enrollment or certificates can be found in the archives. It is more likely that Albert Wesselski enrolled in 1895/96 at the Technical University of Graz where he studied geology, geodesy, practical geometry and mechanical engineering. However, he didn't complete his studies there either. As he stated in his curriculum vitae that can be found in his personal file at the University of Graz, he worked as an engineer from 1897,

[unofficial translation]

[unofficial translation]

initially in private service, registered in Vienna as “BergIng., IX. Mariannengasse” (Mountain engineer, 9th district, Mariannengasse), before moving once again to Graz and working as an auxiliary technician for the Styrian Building Department from 1902–1907. It was probably at this time that Wesselski met the doctor’s widow Helene Francisca Zotos, née Kielhauser, who, according to an entry at the baptismal registry, had left the Catholic church in 1901. For this reason, she and Albert Wesselski both converted to Lutheranism before their wedding in the Heilandskirche in Graz on 6 December 1903.

As his technical profession, by his own account, did not “satisfy him”, Albert Wesselski he turned his attention to books. He worked together with the publisher Georg Müller and took over the management of the “Teschen-Bodenbacher Zeitung” in 1907. For this, he and his wife moved to Tetschen on the Elbe. Leipzig, the most important location for publishers at the time, was the home of the Eugen Diederich Publishers, a publishing house which specialized in narrative and mythological research. Wesselski worked for them, publishing annotated translations of important authors of the Italian Renaissance. It can be assumed that Wesselski was already amassing an extensive library at that time. This library contained works on Italian Renaissance novella literature, including some rare editions from the 16th and 17th centuries. After resigning from his position as editor-in-chief on 30 June 1914, –his publishing contracts also became obsolete due to the onset of World War I, causing Albert Wesselski to move back to Austria, where he was appointed editorial director of the newspaper *Neuesten Nachrichten Salzburg*. In the same year, 1916, he divorced Helena and moved from Salzburg to Innsbruck where – after the editors of the *Neuesten Nachrichten Salzburg* had also bought the *Innsbrucker Nachrichten* – he was editor-in-chief as well. Between 1912 and 1927, he was also registered as an inhabitant of Graz. In addition to journalism, he dedicated himself to literary translations of French and Flemish works, as well as comparative literature studies, where his primary focus was on fairytales, legends, jokes and proverbs.

In 1918, Albert Wesselski took over as editor-in-chief of the daily paper “Bohemia” in Prague, where he married the singer Maria Salzmann (born 1887) two years later. Albert Wesselski was politically active and among other things, a member of the Deutschen Demokratischen Freiheitspartei (German Democratic Freedom Party). After he criticized the newly founded

[unofficial translation]

[unofficial translation]

Czechoslovakian state in the "Bohemia" newspaper, other newspapers disparaged this paper as a Nazi publication.

On the occasion of his 60th birthday in 1931, the German University of Prague awarded Albert Wesselski an honorary doctorate in Philosophy for his many years of scholarly activity. In December 1934, he submitted his recently finished work "Attempt of a Theory of the Fairytale" to the Philosophical Faculty of the University of Graz as his application for habilitation. Just a few months later, he announced his resignation from his editorial work in order to be able to focus on his literary studies without further distractions. In 1935, after a review of his "general and civic behaviour" which the Department of Foreign Affairs in the Federal Chancellery carried out for the Ministry of Education, showed that Wesselski was of "impeccable political and national character, very knowledgeable, rightly respected in all circles as well as correct and reliable", he was awarded the "venia legendi for Comparative Literature Studies, with special consideration of German folklore narrative". He was unable to move to Graz, which was a prerequisite for his habilitation. In a letter to his colleague Hugo Hepding on 14 March 1936, he wrote:

"After resigning from my position as editor-in-chief (March 1935), my income is too low to live there [in Graz] [...] thus, I will have to delay my venia for some time."

In July 1936, he also told the U.S. American folklore scholar and Professor of English at the Indiana University, Stith Thompson, with whom Wesselski was on friendly terms, that for the time being he would not be moving to Graz. A co-factor for not giving the mandatory lecture was likely his wife's severe illness, as he spent a quarter of the year 1936 at her bedside, before she was operated on in Prague in 1937. After his wife's recuperation, still in the same year, there followed a short productive period with trips to various libraries and archives in Berlin, Leipzig, Weimar and Vienna which resulted in his book "German Fairytales before Grimm" published by the Sudeten German publisher Rohrer in 1938. In June 1938, his last publication "Das Geschenk der Lebensjahre" was to appear in the Czechoslovakian newspaper "Archív Orientální".

As a result of his literary scholarship and work as an author, his being editor-in-chief of a politically important, Germanlanguage newspaper in Prague, and also his occupation as a private lecturer at the University of Graz, the National Socialist Teachers' League (NSLB) took

[unofficial translation]

[unofficial translation]

interest in Albert Wesselski. In a review of the Reich Administration of the NSLB in 1937, the following was written about him: He is an *“old-school Nationalist, who consistently expresses his German ethos”*, however, it was further stated that *“his attitude towards National Socialism could not yet be determined”*. There is no documentation proving that Wesselski joined the NSLB, nor is there evidence of his membership in any other Nazi organisations.

The “Anschluss” of Austria to the National Socialist German Reich also had far-reaching consequences for universities. Already as early as 26 March 1938, the universities were ordered by the minister of the “Anschluss-Kabinetts”, Oswald Menghin, to submit lists of professors who were to be dismissed from their positions. Albert Wesselski was not mentioned on such a list provided by the rectorate of the University of Graz on 6 April 1938. With the Ministerial Ordinance of 23 April 1938, dismissals, administrative suspensions and forced retirements occurred in all faculties of the University of Graz; A total of 34% of all professors were dismissed. In the Philosophical Faculty this immediately affected professors Viktor F. Hess, Heinrich Felix Schmid, Otto Storch, Hugo Hantsch and Franz Schehl. Furthermore, the teaching license of David Herzog, historian and provincial rabbi of Styria and Carinthia, was revoked, and that of Albert Wesselski was to be *“suspended until further notice”* or *“to be reviewed with regard to the provisions of the habilitation norms regarding residence regulations”*.

Three days after this ministerial ordinance, the dean of the University of Graz informed Albert Wesselski of the “suspension” of his position as lecturer. It was stated that his teaching license which had been granted in 1935 was to be permanently revoked due the failure to fulfil the habilitation norms of 2 September 1920. Section 5(1)(6) of the habilitation norms stipulates: *“If the applicant for the position of lecturer at a university does not have a permanent residence directly in the city in which the university is located or its surroundings, he must undertake to move there”*. According to Paragraph 21, the teaching license was revoked if, on the one hand, the lecturer did not move his permanent residence to the city in which the university was located in order to be able to carry out his teaching position regularly, and if, on the other hand, he did not hold any lectures for *“four consecutive semesters”*. Both conditions applied to Wesselski; according to his own statements he hadn’t intended to move to Graz, despite the university’s request, nor had he given the required lectures. The above-mentioned

[unofficial translation]

[unofficial translation]

correspondance from the deandid not make any reference to the age limit introduced in 1934, according to which the teaching license could expire after one turned 65. – In 1938, Wesselski was already 67 years old.

Albert Wesselski died in his apartment in Prague on 2 February 1939, after a short illness.

As mentioned, he may have amassed his library of approximately 9,000 works early on. According to the “Descriptive Catalogue” preserved at Indiana State University, the collection included over 60 incunabula and early printings, first printings, first editions, facsimile prints and rare works of literature on witchcraft, legends, exempla and sermons, as well as the oldest collection of fairy tales from 1557, which served as his historical documentation of medieval narrative literature. In addition to this, there were works in Latin, Greek, Italian, French, Spanish, English, German, Indian, Persian and Arabic as well as works of Judaica, which Wesselski needed for his comparative literature research.

In 1936, Stith Thompson, who had inspected Wesselski’s library in his flat in Prague five years earlier, remembered that he [Wesselski] had mentioned at that time that he wanted to sell his library to an institution. Thompson named Harvard University and the then-established University of California Library as potential buyers. Together with a detailed, 37-page inventory, Wesselski submitted his terms of sale in March 1937:

“Beginning with 1 January 1937, the buyer [...] shall pay \$ 5000 every year on 1 January, as long as I live; after my death my wife [...] shall receive a yearly payment of \$ 2000 or, if the buyer prefers, a one-time payment of \$ 20,000. My library would become the property of the buyer, and they would have to confirm to me the right to use it for life; the library would therefore be American property in Prague.”

At the same time, Wesselski did not conceal the existence of a potential local buyer. Thompson, who considered the library to be extremely valuable and, for his part, was also interested in obtaining it for the University of Indiana, where he himself taught, was afraid that the price would become prohibitively high. At the beginning of 1938, Wesselski changed his previous proposal and declared that he wished to hand over three quarters of his library, immediately upon payment, and the remaining quarter only postmortem. After his death, Maria Wesselski, who had already inherited all his movable and immovable property based on a will written in 1924, continued the negotiations. In his condolence letter, Thompson reiterated the University

[unofficial translation]

[unofficial translation]

of Indiana's willingness to buy the collection. However, with Hitler's invasion of Prague in March 1939, the conditions for the sale changed. After the establishment of the Protectorate of Bohemia and Moravia, the granting of export licenses for private cultural assets — including libraries — fell within the responsibility of the protectorate government. In a letter dated 23 April 1939, Maria Wesselski told Stith Thompson that she was unable to make a decision. An (unspecified) academic institute had also approached her regarding the sale of the library. It may have been the Central Library of the Hohe Schule of the NSDAP (Advanced School of the NSDAP) which was in the process of being established in Berlin, and whose director, Walter Grothe (1893–1953), saw the founding of a large scholarly library as his mission, taking advantage of the mass confiscation of books as part of the so-called "Einsatzstabs Reichsleiter Rosenberg (ERR) (Reichsleiter Rosenberg Taskforce)". The ERR had been informed by the "Office for the Maintenance of Literature" that the Wesselski Library was up for sale and the negotiation sum – corresponding to the conversion of the dollar price from 1937 – had the extremely high value of RM 80,000.

As also mentioned in the Preliminary Report on the Central Library of the Advanced School (NSDAP) of the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas from 1 August 1945, Grothe, supported by the ERR, made efforts to purchase the library in order to incorporate it into the "Research Center for Mythology" department that was currently being created at the Advanced School. Based on the report obtained from the Berlin antiquarian bookshop Loofman & Zinnow, which was based only on a card catalogue, Grothe came to the following conclusion in his report of 5 August 1939:

"A total price of around RM 34,000 would come into question for the purchase of the library. [...] I do not want to hide the fact that price supplement of up to RM 10,000 could be achieved. We have taken into account that there is [...] a copious number of titles on Jewish literature especially, and also from many Jewish authors, which adversely affect the overall value of the library – and not just for us - and which we hope to obtain from confiscated stocks. [...]

In summary, it can be said that the purchase of the library remains essential for us."

Shortly thereafter, on 8 September 1939, in the course of the probate proceedings regarding Albert Wesselski, the value of his library was set at 70,000 crowns, the equivalent of only RM 7,000. As a result, the lawyers of Maria Wesselski, who had recently been seriously ill,

[unofficial translation]

[unofficial translation]

submitted an adjusted offer with a retail value of \$23,000 (equivalent to about RM 57,000) to Stith Thompson, should export be approved. Because the war had already begun, Thompson replied on 25 November 1939, that the University of Indiana was still very interested in purchasing the library, but due to the prevailing political situation the conclusion of the sale was currently not possible.

Whether the Minister of Finance of the Protectorates of Bohemia and Moravia, as the first authority at that time, would have issued an export permit will remain unknown, since Maria Wesselski ultimately sold her late husband's collection to the Library of the Advanced School of the NSDAP in Berlin for RM 34,000. The certificate of incorporation was handed over to Maria Wesselski on 14 January 1940, therefore the lawful sale could have taken place only afterwards; when exactly is not verifiable. A needs assessment submitted on 11 March 1940, regarding the increased personnel budget, in particular because of the proper "*processing of holdings acquired in the meantime (e.g., the Wesselski Library)*", proves, however, that the library was at the latest then established in the Advanced School of the NSDAP, in part in the "Research Center for Mythology", as well as at the Central Library itself. The removal from the Protectorate most likely took place by train via Tetschen and Dresden to Berlin. At the same time, Maria Wesselski gave up her apartment and moved in with her brother Karl Salzmann at Hetzinselgasse 6 in Prague, where she died on 3 March 1942. All volumes, including the 83 books presented here - but not the ones from the "Research Center for Mythology", which came to the Austrian Museum for Folklore - bear a stamp of the surname, this marking was probably made at the request of the widow and formed part of the conditions of sale.

The further path of the books ending with their arrival at the main library of the University of Vienna can be reconstructed as follows: Starting in September 1944, while the war was still ongoing, the outsourcing of the books in the Central Library of the Advanced School from Berlin to Carinthia began, first to the Hotel Annenheim, then to the Olivetan monastery in Tanzenberg. In 1945, the Allies found the Wesselski Library packed in crates in the Tanzenberg salvage site. After the end of the war, the British occupying troops demanded that the the books stored there from all over Europe be returned to their rightful owners. As the files of the Allied Commission for Austria in the London National Archives show, the Czechoslovak Republic laid claim to Wesselski's library: "*The Czech Restitution Mission hopes to send a book*

[unofficial translation]

[unofficial translation]

expert to Tanzenberg in the near future to decide whether they will lay claim to any books. It is understood that the Wesselski collection may be appropriate for restitution to Czechoslovakia."

However, in an examination of this claim by the Allies, the Commission found that the "Czechoslovaks can reasonably claim any books in the Czech language found amongst the books of unknown provenance", but not the Wesselski Library, which was "in any case a library of books in German and not in Czech language". From 1949 on, the restitution work on the holdings from Tanzenberg – as well as the holdings of the Gestapo, the Dorotheum and the National Library of Vienna – was conducted by the so-called "book sorting office", which completed its activities in 1951. A considerable proportion of the works that ultimately could not or should not be returned – a total of 37 crates, which also contained works from the former Wesselski Library – were handed over in trust to the Vienna University Library.

At the end of the 1950s, after an intervention initiated by the Jewish community in Vienna, the Vienna University Library was obliged to divide the bundles of books that had been awarded to it with the Jewish National & University Library (JNUL) Jerusalem in a 60:40 ratio, since a large portion of the entire inventory of the Library of the Advanced School came from raids carried out by the Reichsleiter Rosenberg task force in the areas of Western and Eastern Europe occupied by German troops.

Likely for reasons of labour economy, neither of the two parties created the prescribed transfer lists. This led to a further geographical dispersion of the Wesselski Library. Due to a lack of detailed records – in the 1950s there was only one list of the most important and valuable works – it is impossible to determine the exact number of works taken from the Wesselski Library, since there were also many thousands of books that were distributed from Jerusalem to various academic libraries in Israel.

Furthermore, books from the Wesselski Library were also given to other Austrian institutions. In addition to a volume found in the Parliamentary Library, 549 works in the Folklore Museum in Vienna (as part of the so-called Myths Library established there), 144 in the Österreichisches Volksliedwerk (Part of the Austrian National Library), 28 in the Salzburg University Library, and 391 in the Vienna University Library (including the 83 in federal ownership), which currently

[unofficial translation]

[unofficial translation]

results in a total of 1,112 confirmed copies. The whereabouts of circa 7,900 of the approximately 9,000 works in Albert Wesselski's library must therefore still be discovered through further research.

The Advisory Board considered the following:

According to Section 1.(1).2 of the Art Restitution Act, objects that legally became the property of the State but had previously been the object of a legal transaction or a legal act under Section 1 of the 1946 Annulment Act, or comparable legislation, may be transferred to their original owners or legal successors *causa mortis*. Paragraph 2a extends this to a legal transaction in the territory of the German Reich outside the territory of today's Republic of Austria.

According to Section 1 of the Nullity Act 1946, *"legal transactions against payment or free of charge and other legal acts during the German occupation of Austria are null and void if they were undertaken in the course of its political or economic penetration by the German Reich in order to deprive natural or legal persons of property or property rights which they were entitled to on 13 March 1938."*

As the Advisory Board has already stated several times with reference to the relevant case law of the Restitution Commissions, relevant legal transactions by persons who are to be assigned to the group of the persecuted are to be assessed as null and void in accordance with Section 1 of the Nullity Act 1946.

However, neither Albert Wesselski nor his wife Maria Wesselski belonged to this circle. The existing ideas that Albert Wesselski had possibly converted to Judaism – and therefore could subsequently be seen as part of the group of victims of persecution – do not apply. He and his entire family, including his ancestors and the families of his two wives, were of Catholic or Protestant faith. Irrespective of the fact that Wesselski's membership in the National Socialist Teachers' League cannot be proven, this underpins his assessment by the Reich administration from 1937, which characterized him as an "old-time nationalist, who expresses a German sentiment in his overall attitude"; the attribution of such a German-national attitude by a National Socialist structure to a person considered Jewish can be excluded. Admittedly, after

[unofficial translation]

[unofficial translation]

the "Anschluss", the private lecturer Albert Wesselski received a letter from the dean of the University of Graz stating that he was deprived of the *venia legendi* on 26 April 1938. However, this was done with explicit reference to non-compliance with the habilitation norms of 1920, as he had not met the requirements associated with his habilitation. He had neither held the prescribed lectures nor had he taken up residence in Graz. For these reasons, Wesselski himself had already considered in 1936 that "it would probably have to be retracted at some time". It was therefore necessary to check whether the sale of the library, which Albert Wesselski had built up over the years, and went to his widow, is to be assessed as a null legal transaction in accordance with Section 1 of the Nullity Act or for other reasons. Albert Wesselski himself was unable to complete the sale of his library, which had been initiated before Austria's "annexation" by the German Reich and thus also before the German invasion of Prague. According to his will, after his death on 2 February 1939, his entire fortune – including the library – passed to his wife Maria Wesselski. As indicated, she finally sold this to the Central Library of the Advanced School of the NSDAP in Berlin in March 1940. Although the purchase price of around RM 34,000 was far below the original offer from the University of Indiana (USA), the library was valued at only the equivalent of RM 7,000 in the probate proceedings. In addition, on 25 November 1939, Stith Thompson reported to the University of Indiana that due to the beginning of the war and the prevailing political situation, a sale was not possible at the moment. After the transfer in January 1940, Maria Wesselski sold the approximately 9,000 volumes to the only remaining prospective buyer, since she had no inheritance from her husband other than the library and a property in Berlin — according to the deed of inheritance — for a sum which was more than four times higher than that which the expert had determined in the probate proceedings.

Since neither Albert nor Maria Wesselski belonged to the group of persecuted persons, the Advisory Board came to the conclusion that the sale of the Wesselski Library did not take place in the course of the political or commercial penetration of the National Socialist German Reich. Only the changed political circumstances, for example, the beginning of the Second World War in particular, reduced the circle of those interested in buying it to the Central Library of the Advanced School of the NSDAP in Berlin. The facts of Section 1.(1).2 (or 2a) of the Art Restitution Act are therefore not fulfilled and a return is **not** recommended.

[unofficial translation]

[unofficial translation]

Vienna, 29 November 2022
Univ.-Prof. Dr. Clemens JABLONER (Chairman)

Members:

Assoz. Univ.-Prof.ⁱⁿ
Dr.in Birgit KIRCHMAYR

Ministerialrätin
Dr.ⁱⁿ Eva B. OTTILLINGER

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

Hofrat d VwGH
Dr. Franz Philipp SUTTER

Referatsleiter
Mag. Dominik REISNER

Alternates:

Richterin
Mag.^a Eva REICHEL

Hofrat
Dr. Christoph HATSCHEK

[unofficial translation]