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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 28 November 2023, the Art Restitution Advisory Board adopted the following

DECISION

It is recommended to the Federal Minister for Arts, Culture, Public Service and Sports to transfer the printed work mentioned in the file of the Commission for Provenance Research 12/2023, "Hélène Betty Louise Caroline van Zuylen van Nyevelt de Haar",

Charles Garnier, Le Théâtre, Paris 1871
signature: 843343-B (Theatersammlung)

from the Österreichische Nationalbibliothek to the legal successors *causa mortis* of Hélène Betty Louise Caroline van Zuylen van Nyevelt de Haar.

FOUNDATIONS

The Advisory Board has received the above-mentioned dossier from the Commission for Provenance Research. Due to a petition from the legal representation of the successor of Hélène van Zuylen van Nyevelt de Haar, the book in question has been (re) investigated by the Commission for Provenance Research. Accordingly, the following facts are relevant to the decision.

Hélène Betty Louise Caroline de Rothschild was born in Paris on 21 August 1863, as the only daughter of Baron Salomon James de Rothschild and Adèle Hannah Charlotte von Rothschild, who originated from the German branch of the family. After the early death of Hélène's father in 1864, the mother and daughter resided in the Hôtel Salomon de Rothschild, which was furnished with art and curiosities, and was located on Rue Berryer in Paris. Contrary to family tradition, Hélène did not marry within the family; marrying Baron Étienne van Zuylen van Nyevelt de Haar from the Netherlands instead. Both families had objections to the marriage, which took place in a small circle in Paris on 16 August 1887: Adèle von Rothschild due to the bridegroom's Catholic and financial background; his family due to the Jewish faith of the bride. The marriage contract stipulated – remarkably for that time – the wife's legal capacity, while Hélène in return guaranteed to finance her husband's lifestyle. From 1893, Hélène and Étienne van Zuylen van Nyevelt de Haar resided in a representative Parisian villa on Avenue du Bois-de-Boulogne (renamed Avenue Foch in 1929), with the couple basically alternating between their houses in Paris, Brussels, Haarzuilens, Nice and Lisbon. They were at the centre of public interest; international newspapers reported on their extravagant lifestyle, attendance at balls and travels. In 1888, their son Hélin was born, followed by son Egmont in 1890. In the same year, Étienne inherited De Haar Castle near Utrecht in the Netherlands, which the couple extensively and opulently renovated in the "Goût Rothschild" style in the following years.

Around 1900, Hélène began to engage in literary activities. She became part of a circle of feminist writers, hosted a literary salon in Paris and wrote novels (e.g., *Le chemin du souvenir*, 1907), poems and short stories. From 1902 to 1907, she had a relationship with the French-English poet Renée

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Vivien. Although they could not openly live this relationship, the two women traveled and published poems and prose together under the name Paule Riversdale.

In 1912, Hélian van Zuylen van Nyevelt de Haar died at the age of 24 in a car accident while on his way to De Haar Castle. From then on, his mother Hélène avoided the family estate and resided from then on mainly in Paris. From 1918 onwards, she lived in a relationship with the Portuguese writer and women's rights activist Olga de Moraes Sarmiento da Silveira.

After the death of her husband Étienne in 1934, the family title passed to her son Egmont, who also took over De Haar Castle.

The libertarian life that Hélène had cultivated for decades came to an abrupt end with the German Wehrmacht's Western Campaign during World War II. After the German invasion and occupation of the Netherlands, Belgium and Luxembourg in early summer 1940, France also suffered defeat. In most of France and Belgium, a German military administration was established, which issued the first anti-Jewish regulations in late September, changing Hélène van Zuylen van Nyevelt de Haar's life. The Military Commander's decree issued in France on 27 September, 1940, defined who was to be classified as Jewish (according to the religious affiliation of ancestors), ordered a census of Jews living in the occupied part of the country, the labelling of "Jewish businesses", and reinforced the ban on the return of Jewish refugees to the occupied zone. In April 1941, the mandatory introduction of ID cards as well as the marking with "J" was introduced in the Netherlands, where Egmont owned De Haar Castle. In mid-May 1941, Reich Commissioner Arthur Seyß-Inquart announced that the Netherlands should be "free of Jews" in the future – the internment and eventual deportation of Dutch Jews was imminent.

As a member of the Rothschild family, Hélène van Zuylen van Nyevelt de Haar quickly came under the scrutiny of the Nazi regime. Together with her Portuguese life partner, she was able to leave Paris for Portugal no later than January 1941. In Lisbon, on 12 April 1941, they boarded the plane "Dixie Clipper" bound for New York, where they arrived on April 15. She stated her citizenship as "Belgian". Her son Egmont also managed to emigrate to the USA; together with his wife and three children, he settled into his mother's neighbourhood in New York.

Hélène van Zuylen van Nyevelt de Haar did not return to Paris after the war but moved to her life partner's homeland, Portugal. In 1945 and 1946, she applied to the French "Office des biens et intérêts privés" (Office of Private Property and Private Interests) for the return of her furniture, art treasures and library that she had left in her villa. As explained below, in 1946/47, she received a total of 7,010 books, along with some furniture and antiques that the "Einsatzstab der Dienststellen des Reichsleiters Rosenberg für die besetzten westlichen Gebiete und die Niederlande" (Reichsleiter Rosenberg Taskforce, ERR) had distributed to various locations in Germany after their confiscation through the Jeu de Paume. On 18 October 1947, Hélène van Zuylen van Nyevelt de Haar passed away at the age of 84 at the Avenida Palace Hotel in Lisbon. Her remains were transferred to the Jewish section of Père Lachaise Cemetery before finding her final resting place in the crypt of De Haar Castle in 1958.

After the Nazis' successful Western Campaign and the occupation of France in 1940, German forces, primarily the ERR, immediately began with the systematic confiscation of French cultural assets. On the one hand, this affected the extensive collections of art and cultural objects in France's state museums, collections, archives, libraries and other institutions, while, on the other hand, it increasingly involved "Jewish property". With the Führer's order of 5 July 1940, the ERR was authorised to identify and confiscate culturally valuable "ownerless Jewish property", secure material

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from libraries, archives and lodges and deliver it to the "Central Library of the Advanced School of the NSDAP", established in Berlin in 1939. The ERR's powers were steadily expanded, allowing it to independently "search buildings for relevant material [...] and confiscate it". This put the ERR in direct competition with the "Führerauftrag Linz". In July 1940, the "Amt Westen" (Western Office) was created, based in Paris, with responsibility for France, Belgium, Luxembourg and the Netherlands. The office consisted of seven special staffs, with the Special Staff "Library Construction Hohe Schule" led by Walter Grothe and Gerd Wunder, responsible for acquiring books and archival material in the occupied territories. Gerd Wunder had been employed at the Rothschild's library in Frankfurt am Main between 1922 and 1925.

The NSDAP's "Hohe Schule", planned as the "central educational institution of the National Socialist movement", was the envisaged "elite university" of the NSDAP, which was also under the jurisdiction of Alfred Rosenberg. Its establishment had to be postponed due to the war, in contrast to which significant efforts were made in creating the central library for the school. Especially in France, the ERR confiscated thousands of books, manuscripts and archival material, packaging them in crates and sending them to Germany. In Berlin, the books were processed by the "Abteilung Erfassung und Sichtung" (Department of Collection and Inspection) and subsequently passed on to various institutions, primarily to the "Central Library of the Advanced School". This also occurred with Héléne van Zuylen van Nyevelt de Haar's library, which had been housed in her Parisian villa. On 2 May 1941, the ERR sent a list of "Jewish libraries secured in Paris so far" to the Military Commander in France. This list included the "Hélène de Rothschild" library, which was "processed" between 28 and 30 January 1941, and then packed into 81 crates labelled PHRZ (presumably for "Palais Hélène Rothschild-Zuylen"). Simultaneous to the confiscation of the private library, the Asian, French and English furniture and antiques were also seized and subsequently distributed.

The 81 crates of the library, including photo albums and correspondence, were then shipped to the "Buchleitstelle" (Book Control Office) in Berlin, whose director, Ulrich Cruse, wrote a three-page report on the inventory of the private library on 24 August 1942. The report included a biographical sketch of "Baroness Helene Rothschild-Zuylen" and an analysis and listing of the found assets, which also included personal memorabilia:

"A significant part of the material from Héléne Rothschild-Zuylen consisted of collections and mementos from her personal life, above all numerous photo albums from various years of her life, especially from her world travels, collections of newspaper clippings about her and her husband, as well as her son, especially his death [...] carefully bound menu cards, death and wedding announcements, guest books and more."

Since the books

"represent, on the one hand, general scientific representations in all possible fields, and, on the other hand, contain French novel literature of the 19th century and thus fall into the field of general literary history and French studies",

they were handed over by the book control centre to the "Central Library of the Advanced School".

"Everything that was apparently worthless, such as the collection of birth and death announcements, was destroyed; however, whatever concerned the Baroness's family, the photo albums, letters, newspaper clippings, as well as her own works and those of her circle of friends, were collected at the office."

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Due to ongoing Allied air raids on cities in the "Altreich", the "Central Library of the Advanced School" was evacuated to the Grand Hotel in Annenheim at Lake Ossiach near Villach in the Reichsgau Carinthia in October 1942. When this was needed as a military hospital, the books were transported, starting in mid-September 1944, to the Olivetan monastery Tanzenberg, which had been confiscated two years earlier.

In May 1945, the deputy Gauleiter of Carinthia, Friedrich Thimel, ordered the destruction of the documents of the "Advanced School", although this was not fully implemented. On 5 May 1945, the staff of the Central Library fled from the approaching Allied troops. Still in May 1945, British soldiers discovered the "Central Library of the Advanced School", in Tanzenberg, which according to British sources contained an estimated 460,000 volumes (other sources, such as Adunka or Grimsted, suggest between 500,000 and 700,000 volumes). After its dissolution in August 1945, under the leadership of the "Monuments, Fine Arts and Archives Branch" of the British Army, the sorting of the found books began. This work revealed that the majority of them came from private libraries of Jewish individuals in France, as well as from the rest of Europe, and also various Russian institutions such as the imperial libraries from the palaces of Tsarskoye Selo/Pushkin, Pavlovsk and Gatchina, as well as various university libraries and the National Library of Ukraine, and various Dutch and Belgian sources.

In November 1945, the British authorities held an exhibition featuring over 200 valuable books, incunabula and rarities originating from Tanzenberg that were to be restituted. Walter Grothe, described by the British as an

"obstinate Nazi, whose political bias and bibliophilic zeal prevent[s] him from feeling any scruples or sense of guilt, although he has attempted to conceal the more disreputable transactions of ERR",

was interrogated multiple times by the British.

Grothe subsequently supervised the restitution of the confiscated books for the British occupying authorities. Librarians and assistants had to report regularly on their work, and Grothe presented their progress in his weekly reports. In August 1945, he reported the discovery of the private library "of the Barons [sic!] von Zuylen de Nyevelt de Haar" "looted from a house in the Avenue du Bois de Boulogne, Paris" – all of the books bore the stamp "Bibliothèque de Zuylen", the address and a location number.

"She seems to have been related to the Rothschild family, as in some books one finds dedication autographs from authors to an Adele von Rothschild (from the 50s) and to a Hélène v. R. (from the 70s and 80s). I have also included books on which I found the stamp 'Bibliothèque Château de Haar', to this collection, since, according to my findings, this castle belonged to the family of Zuylen."

The personal items that were taken in Paris, such as letters, the collection of death announcements and family albums, were no longer mentioned and may have been destroyed in the meantime. Two weeks after their discovery and after finding more books at other locations in the former monastery, preparations for the transport of the Van Zuylen library – eventually 46 crates with approximately 5,500 copies – began. In 1946, the works were handed over in France to Germaine Boitte as the representative of Hélène van Zuylen van Nyevelt de Haar; in 1947, an additional 1,510 copies were handed over.

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After the restitutions carried out between 1945 and 1947, the British authorities reported in April 1948: "The restitution of books of known ownership from Tanzenberg Library is now virtually completed." The remaining 135,343 volumes of the "Central Library of the Advanced School" were stored in the Klagenfurt Study Library before being transferred to the "Büchersortierungsstelle" (Book Sorting Office) established in the Vienna Hofburg under the direction of Alois Jesinger, the former director of the University Library Vienna, in September 1950. The staff searched for provenance information in the confiscated books labelled as "ownerless", as a result of which, Hélène's representative received a total of 68 books, however, the publication in question was not among them. The books that were still considered "ownerless" were categorised according to subject area in order to be given to Austrian libraries and educational institutions at a later date.

After the Book Sorting Office ceased its activities in 1951, the Federal Ministry of Education, in agreement with the Federal Ministry of Finance, directed that these holdings should be transferred in trust primarily to the University Library Vienna, while a portion was transferred to the Austrian National Library (ÖNB) or remained in the Neue Burg. The Israelitische Kultusgemeinde Wien (IKG = Jewish Community of Vienna), whose library had suffered significant losses, applied for their allocation. Although the ÖNB claimed in 1952 that it no longer possessed any confiscated books, a commission led by the librarian of the IKG, Abraham Singer, found over 32,000 confiscated items that had not been returned. In 1956, an agreement was reached between the Ministries of Finance and Education and the IKG to hand over seventy percent of the discovered books to the IKG; however, the IKG actually received far fewer copies in November 1958. No transfer list was prepared.

The remaining holdings, some of which are still in the ÖNB, were incorporated into the "Altbestand 46" (Historic Stock 1946). Among them was the book in question by Charles Garnier, which, despite bearing the collector's stamp "Bibliothèque de Zuylen", apparently was not identified as part of the library of Hélène van Zuylen van Nyevelt de Haar in 1950.

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 been the object of a legal transaction or legal act under Section 1 of the 1946 Annulment Act, or comparable legislation, may be transferred to their original owners or their successors *causa mortis*. Section 1 (1). 2a of the Art Restitution Act extends this definition to objects which, although legally transferred to the ownership of the Federation, were the subject of (or comparable to) a legal transaction or act according to Section 1 Nullification Act 1946 between 30 January 1933 and 8 May 1945 in the territory of the German Reich outside the territory of the present-day Republic of Austria.

As noted in the previous recommendations of 11 February 1999, 28 June 1999, 27 March 2000, 18 August 2000, 10 April 2002, 27 April 2004, 28 June 2006, 24 June 2009, 11 September, 2009, 8 March 2013, 15 June 2018, 30 March 2022, and 29 June 2023, numerous objects from the collections of the Rothschild family, persecuted as Jewish by the Nazi regime, were seized by the Nazi regime. After the German Wehrmacht occupied France, Hélène Betty Louise Caroline van Zuylen van Nyevelt de Haar, a member of the French branch of the Rothschild family originally living in Paris, was also persecuted.

The "Special Staff of the Reichsleiter Rosenberg for the Occupied Western Territories and the Netherlands" (ERR) confiscated numerous "Jewish libraries" from 1940 onwards, including the private library of Hélène van Zuylen van Nyevelt de Haar. Through the "Book Control Office" in Berlin,

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81 crates - "secured" with publications, photo albums, collections, as well as records and correspondences from her personal life - were sent to the "Central Library of the Advanced School of the NSDAP" in Berlin. Due to war-related reasons, they were housed in the confiscated Olivetan Monastery in Tanzenberg, Carinthia from mid-September 1944. After examination by the British occupying forces and initial restitutions between 1945 and 1947, the specific work, as part of the so-called remaining stock, arrived in 1950 at the "Book Sorting Office" established in the Vienna Hofburg. In total, Hélène van Zuylen van Nyevelt de Haar received 7,010 copies restituted from her former library, and her representative received 68 volumes in 1950, after Hélène's death. The book in question by Charles Garnier was not restituted and was not handed over to the Israelitische Kultusgemeinde Wien in 1956. Instead, it was incorporated into the "Historic Stock 1946" in 1958 and has remained in the Austrian National Library to this day.

The confiscation ("processing") of Hélène van Zuylen van Nyevelt de Haar's library by the ERR in France in January 1941 is undoubtedly a legal act or legal transaction comparable to legal acts or legal transactions according to Section 1 of the 1946 Annulment Act. Therefore, it is to be considered void under Section 1. (1). 2a of the Art Restitution Law. It is recommended to the Federal Minister for Arts, Culture, Public Service and Sports to transfer ownership to the successors of Hélène Betty Louise Caroline van Zuylen van Nyevelt de Haar.

Vienna, 28 November 2023

Univ. Prof. Dr. Clemens JABLONER (Chairman)

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