

Complete legislation on the Art Restitution Act, version dated 10.01.2024

Full title

Federal Law on the Restitution of Works of Art and Other Movable Cultural Assets from Austrian Federal Museums and Collections and Other Federal Property (Kunstrückgabegesetz – KRG = Art Restitution Act) Federal Law Gazette (BGBl. I) No. 181/1998 (NR: GP XX RV 1390 AB 1464 p. 146. BR: AB 5802 p. 646.)

Amendment

Federal Law Gazette BGBl. I No. 117/2009 (NR: GP XXIV RV 238 AB 349 p. 40. BR: AB 8187 p. 777.) BGBl. I Nr. 158/2023 (NR: GP XXVII AB 2302 p. 241. BR: 11340 AB 11351 p. 960.)

Text

Objects liable to restitution

§ 1. (1) The Federal Minister of Finance shall be empowered to return free of charge to their original owners or their legal successors *causa mortis*, those works of art and other movable cultural assets from Austrian federal museums and collections, including the collections of the Federal Administration of Movable Objects (*Bundesmobilienverwaltung*), and other directly owned federal assets that

1. were the subject of restitution to their original owners or their legal successors *causa mortis* or would have been subject to restitution under the provisions in force at the time and which became the property of the Federal State after 8 May 1945 in close connection with ensuing proceedings under the provisions of the Federal Law on the Prohibition of the Export of Objects of Historical, Artistic or Cultural Significance, Penal Code Gazette (StGBL.) No. 90/1918, and that have remained the property of the Federal State;
2. legally became the property of the Federal State but that had previously been the object of a legal transaction under § 1 of the Federal Law on the Declaration of Annulment of Legal Transactions and Other Legal Acts Occurring During the German Occupation of Austria, Federal Law Gazette (BGBl. No. 106/1946), and that have remained the property of the Federal State;
- 2a. although they legally became the property of the Federal State had been the object of a legal transaction or legal act under § 1 of the Federal Law on the Declaration of Annulment of Legal Transactions and Other Legal Acts Occurring During the German Occupation of Austria (BGBl. No. 106/1946) between 30 January 1933 and 8 May 1945 in a territory of the German Reich outside the present Republic of Austria, that was comparable with legal transactions or legal acts taking place during the German occupation of Austria, and have remained the property of the Federal State;
3. could not be returned to the original owners or their legal successors *causa mortis* after the conclusion of restitution proceedings, were transferred to the ownership of the Federal State free of charge as unclaimed property, and have remained the property of the Federal State.

(2) If the Federal State has given any compensation for the transfer of ownership according to para. 1 subpara. 1, this compensation or its value at the time of restitution shall be reimbursed to the Federal State by the original owners or their legal successors *causa mortis* prior to the restitution. A monetary amount received shall be valorised in accordance with the consumer price indices published by the Austrian Federal Statistical Office. Payments according to Section 2b of the Federal Law on the National Fund of the Republic of Austria for Victims of National Socialism, Federal Law Gazette (BGBl.) No. 432/1995, as amended, are not to be refunded.

Transfer of Title

§ 2. (1) The Federal Minister of Education, Art and Culture, the Federal Minister of Economic Affairs, Family and Youth and the Federal Minister for Defence and Sport or the otherwise responsible member of the Federal Government shall be empowered to,

1. determine the original owners or their legal successors *causa mortis* and to transfer the objects to them according to § 1;
2. transfer for sale to the National Fund of the Republic of Austria for Victims of National Socialism those objects according to § 1 which cannot be transferred back to the original owners or their legal successors *causa mortis* because these cannot be determined, the proceeds of the sale then being used for the purposes designated in § 2a of the Federal Law on National Fund of the Republic of Austria for Victims of National Socialism, Federal Law Gazette (BGBl.) No. 432/1995.

(2) The aforementioned federal ministers shall consult the Advisory Board established according to § 3 prior to the transfer of ownership. The provisions of this federal law do not establish any claim to transfer of ownership.

(3) The Federal Minister of Education, Art and Culture shall inform the National Council on the transfer of objects according to § 1 in an annual report.

Advisory Board

§ 3. (1) An advisory board shall be established at the Federal Ministry of Education, Art and Culture to advise the Federal Ministers referred to in § 2 in determining the persons to whom objects are to be transferred according to § 1.

(2) The members of the Advisory Board are:

1. one representative each from the Ministry of Finance, the Ministry of Economic Affairs, Family and Youth, the Ministry for Justice, the Federal Ministry of Education, Art and Culture and the Ministry of Defence and Sport ;

2.a representative from the lawyer and legal advisor of the Republic of Austria (*Finanzprokurator*) in an advisory capacity;

3.one expert each in the fields of history and art history to be nominated by the Universities Austria;

4. if the Advisory Board consults on the return of an object that does not fall under the responsibility of one of the federal ministries named in item 1, a representative of the according competent federal ministry.

(3) A substitute member must be appointed for each member.

(4) The Advisory Board makes its recommendations on the basis of reports by the Commission for Provenance Research of the Federal Ministry for Education, Art and Culture. The Advisory Board may also consult other experts and suitable persons to provide information.

(5) The Federal Minister of Education, Art and Culture shall be responsible for appointing and dismissing the chairperson and his/her deputy from among the members (substitute members) named in para. 2 as well as for appointing and dismissing the other members (substitute members) of the Advisory Board named in para. 2. Appointments shall be for a period of three years. Reappointments are permissible. A member (substitute member) may be dismissed only by the Federal Minister of Education, Arts and Culture at his/her own request or if he/she is no longer able to fulfil his/her duties conscientiously and impartially for physical, mental or other serious reasons, after consultation with the seconding body.

(6) The Federal Minister of Education, Art and Culture or the chairperson shall convene meetings of the Advisory Board.

(7) A decision of the Advisory Board requires the presence of at least half of the members and a majority of the votes cast.

(8) The Advisory Board adopts its rules of procedure, which must be approved by the Federal Minister of Education, Art and Culture, by simple majority. The rules of procedure shall regulate the actions of the Advisory Board as appropriately as possible, taking into account para. 1. The rules of procedure shall be approved if they fulfil this requirement.

Exceptions to the Monument Protection Act

§ 4. (1) The provisions of the Monument Protection Act, Federal Law Gazette (BGBl.) No. 533/1923, as amended, on the voluntary sale and shipment abroad shall not apply to objects transferred in accordance with the provisions of this Federal Act for a period of 25 years after transfer of ownership.

(2) Movable cultural goods transferred on the basis of a provincial law or other decision by a municipal authority under conditions in compliance with this Federal Act shall come under the exceptions according to para. 1 of the Monument Protection Act, if the municipal authority responsible for the transfer of ownership notifies the Federal Monuments Authority of the transfer and the latter does not refuse to authorise via decree the voluntary sale according to § 6 of the Monument Protection Act as well as the export according to §17 of the Monuments Protection Act, Federal Law Gazette (BGBl.) No. 533/1923, as amended, within six weeks of receipt of the notification.

Commission for Provenance Research

§ 4a. The Commission for Provenance Research has been established at the Federal Ministry of Education, Arts and Culture. It acts exclusively on behalf of the Federal Minister of Education, Art and Culture. Its tasks include in particular:

1. the description of the provenance of objects designated in § 1, insofar as these can form the basis for recommendations of the Advisory Board according to § 3.
2. research into the historical circumstances, insofar as these may be of significance for determining provenances and for recommendations by the Advisory Board according to § 3.
3. the collection, processing and recording the results of this research.

Data Processing

§ 4b. (1) The Federal Ministers responsible according to § 2 para. 1, and the Federal Minister of Arts, Culture, the Civil Service and Sport, in particular within the framework of the tasks of the Advisory Board (§ 3) and the Commission for Provenance Research (§ 4a), are each empowered to process personal data – including special categories of personal data – of the persons affected by this Federal Act or in connection with the respective restitution of works of art and other movable cultural assets for the purpose of fulfilling the tasks assigned to them by this Federal Act as well as for the purpose of restitution of works of art and other movable assets, if necessary. For the purpose of fulfilling the tasks assigned to them by this Federal Act, the bodies referred to in the first sentence are empowered to request data from authorities and other institutions that process data required to fulfil the tasks assigned to them under this Federal Act. The authorities and other institutions may also transmit or allow access to this data in the form of documents containing personal data, including special categories of personal data, to the extent necessary for these purposes. Any further transmission requirements and special legal provisions must be considered.

(2) The bodies referred to in para. 1 are empowered to transmit personal data, including special categories of personal data, to third parties and to each other as necessary for the purpose of fulfilling the tasks assigned to them under this Act and for the purpose of returning works of art and other movable cultural assets. The bodies according to para. 1 may consult the National Fund of the Republic of Austria for Victims of National Socialism as an expert and view the documents held by the National Fund for the purposes pursuant to the first sentence. For the purposes set out in the first sentence, the National Fund is authorised to transfer personal data, including special categories of personal data, or to allow access to them. Special categories of personal data may be transferred only to the extent absolutely necessary.

(3) The data processed in accordance with this paragraph are archival materials according to § 25 of the Monument Protection Act – DMSG, Federal Law Gazette (BGBl.) No. 533/1923.

Exemption from levies

§ 5. The payments directly caused by this Federal Law are exempt from all taxes.

Implementation Clause

§ 6. The following shall be responsible for the implementation of this Federal Law:

1. for §§ 1 and 5: the Federal Minister of Finance;
2. for §§ 2 and 4b: the Federal Minister of Education, Art and Culture, the Federal Minister of Economic Affairs, Family and Youth and the Federal Minister of Defence and Sport or the otherwise responsible member of the Federal Government insofar as it is within the scope of his/her responsibilities;
3. for § 3: the Federal Minister of Education, Art and Culture, the Federal Minister of Finance, the Federal Minister of Economy, Family and Youth, the Minister of Justice and the Federal Minister of Defence and Sport or the otherwise responsible member of the Federal Government insofar as it is within the scope of his/her responsibilities;
4. for §§ 4 and 4a: the Federal Minister of Education, Art and Culture.

Entry into Force

§ 7. § 4b including the heading, § 6 (2) and § 7 including the heading in the version of the Federal Law Gazette (BGBl. I) No. 158/2023 shall enter into force on the day following the proclamation.