

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 5 November 2021, the Art Restitution Advisory Board, at the request of the Salzburg Museum, adopted the following

DECISION

Insofar as the objects in the Salzburg Museum hereafter are owned by the State and therefore subject to the provisions of the Art Restitution Act, BGBl. I No. 181/1998 as amended by BGBl. I No. 117/2009, the Board recommends that:

- I. the items in Annex ./A to this decision should be transferred to the legal successors *causa mortis* of Oscar Bondy (and/or Elisabeth Bondy);
- II. the items in Annex ./B to this decision should be transferred to the legal successors *causa mortis* of Oscar Bondy (and/or Elisabeth Bondy) as soon as they are found;
- III. the items in Annex ./C to this decision should be transferred to the legal successors *causa mortis* of Oscar Bondy (and/or Elisabeth Bondy), in the case of the object inv. no. 147-70 as soon as it is found;
- IV. that the work “Salzburg stove with illustration of the liberal arts”, inv. no. 700-40, later K 305-49, should not be transferred.

FOUNDATIONS

The Board considered the above-mentioned dossier from the Salzburg Museum and has established the following facts.

As the Board stated in its decisions of 27 October 1999 and 30 November 2012 regarding objects owned by the State from the collection of Oscar and Elisabeth (also Elizabeth) Bondy, the industrialist Oscar Bondy, born on 19 October 1870 in Vienna, had a significant art collection. It was installed in his apartment at Schubertring 3 in Vienna’s 1st district and contained works by Rudolf von Alt, Emil Jakob Schindler, August von Pettenkofen, works by German, Italian, French and Dutch

masters from the fifteenth to eighteenth centuries, sculptures and a large amount of valuable furniture and applied art objects. Following the annexation of Austria to the Nazi German Reich, he was threatened with persecution as a Jew. He was in Czechoslovakia at the time and no longer returned to Vienna. He was later to emigrate to the USA via Switzerland. At the request of the Central Monument Protection Office, his art collection, which had already been “guarded” from 17 March 1938 “through the posting of two SA sentries”, was secured by decision of the Vienna municipal authorities of 1 July 1938 pursuant to Section 7 of the Monument Protection Act in connection with Section 4a of the Export Prohibition Act.

“The art collection belonging to the industrialist Oskar Bondy, Vienna I, Schuberting 3, contains a large number of works of the greatest significance for the pan-German and also local art world. Bondy, who is a Czechoslovak citizen, has been abroad since the National Socialists assumed power, and there is a danger that the collection or parts thereof will be smuggled abroad.”

Bondy had previously refused to submit an asset declaration because as a citizen of Czechoslovakia he did not regard himself as being subject to the provisions of the Regulation on the Declaration of Assets of Jews of 26 April 1938. His efforts to have the secured collection released by payment of compensation to the Gestapo were unsuccessful. On the contrary, on 4 July 1938, 165 valuable objects from the collection were secured in the presence of Bondy’s lawyer and representatives of the Vienna municipal authorities, the Central Monument Protection Office and various Viennese museums. The objects were left in place and some taken to the Central Depot for Seized Art Objects.

Because of its significance, Oscar Bondy’s collection was placed under “Führervorbehalt” (reserved for the Führer), whereby Adolf Hitler on 18 June 1938 placed all seized art collections in Austria under his control with a view to acquiring artworks for his planned Führermuseum in Linz under the “Sonderauftrag Linz” programme. The “Führervorbehalt” stated among other things:

“In the process of seizing assets hostile to the State, pictures and other artworks of great value, in particular Jewish assets, have been seized in Austria. [...]. After confiscation of the seized assets, the Führer intends to decide in person on their use. He is considering making the artworks available primarily to smaller towns in Austria for their collections.”

This formulation was supplemented on 25 August 1939 by the addition “that not only seized but also merely secured pictures and other artworks are subject to his orders.”

Many museums, including the Carolino-Augusteum Museum in Salzburg, were able to make lists of objects they wished to acquire from the seized and secured collections. Hitler had distribution suggestions presented to him on several occasions to enable him to decide himself which objects should be assigned to which institutions. On 13 October 1939, his special representative Hans Posse visited the Salzburg Museum, whose director Max Silber informed him of a planned extension to house the desired assignments.

After criminal proceedings were instigated against Oscar Bondy for failure to submit an asset declaration, all of his secured objects were confiscated without compensation in favour of the German Reich by order of the Vienna provincial court of 1 December 1939. The more than 1,600 items in his collection under “Führerbehalt” were to be “distributed without payment” to Austrian museums. The confiscation of the collection, estimated to be worth over 1 million reichsmarks, “without any obligation to compensate Bondy” was also explicitly welcomed by the Ministry of Internal and Cultural Affairs.

Oscar Bondy, who was now living in New York, was officially deregistered from Vienna by the Nazi authorities in January 1940. Shortly afterwards, the Salzburg Museum submitted a list to the Central Monument Protection Office of the acquisitions it was interested in, including over 50 objects from Bondy’s collection. The mayor of Salzburg also submitted an explicit request to the Central Office for their assignment free of charge:

“This concerns above all the items from the Bondy collection [...] that were once in or connected with Salzburg [...] to be distributed free of charge.”

On 17 September 1940, the Salzburg Museum confirmed receipt of the first batch of objects from Bondy’s collection. Max Silber successfully applied for further objects. In early June 1941, he was allocated the “remainder of the Bondy collection” (“smaller attributions by the Führer”). In January 1942, the Institute for Monument Preservation, as it was now called, informed Silber that the (remaining) expropriated collections could be inspected again and would be distributed free of charge.

Following the numerous inspections, assignments and transfers of parts of Bondy's collection, 99 objects were transferred between 1940 and 1942 to the Salzburger Museum, most of which were given inventory numbers from the year 1940. Some were not inventoried, however, such as the "Salzburg stove", a valuable Renaissance item, acquired by the Museum in April 1942. Until 1944, the Museum expected further objects from the collection, but the transport difficulties as a result of the war delayed the delivery and no further acquisitions were received.

Oscar Bondy died on 3 December 1944 in New York exile. His widow Elisabeth Bondy, née Soinig, born on 5 June 1890 in Vienna, returned to Austria temporarily after the war and was intensively occupied with the restitution of her husband's collection. In July 1945, the Vienna local court appointed the lawyer Friedrich Köhler as curator in absentia for Oscar Bondy to secure the former art collection and other assets and properties. He consulted Franz Balke, an employee of the Monuments Authority, who had become responsible for the return of expropriated private art assets. Because of Balke's involvement in "Führer donations" to museums during the Nazi period, Köhler did not trust his statements but attempted through his own research to determine the whereabouts and number of expropriated objects. In 1946 Balke suggested that many objects in the Salzburg Museum were feared lost and that the "Salzburg stove" had been destroyed in an air raid, but the Salzburg Museum stated a short time afterwards that "the 'Salzburg stove' assigned to our Museum from the seized Bondy collection has not been destroyed in an air raid but is in a museum depot."

In March 1946, Köhler asked the Museum itself to provide information as to whether objects from the Bondy collection transferred to the Museum during the Nazi period were still held by it, "so that their return can be organized as part of the expected reparation."

The reactions to these requests were basically negative. Museum director Rigobert Funke suggested that the sought-after objects had been destroyed, and Köhler's application in July 1946 under the First Restitution Act for release of Bondy's collection was initially rejected, the pretext being the lack of competence. The Federal Ministry for Securing Property and Economic Planning ultimately granted Elisabeth Bondy's appeal of 27 May 1947 against the negative restitution decision by the provincial tax authorities:

"Pursuant to Section 1 of the Federal Law of 26 July 1946 on the Restitution of Expropriated Assets Administered by the State or the Federal Provinces (First Restitution Act BGBl. No.

156/1946), insofar as Oskar Bondy's art collection is in the custody of the Federal Monuments Authority, it is to be returned in its current state to Elisabeth Anna Bondy, New York, as sole heir of Oskar Bondy. [...] The expropriation was in the form of a court decision on the basis of the Regulation on the Declaration of Assets of Jews of 26 April 1938. This Regulation was rescinded by the Law StGBI. No. 14/45. The art collection is administered by the Federal Monuments Authority, a federal office. The conditions of the First Restitution Act are therefore met."

Köhler subsequently inquired at individual museums, including the Salzburg Museum, whether objects had already been returned in the meaning of the restitution decision. Funke now stated that the objects were dispersed in various depots and that individual objects could not be singled out. He also informed the Federal Monuments Authority, which in early June 1947 had ordered the Austrian museums to return the Bondy collection objects as per the restitution decision, that his museum:

"under the present circumstances is not able to obey [...] the restitution order and that nothing will change in that regard until suitable storage space in Salzburg is made available to house the museum objects already returned or yet to be transported back from the depots, as the museum management has so far been unsuccessful in effecting."

At the same time, the Museum reacted completely differently to requests for objects that had not been expropriated in the course of Nazi persecution. In May 1946, for example, the inquiry by a lender regarding the whereabouts and condition of the loan he had deposited in the Salzburg Museum was answered just a week later in detail, including the inventory number of the loan and its location.

After Köhler had once again been put off, Otto Demus, head of the Federal Monuments Authority, asked Funke how the search for objects from the returned Bondy collection was going, referring to the significance of the matter insofar as negotiations on the donation of objects to Austrian museums were still being conducted:

"We are currently in difficult negotiations with Bondy on the acquisition through purchase or exchange of some very valuable objects that are also [...] of great interest for Salzburg. These negotiations have naturally been made considerably more difficult by the hold-up in the restitution in Salzburg. I therefore ask you most urgently, esteemed director, to do

everything to bring about the transfer of the previously expropriated objects now restituted to the owner by decision of the provincial tax office.”

In March 1948, shortly after Demus’s intervention, a “partial transfer list, Bondy collection” was drawn up including those objects that the Salzburg Museum had given to the Viennese transport company Kühner & Sohn on behalf of Elisabeth Bondy. In May, June and July 1948, Funke informed the Federal Monuments Authority and Friedrich Köhler that objects from the collection had recently been found and the rest were still being looked for.

In the meantime, intensive negotiations had begun in connection with the restitution of the collection and its export. In the case of Bondy, an essential role was played by Herbert Seiberl, the former head of the monuments authority during the Nazi period. In a letter of 23 August 1948 he informed Otto Demus:

“Mrs Bondy therefore decided at my suggestion to donate some objects of local significance to the Museum, to some extent as compensation for the restitution under difficult circumstance.”

The suggested donations were evidently not made immediately. In August 1949, a list was made of the objects from the Bondy collection found to date, including the “Salzburg stove”, which was also sent to Elisabeth Bondy. The Federal Monuments Authority had already issued export authorization previously, in September and December 1947, for most of the objects in the Bondy collection. When Elisabeth Bondy announced as a result of the notification of the newly found objects her intention of exporting the stove to New York, Funke stated – whether he was aware or not of the long-issued release – that she required an export authorization. At Elisabeth Bondy’s instigation, her lawyer Friedrich Köhler wrote on 23 August 1949 to the Federal Monuments Authority. Five days earlier, on 18 August 1949, Funke had also written to the Monuments Authority stating that he could not approve the export of the stove. That same month, the Authority then informed both Funke and Köhler that export authorization already existed. It was also impressed on Köhler that no further export authorization for the stove was required. At Köhler’s request, the Federal Monuments Authority nevertheless issued a new export authorization on 12 December 1949, this time referring only the “Salzburg stove”, probably for the purpose of customs formalities.

Three weeks earlier, on 4 November 1949, Elisabeth Bondy had donated to the Museum three Salzburg faience jugs and a ceramic flowerpot from the seventeenth century, all from her husband's restituted collection.

By order of Elisabeth Bondy, the Salzburg Museum then handed over the "Salzburg stove" with a transfer confirmation dated 27 February 1950 to Spedition Amerhauser, which transported it to Vienna. Elisabeth Bondy had already sold it to a dealer in New York, who wanted to see it before it was shipped to the USA. Because of its poor condition – "as most of the tiles were broken" – the dealer withdrew from the purchase and the transaction had to be rescinded. Thus the "Salzburg stove" did not leave Austria, and Elisabeth Bondy informed director Funke on 5 November 1950 of her decision to "make it available" to the Salzburg Museum. In his reply of 15 November 1950, Funke asked what conditions this involved, to which Bondy replied five days later that it was to be "made available as a donation. [...] I am weary of the dealer's endless playing around and have decided not to sell the stove but to donate it to your Museum."

The Museum accepted the offer. The accession confirmation is dated 8 January 1951. Funke subsequently thanked Demus for the

"successful intervention with Elisabeth Bondy, which for us had the extremely pleasing result that the magnificent stove by Hans Resch is now owned by the Salzburg Museum, where it also ultimately belongs."

There are no indications in the documents inspected as to what this intervention consisted of. The Salzburg Museum did not communicate any further with Elisabeth Bondy. In reply to Köhler's inquiry in late 1951 whether further objects from the Bondy collection had been found, Funke stated that another object had recently been found, a rustic table, which in March 1952 was the last object to be returned to Elisabeth Bondy. No other export authorization potentially connected with the donation of the "Salzburg stoves" could be found for any other returned objects from the Bondy collection.

In the early post-war years, 72 of the 99 objects given to the Salzburg Museum between 1940 and 1942 from the Bondy collection that had been expropriated in the course of Nazi persecution were restituted to his widow and actually handed over. The Board therefore has to decide on the

remaining 27 objects held by the Salzburg museum, including the "Salzburg stove" and the four donated ceramic objects. Elisabeth Bondy died on 21 April 1974 in Vienna.

The Advisory Board considered the following:

According to Section 1.(1).1 of the Art Restitution Act, objects that were the subject of restitution to their original owners or their heirs or were to be restituted under the regulations at the time and that became the property of the Federal State after 8 May 1945 in direct connection with proceedings under the provisions of the Federal Law on the Prohibition of Export of Objects of Historical, Artistic or Cultural Significance objects may be transferred to their legal owners *causa mortis*.

According to Section 1.(1).2 of the Art Restitution Act, objects that became the property of the State 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 transferred to their original owners or legal successors *causa mortis*.

After the annexation of Austria to the Nazi German Reich, Oscar Bondy was persecuted as a Jew. His art collection in Austria was secured by a decision of the Vienna municipal authorities of 1 July 1938. All secured objects were subsequently confiscated by order of the Vienna provincial court of 1 December 1939 in favour of the German Reich without compensation.

I. During a re-investigation of the 99 assignments to the present-day Salzburg Museum from 1940, seven objects from the Bondy collection were found that were not returned to Elisabeth Bondy after the restitution decision (Annex ./A). Insofar as these objects were owned by the State, the conditions of Section 1.(1).2 of the Art Restitution Act are met and a transfer to the legal successors of Oscar Bondy (and Elisabeth Bondy) is therefore be recommended.

II. A further 15 objects from the Bondy collection were identified (Annex ./B) that were also assigned to the Salzburg Museum between 1940 and 1942. These were also the object of the restitution decision after 1945 but were not transferred to Oscar Bondy's heirs. They have not been found to date in the Salzburg Museum, but the conditions of Section 1.(1).2 of the Art Restitution Act are met and their transfer to the legal successors of Oscar Bondy (and Elisabeth Bond) is therefore be recommended as soon as they are found.

III. and IV. There is no legal doubt that the four objects in Annex ./C and the “Salzburg stove with illustration of the liberal arts”, inv. no. 700-400, later K 305-49, were expropriated from Oscar Bondy. It is also established that they were returned to his widow Elisabeth Bondy and that after their restitution the Federal Monuments Authority conducted proceedings under the Export Prohibition Act. It therefore needed to be determined whether the subsequent acquisitions of title were closely connected with this, as demanded by Section 1.(1).1 of the Art Restitution Act.

Regarding III: Although at the time Elisabeth Bondy donated the four previously restituted objects in Annex ./C to the Salzburg Museum in November 1949 export authorizations for most of the Bondy collection had already been issued since 1947, the Board considers that this donation is in close temporal and material connection with proceedings under the Export Prohibition Act in the meaning of Section 1.(1).1 of the Art Restitution Act. It is aware that the official export authorization had long been issued and that the Museum director Rigobert Funke, whether he knew of this or not, attempted even in 1949 to prevent the export of the “Salzburg stove”. After it had been found only in summer 1949 in the depot holdings, he warned Elisabeth Bondy that she would need an export authorization. He also wrote to the Federal Monuments Authority that he could not approve the export. Although Elisabeth Bondy’s lawyer, who had also written to the Federal Monuments Authority, received confirmation that an export authorization for the stove was not necessary, the Authority nevertheless issued such an authorization, confined to the “Salzburg stove”, presumably for customs formalities, on 12 December 1949, a month after the donation of the four objects under consideration here. The Board therefore concludes that the acquisition of the four objects in Annex ./C was also connected with the export authorization for the restituted “Salzburg stove”, since the export proceedings had not yet been concluded for the parties because of the repeated attempts by the Salzburg Museum to prevent approval (after the fact), as the reissue of the export authorization of 12 December 1949 indicates. The Board therefore recognizes that the donations made a month earlier were “in direct connection with proceedings under the provisions of the Federal Law on the Prohibition of Export of Objects of Historical, Artistic or Cultural Significance”, as required by law.

Insofar as these objects were owned by the State, the conditions of Section 1.(1).1 of the Art Restitution Act are therefore met and a transfer to the legal successors of Oscar Bondy (and Elisabeth Bondy) is therefore recommended. This also applies to the as yet unlocated object with inventory number 147-40, as soon as it is found.

Regarding IV: The “Salzburg stove with illustration of the liberal arts”, inv. no. 700-40, later K 305-49, was donated by Elisabeth Bondy to the Salzburg Museum after 8 May 1945, namely with the confirmation of November 1950. Although the Museum sought this donation – director Rigobert Funke subsequently thanked Otto Demus for his unidentified intervention – the decisive difference to the cases described in III is that the stove had already been sold in early 1950 – after the issuance of the export authorization in 1947 and its separate confirmation in late 1949 – to a New York purchaser and transported from Salzburg to Vienna. Only because the purchaser subsequently withdrew from the purchase after seeing the object in Vienna because of its poor condition was the purchase rescinded. Because of the expensive storage costs, Elisabeth Bondy donated the stove to the Salzburg Museum in December 1950. The failure to complete the purchase was thus exclusively in connection Elisabeth Bondy. The Board therefore concludes that this donation was not in close connection with subsequent proceedings under the Export Prohibition Act in the meaning of Section 1.(1).1 of the Art Restitution Act.

After the donation, only one further object was restituted to Elisabeth Bondy. In response to an inquiry by her legal representative Friedrich Köhler in late 1951 whether further objects from the expropriated Bondy collection had been found, director Funke stated that a rustic table owned by Bondy had been identified. This was transferred in March 1952 to the heirs of Oscar Bondy. No export proceedings are documented and no export authorization in possible connection with the donation of the “Salzburg stove” can be found.

The transfer of the “Salzburg stove” was not therefore to be recommended.

Vienna, 5 November 2021

Univ. Prof. Dr. Dr. h.c. Clemens Jabloner (chairperson)

Members

Ministerialrätin Dr. Ilsebill Barta

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Alternate

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Annex ./A

Inv. no.	Object
146-40	Obermillner jug with animals
628-40	Key with bronze, lion's head (Roman)
653-40	Table
667-40	Rustic chair, backrest carved, 1772
673-40	Chair with carved backrest, MZ c. 1700
674-40	Rustic chair, backrest carved, dated 1754
695-40	Clay model, Flight to Egypt, with pedestal

Annex ./B

Inv. no.	Object [not all found at present]
missing	Small dresser, table with drawer
608-40	Alabaster group, Vesper picture, English (Rhenish?)
629-40	Key with three notches, wood
630-40	Boxwood handle, carved
637-40	Box with intarsia, musical instruments, marble top, bronze décor
639-40	Miniature bagpipe player
654-40	Tile dies, strapwork, grey-brown, angel heads
669-40	Richly carved chair, mid-17th cent.
670-40	Rustic chair, backrest richly carved
671-40	Rustic chair with carved backrest, mask, 17th cent.
675-40	Armchair, arms and backrest carved, c. 1600
678-40	Small folding chair from 1650, children's folding chair
685-40 a and b	2 miniature angels, kneeling, wood
691-40	Small frame, Rococo, gilded

Annex ./C

Inv. no.	Object
147-40	Obermillner jug, 4 drinkers, 2 musicians, waitress [currently lost]
148-40	Obermillner jug, stag hunt and dog
149-40	Obermillner jug, hunter and stag
604-40	Flowerpot, glazed