

Vienna, May 7th,2015

Dear Mr. Schoenberg,

Let me refer to your letter of January 13th, 2015 concerning Gustav Klimt's portrait "Amalie Zuckerkandl" and also the email you send to Eva Blimlinger.

The Kunstrückgabebeirat discussed thoroughly your arguments in its meeting of April 17^h, 2015. In essence, you made two points that the Beirat considered with regard to the ruling of the Arbitration panel, firstly your arguments on the testimony of Mrs Ruth Pleyer, secondly your arguments on the amendment of the Kunstrückgabegesetz:

- The Beirat is not in the position to decide in which way the information you provided about Mrs. Ruth Pleyer may affect the ruling of the Arbitration panel. During the procedures of the Arbitration panel, it was up to the parties to bring forward evidence and it was up to the panel to assess on that evidence. If you find reason that some evidence assessed by the panel was not admissible, it is only in the competences of the courts to decide on that matter on the basis of the Austrian code of civil procedure (Zivilprozessordnung).
- With regard to the amendment of the Kunstrückgabegesetz the Beirat does not see any relevance for the case. In its ruling, the Arbitration panel stated that the portrait stayed in the apartment of Mr. Ferdinand Bloch-Bauer, even after he was forced to leave Austria. The panel said that the transfer of the portrait to Mrs. Hermine Müller-Hofmann was not void according to the Nichtigkeitsgesetz without any respect whether the transfer took place in Austria or abroad Austria. (Besides, according to the principle *lex rei sitae* there is good reason to assess the transfer of the portrait under Austrian law.) Even if we consider that the transfer took place abroad Austria, there is no relevance for the outcome in applying the amended provision of § 1 Abs.1 Z 2a of the Kunstrückgabegesetz, as the panel assessed the transfer as not void *in merito*.

I underline that the Kunstrückgabebeirat highly appreciates your efforts but we do not see any reason to reopen the case as it stands today.

Kind regards,

Dr. Clemens Jabloner