

From: **E. Randol Schoenberg** randols@BSLAW.NET 

Subject: Re: Kunstrückgabegesetz, 76. Sitzung des Beirates, Empfehlungen des Beirates vom 17. April 2015

Date: May 8, 2015 at 12:10 AM

To: clemens.jabloner@univie.ac.at

Cc: E. Randol Schoenberg randols@bslaw.net, HAUSLADEN, Sonja sonja.hausladen@bka.gv.at, SCHWABL, Alexandra alexandra.schwabl@bka.gv.at, Dr. Michael Franz Michael.Franz@bmukk.gv.at



Clemens,

Are you not ashamed to write to me in this way?

Where exactly in the KunstrückgabeG (or elsewhere in Austrian law) does it say that the Beirat **cannot** at this time consider recommending the return of the Amalie Zuckerkandl portrait? I would ask you for the precise citation to the legal provision or principle, but I know already that there is none.

As you are well aware, the Arbitration Panel was misled by Dr. Toman and ruled **incorrectly** on the law (in addition to the purely invented factual conclusions). Saying that the Panel ruled "*in merito*" does not answer the question of whether that ruling was wrong and unjust (a ground for reviewing prior decisions, for example, in the Mahler-Werfel case). You have repeatedly concluded, contrary to the Panel, that the KunstrückgabeG does not require that the claimant prove the exact nature of the *Enteignung* and that even a gift by a Jewish victim must be considered an *Entziehung*. Please do not pretend that you do not agree that the Panel made a mistake. That would insult my intelligence and diminish the respect I still have for you. Whatever the import the Arbitration Panel's ruling may have on the Bloch-Bauer heirs, and their ability to force Austria to return the painting, that ruling certainly cannot prevent you and the Beirat from alerting the Ministry that a serious error has occurred, and recommending that it be fixed.

I have given you an opportunity, and the perfect excuse, to do the right thing. Even if it were not already enough that the Arbitration decision is so obviously wrong and unjust, both the recent revelation of Ruth Pleyer's undisclosed financial interest in the case, and the amendment of the law governing transactions outside of Austria (e.g. Bavaria, where the alleged recipient of the painting Hermine Müller-Hofmann was in hiding), are valid and sufficient grounds for taking a fresh look at the case and applying the correct legal standard. Will you really pass up this chance and end up on the wrong side of history in this very sad case? I expected much more from you. At some point, someone in Austria is going to have to be brave enough to stand up and admit that an error has been made, and that a painting of a murdered Jewish woman, taken from her friend Ferdinand Bloch-Bauer's home after he fled, cannot remain hanging in the Belvedere. Will it really not be you?

Randy Schoenberg

PS. I again refer you to the complete set of documents related to this matter at <http://bslaw.com/altmann/Zuckerkandl/> and my summary of the case at <http://america.aljazeera.com/articles/2013/10/20/nazi-stolen-art-klimtlondonnationalgallery.html>



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