



Press Release

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Recommendation of the Advisory Commission on the return of cultural property seized as a result of Nazi persecution

Berlin / Magdeburg, 9 April 2013

The Advisory Commission on the return of cultural property seized as a result of Nazi persecution, especially Jewish property, has issued another recommendation. At their meeting on 19 March 2013 which was held at the Representation of Saxony-Anhalt, the Commission, chaired by Professor Dr Jutta Limbach, recommended that the painting "Portrait of Tilla Durieux" (1910) by Oskar Kokoschka should be returned to the heirs of Alfred Flechtheim.

The recommendation is based on the following facts:

Alfred Flechtheim (1878 - 1937), an important art dealer and collector, was persecuted by the National Socialists because he was a Jew and a prominent advocate of modern art. His art collection comprised many works including the painting "Portrait of Tilla Durieux" (1910) by Oskar Kokoschka.

The painting is presumed to have been purchased by Flechtheim at some time before 1918.

Flechtheim was the owner of "Galerie Alfred Flechtheim GmbH" in Berlin and Düsseldorf which for a time also had branches in other German cities.

In the spring of 1933, he had to close down his business in Düsseldorf, after an auction in his gallery had been broken up by Nazis. In November 1933, his Berlin gallery, too, had to close. In the spring of 1934, the winding-up proceedings initiated in November 1933 resulted in an out-of-court settlement. In early 1937, the company was deleted from the commercial register. Flechtheim, who had been a target of Nazi attacks even before 1933 and who, after the seizure of power by the National Socialists, did not have a chance of continuing his successful work as an art dealer in Germany, tried from 1933 until his early death in 1937 to start a new life first in Paris and then in London.

Already at the end of March 1933, Alex Vömel, the former manager of

„Galerie Alfred Flechtheim GmbH“ in Düsseldorf opened the

„Galerie Alex Vömel“ in the same rooms that had previously been used by Flechtheim's gallery.

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Together with the rooms he obviously took over also part of the art works of the Flechtheim gallery and of Alfred Flechtheim's private collection. Among them was the painting "Portrait of Tilla Durieux" which had been exhibited in 1931 at Kunsthalle Mannheim as being part of the "Private collection Alfred Flechtheim".

In June 1934, Vömel sold the painting whose insured value was set at 3,000 Reichsmark in 1931, for 1,800 Reichsmark to the Cologne art collector Dr Josef Haubrich.

In 1946, Haubrich donated his art collection including the "Portrait of Tilla Durieux" to his native city of Cologne which in turn entrusted the collection to the Wallraf-Richartz-Museum. When the Cologne museum landscape was restructured in 1976, the painting ended up in the Museum Ludwig.

In 2008, the heirs of Alfred Flechtheim, Dr Michael R. Hulton and Penny R. Hulton, filed a claim for the restitution of the painting. They hold the view that the sale of the painting constitutes a loss as a result of Nazi persecution. They claim that Flechtheim had to part with the painting because he was persecuted and thus acting under duress. The heirs claim that the sale price was not adequate and that there is no evidence that it was actually paid to Flechtheim or his creditors.

The City of Cologne refused to return the painting, claiming that while Alfred Flechtheim had been persecuted by the National Socialists and suffered economic losses as a result, the present case did not constitute a loss resulting from Nazi persecution. The City claimed that in the later stages of the Weimar Republic, Flechtheim had already been struggling with major economic difficulties. In 1933, he had offered the painting as security for liabilities existing at the time. The City of Cologne argued that Flechtheim sold the painting to pay off part of his debts and that the sale price reflected the market situation in June 1934.

The parties did not achieve an agreement and therefore agreed to submit the case to the Advisory Commission.

The view of the Commission is that while the present case cannot be exhaustively clarified, it is to be assumed in the absence of concrete evidence to the contrary that Alfred Flechtheim was forced to sell the disputed painting because he was persecuted. For this reason the painting is considered to have been confiscated as a result of Nazi persecution. The Advisory Commission did not



identify any indications suggesting negligent conduct on the part of the City of Cologne.



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The task of the Advisory Commission is to mediate in case of disputes between the parties presently in possession of cultural goods and their former owners or the heirs of the latter, if both parties so desire. The Commission can issue an ethically grounded recommendation for resolving the dispute. Former Federal President Dr Richard von Weizsäcker, former President of the German Bundestag Professor Dr Rita Süßmuth, former President of the Federal Constitutional Court Professor Dr Jutta Limbach, legal scholar Dr Hans Otto Bräutigam, legal philosopher Professor Dr Dr Dietmar von der Pfordten, historian Professor Dr Reinhard Rürup, art historian Professor Dr Wolf Tegethoff and philosopher Professor Dr Ursula Wolff have agreed to serve as honorary members of the Commission.

The Coordination Office for Lost Cultural Assets (www.lostart.de) in Magdeburg is the office of the Advisory Commission and point of contact for those submitting claims.

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