

# secession

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## **Press release from the Association of Visual Artists Vienna Secession and the Society of the Friends of the Secession concerning Gustav Klimt's *Beethoven Frieze***

The Austrian Art Restitution Advisory Board is scheduled to convene for its next meeting on March 6, 2015. We would like to use this opportunity to summarily reiterate our position regarding the proposal to restitute the *Beethoven Frieze* to the heirs of Erich Lederer.

In October 2013, the Association of Visual Artists Vienna Secession and the Society of the Friends of the Secession retained the services of Prof. Dr. Christian Hauer, attorney at law, to prepare a statement in reply to the proposal for restitution of the Beethoven Frieze based on the research undertaken by Univ.-Prof. Mag. DDr. Oliver Rathkolb. The statement was presented to the Austrian Federal Ministry for Education, Art, and Culture as well as the Restitution Advisory Board on November 13, 2013; it suggested that the Frieze should not be restituted.

The statement arrives at the following conclusions:

**It is our belief that the proposal to restitute the Beethoven Frieze is without legal merit. The facts are unambiguous: Erich Lederer acted neither under “constraint” nor under “pressure” when he concluded the agreement in which he sold the work to the Republic of Austria. Lederer sold the Frieze to the Republic of Austria for a price he had freely negotiated and felt to be adequate.**

- After Chancellor Bruno Kreisky wrote Erich Lederer a personal letter dated May 30, 1970, all subsequent negotiations between the parties concerned the proposed purchase of the Frieze by the Republic of Austria and, more particularly, the price. At no time between Lederer's receipt of this letter and the conclusion of the purchase agreement did he initiate proceedings to obtain an export permit for the Frieze; he did not even express any intention to export the Frieze. Accordingly, no proceedings pursuant to the Federal Law on the Prohibition of Export of Objects of Historical, Artistic or Cultural Significance (State Legal Gazette No. 90/1918) were pending. On the contrary, Erich Lederer repeatedly stated that he welcomed the offer of the Republic of Austria to purchase the work, which shows that he was not interested in exporting the Frieze; he would not have known what to do with the Frieze.
- In April 1972, Erich Lederer and his wife received the responsible minister Hertha Firnberg and her chief of cabinet in their home in Geneva. The mood was relaxed and cheerful and dinner was served; the parties agreed on a purchase price of ATS 15 million. Erich Lederer was satisfied and even “happy” with the agreement, which was reached in an amicable atmosphere.
- On November 23, 1977, or almost exactly 5 years after the conclusion of the purchase agreement between Erich Lederer and the Republic, Lederer personally dedicated a copy of the book “GUSTAV KLIMT Der Beethovenfries” to Chancellor Bruno Kreisky. The dedication lauds Kreisky's efforts to acquire the Frieze—Kreisky, Lederer wrote, “earned himself a permanent place in the history of Austrian art”—and is signed “most sincerely, your humble servant Erich Lederer.”

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- After Erich Lederer's death, his widow Elisabeth Lederer donated the 13 original drawings by Klimt related to the Beethoven Frieze to the Republic of Austria. The gift illustrates her belief that these drawings should be held by the legitimate owner of the Beethoven Frieze, the Republic of Austria.

The case of the Beethoven Frieze does not meet the criteria of paragraph 1 section 1 lit. 1 of the Austrian Art Restitution Law (Federal Law Gazette I No.181 / 1988 in its most recent amended version):

The transfer of ownership of the Beethoven Frieze effected by the purchase agreement of November 18, 1972, was **not** "closely connected to pending proceedings pursuant to the stipulations of the Federal Law on the Prohibition of Export of Objects of Historical, Artistic or Cultural Significance (State Legal Gazette No. 90/1918) subsequent to" the restitution of the Frieze to Lederer on August 23, 1946:

- At the time of the transfer of title to the Republic, no proceedings pursuant to the Federal Law on the Prohibition of Export of Objects of Historical, Artistic or Cultural Significance were pending. Erich Lederer was manifestly not interested in seeking to obtain an export permit because he intended to sell the Frieze to the Republic of Austria.
- In light of the fact that no proceedings pursuant to the Federal Law on the Prohibition of Export of Objects of Historical, Artistic or Cultural Significance were pending, the transfer of title to the Republic cannot have been closely related, chronologically or factually, to such proceedings subsequent to the restitution of the work on August 23, 1946.
- The chronology (restitution of the work to Erich Lederer on August 23, 1946; purchase agreement between Erich Lederer and the Republic of Austria dated November 18, 1972) contradicts the construction of a close chronological connection.
- Moreover, the proposed restitution would require that Erich Lederer was constrained or at least "effectively constrained" to sell the work to the Republic of Austria. The notion of such duress is utterly incompatible with Erich Lederer's unmistakable intentions after his receipt of Chancellor Kreisky's letter dated May 30, 1970.

We believe that the proposal to restitute the Frieze to Erich Lederer's heirs not only lacks legal merit; it is also morally unjustified. The heirs have seized the opportunity presented by the amendment of the Austrian Art Restitution Act in 2009 to lodge their "claim," arguing, in defiance of the facts, that the purchase agreement between Erich Lederer and the Republic of Austria would not have been concluded in the absence of pressure upon Lederer. The latter's heirs effectively "constrain" him to have been pressured.

In conclusion, we would like to reaffirm our unreserved support of the aims of the Art Restitution Act, including its amended version adopted in 2009. We have always respected decisions ordering restitution in accordance with paragraph 1 of the Art Restitution Act and will unreservedly respect any such decision in the future.

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