



Press Release

The Advisory Commission recommends to the Kulturstiftung Sachsen-Anhalt, Kunstmuseum Moritzburg Halle (Saale) to restitute the drawing *Bauarbeiter / Maurer beim Bau* by Adolph von Menzel to the heirs of Max and Martha Liebermann

29 February 2024

The Advisory Commission on the return of cultural property seized as a result of Nazi persecution, especially Jewish property, chaired by Prof. Hans-Jürgen Papier, decided unanimously on 29 January 2024 in the case of the heirs of Max and Martha Liebermann versus Kulturstiftung Sachsen-Anhalt, Kunstmuseum Moritzburg Halle (Saale) to recommend the restitution of the drawing *Bauarbeiter (Maurer beim Bau)* [Construction Worker (Bricklayer at Work)] (1875) by Adolph von Menzel to the heirs of Max and Martha Liebermann.

Along with their daughter Käthe, Martha and Max Liebermann were persecuted from the time the National Socialists seized power on 30 January 1933 because they were Jewish. As early as May 1933, discrimination and persecution forced Max Liebermann (1846–1935) to resign his membership and honorary presidency of the Prussian Academy of Arts, of which he had been a member for 25 years. Faced with imminent deportation, Martha Liebermann (1857–1943) took her own life in 1943. Their daughter Käthe Riezler, née Liebermann (1885–1952), managed to escape with her family to the USA in 1938. Liebermann's extensive art collection was largely forcibly dissolved as a result of the family's persecution.

The disputed drawing *Bauarbeiter* belonged to Max Liebermann from 1916 onwards. In a photograph of Max Liebermann taken in autumn 1932, 16 years after he acquired it, the drawing can be seen in the background, hanging on a wall in his house by Lake Wannsee.

The direct descendants of Martha and Max Liebermann request the restitution of the drawing. The Kulturstiftung Sachsen-Anhalt is of the opinion that the claimants have not provided evidence that the work was still owned by Max Liebermann at the time of the National Socialist seizure of power on 30 January 1933 and therefore during the period relevant to the issue of persecution. The Kulturstiftung Sachsen-Anhalt argues that

the claimants should prove that the drawing was not sold between the summer of 1932 and the National Socialists' seizure of power.

It is true that the burden of proof demonstrating that the work still belonged to Max Liebermann when the National Socialists seized power lies with the claimants. However, the mere assertion that the Liebermanns might have lost possession of the work during the few months between autumn 1932 and the National Socialists' seizure of power on 30 January 1933 is pure speculation – a shot in the dark. According to the general rules of evidence, anyone claiming that something is true must present a substantiated factual submission. If the Kunststiftung Sachsen-Anhalt asserts that ownership of the work of art might have passed to someone else in the few months before the National Socialists seized power, it must provide evidence that this was the case. No such evidence has been provided, however. Since there are no other indications of the work having been traded, and given that Max Liebermann's fondness for the drawing is evident from the fact that he not only owned it from 1916 onwards but that it was also one of the works that hung on a wall of his house, it must be assumed that the work still belonged to Max Liebermann when the National Socialists seized power.

The Advisory Commission believes that the drawing was seized by the Nazis in April 1936 at the latest, when it was sold by the Hamburg gallery Commeter to the legal predecessor of today's Kunststiftung Sachsen-Anhalt. There are no surviving documents that identify Martha Liebermann, who had become Max Liebermann's heir upon his death on 8 February 1935, as the consignor. However, even a disposition at an earlier point in time is considered to be due to Nazi persecution according to the *Guidelines for implementing the Statement by the Federal Government, the Länder and the national associations of local authorities on the tracing and return of Nazi-confiscated art, especially Jewish property, of December 1999* (New edition 2019) (hereinafter: *Guidelines*), which form the basis for the recommendations of the Advisory Commission. This is because, for the benefit of the persecuted persons, the *Guidelines* stipulate that, with the onset of collective persecution on 30 January 1933, a legal transaction by persons persecuted by the regime is regularly to be assessed as Nazi-persecution-related with the consequence of restitution. Since the Kunststiftung Sachsen-Anhalt was not able to provide evidence that the legal transaction would have taken place even if the National Socialists had not been in power, the Advisory Commission recommends the restitution of the drawing *Bauarbeiter* to the heirs of Max and Martha Liebermann.

The complete recommendation is available at beratende-kommission.de.

Beratende Kommission
im Zusammenhang mit der Rückgabe
NS-verfolgungsbedingt entzogenen Kulturguts,
insbesondere aus jüdischem Besitz

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