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Austria says it will keep Klimt work sought by former owner's heirs

Expert committee finds insufficient grounds to return 'Beethoven Frieze'

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VIENNA — Austria on Friday rejected a restitution claim for a sprawling Gustav Klimt fresco from the heirs of its prewar owner, a decision that keeps one of the artist's most important surviving works in the country.

Austria's expert committee on restitution ruled there weren't sufficient grounds to return the "Beethoven Frieze" to the heirs of Erich Lederer, an Austrian Jew whose family's art collection was appropriated by the Nazi regime during World War II. The government will follow the committee's recommendation, the Culture Ministry said.

The claim hinged on a 2009 amendment to Austria's restitution law, which allows claimants to challenge sales that took place because of a long-standing ban on exporting major artworks.

The Klimt fresco was among the artworks returned to Mr. Lederer after World War II. His heirs contended that Mr. Lederer's subsequent decision to sell the piece to the state in the early 1970s was made only because of the export ban, despite repeated requests for a waiver.

The advisory board, however, said Mr. Lederer wasn't threatened with a ban. He had the possibility of getting export permission, although his request had been pending since 1967, and so the sale transaction didn't occur under duress, it said.

Austria bought the fresco for 15 million schillings, about \$750,000 at the time.

The heirs' two lawyers expressed disappointment with the decision.

"If there hadn't been an export ban there wouldn't have been a sale," said Marc Weber, a lawyer based in Switzerland.

The committee's decision can't be appealed, but he said he would consider pursuing the case in the European Court of Human Rights or in the U.S. One of the 11 heirs is American.

The second lawyer, Alfred Noll, said the council was likely influenced by Austrian public opinion.

The renown of the "Beethoven Frieze," a 1902 Jugendstil fresco designed as a homage to Beethoven's Ninth Symphony, made the case a sensitive issue in Austria. The claim was seen as a test of the restitution amendment.

"It is unique, it is hugely important, it is a one-of-a-kind piece," said Sophie Lillie, an art historian. It "plays a very major role in Klimt's work and is of great significance for Austria."

Ahead of the decision, Ms. Lillie had supported its return to the Lederer heirs.

Others disputed the claim. The Secession gallery, where the frieze was originally painted and where it has been displayed since 1986, said the case lacked legal merit and was unjustified.

"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," the gallery said ahead of the decision.

Klimt never intended to preserve the painting, but conceived it as an ephemeral work to be destroyed after an exhibition celebrating Beethoven.

But the gallery planned a Klimt show the following year and kept the fresco. In 1903, the collector Carl Reinighaus purchased it, and later sold it to Mr. Lederer's parents, August and Serena.

The Lederers were a prominent Viennese family who owned the foremost Klimt collection. Klimt painted three generations of Lederer women, including a portrait of Serena that hangs in The Metropolitan Museum of Art.

Several of the family's Klimt pieces were destroyed as the war neared an end. About 13 or 14 paintings stored in a palace outside Vienna for safekeeping were lost in a fire, said Laura Morowitz, a professor of art history at Wagner College in New York, who is co-writing a book on Klimt.

Scholars believe the fire was set by retreating Nazi soldiers who didn't want the Russians to get their hands on the paintings, she said.

"It was never meant to be permanent, but neither was the Eiffel Tower," said Ms. Morowitz of the Frieze. "It essentially escaped destruction twice."

Austria has returned dozens of Klimt works since its restitution law first came into effect in 1998. Most notably, Maria Altmann in 2006 won the return of five Klimt paintings confiscated from her family during the war. Among them was "Portrait of Adele Bloch-Bauer I," which she sold for \$135 million, making it — for a short time — the most expensive painting ever sold.