

MUNICH

Restitution or Compensation?

In 1945, as the Soviet army advanced, thousands of families in eastern Germany fled westward, abandoning their lands, homes, and possessions. Among them were the von Sternburgs, descendants of the Saxonian merchant and art collector Maximilian Speck von Sternburg (1776–1856). Left behind was the family's art collection: 300 works by artists such as Lucas Cranach, Rembrandt, Dürer, Rogier van der Weyden, and Caspar David Friedrich.

Until 1945 the collection was exhibited in Castle Lützschena, the family's ancestral home near Leipzig, in a gallery open to the public. Just before fleeing the region at the end of the war, the family hurriedly transported most of the pieces to the Leipzig Museum of Art for safekeeping. Today the museum still houses 220 works from what is recognized as one of Germany's largest intact private collections.

With the reunification of Germany, the question arose as to whether property that had been confiscated in East Germany should be returned to its original owners or whether compensation should be paid for it. A law has since been passed stating that property confiscated after October 1949—when the East German regime was founded—should be restored to the original owners whenever possible. But property confiscated before that date—during the period of Soviet occupation—must be regulated separately. Both the Soviets and the East Germans insisted on a clause in the Treaty of Unification stating that there would be no restitution of property confiscated under Soviet occupation.

Parliamentary debates on legislation to regulate this category of property are now taking place. Important in the talks is the definition of the word "confiscation." Technically, real estate was confiscated under Soviet occupation, but personal property was merely impounded and thus does not fall under the restrictions against restitution in the Treaty of Unification. Rudolf Wassermann, former president of the provincial Court of Appeals in Braunschweig, wrote in the newspaper *Die Welt* that it would be a grave mistake to legitimate all losses under the Soviets simply by lumping them in the category of confiscated property. "Art theft remains art theft," he said.

The Gerster Commission, appointed by parliament to study the issue and propose draft legislation, recommends restitution of such personal property, "except in cases where harm to the public interest would arise." The harm to the public interest criterion relates to works that are placed on the national or international art market.

However, there is some question as to whether the Gerster Commission's recommendations will be incorporated into the final legislation. Heiner Köster, lawyer for a group of 50 families that lost all their property under the Soviet occupation, pointed out that most of the works whose return is being requested are now in museums. Some pieces are of great value, and museum directors are of course loathe to part with them. But Baron Wolf-Dietrich Speck von Sternburg, who now lives in Munich and is the family spokesman, says these fears are unfounded. "It is definitely not our intention to remove any of the major works from the museum," he told *ARTnews*. "We feel that the collection should remain in the museum as an entity. What we are requesting is that the question of ownership be cleared up once and for all."

The catalogue of the Leipzig Museum identifies each of the von Sternburg works as "purchased from the von Sternburg collection in 1946." In 1930 the family had placed one work from the collection, a wing of Cranach's 1506 Katharinen Altarpiece, on loan to the Dresden Gallery of Old Masters, which already owned the other two wings. An entry in that museum's 1983 catalogue calls it a "1930 loan from the von Sternburg collection; 1946 transferred to gallery ownership." The "purchases" and "transfer of ownership" were of course carried out without any exchange of money and without the knowledge or approval of the von Sternburg family.

Andreas von Schoenberg, whose ancestral home near Dresden was seized by the Soviets at the end of the war, agrees that

important works should remain on public view in the museums under a loan agreement. Of 11 Ferdinand von Rayski paintings removed from the von Schoenberg home after the war, six turned up in the Dresden Gallery of New Masters. Although one was sold by the museum in the early '60s, the remaining five were part of a von Rayski retrospective exhibition in Dresden's Albertinum and Munich's Lenhach House Gallery last year. The catalogue for the show listed the paintings' provenance as "former property of the von Schoenberg family, ownership assumed by museum 1950." Under what conditions ownership was assumed is not explained.

Many other objects impounded between 1945 and 1949 are not on exhibition. Von Schoenberg says they are being stored under very poor conditions in special state depositories or museum cellars. "If the state does not agree to return these goods to their rightful owners, then it must at least be obliged to restore and exhibit them," he says. "It would be a disgrace for the government to retain these works only to leave them in cellars without placing them, in restored form, on display."

Both von Sternburg and von Schoenberg stress that the scope of the request for restitution has been limited strictly to personal property, purposely excluding real estate. "Whereas most of the land and buildings are now occupied by others and hardships could arise if they were forced to forfeit this property," von Schoenberg points out, "nobody would suffer hardships if works of art, antiques, porcelain, silver, libraries, archives, and other movable property, much of which had been in the families for several generations, were returned by the government to the former owners."

—Ginger Henry Künzel



Lucas Cranach's *Adam*, 1692, and *Eve*, 1693. Should such works, now in German museums, be returned to the people who owned them before World War II?