

Press release

Basel, January 16, 2024

## **A painting by Henri Rousseau: Kunstmuseum Basel in negotiations over compensation for "flight asset" purchase**

**In accordance with our strategy for provenance research, which prioritizes in-depth investigation of so-called "flight assets," The Kunstmuseum Basel is conducting discussions regarding a just and fair solution in connection with the purchase of Henri Rousseau's painting *La muse inspirant le poète / Apollinaire et sa muse*.**

The Kunstmuseum Basel acquired the painting *La muse inspirant le poète / Apollinaire et sa muse* (1909) by Henri Rousseau in 1940 from Countess Charlotte von Wesdehlen. In 2021, the lawyers of a claimant in Charlotte von Wesdehlen's succession approached the Kunstmuseum Basel with a request to investigate the background of this purchase. Should clarification of the historical facts confirm that the painting was given up as a result of Nazi persecution, a "just and fair solution" in accordance with the Washington Principles would be sought.

Subsequently, The Kunstkommission of the Kunstmuseum Basel and the Museum actively pursued a substantive investigation. The Provenance Research Department established the state of the historical facts and a working group was set up to discuss the context and possible solutions. The results were presented to the claimant's lawyers at a meeting in June 2022. The claimant's representatives ultimately requested the restitution of the work.

The findings of this in-depth research, together with an extensive discussion on the treatment of "flight assets" (sale of property in unoccupied foreign countries by emigrants fleeing Germany between 1933 and 1945), do not, in the view of the Kunstkommission and the Kunstmuseum, support the right to restitution of the painting. Rather, negotiations for a "just and fair solution" have been advocated and have already begun.

Despite the issues that still remain unresolved, the Kunstmuseum would like to contribute to the debate over the handling of "flight assets" in Switzerland. As Felix Uhlmann, President of the Kunstkommission, explains "The Washington Principles also oblige us to seek 'just and fair solutions' in cases of 'flight assets' purchases, which entails the investigation of these cases and the transparent communication of the outcome to the public." Accordingly, the decision reached by the Kunstmuseum and the Kunstkommission has been extensively substantiated and published.

### **On the Provenance of the Painting**

Charlotte von Wesdehlen (1877-1946) was a naturalized Swiss citizen of Jewish origin from Germany who had to leave her home in Berlin because of National Socialism. She sold the work because she needed money to support herself in Switzerland. The sale price was low; Georg Schmidt, the director of the Kunstmuseum Basel at the time, himself called it "shamefully cheap."

Taking into account all the facts surrounding the purchase of the Rousseau from Charlotte von Wesdehlen, the Kunstkommission and the Kunstmuseum have come to the conclusion that the circumstances of this specific case do not warrant restitution of the work, but rather a "just and fair solution" should be sought. The extent of the exigency (lack of choice) in Switzerland was different from that in Germany or the occupied territories, where dispossession was imminent and the situation for those affected generally life-threatening.

The decision of the Kunstkommission and the Kunstmuseum, together with a full account of the reasoning and the historical facts, will be published on the Kunstmuseum's website. The Kunstmuseum considers this to be both a way of honoring Charlotte von Wesdehlen's history and a part of the necessary work of the reappraisal of the institution's own history.

### **Assessment of "flight asset" cases**

Charlotte von Wesdehlen's sale of the painting by Henri Rousseau is among the cases that, in Switzerland, are treated as sale of "flight assets." The term "flight assets" was introduced in the Bergier Report [[Link](#)] and differs from looted art, which was stolen from Jewish owners by the Nazi regime. Charlotte von Wesdehlen's story is specifically mentioned in this report.

For many years, the notion of “flight assets” was used in Switzerland as a category to exclude claims under the Washington Principles [[Link](#)]. In recent years, however, a shift in thinking has occurred.

The Kunstkommission and the Kunstmuseum are committed to the Washington Principles. They are of the opinion that cases of “flight assets” purchases should be assessed under these principles, which is also in accordance with the Provenance Research Strategy adopted by the Kunstkommission and the Kunstmuseum in September 2022 [[Link](#)].

The handling of “flight assets” purchases varies greatly in international practice. There have been both restitutions and refusals, as well as mediating positions. Restitution of “flight assets” has, however, remained an exception. In the view of the Kunstkommission and the Kunstmuseum, making such an exception in the present case is neither straightforward nor justified.

The Kunstkommission has extensively consulted the relevant legal sources in the Curt Glaser decision. In addition to the Washington Principles, the principles of ICOM and the standards of the Swiss Civil Code (ZGB) apply to the present proceedings as well. The Terezín Declaration has also been taken into account; the German “Handreichung zur Umsetzung der Erklärung der Bundesregierung, der Länder und der kommunalen Spitzenverbände zur Auffindung und zur Rückgabe NS-verfolgungsbedingt entzogenen Kulturgutes, insbesondere aus jüdischem Besitz” (Joint Declaration by the Federal Government, the Federal States and the National Associations of Local Authorities on the tracing and return of Nazi-confiscated art, especially Jewish property) can be consulted in certain cases. This approach appears to correspond to the practice that has become established in Switzerland in recent years.

#### **Transparency for the Museum’s Visitors**

Visitors to the Kunstmuseum can currently find the painting *La muse inspirant le poète / Apollinaire et sa muse* on display in the special exhibition in the Neubau. When the work returns to the regular exhibit of the collection in the Hauptbau, a sign will be placed next to it to draw attention to its origins. Interested visitors will be able to explore the topic in more detail by scanning a QR code.

- For more extensive information, see the Decision and Historical Facts.

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