

## **Recommendation 24649 BCM-REST**

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*THE COMMISSION,*

*Meeting in plenary session on 9 July 2021;*

*Having regard to Decree No. 99-778 of 10 September 1999, as amended by Decree Nos. 2000-932 of 25 September 2000 and 2001-530 of 20 June 2001;*

*Having regard to Decree No. 2018-829 of 1 October 2018, addressing the establishment of a procedure for seeking out the owners, or their heirs, of cultural property spoliated during the Occupation, and particularly Article 3 of that Decree;*

### **I. The facts**

*Stefan OSUSKY was the Czechoslovakian ambassador to France from 1921 to 1940. He lived in Paris (7th arrondissement), at 17 Avenue Charles Floquet. Disapproving of the Munich Agreement and after the occupation of Czechoslovakia in March 1939, he refused to close the embassy and organised the Czechoslovak resistance abroad, returning to London on 17 November 1939.*

*At the time of the Occupation of Prague between 15 and 18 March 1939, Stefan OSUSKY transferred his paintings and other valuable objects to the home of James Armand de Rothschild at 14 Rue Leroux, Paris (16th arrondissement).*

*The property deemed to belong to James Armand de Rothschild, located at 14 Rue Leroux in Paris (16th arrondissement), was seized on 29 August 1940 by the "Geheime Feldpolizei Gruppe 540" on the orders of the German Embassy in Paris. The seized goods were placed in 43 boxes and transported by the Maison S.A de transport Jonemann to the German Embassy in Paris, at Rue de Lille, and then transferred to the Ministry for Foreign Affairs in Berlin.*

*Joachim Von Ribbentrop, Minister for Foreign Affairs between 1938 and 1945 under the Third Reich, converted Tentschach Castle (Austria) into a rest home for the staff of the Foreign Ministry during the war. He later shipped part of his paintings collection there.*

*After the war, Stefan OSUSKY took various steps with the French authorities, namely the Artwork Recovery Commission (C.R.A.) and the Office for Private Property and Interests (O.B.I.P.) seeking the restitution of the spoliated works. 89 paintings were recovered.*

### **II. The procedure**

*Under the provisions of Article 1-2 of Decree no. 99-778 of 10 September 1999, as amended, the Head of the Mission for Research and Restitution of Cultural Property Spoliated between 1933 and 1945 referred a restitution case to the CIVS on 30 March 2021 concerning a work that belonged to Stefan OSUSKY, listed as MNR (National Museum Recovery), repatriated to France after World War II, then retained by the Commission for the Selection of Works of Artistic Recovery before being allocated in 1954 to the Musée national d'art moderne by the O.B.I.P.:*

*- a painting, MNR R24P, Église de Pont-Saint-Martin (Loire Atlantique) by Maurice Utrillo, paper pasted on canvas, oil painting 60 x 81 cm.*

*The following beneficiaries are combined in this referral, namely:*

- Ms A. born on ... in ..., residing at ..., successor to the rights of her father ..., son of Stefan OSUSKY and Pavla VACHEK, having appointed Maître ... on ..., residing at ..., herself represented by Ms E. ..., residing at ..., to whom she gave power of attorney on ...,

- Mr B., born on ... in ..., residing at ...,

- Ms C., born on ... in ..., residing at ...,

- Ms D., born on ... in ..., residing at ...,

All three of them, neither assisted nor represented, and successors to the rights of ..., daughter of Stefan OSUSKY and Pavla VACHEK, mentioned above.

Ms A. is acting as the beneficiary of her paternal grandparents, Stefan OSUSKY and Pavla VACHEK, mentioned above,

Mr B., Ms C. and Ms D. are acting as universal legatees of ..., by virtue of a statutory declaration drawn up on ... by Maître..., Notary and Partner in the Société Civile Professionnelle ..., holder of a Notary Office at ..., and with authority to take possession of the universal legacy on ....

For the record, a fourth universal legatee, Ms F., was mentioned on the statutory declaration but she disclaimed the inheritance on....

### **III. The investigation of the case**

The investigation of the application gave rise to the investigations presented in:

- the summary note and its appendices, highlighting the research carried out by the MNR unit of the Service des Musées de France, the Musée National d'Art Moderne and the independent researcher Ms Elizabeth ROYER-GRIMBLAT, dated 30 March 2021, by the Head of the Ministry of Culture's Mission for Research and Restitution of Cultural Property Spoliated between 1933 and 1945 (M2RS), sent to the Principal Rapporteur at the CIVS,

- the report of Ms VALENSI, Rapporteur at the CIVS, communicated to the claimants, the M2RS, the Ministry for Europe and Foreign Affairs and the Ministry of Culture.

The claimants were informed of the hearing of 9 July 2021.

Ms C., Ms D., and Ms E. appeared before the Commission.

The Commission heard the Head of the M2RS, the Judge-Rapporteur, the representative of the Diplomatic Archives of the Ministry for Europe and Foreign Affairs and the Government Commissioner.

Ms C., Ms D., and Ms E. made their observations known.

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The Commission considers the following to be established:

The research carried out and the results on file indicate that most of the property in the home of James Armand de Rothschild at 14 Rue Leroux in Paris (16th arrondissement), owned by his brother Edmond de Rothschild, was looted in August 1940 by the Occupation authorities and transferred to Germany and then some to Austria.

The seizure of the paintings confiscated on 29 August 1940 from James Armand de Rothschild was

recorded on the so-called "Baldass list", named after Ludwig von Baldass, dated 1940 and found after the war in the archives of the Foreign Office in Berlin. This list mentions a painting by Maurice Utrillo entitled "Dorfansicht mit Kirche, signiert : Maurice Utrillo V., Leinwand, Höhe 60 cm, Breite 81 cm" [=Village view with church, signed: Maurice Utrillo V. (Canvas, height 60 cm, width 81 cm)] presumed to belong to Stefan OSUSKY.

The German ambassador in Paris, Otto Abetz, indicated on 1 February 1941 in a document attached to the protocol on the safekeeping of artworks belonging to Jews and kept by the embassy in agreement with the Einsatzstab Reichsleiter Rosenberg (E.R.R.) that the confiscated works were not mentioned in the inventory of the Paris embassy as they were not intended to be kept on its premises. They were intended to decorate the Foreign Office in Berlin and the *hôtel du ministre des Affaires étrangères*. Among others, two Utrillo paintings are mentioned: *Église de village*, oil and *Rue de village*, oil.

The work MNR R24P was discovered among others at Tentschach Castle (Austria) at the time of the mission carried out by the High Commission of the French Republic in 1951 to inspect the paintings in the Ribbentrop collection. This discovery confirmed the validity of Rose Valland's post-war research into the whereabouts of this painting, which was said to have been part of a consignment of artworks sent by the German Embassy in Paris to the Reich Foreign Office in Berlin, which then moved it to Austria.

The work MNR R24P is not included in the list of claims submitted to the Artistic Recovery Commission by the OSUSKY family or in the list of claims submitted by James Armand de Rothschild. It is, however, mentioned in three different lists (Baldass list in 1940, German claims list, OSUSKY collection stored with James de Rothschild's collection dated 25 November 1959, letter dated 18 November 1960 from the German Claims Office), with the same title and dimensions.

Therefore, due to the correspondence between the Baldass list in the Diplomatic Archives and the documents in the Federal Archives in Koblenz, and by process of elimination based on the paintings returned and the themes of the paintings kept, the researchers and the administration have concluded that MNR R24P, entitled "Église de Pont-Saint-Martin" certainly corresponds to "Vue du village avec une église".

#### **IV. The Commission's opinion**

MNR R24P was one of the works stolen from the Paris apartment at 14 Rue Leroux by the "Geheime Feldpolizei Gruppe 540" on 29 August 1940, on the orders of the German Embassy in Paris.

It is certain that the last legitimate owner of this work was Stefan OSUSKI, who had placed this work with others in the Paris apartment of James Armand de ROTHSCHILD and that he was spoliated in the same way as the latter as a result of the anti-Semitic laws in force in France during the Occupation.

Consequently, in view of the evidence on file and the opinion expressed by the competent administrative authorities, the painting representing the *Eglise de Pont-Saint-Martin (Loire Atlantique)*, by Maurice Utrillo, paper mounted on canvas, oil painting 60 x 81 cm, listed in the inventory of the Musée National d'Art Moderne under number MNR R24P, should be returned to Ms A., Mr B., Ms C. and Ms D.

#### **THE COMMISSION IS OF THE OPINION,**

1° - That Ms A., Mr B., Ms C., and Ms D. be recognised as beneficiaries of a victim of spoliation arising from anti-Semitic legislation in force during the Occupation;

2° - That the painting representing the Eglise de Pont-Saint-Martin (Loire Atlantique), by Maurice Utrillo, paper mounted on canvas, oil painting 60 x 81 cm, listed in the inventory of the Musée National d'Art Moderne under number MNR R24P, should be returned to them;

**REMINDS Ms A., Mr B., Ms C. and Ms D. to make it their personal business to resolve any disputes concerning the ownership of the artwork that may be returned to them by the French State in accordance with this recommendation.**

**REMINDS the parties that this recommendation will be notified:**

- to the claimants,
- to Maître ...,
- to Ms E.

**REMINDS the parties that this recommendation will be transmitted to the Prime Minister's office in accordance with Article 1-1 of Decree No. 99-778 of 10 September 1999, as amended,**

**And, for information purposes:**

- to the Director-General for Heritage, Ministry of Culture, 182 Rue Saint-Honoré, 75033 PARIS cedex 01,
- to the Director of the Diplomatic Archives, Ministry for Europe and Foreign Affairs, 3 Rue Suzanne Masson, 93126 LA COURNEUVE cedex.

- The Ministry for Europe and Foreign Affairs was represented by Mr CHAUFFOUR,
- The Ministry of Culture was informed of the date of this hearing.

During the deliberation, the Commission was composed of Mr JEANNOUTOT - Mr BERNARD - Mr TOUTÉE - Mr RUZIÉ - Ms GRYNBERG - Ms SIGAL - Ms DRAI - Mr PERROT.

Paris, 5 October 2021

The Chargé de Mission,  
Hearing Secretary

Emmanuel Dumas

The Chairman,

Michel Jeannoutot