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Fig. 1 Poster "Entarte Kunst" Wien Künstlerhaus. From Österreichische Nationalbibliothek.

Fig. 2 Seated Woman with Bent Left Leg by Xavier Coste

Fig. 3 Fritz Grünbaum. From Bildarchiv der Österreichische Nationalbibliothek.

Egon Schiele from spoliation to restitution

“Art can not be modern, it is from all eternity”, however, art is relentlessly subjected to successive ages, as crossing much glory and peril. As such, periods of war are a particular cause of troubles on the art market but also risks for the preservation of works. World War II has been the reason for a massive spoliation (estimated to 600,000 between 1933 and 1945), especially of works owned by the Jewish collectors of the time. Austria, like the work of Egon Schiele, have not been spared from this phenomenon.

We must remember that Hitler’s regime has intended to draw the line between good and bad, beautiful and ugly, splitting art into two categories : official art (based on the imitation and idealization of reality), “heroic” ; and “degenerate art”. “Degenerate art” was particularly stigmatized in the exhibition of 1937 organized in the former Archaeological Institute of Munich¹. The exhibition was no more the place of contemplation but a public execution, a cultural extermination ; modern art on the scaffold of public opinion. The aim was to demonstrate the “impurity”² of modern art by keeping parallel with the productions of mentally ill or children, while drawing a financial interest³ as those traveling exhibits in Germany and Austria⁴ were a real success (three million visitors, including two million in Munich).

As abstract art, impressionism, cubism ... Expressionism has fallen under the sentence of this terminology of “degenerate art”⁵ (“Entartete Kunst”) after Joseph Goebbels’ qualification⁶. As minister in charge of the propaganda of the Reich, and despite his affection for expressionist art, he marked as “degenerate” any art that did not fit in the Nazi’s aesthetic or was a criticism of the regime. Ideology, cultural selectivity, the pursuit of a “German art”, censorship, take precedence over the need for artistic, freedom. Following this blinding ideology, believing in the power of images⁷ and art⁸, left no place for expressionism, as a scaring ugliness⁹, pleading for pain, craziness, death and hell. The narcissism taught by “German art” is thought as a way to reach eternity, an idealism built against a kind of existential fatalism fed by “degenerate art” such as expressionism. Denial of the truth ?

Therefore, under such human as well as artistic segregationist perspectives, many works of modern art were destroyed, auctioned¹⁰, not to say sold off, more specifically in the castle of Niederschönhausen... or kept by Nazis collectors. Others, like some works of Schiele, have been “exiled” by art dealers and collectors to the U.S., reduced to a sort of underground culture ; Schiele as well, who asserted that “Restricting the artist is a crime. It is murdering life in embryo”.

This term of “exile” is relevant here to emphasize the ambiguity that underlies the travel of these works¹¹, both propagator of modern art across the Atlantic and vector of litigation. It is precisely this legal aspect that needs to be addressed as a fundamental issue of the restitution of works of art to

1 Counterpoint to the exhibition of “German art” in the House of German Art.

2 Cf « Säuberung des Kunsttempels » of Wolfgang Willrich.

3 Especially with the creation of a committee placed under the leadership of Adolf Ziegler by a decree by Goebbels on June 30, 1937 ; a committee which was responsible for selecting works from German museums -32, that is 650 works of 112 artists from about 16,000 confiscations. Ziegler said « German people, come and judge yourself » during the inauguration of the exhibition « degenerate art ».

4 In Austria, the exhibition took place in the « Künstlerhaus » from the 6th May to the 18th June 1938 ; and in the « Salzburger Festspielhaus » from the 4th to 25th August 1938.

5 About aesthetic and psychologic aspects : Landa Eva, « L’art « dégénéré » et le projet culturel nazi : finitude et quête de l’éternité », *Le Coq-héron*, 2004/2 no 177, p. 161-165. DOI : 10.3917/cohe.177.0161.

See also : Lise Maurer « L’art dégénéré, l’eugénisme à l’œuvre », *Essaim* 1/2003 (n° 11), p. 199-226.

6 As this expression can not be given to Nazism but results of a social phenomenon which can be summed up as “fin de siècle”, particularly in the Austro-hungarian Empire of the late XIXth century, early XXth ; and Schiele was, as such, already considered as belonging to this art category, thought to influence the society in the way of decadence, degeneration.

Cf for example « Entartung » of Max Nourdan (1892). Nourdan introduces the growing anti-Semitism (symbolized in France by the « Dreyfus affair ») as a result of degeneration. Cf also “Three essays on the theory of sexuality” of Sigmund Freud (1905) as a protest against the medical acceptance of degeneration.

7 Cf about the notion of « engendrement par l’image » Eric Michaud, “Un art de l’éternité. L’image et le temps du national-socialisme”. Paris, Gallimard, 1996. 390 p., 110 ill. n.et bl. ; « La construction de l’éternité par l’art sous le IIIe Reich », in : F. Dunand, J.-M. Spiesser, J. Wirth (eds), *L’image et la production du sacré*, Paris, Klincksieck, 1991, p. 251-270. ; « L’engendrement par l’image », in D. Bougnoux (ed), >

The Austrian Commission for Provenance Research is the result of the Austrian Art Restitution Act of 1998 (amended in 2009) concerning the restitution of stolen works to the heirs of original owners⁶⁹. The works concerned are the ones which became federal property and remain in federal museums or collections. As such, the Leopold Museum is not concerned as it is a private foundation.

In April 2001, the American Association of museums has adopted Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era, and has, since 2003, a Nazi-Era Provenance Internet Portal. It consists on a list of works that were in Continental Europe between 1933 and 1945.

The effort of transparency has also to be made by museums⁷⁰ and under the circumstance that a claim has been filed (even if it cannot be denied that such a research is also a kind of prevention as museums are prepared for litigation eventualities). They must especially mention the works they have and the provenance. As such, the MoMA makes investigation via the provenance research project, as well as the Leopold Museum and the Austrian Federal Ministry for Education, Arts and Culture with a joint provenance research. Since its creation in May 2008, Dr. Sonja Niederacher and Mmag. Dr. Michael Wladika are elucidating the provenance of all the works of the Leopold Museum. When the works concerned have previously been the property of the Austrian Federal State, it is then up to the advisory board of the Austrian Federal Ministry to determine if the Austrian Art Restitution Law of 1998 must apply. The recommendations made to the Minister are published.

With the "Portrait of Wally", a new art order is born, a judicial frame. The purpose is not to predefine who is right or wrong, good or bad ; but the actual efforts of states and museums aim to ensure an ethic and certain security for everyone : transparency as leitmotiv.

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69 Cf « Die Regelung der Kunstrückgabe in Österreich », Clemens Jabloner und Eva Blimlinger.

70 Cf « Nazi-Era Stolen Art and U.S. Museums : A Survey », July 25, 2006, Report prepared by the claims conference and the WJRO.

Cf « The New Battleground of Museum Ethics and Holocaust-Era Claims: Technicalities Trumping Justice or Responsible Stewardship for the Public Trust? », Jennifer Anglim Kreder, Oregon Law Review Vol 88,37.

Cf « The Conflicting Obligations of Museums Possessing Nazi-Looted Art », 3-1-2010, Emily A.Graefe, Boston College Law Review Volume 51 Issue 2 Article 4.