



Bericht

Geschichte der Nathaniel
Freiherr von Rothschild'schen
Stiftung für Nervenranke von
ihrer Errichtung bis zu ihrer
Reorganisation in der
Nachkriegszeit

Erstellt im Auftrag der Geschäftsgruppen
Soziales, Gesundheit und Sport (Stadtrat Peter
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GESCHICHTE DER NATHANIEL FREIHERR VON ROTHSCHILD´SCHEN STIFTUNG FÜR NERVENKRANKE VON IHRER ERRICHTUNG BIS ZU IHRER REORGANISATION IN DER NACHKRIEGSZEIT

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EXECUTIVE SUMMARY

I. APPOINTMENT AND TASKS OF THE COMMISSION

In March 2020, the Vienna Provincial Parliament (*Wiener Landtag*) decided to set up an independent commission of experts to investigate the history of the *Nathaniel Freiherr von Rothschild'schen Stiftung für Nervenranke* (the Nathaniel Freiherr von Rothschild Foundation for nervous patients). The task and aim of the investigation were defined as being to “review the history of the foundation from its establishment in 1907 to its dissolution under national socialism until at least its reestablishment in the post-war period as well as position the foundation and its institutions (Rosenhügel clinic and the Maria-Theresien-Schlüssel)” in the contemporary historical context. The inaugural meeting of the Commission of Experts took place on 8 September 2020 in the Vienna City Hall.

The Commission is composed of the following members: Univ.-Prof Ilse Reiter-Zatloukal (President), Dr. Gerhard Baumgartner, Univ.-Prof. Oliver Rathkolb, Univ.-Prof. Roman Sandgruber and Dr Ulrike Zimmerl. The Commission was supported in its research and organisation by the Director of the Municipal and Provincial Archives of Vienna, Dr Brigitte Rigele, and her team; it was also possible to gain as academic staff Dr Verena Pawlowsky and Dr. Harald Wendelin, who are top experts in contemporary history and national socialism research.

II. SOURCES

In the course of the source-based research, the following documents, among others, were looked at and evaluated: documents in Hietzing hospital, at those municipal departments of the City of Vienna that were involved (MA 40 – Social Welfare, Social and Public Health Law and MA 62 – Elections and Specific Legal Affairs), in the Municipal and Provincial Archives of Vienna, in the Lower Austrian Provincial Archive, in the Austrian State Archive and at the district courts of Hietzing and Döbling as well as in international archives such as the Rothschild-Archive in London.

As there is no archive of the foundation itself due to its being dismantled and dissolved by the Nazi regime, it was necessary to undertake extensive research in the above-named archives in order to collect and analyse primary sources relating to the history of the *Nathaniel Freiherr von Rothschild'schen Stiftung für Nervenranke* as well as evaluate and interpret them in a contemporary historical and legal historical context. This is how, for example, it was possible to largely infer from other records the contents of the disappeared Final Report of the Nazi Office of the Commissioner of Suspensions (*Stillhaltekommissar*), which reported to the Reich Commissioner for the Reunification of Austria with the German Reich and carried out the enforced “conformising” of associations and foundations. The Foundation Charter, Codicil and Statutes were found in various places; however, neither annual reports nor minutes of meetings of the Curatorium of the Foundation up till 1937 are available. The relevant academic literature – above all that which emerged around the Historical Commission of the Republic of Austria – on the history of the Rothschild Foundation up until the Nazi era and after 1945 was also evaluated for the Report.

III. CODICIL AND FOUNDATION CHARTER

In 1905 Nathaniel von Rothschild, the oldest son of Anselm von Rothschild, died. In his final will and testament he not only named his brother Albert, who was entrusted with managing the family bank, as his heir but also allocated 20 million crowns from his estate for the establishment of a charitable foundation. According to the codicil of 1900, the “Clinic for nervous patients” was to be “established and maintained from the annual interests revenue from the Foundation capital” and the beneficiaries were defined as “destitute nervous patients”. The patients had to be Austrian citizens, and above all there was to be “consideration of persons for whom Vienna was responsible or who had their domicile in Vienna, without regard to religious denomination”. The clinics were to be set up “in healthy locations in Vienna or as far as possible near Vienna”. The administration of the Foundation was to be assigned to a Curatorium and Albert von Rothschild was to “make the more detailed arrangements in agreement with the Foundation authorities about how this should be constituted”. Nathaniel Rothschild also left the “determination of the Foundation Charter with the detailed provisions on how the aims should be implemented” to his brother as his “heir and executor of his last will and testament”.

The *Nathaniel Freiherr von Rothschild’schen Stiftung für Nervenranke* was established on 28 February 1907, its “exclusively humanitarian” purpose was “the establishment and maintenance of clinics for nervous patients according to the provisions of the [...] Codicil”. In the Foundation Charter of 1907, Albert von Rothschild appointed a Curatorium to administer the Foundation; this contained not only provisions on the concrete organisation of the clinics and on the circle of persons who should be admitted to the clinics but also provided that “the name of the Founder and the date of the establishment of the Foundation should be displayed on every pavilion set up by the Foundation on the front side above the main entrance” and that “the full independence of the Foundation and its clinics must always be maintained”.

According to the Statutes of the Foundation, the Curatorium was to be composed of: 1) Albert von Rothschild or “his legal successor” as President or “in lieu of such a substitute nominated by such until recalled”; 2) eight curators nominated until recall by Albert Freiherrn von Rothschild or “his legal successor”, among which there had to be at least two doctors and one technical expert“ as well as 3) “three curators to be nominated by respectively the Governor of Lower Austria, the Land Marshal of Lower Austria and the Mayor of the City of Vienna in agreement with Albert Freiherrn von Rothschild or “his legal successor”. Albert von Rothschild’s right to nominate and recall curators was to transfer “should he not have nominated another person as legal successor”, which could also happen in a testamentary disposition, “in the first line to his second born son”, Alfons Freiherrn von Rothschild, and after such to his third born son, Louis Freiherrn von Rothschild. This transfer was to take place upon the death of Albert or upon him becoming lastingly unable. If this right could not be exercised by these persons due to death or lasting inability, the “curators currently in that function were to (keep) their office continuously” and “fill any free places or places made free by individual curators leaving [Articles 1 and 2] by means of co-option [...]”. Likewise, they had the right to obtain the necessary agreement of the Lower Austrian bodies and the Mayor of Vienna with respect to the nomination of the other curators (Article 3).

IV. CONTENTS

The Report covers the time from the establishment of the Rothschild Foundation until the settlement in 1962 and the Agreement on Use between the Foundation and the City of Vienna in 1963. Foundation history later than this was not examined.

In the beginning of the Report, Roman Sandgruber sketches at first the history of the Rothschild family in Vienna and the history of their descendants after 1945 until the present day in a piece on family biography. In this he also examines the restitution of the assets seized by the Nazi regime from the Rothschilds, which must be seen as in every way separate from the assets of the Foundation. He also looks critically at the (lack of) public commemoration of the significant financial support given to various institutions by the family, also going beyond the *Nathaniel Freiherr von Rothschild'schen Stiftung für Nervenranke*.

Ilse Reiter-Zatloukal looks at the development of the law on charitable foundations from the time of the Habsburg monarchy to the First Republic and also up to the post-war era in her piece on legal history, thus laying out a general legal framework for the history of foundations in Austria and Vienna as a background for the detailed analysis of the Rothschild Foundation. Important in this context is also the critical examination of the late reestablishment of the charitable foundations forcibly liquidated under national socialism. In the case of Vienna, this happened with the Vienna Foundations and Funds Reorganisation Act (*Wiener Stiftungs- und Fonds-Reorganisationsgesetz*) of 21 October 1955, which very much reflected the corresponding federal act. In face of the fact that the seizure of the assets had to be registered from as early as 1946 and this was also the case with regard to the Rothschild Foundation, the reestablishment seems to have been very late, but was not possible earlier for lack of an applicable legal basis and then had to take place quickly due to the deadlines for asserting restitution claims.

Verena Pawlowsky succeeded in reconstructing the establishment of the Foundation in detail – above all on the basis of the intensive media reportage, even though no internal documents apart from the Charter of the Foundation and architects' plans connected with Nathaniel von Rothschild, his heirs and staff were available. The "testamentary disposition" by which Nathaniel Mayer Anselm von Rothschild who died on 13 June 1905, allocated 20 million crowns in his will to a foundation, is described in detail as is the establishment of the *Nathaniel Freiherr von Rothschild'schen Stiftung für Nervenranke* on 28 February 1907. On the basis of medical expert opinions, it was ultimately two clinics that were to be established – one in the town (the Maria-Theresien-Schlüssel) with an outpatient department, and which was to serve as an admissions office, where the more seriously ill could be cared for and another clinic, on the outskirts of the city (on Rosenhügel), which would have the function of a sanatorium.

Ulrike Zimmerl analysed the concrete implementation of the Foundation project of the sanatorium at Rosenhügel in relation to the decision as to location, the purchase of the site, the architects' competition and construction and operations in the first years from the opening of the clinic in the year 1912 until the time of the First World War. The acquisition of the sites and establishment of the patient pavilions with the corresponding administration and ancillary buildings were the basic prerequisites for opening a psychiatric clinic. These investments were made from the yearly revenues of the securities of the foundation and thus by means of purchase carried out by the Foundation itself. The dimensions of the clinic on Rosenhügel were enormous at about 229,590 square metres,

and the Foundation's real estate constituted a valuable part of the Foundation assets in general, but particularly after the devaluation of money in the crisis years after the First World War.

The second building project of the *Nathaniel Freiherr von Rothschild'schen Stiftung für Nervenranke* in Döbling, the Maria-Theresien-Schlüssel, was more complicated from the beginning, as Verena Pawlowsky describes. For one thing, in Döbling old construction structures had to be integrated, ie the Maria-Theresien-Schlüssel which was on the acquired site. This meant the establishment of this clinic was more expensive than originally anticipated. Besides this there were protests and court challenges from neighbours, who tried to prevent the establishment of a mental hospital in their neighbourhood. They did not succeed with this, but the process through all the judicial instances delayed the commencement of construction by almost two years. The clinic was able to open in 1914. While today – not least because of the sale of the Maria-Theresien-Schlüssels in 2002 – primarily the clinic on Rosenhügel is associated with the *Nathaniel Freiherr von Rothschild'schen Stiftung für Nervenranke*, the mental hospital set up in Döbling was an integral part of the Foundation, a clinic which moreover was different in several ways from its sister clinic on Rosenhügel.

During the First World War, both clinics were used as military hospitals, as documented by Verena Pawlowsky – with triple the amount of beds (Rosenhügel 300 and Maria-Theresien-Schlüssel 200 beds). The costs were largely borne by the military administration despite the willingness of the Foundation to take on the costs of catering and personnel. After 1918, there was first reduced operation due to the extremely bad supply situation, starting from March 1919 for civilian patients only in the Rosenhügel clinic, which had its own farming part to supply patients and staff. The Maria-Theresien-Schlüssel was renovated and then also returned to its purpose under the Foundation Charter.

The reestablishment of the civilian operations in the mental hospital Rosenhügel as well as the continuing operations in the 1920s and 1930s confronted the Foundation with great economic challenges, as analysed by Harald Wendelin. Thus, the ongoing outflow in both clinics – Rosenhügel and Maria-Theresien-Schlüssel – were substantial even in 1922 and the Curatorium awaited an even worse result for the year 1923. Due to the “inadequacy of the Foundation incomes” – hyperinflation had so decimated the Foundation capital that the interest revenue was no longer sufficient to finance the operation of the hospitals – the Curatorium of the Foundation was forced, as shown by Harald Wendelin, to cover the accumulated deficits by resorting to the asset structure of the Foundation, ie the capital invested in securities. It was absolutely clear to the responsible persons at the Foundation that this option was not sustainable, as the Foundation capital stayed formally the same due to repurchase of securities but in fact the real value of the repurchased securities was only a fraction of the pre-War value because of inflation. The financing of the clinic operations was covered by the difference between the proceeds brought by the sale of the “high-value” papers (ie such papers as had increased their current value at least in line with inflation), and the repurchase of papers in the amount of the book value “at the time”, ie for the pre-War value which however is only a fraction of the value at the time due to inflation. This meant that the sum of 20 million crowns cited in the Foundation Charter formally remained the same and the Foundation Curatorium thus fulfilled the provision in the Charter that this capital “remain intact for perpetual times” in this way.

In order to compensate the low returns on the securities assets, the charges for catering had to be increased to cover the high cost of operating, as elaborated by Harald Wendelin. Cost-free treatment hence became an exception rather than as before the norm, and subsequently the Curatorium

started among other things to set the charges high enough for the operating costs of the clinics to be covered. Although the Foundation Charter had provided in this manner, the two Foundation institutions were no longer clinics only for destitute persons and neither were “nervous patients” the only admissions. The Rosenhügel clinic thus only operated for just about two years consecutively strictly in the sense of the Founder, the Maria-Theresien-Schlüssel not even half a year, because thereafter the clinics first served the treatment of war injuries and after the end of the war, when they resumed admitting civilian patients, the funding was no longer sufficient to facilitate operations as foreseen by the Charter.

It was ultimately two factors which were to so lastingly change Nathaniel von Rothschild’s philanthropic project only a good ten years after the clinics opened: the financial hardship after the First World War, which resulted in an admittedly not exactly quantified but clearly substantial diminishment of the Foundation capital – endangering the purpose of the Foundation, and – ultimately as a way out of the crisis – the accelerated expansion of the health insurance system. The devastating effect of galloping inflation until the currency reform of 1925 meant the funds donated to the Foundation by its Founder, which initially seemed inexhaustible, disappeared at breath-taking pace, making it impossible to live up to the Founder’s will, to help destitute nervous patients with largely cost-free treatment. On the other hand, however, the expansion of the health insurance fund system created a new basis for the clinics’ existence in that they concluded contracts with the health insurance funds, which made it possible to continue running the clinics even in the face of the dwindling revenues from the Foundation capital. With expansive interpretation of the Founder’s intention and given the measures taken (raising costs of catering, contracts with health insurance, admission of paying patients), however, the Foundation managed to keep the clinic operations going until the forcible liquidation in the National Socialist period. Naturally, both clinics thus – like many other private hospitals – had taken on in part the character of public hospitals.

Verena Pawlowsky managed to reconstruct the liquidation of the *Nathaniel Freiherr von Rothschild’schen Stiftung für Nervenranke* by the Nazi regime after the “Anschluss” of 1938 despite complex and fragmentary files. The Foundation and both Foundation clinics received new “commissionery” managements. From 10 May 1938 all Curatorium functions were transferred to a subordinate authorised representative (*Unterbevollmächtigte*) who reported to Commissioner of Suspensions for associations, organisations and clubs (*Stillhaltekommissar für Vereine, Organisationen und Verbände*). Already by the 9 August the takeover by the City of Vienna was prepared, which for the purpose of centralising the public health system had great interest in taking over hospitals which were previously operated by foundations and funds.

Almost all doctors and also members of the nursing and administration staff were dismissed after the “Anschluss”. At least 17 of them were persecuted for racist reasons, 15 of them were able to escape the Nazi terror by fleeing the country. Only two returned after 1945 to Austria. All in all, the two mental hospitals in Rosenhügel and Maria-Theresien-Schlüssel had employed 178 staff between them in 1938. In Maria-Theresien-Schlüssel, according to a list drawn up directly after the “Anschluss”, 70 people were employed, including four male doctors and two female doctors; in Rosenhügel 108 persons were on the staff of the Foundation.

As with 74 percent of all other foundations (and funds), the Commissioner of Suspensions acting in the “office of the Imperial Commissioner for the Reunification of Austria with the German Reich” also forcibly liquidated the *Nathaniel Freiherr von Rothschild’schen Stiftung für Nervenranke*, resulting in the “assignment” of the Foundation clinics to another legal entity and the seizure of the securities

assets for the benefit of the NSDAP and Nazi bureaucracy. This was not an “Aryanisation”, as the Foundation was explicitly not assessed as “Jewish” by the Commissioner of Suspensions, because its purpose was not directly related to Jewish interests and the beneficiaries were not Jewish but the entire population.

The Foundation was liquidated on 5 January 1939. The City of Vienna was obligated to continue the running of both clinics and take over the staff of both the Foundation and the two clinics. The not insubstantial assets of the Foundation were “assigned” to the City of Vienna under exclusion of liquidation. The Notice of Liquidation (*Auflösungsbescheid*) names as assets of the Foundation “as far as known until now” the real estate “approximately worth 3,869,440 RM” as well as cash, securities and claims worth in total “approximately 1,360,219 RM” – thus in total 5,229,659 RM. The “assignment” of the Foundation clinics to the City of Vienna was tied to the imposition of a development levy payable to the NSDAP in Reichsgau Vienna and an administration charge. An equally protracted dispute arose around the payment of these two sums as about the question of how the Foundation’s securities should be dealt with, whether they should be retained to pay the charges imposed or whether they (or the remainder) – like the real estate assets – should be transferred to the City of Vienna. The Commissioner of Suspensions first imposed a development levy of 521,000 RM (10 percent of the net assets) and an administration charge of 130,250 RM (2.5 percent of the net assets) on the *Nathaniel Freiherr von Rothschild’schen Stiftung für Nervenranke*.

This fate of being liquidated was shared by the *Nathaniel Freiherr von Rothschild’sche Stiftung für Nervenranke* with numerous other foundations and funds working in the health system, for example the Wiener Krankenanstaltenfonds, the Wiener Bürgerspitalstiftung, the Gottfried von Preyersche Kinderspitalstiftung, the C. M. Frank Kinderspital-Stiftung im Stiftungsheim Lilienfeld and the S. Canning Childs-Spitalstiftung, which also had their assets – ie usually the foundations’ clinics – “assigned” individually to the City of Vienna. The same happened to hospital foundations in the other former federal provinces, with their assets also being assigned to the respective municipalities, as in the case of the numerous Bürgerspital foundations, for example in the Lower Austrian municipalities of St. Pölten and Horn, as pointed out by Ilse Reiter-Zatloukal.

Harald Wendelin describes the operation and use of the two former Foundation clinics in the association of the City of Vienna from 1939 on and in the early post-war era. The Maria-Theresien-Schlüssel was transferred to the city on 25 January 1939, the Rosenhügel clinic on 27 January 1939. While the building in the 19th district of Vienna was renamed as Mental Hospital Döbling, the name of the Mental Hospital Rosenhügel remained unchanged, but the name of the Foundation was removed in order to obliterate the memory of the Jewish founder. Nearly 3 weeks after the start of World War II, the Rosenhügel clinic was transformed into a military hospital with significantly more beds. Until the end of the war it remained known as the reserve military hospital (*Reservelazarett*) XXa.

In 1942 the Wien-Film GmbH acquired part of the grounds there, as presented in detail by Ulrike Zimmerl. The Maria-Theresien-Schlüssel, on the other hand, retained its status as a civilian hospital. Both clinics incurred serious damage from the effects of war. The clinic in Döbling was very damaged by a bomb in 1944, the Rosenhügel clinic was likewise damaged at the same time and it was given up as reserve military hospital in December 1944. Besides this, it was subject to further destruction from direct combat action in the last days of the war. In both clinics, the inventory suffered considerably losses as a result of events of war and also diverse plundering.

The forced liquidation of the Foundation and the “assignment” of the two clinics including the real estate to the administration of the City of Vienna by the Commissioner of Suspensions undoubtedly

represented a seizure of assets. Despite intensive research, however, it could not be established how and where the existing Foundation capital ultimately disappeared. It can only be established that the securities were sold by the Commissioner of Suspensions, but the proceeds did not go to the treasury of the City of Vienna but instead landed on one of the accounts of the Commissioner of Suspensions, as documented by a file memo written by the same.

The seizure of assets by the Nazis from 1938 on concerned all the Foundation's assets – in other words both the existing securities and the real estate assets. The separation of parts of the real estate from the Foundation assets only began, as Ulrike Zimmerl shows, with a sale of a larger piece of land from the areal of the Rosenhügel clinic during the Nazi regime. If one takes a look at the current situation in the Land Registry, one sees that after a subsequent sale of parts of real estate by the Foundation in the 1970s an area of 159,077 square metres and thus a proportion of 69 percent of the original real estate area at Rosenhügel remained in the property of the Foundation.

Verena Pawlowsky analyses the re-establishment of the *Freiherr Nathaniel von Rothschild'schen Stiftung für Nervenranke* in detail. As already cited in the legal history piece by Ilse Reiter-Zatloukal, the Republic of Austria only began very late with the reestablishment of the foundations, because in the beginning there were no statutory frameworks at either federal or provincial level for the re-establishment. On the other hand, there was a law ordering the listing of "aryanised" or other seized assets by means of compulsory registration as early as May 1945. The City of Vienna also carried out this registration in November 1946, but without indicating the sale of the piece of land to the Wien-Film GmbH in 1942 separately. The Wien-Film GmbH, which was under Soviet administration at the time, however, did not submit any registration as holder of the assets seized by the Commissioner of Suspensions and acquired by purchasing in 1942.

After the enactment of the Foundations and Funds Reorganisation Act (*Stiftungs- und Fondsreorganisationsgesetz*) of 6 July 1954 at the Federal Level, the corresponding provincial laws were enacted in 1955/1956, thus also the Vienna Foundation and Funds Reorganisation Act of 21 October 1955 which is largely identical to the federal act (like most of the laws at provincial level). On the basis of this law, the Foundation was reestablished on 25 July 1956 by the authorities.

There were two legal opportunities for the still living members of the former Curatorium (the two representing authorities, Max W. Kohler/Lower Austria and Oskar Kopetzky/Vienna and the former Nazi Otto Pötzl) to become active in respect of reestablishing the Foundation: 1946, when the Assets Seizure Registration Ordinance would have allowed the representatives of the former Foundation council to apply to the authorities to register seized assets and 1955 when the Vienna Foundation and Funds Reorganisation Act created the possibility for members of such council that would have been authorised before the "Anschluss" on 10 March to represent the Foundation to apply for the reestablishment of the liquidated foundation. In both cases the still living former members of the Curatorium did not take action, although they were in Austria and were not deceased until the 1960s. Four of the members of the Curatorium of 1938 (the gynaecologists Carl Fleischmann and Wilhelm Latzko, Albert Rothschild's doctor Moritz Koritschoner and the legally educated prokurist of the Rothschild bank S. M. v. Rothschild Otto Fuchs, had been obliged to flee Austria due to racist persecution and died in exile, another member (the lawyer Emil Wolf) was murdered in the concentration camp Theresienstadt.

The descendants of Albert, Alfons and Louis Rothschild did not have standing to sue under the will and testament of Albert Rothschild. The Foundation Charter of 1907 explicitly provided that after Albert his son Alfons and after him his brother Louis should look after the interests of the family

Rothschild in the Curatorium – which Verena Pawlowsky examined, whereby the interests were looked after merely by having these persons in the Curatorium with the right to nominate eight of the twelve Curatorium members. When none of the three representatives of the Rothschild family were alive, the right to nominate transferred under the Charter to the circle of the curators. However, it was never to come to this: when Alfons Rothschild died in 1942, the Foundation had already ceased to exist.

The possibility of reestablishment by the authorities was provided for in all the Foundation and Funds Reorganisation Acts at federal and provincial levels, and as a rule the liquidated provincial foundations were indeed reestablished by the authorities, moreover not only in Vienna but also for example in the case of the Lower Austrian provincial foundations such as the hospital in Niederwallsee/Bezirk Amstetten – though of course foundations were only reestablished when their assets could sustain their aims. Thus, – almost ten years after the registration of the seized assets and 18 years after its liquidation – the legal personality of the *Nathaniel Freiherr von Rothschild'schen Stiftung für Nervenranke* was reestablished by the authorities of the City of Vienna on the basis of the Vienna Foundations and Funds Reorganisation Act of October 1955 with Official Notice of Decision (*Bescheid*) issued by the competent office of the Vienna provincial government. No curatorium was created upon the reestablishment of the Rothschild Foundation, especially as the above laws did not provide any statutory rules in this respect for the organisation of the reestablished foundations. Rather, the change of the name, the determination of the purpose and the organisation were explicitly provided for if this seemed necessary to “adapt the Foundation Charter to the will of the founder such as is possible to achieve”.

In the restitution process which lasted from 1956 to 1962, two municipal departments ended up facing each other in the case of the Rothschild Foundation. Municipal Department (*Magistratsabteilung*) 12 (Social Affairs) as new administrator of the Foundation, which was once again an independent legal entity upon reestablishment, had the role of applicant or restitution petitioner while Municipal Department 65 (Civil Law affairs) represented the City of Vienna as respondent. This at first glance seemingly unusual distribution of legal roles was (for lack of reinstatement of a Curatorium) unavoidable from a constitutional law perspective due to Vienna's position as a province and was a feature, as Ilse Reiter-Zatloukal shows, in numerous other cases with comparable foundations that were forcibly liquidated after 1938, for instance in Vienna the Karoline Riedl'schen Kinderspitalstiftung. Likewise in Lower Austria for instance in similar cases (eg the Armenspitalstiftung in Ybbsitz, the Spitalstiftung des Ferdinand Graf Kuefstein für Viehhofen, the Spitalstiftung in Niederwallsee), provincial foundations were represented by provincial authorities (provincial government) in restitution procedures against other provincial authorities (district administrations).

On 25 July 1956, 30 foundations were reestablished per resolution of the City of Vienna by the authorities. On the same day the Municipal Department 12 (Social affairs) filed an application for restitution with the Restitution Commission at the Regional Court for civil law matters of Vienna as the deadline under the Third Restitution Act (*Dritter Rückstellungsgesetz*) ran out a mere three days later. On 10 January 1957 the two land properties complete with the clinics located there were returned to the Foundation by a partial granting of the application by the Restitution Commission, and the rights of the Municipal Department 12 were restricted to that of a public administrator. However, the subsequent negotiations about possible counterclaims were contentious and time-consuming.

In October 1959 the Finance City Councillor, Felix Slavik, proposed after airing several possibilities on the part of the City of Vienna that the Foundation should stay the owner of the real estate properties but could transfer these to the City of Vienna for the purpose of fulfilling the aims of the Foundation. In this case, the City of Vienna would also take on the ongoing operation of the hospital. Finally, Slavik decided in the course of the settlement negotiations between Municipal Department 12 and Municipal Department 65 that the Foundation administration's claim for the assets seized in the Nazi period and/or lost by sale should be reduced from the original 1 million ATS claimed to 500,000 ATS. The City of Vienna in turn renounced its claim to reimbursement of expenses in the amount of 8 to 10 million ATS for building investments, in particular for repairing war damages and wear and tear. This settlement sum of 500,000 ATS was proposed to compensate both the sale of the real estate to Wien-Film GmbH in 1942 and the loss of the securities assets in 1939. The appropriacy of the settlement sum (500,000 ATS in 1962) is not possible in relation to the proceeds which went to the City of Vienna from the sale of the piece of real estate to Wien-Film GmbH in 1942 (373,000 Reichsmark) because this settlement related to the entire damage which the Foundation assets suffered.

On 5 December 1962 the settlement came into effect and included the following seven points: 1) The Foundation waived the right to offset and surrendering of the proceeds and in return the City of Vienna waived its claim for the remuneration of the "expenses incurred for due and proper management and maintenance of the clinics". 2) The City of Vienna pays to the Foundation a "compensation sum" of 500,000 ATS – this being for the diminishment in value of the real estate at Rosenhügel by sale of a part of the land to Wien-Film in 1942 and for the securities and cash taken over in 1938 – this all "under consideration of its waiver of reimbursement of the expenses". 3) The entire moveable inventory of the clinics remains in the property of the City of Vienna. 4) The Foundation grants the City of Vienna a right of first refusal to purchase the land (entered in the Land Registry) in respect of the Foundation's real estate in Oberdöbling and at Rosenhügel. 5) The Land Registry entry of the limitation of the Applicant to having the private law powers of a public administrator will be deleted. 6) The future legal relations between the Foundation and the City of Vienna, which should secure the "ongoing operation" of the two mental hospitals, will be regulated by a special agreement. 7) All claims and demands – both from the restitution case and from the operating of the clinics by the City of Vienna – shall be deemed satisfied and settled by this Settlement. The 500,000 ATS as settlement sum were already invested in securities in favour of the Foundation in 1963. As per 31 December 1968 this capital invested had produced interest returns of 191,696.63 ATS.

V. RECOMMENDATION

The Use Agreement of 1963, which was concluded after the Settlement between Municipal Department 12 representing the Foundation and Municipal Department 17 (Institutions Office), accordingly provided regarding the Foundation Charter that the name Nathaniel von Rothschild should be displayed as Founder together with the date of establishment of the Foundation on each pavilion "in a structurally suitable form". As far as has been found out so far, this was never carried out. The Commission thus urgently recommends that this obligation be discharged as soon as at all possible and that both the name of the founder, Nathaniel von Rothschild, and the date of the Foundation being established be displayed on each pavilion in a clearly visible manner and prominent as possible position. The generosity of Nathaniel von Rothschild should be commemorated in a

manner suitable to this unique foundation and his extraordinary humanitarian act be honoured appropriately.

The members of the Commission

Vienna, August 2021