

## **Herzog Trial: The Court Procedures Might Last up to 10 Years in America**

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The civil lawsuit about the Herzog collection filed against the Hungarian state and Hungarian museums in Washington might last up to a decade, but if a decision is brought in favor of the heirs, its implementation, depending on the content of the judgment, could mean that assets in the United States owned by the Hungarian state might be seized, said international lawyer Tamas Kende on Thursday.

According to the expert, the acceptance of the claim, jurisdiction of the American court at the first instance level will be the first substantial question the judge will have to decide on. In accordance with legal practice there, chances are that such decision will favor the plaintiffs since in this case the Hungarian state presumably cannot claim legal immunity.

Following this, however, an extra lengthy procedure can be expected since answers to questions affecting the outcome of the trial must be found in Hungary: it was here that the paintings were stolen from the Herzog family by the Nazis in World War II, then they were turned over to museums, mostly as deposits. The documents are in Hungarian, the witnesses are Hungarian, in other words, the examination of evidence will be grueling and time-consuming.

Once a binding decision is made in favor of the heirs and the Hungarian state refuses to return the requested art treasures, the implementation of the decision in the United States might result in the seizure of the Hungarian state's assets if the plaintiffs also sue for compensation for the paintings and the court rules in their favor, warns the attorney.

This seizure might involve bank accounts, real estate, and other assets owned by the Hungarian state, e.g., by Hungarian state-owned corporations, according to the expert, who also noted that a backlash in the international media is to be expected if this happens which would negatively influence economic and political relations.

In the lawyer's opinion not only a lengthy but an intriguing proceeding is likely since in such cases a settlement between the parties can play a major role. However, the intention to settle and the parties' positions may be greatly influenced by the trial and the evidences introduced.

On the issue of whether the fate of the Herzog collection can be considered "res judicata", an issue, that has been finally decided by a Hungarian court, Tamas Kende noted that Hungary and the United States has an agreement on mutually recognizing each other's court decisions and providing for their implementation only involving family law and chosen court cases.

Tamas Kende pointed out that the Herzog case substantially differs from the lawsuit filed in a Chicago court against MAV [Hungarian National Railways] in which about two dozen Holocaust survivors are seeking a billion-dollar compensation from the company

claiming that its legal predecessor assisted in the deportation and looting of Jews in 1944. The Chicago court has not decided yet whether it has venue to try the case.

In the expert's view, in contrast to the MAV case, in the Herzog lawsuit the claim is fairly specific involving the ownership of clearly definable and identifiable assets; the relevant historic events and legal acts are quite accurately documented. The heirs have had negotiations and litigated for over 15 years in Hungary, without success.

Tamas Kende believes that Hungary and the Hungarian authorities are just beginning the "learning process" that has been going on in Western Europe for decades in which the European countries have been confronting the history of the Holocaust.

In similar cases, the Austrian and Swiss states have been forced to come to agreement with the heirs, and art treasures stolen by the Nazis then kept by the states have been returned in many cases, the lawyer added.

On Wednesday, The New York Times reported that the heirs of Mor Lipot Herzog have filed a suit in Washington D.C. against the Hungarian state and several national museums under its supervision, to recover pieces of the late banker's art collection stolen by the Nazis in 1944 and held in Hungary.

The plaintiffs are petitioning not only for the recovery of 40 art works they identify as undoubtedly theirs and which experts value at over 100 million dollars, but their attorneys are asking the Hungarian government to provide a list of all the Herzog art works in its possession. Baron Mor Lipot Herzog owned one of the richest art collections in Europe and the richest in Hungary: it included works by El Greco, Lucas Cranach the Elder, Zurbarán, van Dyck, Velázquez, Renoir, Monet and others, as well as furniture, tapestries, and sculptures. At one time the collection contained 2,500 pieces of art.