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In accordance with Section 3 of the Federal Law on the Restitution of Art Objects from Austrian Federal Museums and Collections (Art Restitution Act), Federal Law Gazette (BGBl. I) No. 181/1998 as amended by BGBl. I No. 117/2009, at its meeting on 29 June 2023, the Art Restitution Advisory Board unanimously adopted the following

### DECISION

It is recommended to the Federal Minister for Art, Culture, Public Service and Sport to transfer the Codex Hebraicus 242 from the Department of Manuscripts and Rare Books of the Austrian National Library listed in the dossier of the Commission for Provenance Research 05/2023, "Rothschild-Mahzor" to the legal successors *causa mortis* of Alphonse Rothschild.

### GROUNDS

In its decisions of 11 February 1999, 28 June 1999, 27 March 2000, 18 August 2000, 10 April 2002, 27 April 2004, 28 June 2006, 24 June 2009, 11 September 2009, 8 March 2013, 15 June 2018, and 30 March 2022, the Advisory Board already recommended the return of objects formally owned by the Rothschild family; in these recommendations, the Advisory Board considered collection objects from the Albertina, the Museum of Military History / Military History Institute, the Kunsthistorisches Museum Wien, respectively the KHM-Museumsverband (Picture Gallery, Imperial Armoury, Kunstammer, Coin Collection, Collection of Historic Musical Instruments as well as Theatrumuseum), the MAK – Museum of Applied Arts, the Österreichische Galerie Belvedere, the Austrian National Library as well as the Austrian State Archives. Most recently the return of objects from the Kunsthistorisches Museum and the Austrian National Library to the legal successors of Alphonse and Clarice Rothschild was recommended in 2022. Now the Advisory Board has received the above-mentioned dossier of the Commission for Provenance Research on another object from the Austrian National Library (ÖNB). The impetus for the current research was provided by a request from the *Rothschild Archive London* to the Commission for Provenance Research. This resulted in the following facts relevant to the decision: Mayer Amschel Rothschild (1744–1812) laid the foundation for the success of the Rothschild family businesses in Frankfurt am Main. After his apprenticeship at the Oppenheimer banking house in Hannover, he set up his own business as a coin dealer in Frankfurt and soon concentrated exclusively on banking. He made his sons Amschel Mayer (1773–1855), Salomon Mayer (1774–1855), Nathan Mayer (1777–1836), Carl Mayer (1788–1855) and Jacob Mayer (1792–1868) his partners, for which they formed a transnational network.

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In his will, the father, Mayer Amschel, stipulated that important business positions were to be restricted exclusively to the male descendants and that the eldest son of the eldest son was to be the head of the family. Thus, Amschel Mayer continued to run the business in Frankfurt, Nathan Mayer took care of the business in London, while Carl Mayer managed the Neapolitan line and James Mayer the Paris line. Salomon Mayer Rothschild, who had meanwhile moved to Vienna in the early 1820s, founded the Viennese line of the Rothschilds and headed the local banking house *S. M. v. Rothschild*. He organized the financial support of the European states against Napoleon Bonaparte I through transactions with the Rothschild's company in London. Through the transfer of English support funds, the family achieved fame and fortune and received the imperial title of nobility "von" as early as 1816. Nathan, as an English citizen, was exempt for the time being, but six years later all the brothers and their marital offspring were ultimately elevated to the rank of barons. As it was not possible for Salomon Mayer Rothschild as a Jew to acquire real estate in Vienna due to the legal situation at the time, he initially lived in the Hotel zum Römischen Kaiser at Renngasse 1 in Vienna's first district. Over the years, he became the hotel's sole tenant. It was only after he was declared an honorary citizen of the city of Vienna, that he was allowed to purchase this property in 1843. A short time later, he bought the annex at Renngasse 3 and combined the two properties to form the family residence and headquarters of the *S. M. v. Rothschild* banking house. He succeeded in building up a corporate empire in Austria, which, in addition to the banking house, included the Kaiser Ferdinands-Nordbahn and the Witkowitz Eisenwerke. Due to its close ties with Austrian politics, especially with regard to financial policy under State Chancellor Metternich, the Viennese banking house came to the brink of its collapse in the run-up to the revolution of 1848. A government loan of 80,000,000 guilders and another loan to the imperial house, for which the bank received further government bonds in return, whose price briefly suffered the loss of half their value, contributed to Salomon Rothschild becoming insolvent. After this financial collapse, which was absorbed with the help of the Rothschilds in London, Salomon Mayer's son Anselm Salomon (1803–1874) took over the business in Vienna as emissary of the entire family - Amschel Mayer from the Frankfurt line had died childless.

While Salomon Mayer Rothschild is considered the "first Viennese Rothschild" and established the Viennese line of the family in the city, his son Anselm Salomon is considered the founder of the art collections of the Viennese Rothschilds. The extensive inventory, which was compiled after his death on 27 July 1874, lists "coins, antiques and other art objects made of gold, silver, bronze, copper, iron, wood, ivory, crystal, glass, etc."; his estate also included 116 oil paintings, 105 miniatures and watercolours, as well as 34 copperplate engravings, some of which were exhibited in the rooms designated as a "museum" in the Palais in Renngasse.

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The Mahzor in question here was purchased for 151 gold pieces by Salomon Mayer Rothschild in Nuremberg in August 1842 and given to his son Anselm Salomon - according to the dedication inscription "*for safekeeping for future generations, so that the Torah of God is in our hands from now on / May it be so*". It is a parchment manuscript written in Hebrew, an illustrated prayer manual for the Jewish holidays Rosh ha-Shanah and Yom Kippur. The fact that the text passages from the Torah are copied twice, once without and once with vocalization and punctuation, indicates that the prayer book was probably made for a cantor to instruct him. The scribe and copyist of the Mahzor can be identified from the signature in the colophon - the note at the end of the manuscript - as Moshe ben Menahem. The completion date is also noted at the end: Friday, the 12th of Adar of the year of Kea - 5157 - according to the Gregorian calendar, this would be February 1415. After the purchase by Salomon Mayer Rothschild, a title page was added in 1842, on which it is reported in German: "Geschrieben im März [sic] 1415". On the back of this title page are the baronial coat of arms of the Rothschild family and a dedicatory inscription in Hebrew addressed by Salomon Mayer Rothschild to his son Anselm Salomon:

נאום שלמה בן כהרר  
משה מאיר / באראן פאן ראטשילד / הספר הזה קניתי בעיר נירנבערג בעד מאה וחמשים ואחד זהובים / ונתתי במתנה גמורה  
לבני היקר והנחמד ומוכתר במעלות ומדות / כהרר אנזעלם באראן (הצבע נמרח מתחת לשם) פאן ראטשילד יחי' / למשמרת עד  
דורי דורות למען תהיה תורת ד' בפינו מעתה ועד / עולם א"ס / פראנקפורט על נהר מיין יום ו' ערב ראש חדש אלול / שנת ה'  
תר"ב

In German:

"Ich habe dieses Buch in der Stadt Nürnberg für einhunderteinundfünfzig Goldmünzen gekauft / und schenkte es meinem lieben und netten Sohn, der mit Tugenden und Verdiensten gekrönt ist, Anselm Baron von Rothschild (dies ist nur ein Farbschleier) mit einem langen Leben gesegnet / zur Aufbewahrung für kommende Generationen, damit die Tora Gottes von nun an in unseren Händen ist / Möge es so sein / Frankfurt am Main, Tag 15, am Vorabend des Monats Elul / Jahr, 5602 [5. August 1842]."

["I bought this book in the city of Nuremberg for one hundred and fifty-one gold coins / and gave it to my dear and kind son, crowned with virtues and merits, Anselm Baron von Rothschild (this is only a veil of colour) blessed with a long life / for safekeeping for generations to come, so that the Torah of God may be in our hands from now on / May it be so / Frankfurt am Main, day 15, on the eve of the month of Elul / year, 5602 [5 August 1842]."]

Even before that, Salomon Mayer Rothschild, as a devout Jew, had designated other testimonies of faith to be preserved "for all eternity". When in 1836 Joseph François Michaud (1767–1839), a member of the Académie française, claimed in his publication on the history of France that Salomon Rothschild had been baptized in Vienna in 1821, the latter then demanded a retraction, which he had bound in red velvet together with the preceding correspondence with Michaud and inscribed with golden letters on the cover of the book - "I command my heirs and descendants never to abandon the religion of their fathers". Other testimonies of their Jewish faith which were valuable to the family are known of: For example, the "Rothschild Talmud Baba Kama" made by Amschel Moses Rothschild (1710–1755) in

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Frankfurt in 1721/22, passed on in the family and given to Anselm Salomon for his Bar Mitzvah in 1816; also a "Charlotte von Rothschild Haggadah" as well as the "Rothschild Haggadah" (also "Murphy Haggadah") were found – all no longer in the possession of the family. The manuscripts were intended as private testimonies of faith in the family and, as such, were documented differently than the (profane) art and collection objects belonging to the art collections. After Anselm Salomon Rothschild's death on 27 July 1874, the mahzor once given to him by his father was included in the estate inventories. In addition to the aforementioned extensive inventory of coins, antiquities and other art objects and the separately appraised paintings, miniatures, watercolours and copper engravings, there is also a separate appraisal protocol for the library holdings. In it, as the last item, with the number 477, the Mahzor in question here can be identified: "Festive prayers of the practices on all feast days of the year. Manuscript on parchment 2 volumes written in March 1415." The mention of a second volume also explains the description for "all feast days of the year" – the existing Mahzor, as described, namely contains prayers only for Rosh ha-Shanah and Yom Kippur; the second volume – which completes the yearly cycle – was not known to the research until now. In his will of 26 August 1871, Anselm Salomon named his three sons Nathaniel Mayer (1836–1905), Ferdinand James (1839–1898), and Albert Salomon (1844–1911) as his heirs. His manuscripts went to Nathaniel and Ferdinand but were not assigned ad personam in the will. Ferdinand, who had lived in England since 1865, received seven manuscripts from his father, which were given to the British Library in London after his death in 1898 as part of the so-called Waddesdon Bequest (also Rothschild Bequest). Nathaniel Rothschild inherited the greater part of the art treasures from his father's estate, including nine manuscripts. Only six of them are listed in Franz Schestag's catalogues of 1866 and 1872, two others are listed in the appraisal records of 23 and 25 September 1874, and can also be proven to have been in his possession later, in addition to those he acquired himself. Although the Mahzor – in contrast to the aforementioned "Talmud Baba Kama" – is not listed in the catalogue "Notes on some of my art objects" written by Nathaniel Rothschild himself, it is ultimately ascertainable in his estate inventories. When Nathaniel Rothschild died in his Palais at Theresianumgasse 14 on 13 June 1905, he appointed his brother Albert Salomon Rothschild (1844–1911) as universal heir, but bequeathed, as he himself had remained childless, by codicil, among other things, the Palais at Theresianumgasse (I lit a) together with the art objects and furnishings therein (I lit b) to his nephew – Albert Salomon's son – Alphonse Rothschild (1878–1942). Point III stated: *"Of course, any alienation, encumbrance or parcelling of these objects is not permitted [...] However, conversions and extensions are permissible and individual pieces of furniture, insofar as these do not constitute objects of art, may be disposed of at the owner's discretion"*. Point V stated: "The objects of art and furnishings mentioned in Article I lit b, as well as all movable objects in general, are to be left to the fideicommissarial owner for possession and use without security." In October 1905, Alphonse Rothschild's father Albert applied to the Regional

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Court for Civil Matters in Vienna for an appraisal of the assets "legated" to his son. Finally, in 1906, a volume of almost 700 pages with over 4,000 item numbers with an estimated value of more than 13 million crowns was presented to the k.k. (Imperial Royal) Provincial Court, entitled "Inventar über die in den Nathaniel Freiherr von Rothschild'schen Nachlaß gehörigen, in dem Palais in Wien, IV. Bezirk, Theresianumgasse Nr. 14 befindlichen Kunstgegenstände und Antiquitäten" (Inventory of the art objects and antiques belonging to Nathaniel Baron von Rothschild's estate, located in the Palais at Theresianumgasse No.14 in Vienna's 4th district). In the section "Manuscripts and Books" with 534 numbers, the manuscript listed in eighth place, can be identified on the basis of the description and dating as the Mahzor in question here: a "Hebrew parchment manuscript, written in March 1415. Folio. Pigskin" with an estimated value of 1,600. This complete inventory, which can be viewed on microfilm in fonds 323/227 in the Federal Archives Berlin at the Koblenz site, therefore proves that the Mahzor had passed from Anselm Salomon to Nathaniel and from the latter to his nephew Alphonse Rothschild.

For the following years until the "Anschluss" of Austria to the National Socialist German Reich in 1938, no further inventories of Alphonse Rothschild's art and manuscript collection are known of. Together with his wife Clarice, née Sebag-Montefiore (1894–1967), he was in England at the time of the Nazi takeover; they had moved to Switzerland in 1937. As also explained in the Advisory Board's recommendation of 30 March 2022, the Palais at Theresianumgasse was sealed or confiscated by the Gestapo in their absence on 14 March 1938. The Palais subsequently served as an office for the security service of the Reichsführer SS. The confiscation of the entire property of the Rothschild family was carried out on the basis of the Second Ordinance to the Law on the Reunification of Austria with the German Reich of 18 March 1938, RGBl. I 1938, p. 262, in conjunction with the decree of the Reichsführer SS and Chief of the German Police in the Reich Ministry of the Interior of 23 March 1938 L.d.S.B. 150/38 and the decision of the Secret State Police Headquarters Vienna of 5 April 1938 II HB No. 1365/38. This confiscation of property was later confirmed by the Eleventh Regulation to the Reich Citizenship Act of 25 November 1941, RGBl. I 1941, pp. 722ff. Some of the confiscated objects belonging to Alphonse Rothschild were transferred to the specially established central depot for seized collections in the Neue Burg in September 1938. Subsequently, the art objects were listed in a printed confiscation catalogue and on index cards; the Alphonse Rothschild Collection stored in the central depot, with some additions, comprised 3,564 numbers. Alphonse Rothschild's extensive library, however, was not removed from the Palais to the Central Depot in the Neue Burg together with the other confiscated art and cultural objects and the manuscripts found to be valuable in September 1938, but was directly handed over to the National Library only at the end of 1938 on the orders of Walter Stahlecker, the head of the Viennese Security Police, who was entrusted with the execution of this task. From the beginning of 1939, the books were successively – but not completely – incorporated into the collection.

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The aforementioned confiscation catalogue documented 55 manuscripts and old prints, including 19 parchment manuscripts and two paper manuscripts. As of 6 June 1941, the National Library sought further allocations. The intention was to take over the manuscripts that had been seized from Alphonse Rothschild and had been placed in the Central Depot and were thus subject to the "Führer's reservation". The request was successful, and in agreement with Adolf Hitler and the "special representative" for Linz, Hans Posse, seven manuscripts were assigned to the National Library in October 1941 and acquired at the beginning of January 1942. After the management of the Kunsthistorisches Museum was deprived of the administration of the Central Depot in July 1941 and this was transferred to what was then called the Institute for the Preservation of Monuments, the remaining seized art and cultural objects were held in trust by the Monuments Authority until they were placed in storage. The fourteen documented manuscripts that remained in the Central Depot were then part of the art and cultural objects taken to the Altaussee mine, among other places, for storage by the Institute for the Preservation of Monuments.

After the war, the Rothschild family's art objects, unless they had been given to certain museums and institutions as "Führer allocations", were located in the salvage sites of Altaussee (or had been taken from there by the U.S. military authorities to Kremsmünster or Munich), Steyersberg, Thürntal, and in the Neue Burg in Vienna. In order to centrally store at least the objects kept in Vienna and Lower Austria, the monument authorities, in agreement with the Rothschild family living in exile, decided to establish a "Rothschild Depot" in Palais Springer in Vienna's third district. According to the decision of the Federal Ministry for Asset Protection and Economic Planning of 13 November 1946, the Financial Directorate, Vienna III, and the Federal Monuments Authority were responsible for the restitution. The basis for this was the First Restitution Act, Federal Law Gazette No. 156/1946. On 28 November 1946, attorney Karl Trauttmansdorff, representing Clarice Rothschild – Alphonse Rothschild had already died in 1942 in Bar Harbor in the U.S. – requested that the ÖNB restitute the seven manuscripts allocated in 1941 and the library holdings which had been taken over. After intensive negotiations, the numerous objects were returned to Clarice Rothschild in April 1947, among other things in exchange for the donation of a manuscript from 1510/20. The transfer also included three manuscripts that were not listed in the 1939 seizure catalogue and had not been assigned "AR" numbers. In the notification according to the Vermögensentziehungsanmeldung-Verordnung (VEAV) (Notification of Seized Property – Ordinance), BGBl. No. 166/1946 of the National Library of 8 October 1946, an undefined number of books from the library of Alphonse Rothschild was listed in addition to the seven seized manuscripts from the Central Depot which had also been documented; the works were not described individually.

Since the entry into force of the Art Restitution Act, the provenance research of the ÖNB has successively identified further manuscripts, old printed music, music manuscripts as well as printed

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music from the AB [Altbestand (Old holdings)] 46 holdings from the former ownership of Alphonse Rothschild, so that the Advisory Board made the recommendations for restitution mentioned; the parchment manuscript dedicated in 1947 in return for the export of the other provisions was also restituted in 1999.

The prayer book in question is still in the National Library. The Mahzor was first recorded in June 1992 under the designation "Codex hebraicus" in the accession book of the manuscript and incunabula collection with the note of origin "Old holdings of the Hss-Slg [manuscript collection]" of the ÖNB (ONB, HAN, Cod. Hebr. 242). With the same note, 73 additional manuscripts, incunabula, documents and prints were added to the accession book between April and July 1992. For 27 entries, the year 1946, i.e., "Old holdings of the Hss-Slg. (1946)", is also indicated. The location index for Hebrew manuscripts (Cod. Ser. n. 2163) of the Collection of Manuscripts and Old Prints repeats the information on the manuscript Cod. Hebr. 242 from the accession book and takes over the text passage "Written in March 1415" from the title page of the manuscript. No connection to the Rothschild family was established in 1992. The work does not appear among the manuscripts kept in the Neue Burg and transferred from there to the National Library at the time, nor could any references be found in the restitution files after 1945. Neither a number in connection with the confiscation catalogue nor a "P 38" stamp or a signature label of the Rothschild family can be found on the manuscript itself. In contrast to the deliveries of the Gestapo from 1938–1945 in the ÖNB's "P 38" collection, works from the so-called "old holdings" were not included in the collection's accession books immediately after they were acquired or brought into the collection. They were stored separately and then gradually added to the manuscript holdings after 1946; the prayer book was not included until 1992, and was followed by further inventories. It was only in the course of the indexing of illuminated Hebrew manuscripts by the Center for Jewish Art of the Hebrew University of Jerusalem (The Bezalel Narkiss Index of Jewish Art) 1999–2004 that a detailed description of the contents, history and art history, as well as the identification of the Rothschild coat of arms and the dedicatory inscription was made.

The Advisory Board considered the following:

As already stated in the recommendations of 11 February 1999, 28 June 1999, 27 March 2000, 18 August 2000, 10 April 2002, 27 April 2004, 28 June 2006, 24 June 2009, 11 September 2009, 8 March 2013, 15 June 2018 and 30 March 2022, the collections of the Rothschild family, who were persecuted as Jews, were seized by the Nazi regime and transferred to the "Central Depot for Seized Collections" in the Neue Burg or the Kunsthistorisches Museum Vienna; the books, manuscripts and printed matter were transferred primarily to the National Library – where some of them were signed with sigils indicating the seizure. The prayer book in question was acquired by Salomon Mayer Rothschild in Nuremberg in August 1842; he gave it to his son Anselm Salomon. After his death on 27 July 1874, it

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remained for the time being – as intended – "*for future generations*" in the family possession. Via Anselm Salomon's eldest son Nathaniel, it finally passed to Alphonse Rothschild – the great-grandson of the former buyer. The last mention of the family's property is in the valuation report for the probate of Nathaniel Rothschild, who died in 1905, for the k.k. (Imperial Royal) Provincial Court. It was not until 1992 that the work was recorded in the *Zuwachsbuch der Handschriften- und Inkunabelsammlung* (Accession Book of the Manuscript and Incunabula Collection) with the note of origin *Alter Bestand der Hss-Slg [Handschriften-Sammlung]* (Old Holdings of Hss-Slg [Manuscript Collection]) of the ÖNB, and years later the Rothschild coat of arms was identified. Even though the further path of the Mahzor since its last documented mention in the complete inventory of 1906 cannot be documented in the sources, the Advisory Board sees no reason to assume that the Rothschild family parted with this prayer book, which bears a personal (family) dedication, of its own free will after its acquisition by Salomon Mayer Rothschild in 1842.

The prayer book was acquired in order to remain in the family's possession or – as intended by the family fideicommission – to be passed on to the next generation, most recently after Nathaniel's death in 1905 to Alphonse Rothschild, who died in exile in the USA in 1942. The Advisory Board therefore sees no reason to assume that the work left the family possession already before the "Anschluss" and came to the Austrian National Library in a way other than in connection with a Nazi persecution-related seizure. Rather, the Advisory Board assumes that the Mahzor, like the other objects in the Rothschild family collections, was almost certainly confiscated after the "Anschluss" of Austria to the National Socialist German Reich; at Walter Stahlecker's orders, it was subsequently handed over directly to the National Library at the end of 1938, where, from the beginning of 1939 onward, the confiscated objects were successively – but not completely – incorporated into the holdings. The Board therefore considers the condition of Section 1. (1). 2 of the Art Restitution Act is met. The recommendation is therefore made to the Federal Minister of Art and Culture, Civil Service and Sport that it be returned to the legal successors of Alphonse Rothschild.

Vienna, 29 June 2023

Prof. Dr. Clemens JABLONER (Chairman)

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