

GERMAN ART NOW HAVE AN EXPIRATION DATE

*In art as in love, instinct is enough.*

by Anatole France



Gerhard Richter's "Abstraktes Bild,"(1986) which sold for more than \$46 million at Sotheby's London 2015.

48,000 citizens and 11 former directors of major German museums were seriously disregarded by Germany's Culture Minister Monika Grütters. Amongst polemic swirls, heated debates and even artist's threats, the German Bundesrat ratified a new law on Friday 8<sup>th</sup> July 2016, implementing unprecedented controls over the country's art market.

Based on the new legislation, works of art which are over the age of half a century and priced greater than €150,000 euros will need special permission to become offered outdoors from the EU. Inside the EU, an export permit is required for works over the age of 75 and surpassing the €300,000 euros cost. This law stipulates that, within the situation of the blocked purchase, the dealership can involve a government evaluator who will recommend a suitable cost for that work. The only exception to the rule



comes after having received serious threats from high-caliber artists such as Georg Baselitz and Gerhard Richter of pulling their work from German museums. Thus, the final law allows living artists to opt out of these export license requirements.

Just like some of the most terrible ideas, this law had its origins within a good intention. Incipiently, this law was inspired by the UNESCO cultural protection law, concerned by the destruction of cultural heritage sites like Palmyra, and the looting of national museums, selling items around the underground community and filling their coffers using the revenues.<sup>1</sup> This new law would diminish the flow of the illegal sale of the antiques, which is thriving because of the barbarity of the Islamic State in the Middle East. The looted cultural treasures are heading towards Western countries for years now, and starting points of their journey are Syria and Iraq. Money from selling these artifacts is used for financing terrorist groups. Nevertheless, the final law is the result of the blamable demeanor of Grütters, who said that Germany is currently living in a “sterile and rocky”<sup>2</sup> moment in history.

Is it really true that Germany’s present art scene is so profitless and unstable? Artists from the country have seen unprecedented success in recent years. According to the world’s first “Global Private Art Museum Report,” there were a total of 317 contemporary art museums established by individuals.<sup>3</sup> Korea, Germany, the United States, China, and Italy occupy the top five spots. The creation of private art



*Wir Dabeim* by Georg Baselitz (1996)

museums and arts and culture activities boosts the development of local arts and culture businesses while also increasing the public’s artistic aesthetics and level of culture. Perhaps most interestingly, however, living artists such as Gerhard Richter, Georg Baselitz, Andreas Gursky, Anselm Kiefer and Thomas Struth achieved their best prices during or after the great recession of 2008. The country’s penchant for stringent conceptualism and a highly art historical approach likely proves

---

<sup>1</sup> For further information about this theme please refer to: *How to Kill the Art Market* available in Artemundi Group’s Webpage: <http://www.artemundi.com/how-to-kill-the-art-market-a-cultural-inquest-regarding-export-control-law/>

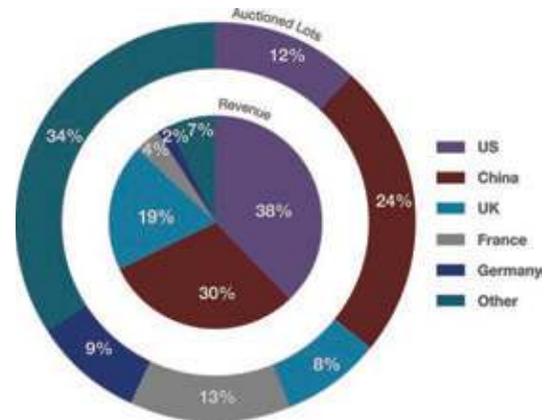
<sup>2</sup> Forbes, Alexander, and Isaac Kaplan. "What Germany's Strict New Regulations Mean for the International Art Market." *Artsy*. N.p., 12 July 2016. Web. 12 July 2016.

<https://www.artsy.net/article/artsy-editorial-what-germany-s-strict-new-regulations-mean-for-the-international-art-market>

<sup>3</sup> Bouchara, Claire. *Private Art Museum Report*. Nürnberg: Verlag Für Moderne Kunst, 2016. Print. ISBN 978-3-903004-94-8

a safe bet for value retention regardless of economic conditions. In addition, we should not forget the prominent and internationally acclaimed urban and street artists from Berlin –considered as graffiti Mecca- whose artworks display a wide array of exceptional talents.

What can really be evidenced are the negative effects that this law –and even its preliminary proposal- have already influenced on Germany’s art market. The country accounted for just 2% of the global art market in 2015, well behind the UK, which served as the venue for 21% of market activity.<sup>4</sup> In the same year, Germany accounted for approximately 20% of GDP created within the EU, while the UK accounted for only 17%. The Art Market cannot however be reduced to its three major hubs -the USA, China and the UK- because 41% of the artworks sold via auctions in the world are exchanged elsewhere, and primarily in France (13%) and Germany (9%).<sup>5</sup>



Geographical Distribution of Art Auctions – By Turnover – By Lots Sold. ArtPrice Market Report

In the words of German art dealers, legal framework and conditions of doing business are killing the internal private art market also. Michael Haas, a dealer from Berlin focusing on 20th-century and postwar art (not to mention works of Otto Dix, Georg Baselitz and Marc Chagall) claims he’s lost few deals because of the approaching law.<sup>6</sup> Many of the art collectors are moving their collections to the warehouses in New York or London, in order not to lose value (because of the possible artworks’ decrease in prices influenced by the lack of demand for it) of artworks or the artworks themselves. Art dealers claim that nobody is bringing artworks to Germany anymore, they are only pulling them out. The dealers are even thinking about closing their businesses, because they are not going to be able to conduct

<sup>4</sup> McAndrew, Clare. TEFAP 2016 Art Market Report. Maastricht: Arts Economics, 2016. Print. p. 70

<sup>5</sup> *Ibid.*

<sup>6</sup> Espasmo, Sanya. "What Is the Fate of the German Art Market after a New Restricting Law?" *WideWalls*. N.p., n.d. Web. 12 July 2016. <http://www.widewalls.ch/german-art-market-new-law/>

auctions anymore. For example, the summer auction of Asian art at Nagel Auktionen in Stuttgart has been rescheduled for May instead of June because of the pending law.<sup>7</sup>

Despite Germany's low performance on the internal art market, it seems that the international sector has taken a completely different pathway. According to Kilian Jay von Seldeneck of Lempertz auction house, "There are a couple major galleries, a couple auction houses. But probably 95% of major sales of German art are happening outside the country already and even more will now."<sup>8</sup> This statement



Public Art Market, Cologne, 1967

can be confirmed by the deep presence of Germany's dealers and galleries at art fairs. Over 246 galleries from this country are present in the top 40 art fairs according to MOMART International Fair Report.<sup>9</sup> For example, Germany is the world's second most dominant nation (after USA) presenting in Art Basel's main section between 2011-2015, accounting for 16.3% of the total galleries with an average of 54 galleries yearly.<sup>10</sup> Remarkably, Art Cologne is one of the oldest contemporary art fairs. First presented in 1967, Art Cologne holds the ninth place amongst the most attended art fairs worldwide. Finally, in the past five years, Berlin has contributed more galleries than Paris and London; even though, both cities are bigger international art market hubs.

Rather than a bureaucratic nightmare, Germany's cultural protection law might become one of the most elaborate strategies –or lucky consequences- to inflate their native artist's value in the international market. Namely, Germany's artworks close to their "expiration date" might boost the art market on a global scale, forcing artworks getting near their 49<sup>th</sup> year, to go to auction immediately. Alexander Forbes, points to Italy, which enacted similar export regulations in 2014. This law was the primary catalyst underlying the recent inflation on Italian artists from the second half of the 20th Century. The law, which

---

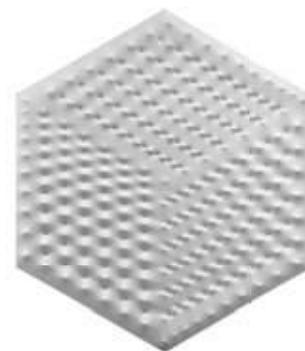
<sup>7</sup> Hickley, Catherine. "Storm Clouds Gather over German Art Market." *The Art Newspaper*. N.p., 14 Apr. 2016. Web. 12 July 2016. <http://theartnewspaper.com/market/art-market-news/german-galleries-despair-at-prospect-of-fresh-blow-to-domestic-market/>

<sup>8</sup> Forbes, Alexander, and Isaac Kaplan. "What Germany's Strict New Regulations Mean for the International Art Market." *Artsy*. N.p., 12 July 2016. Web. 12 July 2016. <https://www.artsy.net/article/artsy-editorial-what-germany-s-strict-new-regulations-mean-for-the-international-art-market>

<sup>9</sup> Rivetti, Ermanno. *The Art Newspaper International Fair Report 2016*. London: MOMART, 2016. Print. p. 8

<sup>10</sup> *Ibid.* p. 10

aims to counter the leakage of wealth outside the country, has prompted a rush on Post-War Italian art as buyers anticipate a much more restricted market in the near future. This government limitation has in fact prompted a race against time and prices have been rising with increasing urgency. As a result, Sotheby's and Christie's *Italian Sales* (15th and 16th October 2015) generated unprecedented interest, with each sale generating more than \$62 million and impressive records. The highlight of the two days of sales was Sotheby's new record for Lucio Fontana at \$24.4 million. However this record was itself beaten the following month at Christie's in New York when another work from Fontana's *Fine de Dio* series (of which only 38 works exist) fetched \$29.1 million. In the early 2000s, these works were worth less than \$2 million.<sup>11</sup> Furthermore, several other artists are enjoying a similar price phenomenon, with spectacular price inflation in certain cases. An example of this is Enrico Castellani (b. 1930), who is enjoying the exceptional attention being directed towards his work. His auction prices started crossing the million-dollar threshold two years ago and his price index has risen by 1,559% since the year 2000.<sup>12</sup> Nevertheless, one should question if this inflationary effect is the contemporary revaluation of the artistic movement *Spatialism*, instead of just addressing the increase of their appraisal into the exportation restrictions. Only time will expose the true reasons behind this artificial inflation of the Italian artist's value.



Enrico Castellani, *Superficie Blanca*, (1970)

As much as we would all like to rely on the scrutiny of economic and governmental rationalism, it seems that this love/hate relationship between arts and regulations is not really a match made in heaven, as it apparently makes both parties suffer. In addition to the complexity of the market, the entanglement of the legal system, and some backward laws –like the one just established in Germany– have created a paradox in the art market. The bottom line is that all the existing laws are, perhaps, simply too rigid to tolerate art. Which brings us to the very core of the problem: Are art laws an oxymoron?

**By Giovana Edid and Javier Lumbreras**

<sup>11</sup> "Fontana Buca L'Italian Sale Da Sotheby's. Nuovo Record in Arrivo Nella City?" *ArtsLife* RSS. N.p., 15 Oct. 2015. Web. 12 July 2016. <http://www.artslife.com/2015/09/28/fontana-buca-litalian-sale-da-sothebys-nuovo-record-in-arrivo-nella-city/>

<sup>12</sup> Ehrmann, Thierry. *The Art Market in 2015*. Lyon: Art Price and Art Market Monitor of Artron, 2016. Print.p. 48



#### SOURCES CONSULTED:

- "Fontana Buca L'Italian Sale Da Sotheby's. Nuovo Record in Arrivo Nella City?" *ArtsLife* RSS. N.p., 15 Oct. 2015. Web. 12 July 2016. <http://www.artslife.com/2015/09/28/fontana-buca-litalian-sale-da-sothebys-nuovo-record-in-arrivo-nella-city/>
- Bouchara, Claire. *Private Art Museum Report*. Nürnberg: Verlag Für Moderne Kunst, 2016. Print. ISBN 978-3-903004-94-8
- Ehrmann, Thierry. *The Art Market in 2015*. Lyon: Art Price and Art Market Monitor of Artron, 2016. Print. p. 48
- Espasmo, Sanya. "What Is the Fate of the German Art Market after a New Restricting Law?" *WideWalls*. N.p., n.d. Web. 12 July 2016. <http://www.widewalls.ch/german-art-market-new-law/>
- Forbes, Alexander, and Isaac Kaplan. "What Germany's Strict New Regulations Mean for the International Art Market." *Artsy*. N.p., 12 July 2016. Web. 12 July 2016. <https://www.artsy.net/article/artsy-editorial-what-germany-s-strict-new-regulations-mean-for-the-international-art-market>
- Hickley, Catherine. "Storm Clouds Gather over German Art Market." *The Art Newspaper*. N.p., 14 Apr. 2016. Web. 12 July 2016. <http://theartnewspaper.com/market/art-market-news/german-galleries-despair-at-prospect-of-fresh-blow-to-domestic-market-/>
- McAndrew, Clare. *TEFAF 2016 Art Market Report*. Maastricht: Arts Economics, 2016. Print. p. 70
- Rivetti, Ermanno. *The Art Newspaper International Fair Report 2016*. London: MOMART, 2016. Print. p. 8