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**MANAGEMENT OF VISUAL ARTIST ESTATES
AND
THE CASE OF TURKEY**

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MANAGEMENT OF VISUAL ARTIST ESTATES
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GÖRSEL SANATÇI MİRASLARININ YÖNETİMİ
VE TÜRKİYE ÖRNEĞİ

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LIST OF ABBREVIATIONS

ACS	Artists Collecting Society, UK
ADAGP	l'Association pour la Diffusion des Arts Graphiques et Plastiques, France
AGAVAM	Ara Güler Arşiv ve Araştırma Merkezi, Istanbul, Turkey
APT	Artist Pension Trust
ARR	Artists' Resale Right (<i>Droit de suite</i>)
ARS	Artists Rights Society, NY, USA
ASMN	Artist Studio Museum Network
AWFVA	Andy Warhol Foundation for the Visual Arts
CAA	College Art Association of America
CAT	Capital Acquisition Tax
CALL	Creating A Living Legacy Program, Joan Mitchell Foundation
CGT	Capital Gains Tax
CR	Catalogue Raisonné
DACS	Design and Artists Copyright Society, UK
EEA	European Economic Area
GESAM	Güzel Sanat Eseri Sahipleri Meslek Birliği
GRI	Getty Research Institute, USA
ICRA	International Catalogue Raisonné Association
IMEC	Institut Mémoires de l'édition contemporaine, France
INHA	Institut national d'histoire de l'art, France
IP	Intellectual Property
IRS	Inland Revenue Service, USA
IVARO	Irish Visual Arts Rights Organization
RRRT	Robert Rauschenberg Revocable Trust
VAGA	Visual Artists and Galleries Association, NY, USA
WIPO	World Intellectual Property Organization

ABSTRACT

YENTÜRK, Ayşe Serra. *Management Of Visual Artist Estates And The Case Of Turkey*, Master's Degree Dissertation, Istanbul, 2021.

The aim of this thesis is to explore the scope of visual artist estates and the impact of their management on the art historical writing. Fundamentally, it examines the theory that the artists' legacies are effectively comprehended when their work is contextualized, that they contribute to the cultural heritage of their origin in proportion to the work that goes into planning and safeguarding their estates. Emphasizing the artists' intentions and requests as key factors in this venture, the research evaluates related practices in the West after the post-war period in comparison to those observed in Turkey after the 1980's.

The research focusing on the actual practices in Turkey has mainly been conducted by means of interviews with key players, given the fact that the subject points out to an uncharted territory of literature in Turkey. Based on these interviews, it has been established that the artists, their heirs and the commercial galleries assuming representational roles often operate in a market-driven field, meaning little consideration is given to the structuring of estates and keeping in line with the legislation of the Law on Intellectual and Artistic Works in Turkey. Conversely, it has been ascertained that parties prioritizing the advocacy of estate assets have not only engendered more viable legacies, which are secured from being disintegrated and, by extension, being misconstrued as art historical materials, but have also yielded new perspectives on the artists.

Keywords: Visual Artist Estates, Artistic Legacy, Catalogue Raisonné, Artist Archives, *Catalogue Raisonné*, Artist Foundations

ÖZET

YENTÜRK, Ayşe Serra. *Görsel Sanatçı Miraslarının Yönetimi ve Türkiye Örneği*, Yüksek Lisans Tezi, İstanbul, 2021.

Görsel sanatçı miraslarının kapsamı ve söz konusu mirasların yönetilme biçimlerinin sanat tarihi yazımı üzerindeki etkisi, bu tez araştırmasının konusunu oluşturmaktadır. Araştırma, en temelinde, sanatçıların şahsi miraslarının ancak bir bağlama yerleştirildiği durumda etkin şekilde anlaşılacağı ve parçası oldukları kültürel mirasa katkılarının, bu mirasın yapılandırılması ve korunması için verilen uğraş oranında mümkün olabileceği savını araştırmaktadır. Sanatçıların kendi niyet ve isteklerini ana kriter olarak öne süren bu araştırma, Batı’da savaş sonrası süreçte gelişen ilgili pratikler ile Türkiye’de 1980 sonrası ortaya çıkan uygulamaları değerlendirmektedir.

Araştırmanın Türkiye’deki güncel pratiklere odaklanan bölümü, konunun Türkiye coğrafyasında henüz bakir bir alana işaret etmesi nedeniyle, ağırlıklı olarak sanat alanından kilit isimlerle yapılan sözlü görüşmelerle yürütülmüştür. Bu görüşmeler neticesinde sanatçıların, varislerinin ya da sanatçıların temsilini üstlenen ticari galerilerin çalışmalarını çoğunlukla piyasa güdümlü bir alan içinde sürdürdükleri; sanatçı miraslarını yapılandırmaya ve Türkiye’de mevcut Fikir ve Sanat Eserleri Hukuku’nu takip etmeye yönelik bir anlayışın tam anlamıyla yerleşmediği tespit edilmiştir. Buna karşılık, sanatçıların miraslarına ait öğelerin savunulmasına öncelik veren tarafların, bütünlüğü bozulmayacak veya hatalı okumalara zemin hazırlamayacak şekilde koruma altına alınan, böylelikle daha yaşatılabilir miraslar ortaya koymakla kalmayıp, sanatçılara dair yeni bakış açılarının geliştirilmesine de katkıda buldukları anlaşılmıştır.

Anahtar Kelimeler: Görsel Sanatçı Mirasları, Sanatsal Miras, Sanatçı Arşivleri, *Catalogue Raisonné*, Sanatçı Vakıfları

INTRODUCTION

In an interview published on artnet, Dr. Loretta Würtenberger says that “there are so many people who have a problem thinking about their own death, especially artists, who have a right to a certain belief in immortality through their work.”¹ Indeed over the course of their lives, artists laboriously create a body of work whose materiality eventually transcends their own mortality. When properly preserved, the works win appreciation, inspire and even instruct many generations after the passing of their authors. The title of a panel for the inaugural conference of the Institute for Artists’ Estates² held in September 2016, “All fathers die, not these!” perfectly epitomizes the perpetual position the artists attain by means of their creations.

Alongside this romanticized idea of artist’s immortality, there is the conception of *Nachleben* introduced by Aby Warburg³, which essentially refers to the survival of images and their diffusion across different cultures in history; the way images continue to exert their power on successive generations independently of their authors (Didi-Huberman, 2003). Having acknowledged Warburg’s concept, which does not take “afterlife” as a mundane biological metaphor, the term in its most literal sense constitutes one of the departure points of this research aiming to investigate the guidelines and impact of estate planning, and the current conjuncture of estate management in Turkey. It examines the theory that the artists’ oeuvre not only survives but is understood in proportion to the extent of work that goes into planning its afterlife.

¹ Retrieved September 12, 2020, from <https://news.artnet.com/art-world/new-berlin-institute->

² Institute for Artists’ Estates is a professional consultancy and management organization founded in 2016 by Dr. Loretta Würtenberger and Daniel Tümpel in Berlin, with a central motive to increase academic activity around the subject of artists’ estates. For more information: <http://www.artists-estates.com/en/>

³ German art historian and anthropologist Warburg (1866-1929) is praised for the widening of the field of art history to include all types of artifacts and the transformation of the preexisting study of styles and schools into a transculturally oriented historical discipline. Source: <https://www.oxfordbibliographies.com/view/document/obo-9780199920105/obo-9780199920105-0087.xml>

This notion immediately evokes the Latin saying *Memento mori*⁴, which translates as “remember you must die”; a phrase that bears upon the living artists, considering it is this very recognition of mortality that ignites the planning for the posthumous phase. A critical aspect of this phase dwells on the subject of artists’ intentions and wishes, whether they are respected and implemented by the custodians of their estate after their demise.

As such, this thesis aims to underline the significance of the visual artist estates with respect to their contribution to the writing of art history (Corris, 2017; Reed, 2017). More specifically, it intends to map out the landscape in Turkey by identifying the stakeholders, key players, modalities, methods, and obstacles surrounding the management of visual artist estates and the preservation of their artistic heritage; focusing on the relevant practices after the 1980’s in conjunction with the emergence of an operational art market.

The research is structured into three chapters: “International Framework of Visual Artist Estates” being the first one, introduces the historical background of the stewardship of visual artists’ legacies and explains the shift in related management practices with respect to the global art market after the 1970’s. The chapter then elucidates the current debates surrounding the issue of estates. It looks into the “Posthumous Artist Function” concept, as unknown artworks often emerge, affecting the art historical interpretations. Subsequent to this part, the positive and adverse effects of the digital age and image sharing culture on protecting artistic legacy are summarized.⁵

⁴ *Memento mori* is a notion also rooted in the visual arts, notably peaking in the 16th and 17th century Northern European painting and engraving. It is usually symbolized through the genre of *Vanitas*, which iconographically employs the still life painting with an added figure of skull in order to emphasize the definite end of worldly pleasures and riches. Source accessed on October 20, 2020: <https://www.tate.org.uk/art/art-terms/m/memento-mori>

⁵ The concept of NFTs, which came to light during the writing of this thesis, is intentionally left out of the research given limited data.

The second chapter, “The Scope and The Management of Visual Artist Estates” is composed of two subchapters: the first part examines the scope while the second one explores the management of estates. The first section initially delves into the categories of assets that constitute the scope of a visual artist’s estate, namely the artworks, archives and immovable properties grouped under “tangible properties.” A second group of “intangible properties” follow these, which imply the intellectual property rights, examined under “moral rights” and “economic rights.” Although not assets per se, the liabilities of visual artists are included hereunder as integral parts of an estate to emphasize their influence on the choosing of future administration format, hence its “afterlife”.

The second section, “The Management of Visual Artist Estates” begins by exploring the critical topic of “Artist’s Will” as the primary source outlining an estate. The notion presents a crucial yet complex case as it encapsulates the wishes and intentions of the artist, a major determinant for the content and model of the estate’s management. The legal forms the estate management can evolve into, such as foundations, trusts and, limited companies; the options of transferring its assets partially or entirely by means of commercial representation and/or institutional donations are also explored in this chapter. The analysis of these entities through international examples holds essential information due to their intermediary position between the estate and the public, highlighting their roles in the promotion and emplacement of the artistic inheritance within the context of cultural heritage.

The third chapter, titled “The Case of Visual Artist Estates in Turkey” is patterned after the framework anatomized in previous chapters. It explores the visual artists’ estates in Turkey by presenting cases of both deceased and living artists, commercial art galleries, museums and archives; surveying how their assets and projects are organized; what administrative models are employed to tackle their challenges; how institutional agencies manage and safeguard the

estates; and what prospects the living artists consider for their respective estates and legacies.

In conclusion, an analysis of the common practices and issues concerning the visual artist estates in Turkey will be presented along with a set of suggestions to produce a guideline for current and future stakeholders.

The methodology of this research is based on a general qualitative inquiry for the collection and analysis of data, since factors surrounding artists and art institutions yield distinct experiences in each case, which cannot be reduced to numerical values. The most comprehensive source in print was “*The Artist’s Estate: A Handbook for Artists, Executors, and Heirs*” by Loretta Würtenberger (2016), which provided an essential guideline to identify the main questions regarding the estate concept: “What is an artist’s estate, in legal and common sense? What are the stages of estate work? In what forms, and by who are the estates of visual artists administered? What are the ways of keeping an artist’s work alive and who are the key actors or stakeholders of this legacy work?” Considering these questions, the methods used in the first two chapters consisted of a literature and press review to understand the norms and practices used in the West.

The literature review concerning the third chapter, which focused on Turkey, however, showed evidence that little to no comprehensive academic or market research has been made on the visual artist estates nationally. However, several dissertations look into the evolution of the art market (Üstünipek, 1998; Uğuz, 2006; Saçlı, 2016; Rastgeldi, 2019) Given the scarcity of related research in the context of estate management in Turkey, the method used in the third chapter relied heavily on the information derived from online sources and 9 in-depth interviews conducted with living artists, the heirs of deceased artists, owners and managers of commercial galleries, lawyers, as well as the managers of

foundations, museums, and archives that bear material, legal and moral custody of visual artist estates.

To examine the subject in-depth, the following were enquired: What are the legislative and common practices under the Turkish law regarding visual arts and are they coherent with the international norms? How has the artistic environment evolved in terms of the preservation of artist estates and legacies? How do the key players approach the exercise of producing a *Catalogue Raisonné*, or setting up a foundation, and/or a museum in Turkey? Are those in the artistic field handle and utilize the assets for public input and benefit? Which factors facilitate or complicate the evaluation of visual artists' estates in Turkey and their inclusion in the art historical narrative? Subsequently, the models of artistic legacy stewardship are examined through the cases of different stakeholders, who were interviewed and addressed questions that sought to reveal their perspective and experience regarding the "estate" concept and to what extent the "legacy" notion is taken into consideration in their projects and operations.

Almost⁶ all interviews were conducted via Zoom due to public health measures during Covid-19 pandemic, which was the main obstruction in the research process. These interviews lasted an average of one and a half hours depending on the interviewee's availability and expertise.

The main concern of this thesis was to map out the conjuncture and criteria of visual artist estate management in Turkey and to identify the types of key-participants whose praxis affects the outcome of art historical narrative. Ultimately, I am hoping to form a basis for further research that will generate a progression towards the preservation and promotion of artists' heritage in Turkey.

⁶ It was possible to conduct a face-to-face interview with Eda Çekil before the lockdown was announced.

CHAPTER 1

1. INTERNATIONAL FRAMEWORK OF ARTISTS' ESTATES AND LEGACY MANAGEMENT

Honoring and sustaining the legacies of artists is not a recent endeavor, but one that directly coincides with the emergence of the “artist” identity in the Renaissance, during which Giorgio Vasari delivered his magnum opus, *Vite*.⁷ In this trailblazing work, Vasari not only presents a critical history of Italian art through the biographical details of artists but emphasizes the importance of claiming their creative heritage, as cited in Caroline A. Jones’ article⁸ in *Art Journal*:

“If princes realized the importance of appreciating the value of men of genius on account of the fame, which they may leave behind, neither they nor their ministers would be so indifferent.” (Jones, 2017, p.148)

This propensity to record and introduce the artists’ to a broader public gained importance during the eighteenth-century Enlightenment, as attested by the early examples of monographic compilations known as *Catalogues Raisonnés* written by *marchant-merciers*, art dealers, and artists on their own right. The initial example of this publication genre written on the Rembrandt etchings by Edmé-François Gersaint in 1751 remarkably underlines the subject of authenticity by providing both a catalog of works and an account on the artist’s imitators; whereas Johann David Passavant’s nineteenth-century treatise on Raphael, written in 1839 addresses the “inner aspirations and outside influences” of the artist (Bulckens, 2015). Both authors’ perspectives may thus be considered quite forward-thinking, revealing an affinity with the concerns of our times.

⁷ Giorgio Vasari, *Le Vite de' più eccellenti pittori, scultori, ed architettori* (Florence: Lorenzo Torrentino, 1550)

⁸ Jones, C.A. (2017). The Artist-Function and Posthumous Art History. *Art Journal*, 76 (1), p. 148

At the turn of the century, art dealers and galleries in Paris began appearing as institutions that promote the artists to a broader public. The dealers of the period, like Durand Ruel, Goupil, Vollard, Kahnweiler and Fénéon, as Ali Artun points out, “prioritized building careers for artists and undertook writing the history of individual creativity of those who caught on the *zeitgeist*” (Artun, 2003, p.8). These galleries⁹ managed by the likes of such figures assumed the task of compiling the works of the artists they represented in monographs, as observed in Galerie Bernheim-Jeune’s example whose mission was carried into the second half of the century by other modern establishments like the Galerie Maeght.

1.1. THE ESTATE MANAGEMENT CONCEPT AFTER 1970’s

Despite this long-standing tradition of chronicling the artistic production for the sake of the artist’s legacy, there has been a seismic shift within the art world in the second half of the twentieth century in tandem with the market growth of Postwar generation artists, which necessitated a further professionalized, multidisciplinary and comprehensive approach in the management of artists’ legacies and their estates. Certain incidents unfolding from the 1970’s onwards may be considered as harbingers of change in this direction.

The lawsuit regarding the monetization of abstract expressionist painter Mark Rothko’s estate appears as an initiatory case signaling the need for statutory improvements in the estate management (Dobrzynski, 1998). The liquidation of his artworks after his death in 1970 by the appointed executors of his foundation based on unfair appraisals in favor of Marlborough Gallery and

⁹ For a detailed account on commercial gallery activities in Europe during the 19th century please see: <https://www.fokum-jams.org/index.php/jams/article/view/18/66>

against the wishes of the artist himself has revealed the potential threats on estates. As Henry Lydiate (2014) noted¹⁰:

“The most important and healthy impact of the case is that it exposed the sophisticated machinations of the art market, underlining the need for all artists to seek and take independent professional legal advice when entering into any arrangements, be they testamentary, contractual, or otherwise.”

The legal and financial strife that followed Pablo Picasso’s death in 1973 to settle the distribution of his estate among his heirs – notwithstanding the fact he managed to keep his works together, thus his currency undiluted as described by John Berger¹¹ – is another touchstone in the history of art (Bayley, 2016; Delistraty, 2018).

Throughout the years, numerous other problems have surfaced, regarding the authenticity issues for which Andy Warhol and Salvador Dali estates are exemplary; issues that challenged the wills of artists such as Robert Indiana, who is suspected of having been manipulated and misled in his bedridden years (Grant, 2018).

The challenges of artists’ estates can be further represented by the issues of claiming inheritance while honoring the wishes of the artist as encountered by Donald Judd’s heirs; financial *causes célèbres* like Robert Rauschenberg’s work *Canyon*, which was prohibited from selling but was subjected to taxes nonetheless (Lydiate, 2016); as well as the posthumous and coincidental discovery of the photographer Vivian Maier’s artistic estate; among other cases that obliged the art world to address the critical subject of estate building.

¹⁰ Lydiate, H. (2014). Artists’ Estate Management. Retrieved September 12, 2020, from <https://www.artquest.org.uk/artlaw-article/artists-estate-management/>

¹¹ Originally written in 1965: Berger, J. (1993). *The success and failure of Picasso*. New York, NY: Vintage International.

Directly tied with such incidents in the expanding art market, questions regarding the artist estates have begun appearing in several publications from the 1970's onwards, particularly in two British magazines: a column titled "Artlaw" in the Art Monthly magazine written by Henry Lydiate since the outset of the magazine in 1976 has been a pioneer in that respect; giving insight to various topics of relevance such as art law, authentication, artwork liabilities, authorship and attribution, moral and economic rights as well as estate management. Additionally, a special issue of Art Journal magazine published in 1994 under the title of "Art and Old Age" edited by Robert Berlind has "signaled the impending impact of an aging baby-boom generation" of artists (Middleman&Monnahan, 2017).

In the United States, "A Visual Artist's Guide to Estate Planning" has been published in 1998 based on the conference that took place on April 4-5, 1997, co-sponsored by The Marie Walsh Sharpe Art Foundation and The Judith Rothschild Foundation. As explained by the Artists Advisory Committee in the foreword of the book (which was expanded in 2008), the conference was organized "to discuss the particular problems faced by visual artists in planning their estates."¹² The participation of accountants, archivists, attorneys, curators, dealers, writers, and representatives from foundations, government, museums, and other nonprofit organizations in addition to the artists themselves further indicated the exigency of an interdisciplinary approach to the subject.

In the United Kingdom, the Royal Academy has published a book titled "The Artist's Legacy" in 2013. The following year, Design and Artists Copyright Society (DACS) was established as an independent charitable organization dedicated to the safeguarding of the UK's cultural heritage whose project, Art360 Foundation aimed to present "unseen aspects of the UK's heritage"

¹² <https://www.hoffmanlawfirm.org/wp-content/uploads/sites/1300376/2020/03/A-Visual-Artists-Guide-to-Estate-Planning-The-Marie-Walsh-Sharpe-Art-Foundation.pdf> Accessed on July 4, 2020.

through the legacy planning of artists and archiving their works.¹³ In the very same vein, the College of Art Association (CAA) annual conference in 2015, “Posthumous Author-Function: Artists’ Estates and the Writing of Art History”¹⁴ made a detailed case of the impact of posthumous discoveries, emphasizing the potential of estates in construing and conveying a more informative and unbiased account of artists.

“Keeping the Legacy Alive” conference held in Berlin on September 14-15, 2016, has been perhaps the most amplified attempt in Europe to bring these subjects into question. The conference organized for the inauguration of the Institute for Artists’ Estates¹⁵ was accompanied by a publication titled “Artist Estate: A Handbook for Artists, Executors, and Heirs”, authored by Dr. Loretta Würtenberger and Karl Von Trott. During the conference, new perspectives and notions were introduced, such as the “cultural ventriloquism” by John C. Welchman, whereby he referred to the foundation’s function to speak on behalf of the artist it represents; the question of “posthumous casting” by Würtenberger with respect to the artist’s wishes regarding the production of his works, as well as a myriad of topics that included authenticity, archives and, *Catalogues raisonnés*.

It’s useful to note that in the last decennia, major commercial art galleries such as Zwirner, Gagosian, Paul Kasmin, Ropac, and Hauser&Wirth gravitated to signing artists’ estates, owing to both the art historical cachet they represent and the consequent rise in their estate value. As a matter of fact, Hauser&Wirth had almost evened up the ratio of deceased artists to living ones represented in their roster, with their inclusions (Hanson, 2017).

¹³ <https://www.art360foundation.org.uk/about-3> / Accessed on September 7, 2020

¹⁴ It is important to note that the estate of the Turkish-German artist, Bilge Friedlaender was also represented in the conference.

¹⁵ In 2017, 2018, and 2019, the Institute has organized several workshops: “Building Artists’ Legacies” in London; “Artist’s Legacy Planning” in Berlin and “Artists’ Legacies: Planning Immortality” in Los Angeles, respectively.

As these examples demonstrate, the inquiries and assessments surrounding the management of artists' estates have expanded significantly in the West since the 2000's, owing to the demographical shift where particular generation of renowned artists are passing away, leaving behind a significant amount of material to be managed (Middleman&Efimova, 2017). As per the concurrent advancements in technologies, artist estates and art professionals now faced with novel theories and issues.

1.2. CURRENT TOPICS AND ARGUMENTS

The preliminary topic to be addressed in the field of estate management is the ambiguity in the definition of the term "artist's estate", which ideally implies a broader legal scope than its common use among the actors in the artistic field, which merely refers to the artworks and other certain tangible properties. (Drosdick, 2018; Middleman & Monnahan, 2017; Rolin, 2017).

As a rule, the estate is the pre-transfer status of the artist's property, including all tangible and intangible assets. If their ownership is transferred, they are no longer the estate per se but pass as inheritance or bequests. Suitably, in the Anglo-Saxon¹⁶ jurisdiction, the estate refers precisely to the interim period between the artist's death and the transfer of assets. Here, the beneficiaries assume the legal "owner" position upon completing tax-related procedures on behalf of the estate. In contrast, in the continental European jurisdiction where¹⁷ the notion of "universal succession" is prevalent, the estate with all its assets and liabilities is considered as already transferred to heirs upon death. Given that there is no interim period in this legal system, the term becomes legally obsolete, assigning the inheritance to the beneficiaries' legal self.

¹⁶ The United Kingdom and the United States of America

¹⁷ e.g. Germany, France, Italy, Spain

Indeed, depending on the country's legislation, the heirs or beneficiaries may directly continue the legal person of the deceased, in the sense that rights and obligations are transmitted *ipso facto* to them, without having to express any will (Rolin, 2017). That being the case, the term "estate" indicates not only the artist's individual pursuit but also an inheritance that requires to be maintained and to be sustained.

It is worth mentioning here that the legislations do not differentiate between the types of assets or the persons and only address this restructuring of the estate. However, there is an extra element of legacy in question for visual artists, which sets the whole postmortem procedure apart from any other natural person.

It seems equally important to underline the fact that, within the increasingly burgeoning global art market, visual artist estates are inevitably understood as "brands"¹⁸ now, driven by what philosopher Gilles Lipovetsky calls an "Aesthetic Capitalism" (De Oliveira, 2020). This position is evident in the dealings of artist estates where the act of selling rather than donating is favored (Reed 2017), suggesting a notion of prestige.

As endangering as it may be to speculate the artistic legacies and assets qua brands in terms of economy, the concept of a brand is quite illustrative for an estate's intrinsic value, which may indeed undermine the reputations of artists if not duly handled.

To put it another way, the estates possess not only the artworks that stipulate a cognitive connection but also the related materials that are required to fully comprehend the corpus of work; a material which in turn consolidates their context. How the artists' estates and their components are managed; whether

¹⁸ Daniel Grant mentions that increasingly more artists apply for a trademark to maintain commercial control over their works. See: <https://life.spectator.co.uk/articles/the-art-of-the-deal-why-more-artists-are-getting-trademarks/>

these materials are made available for scholarly and artistic research or restricted thereof, translates directly into their own legacy as well as the discourse of art history.

Thereby, the estates might be considered as first-degree custodians and contributors of the cultural patrimony, and the extent of their sophistication is indicative of the value attributed to the collective heritage (Laws, 2018).

1.2.1. Posthumous Artist-Function

Regarding the aforementioned role the estates play in shaping the art historical discourse, it seems fitting to annotate the “Posthumous artist-function” concept framed by art historian Caroline A. Jones.¹⁹ The source of the compound word is French philosopher Michel Foucault, who has theorized the “author-function” back in 1969 to describe the circumstance in which “the work writes the author” (Jones, 2017, p.144). Jones readapt the concept to describe “the process initiated by the artist’s death that drives the materialization of work through new revelations, reinterpretations or fabrications” (Middleman& Monnahan, 2017).

According to Jones, the corpus of the artist keeps functioning and expanding with each new material provided. In other words, when new pieces and documents privately kept from the public are posthumously united with known works, they yield different versions of the artist; thus a stratification of narrative occurs. An important topic here, as Jones points out, is the art historian’s relentless desire to produce a coherent yet non-existing work of an existing author-name, which dominates the course of art historical interpretations, broadening the corpus of artists in an infinite dialogue.

¹⁹ Caroline A. Jones is an American art historian, author and critic. She continues to work for the Massachusetts Institute of Technology.

Another important evaluation of Jones within this framework highlights the biased and hierarchical narrative of art history that traditionally favors Western art; and particularly the signed European paintings on account of their extensively studied corpus, hence the “greased machinery of author-names and artist-functions, together with the high financial stakes they secure.”²⁰ This thought perfectly underlines the theory that an artist is included in the art history properly, if and when her/his estate, including the artworks, archives, and all related material, are preserved and made available for research, hence the direct correlation between estate management and art historical narrative.

1.2.2. Artist Archives in the Digital Age

The second argument concerns our transition to the digital age, which had both a constructive and adverse impact on the management of estate assets, particularly the archives. As repositories of information and raw materials necessary for the previously mentioned art historical revisions, the archives face certain practical challenges today due to the “deluge of born-digital documents” such as e-mails, e-documents about the production and sales of works, digital files, records, and notes (Reed, 2017; Gill, 2016).

A complex aspect of the archive work concerns the documentation of post-medium artworks, namely ephemeral installations and performative works produced in the post-modern era. Gill (2016) underlines the significance of these audiovisual records by stating them as “surrogates for or extant remnants of” intangible works. The function of archives in the digital age is therefore not limited to the conservation; they encompass the information enabling the future treatment and re-activation of artworks produced today (Wharton et al., 2016).

²⁰ In her 2017 article, “The Artist-Function and Posthumous Art History”, Jones explains that the teaching and tenure of art history is also prone to a hierarchy in the visual arts, a condition widely evidenced in the art market where European paintings are well represented in comparison to other nationalities (see: <https://www.artmarket.com>), revealing a contrast with the aforementioned Warburgian arguments.

1.2.3. Contemporary Image Sharing Culture

With the international art fairs, biennials, and artistic residencies, there is a continuous global activity that propels the galleries to move away from their bricks-and-mortar setting and gravitate towards online platforms where a wider audience can be reached. Through these platforms, artists and their works can be placed within an international arts ecosystem free from the spatial and budgetary constraints (Laws, 2018; Jeffreys, 2015).

Individual websites and social media accounts of artists may be good tools for mass communicating and documenting the artist's oeuvre in this respect. Yet the dissemination of information and material presents certain issues: as Grant (2017) notes, "posting within the social media environment likely implies that its owner is licensing it for some form of distribution by other site users," which may ultimately lead to the infringement of artist's copyright. Registering the images and embedding the copyright notice may prevent copyright infringement. However, proving the authenticity of an artwork or protecting it from forgeries proves to be a chronic problem in the art market. In this respect, the Blockchain²¹ is promoted as a technology against counterfeit.²²

On a more conceptual and relevant note regarding social media, Gawronski (2017) mentions that a greater risk of sharing artworks on platforms like Instagram is that they may be perceived as "branded merchandise or fleeting ahistorical entertainment." Preventing this misconstruction from happening and

²¹ <https://www.artbasel.com/news/blockchain-artworld-cryptocurrency-cryptokitties>

²² There is even a bio-engineered DNA called "i2M" for artworks. According to the producer firm of i2M technology, Tagsmart, "A DNA tag is a discreet and highly secure label that can be applied to an artwork. It is made up of archival materials developed in collaboration with artists, surface chemists and conservators (...) linked via a unique ID to a Certificate of Authenticity and a digital provenance record". For further information: <https://www.tagsmart.com>

liberating the legacies of artists from “the hands of posthumous personality cults”²³ is primarily up to the principles set during the building of estates.

²³ Bayley mentions that in the absence of an ethical approach, the historical facts are bent by editing or worse, destroyed. Accessed on September 12, 2020, from <https://www.spectator.co.uk/article/estate-agent>

CHAPTER 2

2. THE SCOPE AND THE MANAGEMENT OF ARTIST ESTATES

Configuring an estate is pertinent for safeguarding and promoting an artistic legacy, whereas this configuration can also affect the quality of work produced (Kaplan, 2016). Moreover, such enterprise ensures an accurate setting for scholarly research and art history writing by ruling out any factual errors regarding the lives and the oeuvre of artists whilst endorsing their own myths. In fact, as Henry Lydiate puts it, “the estate planning can often be viewed as an artist’s last and potentially enduring creative act” (Laws, 2018).

2.1. THE SCOPE OF VISUAL ARTIST ESTATES

A visual artist’s estate may be anatomized in two main categories, namely the tangible and intangible assets. Additionally there are tax liabilities and optimization models that have a direct influence on the afterlife of the estate, which will be explored at the end of this section.

The category of tangible assets embodies the “artistic estate” which consists of artworks and all complementary material for the practice of an artist, such as the archive, tools, and technical equipment. This category is commonly mistaken for the estate itself due to its cultural significance. However, it is a part of the material properties, which may also include other collections, personal ephemera, bank accounts, and cash.

Establishing a structure that distinguishes between these assets facilitates the task of safeguarding the estate and allows creating substantial funds for future enterprises like foundations, as seen in the case of the artist and cultural icon

Andy Warhol, who had an acute sensibility towards the notions of death and money, and famously once said “Death can really make you look like a star.”²⁴

Notwithstanding the potential of personal items, it is the artworks, archives, and spaces inhabited by artists that encapsulate the artists’ essence and contextualize them within the framework of cultural heritage, as examined below.

2.1.1. Tangible Assets: Artworks

Artworks compose the chief element of a visual artist’s estate. By and large, they are the primary sources when construing an artist’s identity within the art historical narrative.

Often an estate happens to be “bereft of good material” due to the success garnered in the artist’s lifetime (Glaedell, 2009). However, what is left may not necessarily be “leftovers” as the art advisor Wendy Cromwell points out (Hanson, 2017). In fact, Mira Friedlaender²⁵ mentions that her mother, artist Bilge Friedlaender had destroyed her canvases in the late 1970s when “she decided she was no longer a painter” and tore more pieces down when moving the remaining belongings in the storage space. According to Mira Friedlaender, these remnants were the ones the late artist valued (Middleman & Friedlaender, 2017).

²⁴ A ten-day-long sale by Sotheby’s took place between April 23 – May 3, 1988 (Rosen, 1988; Reif, 1998) where an enormous number of personal items from the Warhol Estate, including furniture, tableware and accessories were auctioned; making it possible to achieve considerable funds for his foundation with as little liquidation of his works as possible. The auction was notably presented with a catalogue in six volumes, necessitating an editorial work tantamount to the estate planning itself.

²⁵ Mira Friedlaender has initiated a performance work titled “Half of What’s There” in Recess, New York between September 2 – October 25, 2014; involving the process of unpacking and displaying the works of Bilge Friedlaender which were kept in storage, to bring about an excavation as an artwork itself.

Conversely, an estate may be “art rich and cash poor”, meaning a substantial amount of artworks are in possession, possibly because the artist has avoided selling, donating or exhibiting them in order to create a “pension fund” (Lydiate, 2014). A striking example in this regard is the artist Paul Klee, who had categorized his works by marking some with “SKL” (*Sonderklasse*) and had managed to secure a financial source for his estate.

That being said, ascertaining which piece is an artwork or which not, is technically and ethically a complex procedure for not everything an artist makes with artistic expression can be considered an intended artwork. Since the artist’s intentions are paramount, those who are responsible for an estate should know or at least be able to determine which pieces are deemed as artwork; what is a finished or unfinished work; what is allowed or denied to leave the sphere of artist’s premises for loans and exhibitions and under which conditions; what works are for sale, and if there are any restrictions as to whom; how the works are to be installed; if posthumous editing is desired for the sculptures and prints, and to which degree.

The failure to act in accordance with such intentions of an artist, exhibiting an incomplete work or one that is deliberately omitted by its author, would potentially lead to the misinterpretation of the artist (Wharton et al., 2016). Moreover, wrongfully identifying items as artworks may lead to begetting illusionary yet valorized commodities within the art market, which in turn is potentially damaging to the artist’s reputation as well as to the economy.

It is therefore in the best interest of artists to address these issues while alive and to keep a detailed inventory²⁶ as part of the studio practice without strictly

²⁶ Ideally this inventory includes all relevant information known to the artist, such as works given away as gifts, whether any copyright has been assigned to these works and if they have been endowed with the work or not. It is important to specify such information along with the artwork’s market value at the time of bequest because they may be of relevance in the longer run with respect to Economic Rights explained in section 2.2.2. of this thesis.

relying on the predictions of other decision-makers such as the galleries that represent the artist or the future administrators of the estate (Grant, 2018; Lydiate, 2014; Würtenberger, 2016).

This inventory is cardinal for the well functioning of the estate and may be kept safe owing to modern software programs such as Artsystems²⁷, artPlus²⁸ and Artworkarchive²⁹. Through such elaborative systems, it is possible to assign an inventory number to each artwork while individually registering their material descriptions in the program, along with their photographic documentation and condition reports; technical sheets and instructions controlling their display; respective collection information, any pertaining documents like invoices, insurances, texts and exhibition and/or literature history.

2.1.1.1. *Catalogue Raisonné*

According to the definition by François Duret-Robert in his “*Droit du Marché de l’art*”³⁰, *Catalogue Raisonnés* are publications, which “list, describe, situate in time, classify and, if possible, reproduce, all known works of the artists in question.” It seems conceivable to suggest that the CR traditionally functioned as a tool against counterfeit because they legitimize the artworks with their reproductions and detailed information.

While the content and the function of CR was presumably introduced in 1751 by Edmé-François Gersaint, it is the Austrian scholar and printmaker Johann

²⁷ Accessed on October 30, 2020. <https://www.artsystems.com/product/art-gallery-software-art-collection-management-software/>

²⁸ Accessed on October 30, 2020. https://www.zetcom.com/en/artplus_en/

²⁹ Accessed on October 30, 2020. <https://www.artworkarchive.com/artists>

³⁰ <https://www.librairiedalloz.fr/livre/9782247179336-droit-du-marche-de-l-art-edition-2020-2021-francois-duret-robot/>

Adam Bernhard Ritter von Bartsch who appears to have coined the term in 1798 for his study on the works of Lucas De Leyde³¹.

Like their precursors, CRs today cover the questions of provenance, ownership, exhibition and publication history of artworks. As per their title, “reasoned register”, they contain critical texts written by scholars and experts dedicated to placing the oeuvre in the art history, who should remain immune to any interest for the art market. In the past, CRs were written singlehandedly by authors, whereas now the range and sheer volume of material evident in the contemporary practice often necessitate meticulous teamwork as well as a considerable budget and timetable.³²

A CR implies a certain responsibility of its author(s) since it acts as a reference of authenticity: the appraisal of works as “authentic” or “doubtful” creates or detracts value. Considering their responsibility towards the integrity of work, as well as their control over the information and copyrights required for the reproductions, the estates appear as ideal conductors of these publications.

There are also the instances of artists who are led by the contemporary art market dynamics to compile their own CR, “transforming what was originally an art historical task into a work of art,”³³ concurrently revealing their perspectives towards their own work.

³¹ “*Catalogue Raisonné De Toutes Les Estampes Qui Forment l’Oeuvre De Lucas De Leyde – Par Adam Bartsch, Garde De La Bibliothèque Imp. Et Roy. Et Membre De L’Académie I. Et R. Des Beaux-Arts De Vienne*”, Chez J.V. Degen Libraire. De l’Imprimerie d’Albertie, 1798, Vienne. The work is currently in the collection of Royal Academy in England. It is notable how the author has specified his appellation in the title of his treatise on Lucas de Leyde, aka Lucas van Leyden. For detailed information: <https://www.royalacademy.org.uk/art-artists/book/catalogue-raisonne-de-toutes-les-estampes-qui-forment-loeuvre-de-lucas-de>

³² Würtenberger notes that Robert Motherwell’s CR took seven researchers and ten years to compile, while the Ernst Wilhelm Nay Foundation allocated a budget up to 700,000 Euros for the CR. (Würtenberger, 2016, p.112)

³³ From Annette Tietenberg’s 2015 conference paper, “*Das Werkverzeichnis als werkkonstituierender Faktor in der Kunst seit 1960*”, as cited in Würtenberger, 2016, p.113-115.

However, the diversity of their personal and sometimes eccentric approach, exemplified by Gerhard Richter, who does not give an inventory number to any work he produced, even exhibited and sold but later deemed unworthy³⁴, points out to potential complications to be tackled by the future estate managers and/or archivists.

2.1.2. Tangible Assets: Archives

While the CR secures our knowledge on the artworks, keeping a legacy alive demands an on-going dialogue with the artist and the works that issue from that very individual. This dialogue can be cultivated through the systematic analysis of an archive where the raw material necessary for the writing of art history is present.

An artist's archive is the point of departure for scholarly research, which sequentially draws the attention of curators and collections. In other words, it provides a basis for procuring a joint effort among what Würtenberger (2016) calls the "three pillars", – the university, the museum, and the market – whose collaboration is essential to uphold the artists' legacies for the future.

In this ensemble, the archival material – sketches, writings, photographs, press clippings as well as invoices and other documents – play a serious part in grounding the oeuvre and helping to trace the complex transactions concealed at the backstory of artworks (Rodney, 2007; Vaknin et al., 2013) but it is the items of sentimental value – like letters, diaries, and photographs – that "pulls everything together to complete the narrative" (Cox, 2008).

³⁴ Würtenberger, 2016, p.116

Artist and archivist Meagan Connolly³⁵ brings up the necessity of these narratives in order to construe an authentic account of the artists:

“With each painting or photograph on a wall, there exists the complex stages it took to exist in that moment in that particular space. The archive of an artist holds evidence of every stage a work of art went through.” (Connolly, n.d.)

Indeed by virtue of the materials possessed, the archive comes forth as a repository for the artist’s know-how and the progression of ideas, a manual for the appropriate “afterlife” interpretation and installation of the artworks (Oliveira, 2020).

Enabling and commissioning research on this material is thus essential for the accurate writing of art history since the matter of provenance relies heavily on this very archival support and *vice versa*: if the archival records are falsified, the authenticity of the work may come under question. Likewise, restricting or banning access to the archives is detrimental for an artist’s estate, resulting in its impoverishment through negligence and its eventual exclusion from the collective memory. The case of the Barragán Foundation³⁶ is a very telling one in this regard and “bespeaks the power of well-funded estates to control the discourse” (Middleman&Monnahan, 2017).

The boom in digital documents and the obscure division between personal and professional items can prove a conundrum, thus demanding a professional approach and substantial knowledge on the artist to mediate and pin down the interconnectivity of materials (Gill, 2016). Likewise, the significance of certain

³⁵ Connolly, M. (n.d.). Archiving Artists. Retrieved September 12, 2020, from <http://www.meagancon.com/archiving-artists>

³⁶ Having acquired the Mexican architect’s archive and intellectual property as an engagement present in lieu of a ring, Federica Zanco has founded and privately owned the (Swiss) Barragan Foundation. Zanco’s insistence on keeping the archive sealed off from the public in a bunker at Vitra headquarters for 20 years on the grounds that she would produce a CR of the architect. Although Barragan is not a visual artist, the discussion around his estate has been a subject to the multimedia installation work “The Proposal” by the artist Jill Magid. <http://www.jillmagid.com/exhibitions/the-proposal-2>

materials is not immediately apparent, and they are at the peril of being discarded at the death of artists.

Therefore an *in situ* examination of the archive with the artist present appears to be the least faltering approach to assess their significance. It is by extension a shared judgment among the experts (Reed, 2017; Vaknin et al., 2013) that an archive should be kept as intact as possible since all components, regardless of their function, are integral to understanding the artist's process of conception and production.

It must be noted that, unlike the artworks, the archive is a component of the estate that keeps developing in the post-mortem term as a result of the continued activity, such as exhibitions, symposiums, and publications; meaning establishing a clear taxonomy for its contents is all the more crucial.

2.1.3. Tangible Assets: Landed Properties

Among the tangible properties of an estate are the immovable assets, namely the landed properties where the artist has lived and/or worked. The landed property is often considered a part of the archive, since the atmosphere and the configuration of these spaces are as telling as the movable materials the artist leaves behind (Little, 2016).

Suitably, French philosopher Jacques Derrida argues that the word archive, derived from the Greek word *arkh * meaning commencement, finds its other meaning in *arkheion*, that is "initially a house, a domicile, an address, the residence of the superior magistrates, the archons, those who commanded."³⁷

³⁷ From the English translation of "Dem Archiv verschrieben. Eine Freudsche Impression (1997) by Jacques Derrida and Eric Prenowitz: "Archive Fever: A Freudian Impression", in *Diacritics*, 55 Summer 1995. Accessed on October 26, 2020. http://artsites.ucsc.edu/sdaniel/230/derrida_archivefever.pdf

Certain estates like that of artist Claude Monet³⁸ or Louise Bourgeois³⁹ possess, or are able to buy later the landed properties where the artists have lived and/or worked, and preserve these spaces that offer an opportunity to comprehend their *modus operandi*.

2.1.4. Intangible Assets: Intellectual Property Rights

Intangible assets are the legal rights that are designed to protect the intellectual property⁴⁰, such as trademarks, patents, and copyrights. A trademark is geared toward protecting the identifying tokens of a visual artist, like a logo, a slogan, or a pseudonym, whereas a patent is a time-limited property right relating to an invention, like Yves Klein's "IKB"⁴¹.

The copyright⁴² involves the authorship of the artists. It is defined as: "a bundle of intangible property rights, which include the right to control reproduction, distribution, public performance and display, and to prepare derivative works based on the work."⁴³ In principle, they belong to the artists for as long as they are alive, whether the works are sold or unsold, unless there are agreements on the contrary and last up to 70 years after their demise.⁴⁴ It is critical to note that the property of a physical work and its copyright are two distinct assets, and

³⁸ Monet's House in Giverny, that draws approximately half a million visitors every year, demonstrates the cultural and economic potential of landed properties <https://fondation-monet.com/fondation/>

³⁹ A non-profit organization, the Easton Foundation, which was set up in the 1980s by the artist herself owns the studio/house and organizes public visits. For more information: <http://www.theeastonfoundation.org>

⁴⁰ World Intellectual Property Organization, <https://www.wipo.int/about-ip/en/>

⁴¹ IKB is the abbreviation for "International Klein Blue" which was developed by the French artist Yves Klein in collaboration with a paint supplier named Edouard Adam. The artist developed a method whereby he suspended the intensity of ultramarine color by using a synthetic resin binder called Rhodopas M.

⁴² Known as *Droit d'auteur* in the French jurisdiction, the copyright is regulated by organizations such as *Le Conseil supérieur de la propriété littéraire et artistique* (CSPLA) and *l'Institut National de la Propriété Intellectuelle* (INPI).

⁴³ https://www.pittsburghartscouncil.org/storage/documents/visual_artists_estate_plan.pdf

⁴⁴ In Mexico copyright lasts 100 years whereas in China, Japan and Canada a visual artist's work is protected for 50 years (Würtenberger, 20016)

one does not necessarily transfer with the other in the case of an acquisition or inheritance; therefore may belong to different parties.

The regulation of copyright generates debates since it occasionally presents an obstacle to cultural production. On that note, the “Code of Best Practices in Fair Use for the Visual Arts” (2015) effectuated by the College Art Association (CAA)⁴⁵ argues that seeking permission to use copyrighted materials routinely to eliminate legal liability is constraining and even deterrent for artists, scholars and art institutions, especially in a digital age.

The code indicates that, so long as the analytical, pedagogical, and artistic objectives can be justified, the use of copyrighted materials should be subject to certain exceptions to encourage future creativity; stressing that such use contributes to the very protection of materials against decay. It is highly pertinent that it refers to the right-holders like museums as “memory institutions”, morally ascribing them the responsibility of disseminating their material for creativity’s sake. It concludes that where it applies, fair use is a right and not a mere privilege.

There are estates fully embracing the ideal outlined in the code, like the Robert Rauschenberg Foundation, which decided to provide high-resolution images and waive copyright fees for most noncommercial purposes. According to the foundation’s Chief Executive Officer, Christy McLear⁴⁶:

“Professors were making choices of images and teaching based on what images are available. That affects our history. What you teach should be the best pieces, not the free pieces.” (McLear, 2020)

⁴⁵ The code has been based on the data collected from 100 interviews conducted in USA with nearly 12,000 CAA members, in order to identify the criteria for fair use. For further information: <https://www.collegeart.org/pdf/fair-use/best-practices-fair-use-visual-arts.pdf>

⁴⁶ “Why the Rauschenberg Foundation’s easing of copyright restrictions is good for art and journalism”. Source: Los Angeles Times, accessed on October 5, 2020: <https://www.latimes.com/entertainment/arts/miranda/la-et-cam-robert-rauschenberg-foundation-copyright-20160304-column.html>

Notwithstanding the code's framework of goodwill, the abatement of potential revenues⁴⁷ arising from copyright holdings is a question of circumstance; meaning the fair use clause "can undermine one of the few, albeit minimal, income streams available to financially stressed heirs and executors trying to do right by an undervalued estate" (Middleman&Monnahan, 2017). It may also be assumed that through such regulations, the estates not only yield revenue but stay informed of sales and related projects; seizing a chance to supervise those projects' quality and to contribute when necessary.

It should be noted that the intellectual property rights not only cover the works materially produced but extend to those intended by the artists who could not see their completion yet managed to leave directions for their production. These posthumous works, just as their materialized counterparts, embody their intellectual property rights.

2.1.4.1. Moral Rights (*Droits moraux*)

According to the Berne Convention for the Protection of Literary and Artistic Works (1971),⁴⁸ moral rights refer to the indefinite authority⁴⁹ of the author, or their successors to object any unauthorized disclosure, distortion, mutilation or other modification of, or other derogatory action concerning the said work and to claim the mention of the name while protecting it from misattributions.

Under U.S. Copyright Law's Copyright Act, the right to reproduce work in copies and the right to prepare derivative works based on the copyrighted work

⁴⁷ Andy Warhol Foundation for the Visual Arts' annual licensing revenue of \$19 millions puts the monetary significance of copyright into some perspective (Davis, 2017).

⁴⁸ Paris act of July 24, 1971 <https://www.law.cornell.edu/treaties/berne/>; which was amended on September 28, 1979 <https://wipolex.wipo.int/en/text/283693>

⁴⁹ Renaissance man, Leon Battista Alberti presents an interesting case in this context: he had ensured that his works are considered as "coherent, bounded entities to be protected from alterations by subsequent builders, objects that would continue to produce the fame of their author, after death and against time" (Jones, 2017, p.142)

fall under the Moral Rights category. The French legal system is more illustrative and elaborates these rights under four categories.

The Right to Claim Ownership (*Le droit à la paternité*)⁵⁰ asserts the artist's prerogative to demand the mention of her/his name arising from representation, as well as the right to have it published anonymously. The Right to Respect for the Integrity of the Work (*Le droit au respect de l'intégrité de l'œuvre*)⁵¹ assigns the right to defend the integrity of the work from any modification, coloring, destruction, dismantling, aggregation with other elements, and so forth. The Right to Disclosure (*Le droit de divulgation*)⁵² indicates the artist as the sole person to authorize the conditions under which the work is revealed to public, retaining the right to decide when and how the works are presented, even when a work is commissioned. Lastly, the Right of Repentance or Withdrawal (*Le droit de repentir ou de retrait*)⁵³ allows the artist to reverse her/his decision to make a work public, even when the work's exploitation rights are surrendered; but this situation rarely occurs.

2.1.4.2. Economic Rights (*Droits patrimoniaux*)

The economic rights – called *Droit patrimoniaux* in the French legal system – cover the Right of Representation (*Le droit de représentation*); the Right of Reproduction (*Le droit de reproduction*); and the Artist's Resale Right (ARR - *le droit de suite*). As part of an artist's estate, they can be passed on to heirs and beneficiaries by the artist's will.

The former⁵⁴ refers to the artist's right to authorize the communication of the work by any process, including all public presentation, projection, and internet-

⁵⁰ French “*Code de la propriété intellectuelle*”, Article L121-1
<https://www.legifrance.gouv.fr/codes/id/LEGIARTI000006278907/2013-04-08/>

⁵¹ *Idem*, Article L121-1

⁵² *Idem*, Article L121-2

⁵³ *Idem*, Article L121-4

⁵⁴ *Idem*, Article L122-2

based and/or televised representation as the artist sees fit, or its prohibition thereof. World Intellectual Property Organization (WIPO)'s Copyright Treaty requires the authorization of the artist, who is the exclusive owner of copyright by default for all uses in question. Any unauthorized use of copyrighted material is deemed as copyright infringement and is legally actionable. The right to use may be assigned to a third party, like museums that borrow works for exhibitions. They may be arranged on an exclusive or non-exclusive basis, by virtue of a contract precisely stipulating the terms of exploitation.

Secondly, the Right of Reproduction concerns the material reproduction of the work by printing, drawing, engraving, photographing, molding, and audiovisual recording, all of which allow the work to be communicated to the public in an indirect way.⁵⁵ Accordingly, image reproductions, including those in print, digital-born or digitized publications as well as “museum shop” merchandises are bound by copyright law, meaning the holder of copyright retains the right to demand for financial compensation in the event of the utilization of the work, except cases where such use is granted to a third party like a publisher or museum.

Artist's Resale Right (*Droit de suite*) constitutes a very crucial part of the economic rights of visual artists, if not the most. It is a legal notion created in France in 1920⁵⁶ to provide living artists an interest in the commercial value of their work. However, it was only in September 2001 that a directive was developed by the EU Commission to enact a homogenous legislative provision among the 15 member states of the EU, four of which (UK⁵⁷, Ireland, Austria, and the Netherlands) had no such norms until then.

⁵⁵ *Idem*, Article L122-3 and Article 122-4

⁵⁶ Mention in the Berne Convention, as per Article 14^{ter}, amended on September 1979, to be determined by national legislations.

⁵⁷ To note that the UK was a member of the European Union before its withdrawal on January 31, 2020 popularly called “Brexit”.

The Directive, legally coming into force in 2006, foresaw to give the artists the right to a percentage of the profit made on the resale of their works during their lifetime and to their heirs for 70 years after their death.⁵⁸ It also included a retrospectively vested interest to take effect in 2012, for artists who died less than 70 years earlier. It defined the ARR as an “inalienable” right from the artist; including those who are not EU nationals but have their residence within the Union. The artworks to which the ARR would be applicable need to qualify as original and “unique” works and/or their copies, meaning limited editions, so long as they have been numbered, signed, or otherwise duly authorized by the artist.

The reason why it surprisingly took certain countries almost a century to reach a consensus and to adopt the right has lied in the economic conjuncture: UK, like USA have opposed to the provision on the grounds that assigning the royalty to the seller would seriously depress the initial sale prices (Kawashima, 2008) and ultimately damage their trade force; as these countries are also the centers for the modern and contemporary art markets.⁵⁹ Anthony Browne, Chairman of the British Art Market Federation in 2006, argued: “sellers at the top end of the market would take their collections overseas – particularly to the USA and Switzerland, where the Artist’s Resale Right (ARR) does not exist.”⁶⁰

Another article written by Lydiate⁶¹ in 2001⁶² touches upon the opposition voiced by artists who thought such law would “inhibit their freedom to dispose

⁵⁸ The beneficiaries and heirs of deceased artists are entitled to royalties by virtue of Amendments to the ARR Regulations that came into force on January 1, 2012.

⁵⁹ Kawashima recounts the study conducted by Kusin & Co. (2005), published by TEFAF showing that a total of 8,423 artists in the auction market worldwide in 2003 would have been eligible for ARR. When broken down to percentages, it shows that US is leading with 61.5%, UK coming in second with 26.9%, only to leave a mere 7.4% to be distributed among Belgium, Denmark, Finland, France, Germany and Sweden who enforced the right in 2003, respectively.

⁶⁰ Anonymous (2006). “Money for art’s sake”. *Crafts*, 198, 72.

⁶¹ Henry Lydiate is a UK-based lawyer and scholar specialized in international intellectual property rights and artist estates Lydiate began writing his Artlaw column for Art Monthly in 1976. Between 1976-1978 he conducted The Artlaw Research Project to understand the legal needs of visual artists in UK, after which he founded Artlaw Services to lead a team of pro

of the works as they pleased” and even mentions a counter-lobbying campaign titled “Artists Against Droit de Suite: the European Directive Violates Artists’ Human Rights”, which included well-known artists such as Karel Appel, Georg Baselitz, Sir Anthony Caro, David Hockney and Sigmar Polke. It was argued that the ARR would place a burden on non-established artists outside of the secondary market by obliging them to “forgo a portion of their income for a possibly larger income in the future” (Filer, 1984).

In return, organizations such as European Visual Artists and DACS asserted that it is “reasonable to compensate for the cost of missed opportunity, allowing artists to participate in the profit made” because the true value of a work is often understood later and that the reputations of artists enhance over the years in tandem with their expanding work (Kawashima, 2008). These arguments were endorsed by the idea that the profit made through copyright can finance the creation of exhibitions, scientific research on the artists, and the dissemination of their oeuvre (Rolin, 2017).

Today, the discussions over the implementation of ARR continue in the U.S. Despite the fact it has been on the agenda⁶³ since the late 1970s, the idea of allowing the artists a share of the profits in the secondary market has been largely rebuffed except in the State of California.⁶⁴ In 2018, the “American Royalties Too” (ART) Act as the most approximate version of its European counterpart to date, has been proposed but is yet to be enacted.⁶⁵

Across the pond, the remuneration of ARR royalties to visual artists or their heirs who are nationals or residents of the U.K. and countries in the European

bono art lawyers until 1983. In 1984 he co-founded the Design and Artists Copyright Society in UK. He continues to consult artists and Estates as well as art institutions worldwide.

⁶² Lydiate, H. (2001). EU Directives: Copyright & Resale Right. *Art Monthly*, 251, 49.

⁶³ Visual Artists’ Residual Rights Act, introduced in 1978; Visual Artists Rights Act (VARA) in 1986 and 1987 and reports of U.S. Copyright Office issued in 1992 and 2013.

⁶⁴ The California Resale Royalty Act (CRRA) was institutionalized in 1977, although “inconsistently enforced” (Salisbury, 2019)

⁶⁵ <https://www.congress.gov/bill/115th-congress/house-bill/6868/text>

Economic Area (EEA)⁶⁶ is in place since 2006. They are contingent on the resale price⁶⁷ with a cumulative scale sliding from 4% to 0.25%, and are applicable under the condition that the copyrighted artwork is subject to a subsequent sale after its first transfer of ownership, in a country where ARR is in place and that it is sold through the involvement of an art market professional above the qualifying threshold of €1000.

Currently there is DACS⁶⁸ and ACS⁶⁹ in the UK; VAGA⁷⁰ and Artists Rights Society⁷¹ in the USA; and ADAGP⁷² in France, which administer the copyrights and intellectual property on behalf of their registered members – artists, estates, beneficiaries, trusts, and foundations by tracing sales, collecting the royalty fees and distributing them to the artists and their beneficiaries.

2.1.5. A Brief Review of Inheritance Tax and Tax Optimizations

While the essential portion of the estate work involves the upkeep of tangible assets and sustaining the artist's artistic legacy through the attached intellectual property rights vested in the legatees, resolving the financial liabilities appears as the prerequisite for assuming such work. In that respect, these liabilities may be considered the integral elements of the visual artist estates.

As the artworks – including the personal collections built with the works of fellow artists – are ratable goods like other material properties, inheriting an estate may engender a financial burden for the beneficiaries. It involves

⁶⁶ Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden.

⁶⁷ For commercial galleries, the sale price minus VAT, for auction houses the hammer price (sale price minus VAT and Buyers Premium) is taken into consideration.

⁶⁸ <https://www.dacs.org.uk>

⁶⁹ <https://artistscollectingsociety.org>

⁷⁰ <http://www.vagarights.com>

⁷¹ <https://arsny.com>

⁷² <https://www.adagp.fr/fr>

complex financial procedures, which are oftentimes too challenging for the legatees, who find themselves in a “Catch-22” situation where they have to resolve a financial deadlock and keep honoring the wishes of the artists, as in the case of painter Donald Judd’s children⁷³ who had to find ways of keeping the estate as intact as possible (Delistraty, 2018). Similarly, the *cause célèbre* of Robert Rauschenberg’s work *Canyon*⁷⁴, which was prohibited from selling, yet was valued at \$65 million by IRS, reveals the paradoxical substance of the taxes imposed on heirs.

As such, the artists may opt to give away their estate’s assets in the form of gifts (*inter vivos* transfers) in order to avoid encumbering the heirs with a significant inheritance tax (IHT).⁷⁵

This gifting option entails Capital Acquisition Tax (CAT), which arises on the receipt of assets. In Europe, CAT ranges from 5% to 60%, depending on the beneficiaries’ level of kinship to the artists and local regulations.⁷⁶ In U.S. the top gift and estate tax rate is set at 40%, excluding the state taxes. A tax deduction on works is possible if the copyright is transferred along with the gifted work⁷⁷.

⁷³ Rainer and Flavin Judd each inherited three hundred thousand dollars, but also millions of dollars in debt. Judd had stipulated in his will that his properties in Marfa, Texas, and in Manhattan’s SoHo neighborhood be maintained in the way that he had painstakingly installed them. In 2006, they decided to sell thirty-six of their father’s works at Christie’s in New York, selling twenty-five in just one night in order to secure the rest of the estate assets.

⁷⁴ The work, owned by the artist’s wife Ileana Sonnabend included a taxidermied bald eagle affixed to the canvas, which was under protection by the Bald and Golden Eagle Protection Act of 1940. Sonnabend was granted a special permit to keep the work but was prohibited from selling it. After Sonnabend’s death, the work on indefinite loan at MET was inherited by her children who partially sold the collection to create funds for the state inheritance taxes however could not dispose *Canyon* to comply with U.S. federal law. However the U.S. Inland Revenue Service (IRS) had valued the work at \$65 millions, requiring the heirs to pay a total of \$40.9 millions inheritance tax.

⁷⁵ In U.K., the IHT may apply on gift(s) made to natural persons during the lifetime of the artist, whereas gifting to a trust while alive is subject to 20% and after death rate is 40%.

⁷⁶ Deloitte, 2016, Fine Art – Direct and indirect taxation aspects: A masterwork of complexity. Accessed on November 6, 2020. Source: <https://www2.deloitte.com/content/dam/Deloitte/lu/Documents/financial-services/artandfinance/lu-en-artfinance-taxmatrix-16092013.pdf>

⁷⁷ Lerner and Bresler, Art Law 2005, pp.1767f, as cited in Würtenberger (2006).

Should the beneficiaries dispose of an asset and make a profit thereof, a certain Capital Gains Tax (CGT) is applied on the gain; however, its percentage varies according to national tax structures and the duration of retaining the artworks⁷⁸.

In this context, taking out a life insurance policy appears conceivable for the artists, as the proceeds could be used to cover any tax due. Or, the assets may be handed over to the beneficiaries “in installments” within the tax-free margins. The estate can also challenge the appraisals by presenting a notion of “realized value”, demanding to pay the taxes only at the event of a sale, until which the works are classed as assets (Laws, 2018).

The “Acceptance-in-Lieu” program in the U.K. is designed to provide the heirs a tax deduction in exchange of bequeathing works to a public institution, where the full market price of works is cut from the taxes due. An essential aspect of such program is that it boosts the public collections (Wood, 2014). In one sense, it simultaneously provides a solution for taxes and representation, but it also means sacrificing the potential revenues.

The tax law in Mexico has a similar program with U.K.’s “Acceptance-in-Lieu”, dating back to 1957, which allows the visual artists to endow a portion of their annual artistic production as an alternative to paying taxes in cash. While this does not imply an exemption or deduction in the strict sense of the word, it is a tax optimization that is designed to relieve the burden of living artists while generating a significant contribution to the state art collection.⁷⁹

⁷⁸ For instance, capital gains on the disposal of art assets are generally fully taxable in Germany, except the cases where the artworks are held for a period less than a year by a natural person, whereas in France 5% tax is applied for all sales exceeding €5,000 as opposed to Switzerland where there is no tax related to the disposal of private assets. In U.K., CGT rate for individuals is 18% or 28% while in USA works held up to one year are subject to 39.6% or taxed at a rate of minimum 28%, if they are owned longer than a year. Deloitte, 2016.

⁷⁹ Wood reports that the program had garnered Mexico State a total of 4,394 artworks by the time of his article in 2014. <https://www.forbes.com/sites/robertwood/2014/09/10/paying-tax-with-art-is-legal-in-uk-mexico-why-not-in-us/?sh=7b92663e43d5>.

Ultimately, a tax deduction or exemption may be granted to artists or estates; generally on the condition that these entities are benefitting to the public by making the artworks and other related estate assets public and setting up an entity that is benefitting the public with charitable purposes, as explained below.

2.2. THE MANAGEMENT OF VISUAL ARTIST ESTATES

The visual artist estates are often entrusted to certain other forms of administration by the artists themselves or by virtue of their will after their death, so that they continue to exert their persona, reflections, and ideals in integrity. These administrative forms are thus taken as the very extensions of the estate, in fact as their “afterlife” versions.

In the stewardship of visual artist legacies, Drosdick (2020) distinguishes that “preservation contains something in its moment, conservation strives to let it live on.” The estates of visual artists and their legacies can indeed live on, if strategies are implemented for the present and the future, which see to honor the artists’ wishes while contextualizing works through a continuous dialogue with an engaged public. Jones takes this a step further with an analogy:

“An appropriate caretaker is not an undertaker embalming the *corpus* along with the corpse. Rather, the sensitive executor is like a gardener, familiar with art’s ecology, tending the work that remains, balancing the compost of images, discourse, and materials that generate the capacity for new readings with exhibitions, careful collection placements, and even an openness to contemporary artistic appropriations that keep the original alive.” (Jones, 2017, p.144)

The artist families may be considered as the primary caretakers of an artist’s legacy given their sentimental investment. However, their foreseeable financial

expectations from the estate may affect their impartiality. By contrast, the professionals in visual arts, art law or finance may achieve certain objectives, but they may lack the affection and deeper understanding the families would naturally possess.

In such circumstances, a conflict of interest may occur, for instance, dealers may “cherry-pick” the marketable or profitable works and disregard the rest. The consensus is that the estates are best managed through a board of executors comprising both parties so that the artist legacies, as well as the value of the estates, are enhanced. (Delistraty, 2018; De Oliveira, 2020)

The visual artist estates operate according to two elective temporal models. The first option is the “sunset model” which implies the dissolution of the estate as soon as its objectives are met, such as completing the *Catalogue Raisonné*, the digitization of an archive, or liquidating its assets through sales or donations, including those made to the foundations of the artist or other institutions.

The second one is the “eternity model” (also called “in perpetuity model”), which suggests a longer interval of activity, during which a separate legal entity is created in order to nurture several different causes and individuals within the framework of estate’s mission.

With that in mind, an estate may be administered according to its either profitable or non-profitable objectives. The former commonly indicates to the private administration and limited companies. The latter objective predominantly suggests the charitable trusts and private foundations, most notably the Artist-Endowed Foundations (AEFs).

Before delving into the forms of estate management, it will be helpful to explore the artist’s will as the chief source of reference that ensures the upkeep of the estate work in accordance with the artist’s wishes.

2.2.1. Artist's Will as The Primary Guideline

A will is the legal declaration of a person's mind or wishes as to the disposition of property to take effect at death; hence the ultimate tool of the visual artists, legitimizing the criteria for the management of their estates and legacies.

Drawing up a will is a complex process wherein the artist should address numerous and often sensitive questions and engage in multiple dealings with professionals outside the artistic practice. However grueling, abstaining from undertaking such a project may be detrimental for the estate. In the lack of a (valid) will, the artist would be considered to have died "intestate," meaning all assets, including all personal property, artwork, moral and economic rights as well as money, would go through the probate court in accordance with the intestacy laws⁸⁰ of the country/state where the artist's domicile is located, too often regardless of the artist's wishes. Furthermore, the proxies of the artist drift into a bureaucracy while pursuing the Grant of Probate, which bestows the right to administer the estate. When appointed by the court, they are still to follow the probate court's formalities and cover for the funeral expenses, debts, taxes, and liabilities, after which they would dispose of the assets of the estate according to the intestacy rules laid down by law.⁸¹

From this thesis's perspective, the absence of this pivotal guide may result in "a lesser posthumous exposure" in comparison with the recognition gained in

⁸⁰ For intestacy laws in the U.K. see: <https://www.gov.uk/inherits-someone-dies-without-will>; for the legislation in France, see: <https://www.notaires.fr/fr/donation-succession/succession/droits-de-succession-ordres-des-héritiers-et-barème-des-droits-de-succession>; and for the State of New York of U.S.A., see: <https://www.nycourts.gov/courthelp/WhenSomeoneDies/intestacy.shtml>

⁸¹ According to the New York State court for instance, in the absence of a will and thus an appointed executor of the will, the decedent's spouse has a prior right over her/his children for the proceeding of the will. If there is no surviving spouse, then the children of the decedent have equal rights to each other. If these surviving relatives of the artist with the prior right refuse to administer the estate, they can sign a renunciation and a waiver, howbeit their shares of the decedent's estate are retained. <https://www.nycourts.gov/courthelp/WhenSomeoneDies/intestacy.shtml>

the artist's lifetime (De Oliveira, 2020). Without the artist's clear, written instructions, the future custodians of the estate – curators, in the original and proper sense of the word – may not be reassured whether their actions are contributing favorably to the artist's reputation or not.

The artist, therefore, remains as the principal figure of the will and the most competent person to formalize the future estate infrastructure by designating the administrative format in which her/his legacy should be continued; the executors and the beneficiaries of the estate. The will must invariably convey these resolutions and respond as to where and how the artistic assets should be stored; which assets should be made public and restricted thereof; whether the artworks are to continue generating income through reproductions, posthumous castings, editions as well as economic rights attached to them; if there are donations to be made and so forth.

Since the will may only be drawn up while the artist is alive, it may seldom be deemed final, meaning the artist's ongoing production and/or new acquisitions would result in a propagation of the concerned estate. Comparably, artist's intentions or assessments regarding his will may change due to external factors, e.g., marriage, adoption, birth, death, retirement, or a change of financial circumstance. Under these probable conditions, the artist may choose to revoke the existing will and replace it with a new one, or supplements called "codicils" may be appended to the existing will to effect modifications.

In all cases, these applications need to comply with formal requirements claimed for the execution and validity of the will itself, in order to avoid faults and pitfalls like leaving multiple wills behind. Usually, a legal attorney assists the artist in planning the estate and the drafting of the will. It is thus imperative that the selected attorney is not only knowledgeable about the art law and artist's work but also understands and shares the vision of the artist.

To prevent potential disputes, a will would ideally specify its executors, the heirs⁸², legatees⁸³, devisees⁸⁴ and other types of beneficiaries⁸⁵ including the public, nonprofit organizations along with the detailed provisions made in their name. It would also address whether the artist wishes any artworks to be endowed and distributed among them, and correspondingly mention those who should be excluded from receiving what. While doing so, it must be kept in mind that the physical artwork and the copyright embodied in it are two distinct entities, as explained in chapter 2.1.4.

Having said this, notifying the beneficiaries and receiving their consent is crucial since these endowments are not always welcomed. (Picton, 2020) This is particularly the case for under-celebrated artists.⁸⁶ As Saul Ostrow⁸⁷ (Grant, 2018) notes, these gifts are often turned down by museums, and the estate executors need to go to court to break the will. Even when the donations are initially admitted, the works are still at the peril of “deaccessioning” from the museum collections; an act that essentially damages the reputation of the late artists, negating and betraying their trust all at the same time (Armitstead, 2020; Finkel, 2009; Morales Gomez, 2017).

2.2.2. Private Administration of Estates

The estates of visual artists may be managed privately by their heirs and beneficiaries appointed in the artist’s will. In this case, the estate is flexible in

⁸² A person designated by law to succeed to the estate of a person who dies intestate (without a will). https://www.pittsburghartscouncil.org/storage/documents/visual_artists_estate_plan.pdf

⁸³ The person(s) to whom a legacy – a gift of personal property – is bequeathed by a will, *ibid.*

⁸⁴ The person(s) who receive(s) a gift of real estate by a will, *ibid.*

⁸⁵ The person(s) who inherit(s) a share of the decedent’s estate; or receives a beneficial interest under a trust, insurance policy, or retirement plan, *ibid.*

⁸⁶ The Art in Perpetuity Trust, established in 1995 in United Kingdom is an exemplary organization that strives to place the works of unrecognized artists. For more information: <https://www.aptstudios.org>

⁸⁷ Art Legacy Planning is a company founded in New York by art consultant Mart Dinaburg, critic Saul Ostrow, art historian Kathy Battista and financial planner Bryan Faller, providing estate management services to artists and art collectors. For more information: <http://art-legacy.com>

its activities as private property and has a profitable object, meaning it is subject to inheritance tax (IHT) as well as income tax (CGT), whenever a sale of estate assets takes place.

However, this administration method is not recommended for estates of established artists since it is prone to disputes among heirs.

2.2.3. Limited Liability Companies

A Limited Liability Company is a separate legal entity and a profit-oriented administration method. This type of administration is favored when artists wish the production of their works to continue posthumously; particularly if their medium allows to be reproduced for editions as in sculptures, prints of engraving, etching, photography, lens-based new media works and so forth.

Barry Flanagan Estate, for instance, is set up by the sculptor according to the “in perpetuity” estate model and as a commercial trading entity, which would proceed with the casting and stamping of his sculptures until all declared editions are complete. (Laws, 2018).

2.2.4. Trusts

A trust is essentially a private venture and may remain confidential since it is not obligatory to have them registered or made public as in separate legal entities. It imposes the administrative duties upon a designated individual called “trustee,” who legally owns the segregated trust assets on behalf of the beneficiaries without merging them with her/his private property.

In the context of visual artist estates, trusts deviate from the modality of Private Estate Administration in the sense that the artist, called “grantor”, devises a plan for the future by transferring certain assets like artworks, copyrights, real

estate, and insurances to the trust, instead of leaving them in the hands of family and/or others (Würtenberger, 2016).

A trust may be created and rendered operative during the grantor's lifetime (*inter vivos* trust) or may go into effect upon her/his death (testamentary trust). Viewed in this way, the notion presents a similarity with the will, especially in the case of "Revocable Trusts" which can be terminated and whose property can be recovered with estate tax consequences: upon the artist's death, the trustee disposes the assets among heirs and beneficiaries according to the terms of the trust, hence a substitute of the will.⁸⁸ An important example of this type is the Robert Rauschenberg Revocable Trust (RRRT), which later dissolved and transferred the assets to The Robert Rauschenberg Foundation.⁸⁹

By contrast, in an "Irrevocable Trust" the grantor waives the rights to revoke the trust. This allows the trust to be established as a "Charitable Remainder Trust" which qualifies for income, gift, or estate tax deductions by proclaiming charitable and private benefit (split-interest) functions.

This type of trust generates liquidity through the controlled sales of assets it holds, and with that income, provides for⁹⁰ one or more natural beneficiaries, typically to the family of the artist for a period of time or for life; then upon termination of this portion, pays the remainder over to a designated charity. In that respect, charitable trusts are considered like private foundations in the U.S. (Würtenberger, 2016).

⁸⁸ https://www.pittsburgharts council.org/storage/documents/visual_artists_estate_plan.pdf

⁸⁹ The legal dispute of the RRRT trustees with the Foundation regarding their fees is an exemplary case, revealing the potential input of trustees. For more information: <https://itsartlaw.org/2014/10/29/rauschenberg-estate-saga-of-trust-and-fees-explained/>

⁹⁰ If the portion of payout made to beneficiaries is based on a fixed percentage of the value of assets held in trust that is annually recalculated, it is called a "Charitable Remainder Unitrust". If however, the amount paid to beneficiaries is a fixed amount, it is called "Charitable Remainder Annuity Trust". In both cases, the trust qualifies for tax deductions due to the portion that is paid to charities.

An important example for collective trusts is the Artist Pension Trust (APT) that was founded in 2004. Having signed over 2,000 artists worldwide and amassed some 13,000 works, the trust proposed that “pooling the proceeds from sales of the art will allow for a steady stream of revenue to be returned to participants;” however the trust has received a backlash in 2017 for its amendment that required the artists to pay for the storage of their art, or to store the works at their own expense. (Kinsella, 2017) This incident has revealed not only the financial precarity of visual artists but also the potential disputes that may arise when estates are managed merely with a business perspective.

2.2.5. Foundations

Foundations are elementarily defined as tax-exempt charitable organizations. Those two attributives are reciprocal notions, meaning the exemption of tax is contingent upon the public benefit. In other words, the income of a foundation is not taxed so that the entity can allocate this amount for its charitable purposes. They are set up by deeds of trust and require trustees, among which may be the estate’s beneficiaries to ensure the fulfillment of moral duties.

A foundation may be created and funded by the general public, like universities and museums, which is then called a “public charity”. From the view point of visual artist estates however, the pertinent type is called a “private foundation”, meaning the organization is founded either by an artist (*inter vivos* setup)⁹¹, or by their families according to the artist’s will (testamentary setup), or by other beneficiaries (posthumous setup). A private foundation usually takes over the estate’s tangible and intangible assets for employing them in diverse charitable activities designed to serve a public benefit. As such, these assets are called “charitable use assets” in contrast to “investment assets” which imply they are put up for sale with the expectation of a profit.

⁹¹ It is possible to argue that the *inter vivos* and testamentary setup models would reflect the artist’s wishes and intentions best, like the Robert Mapplethorpe Foundation and its AIDS cause.

Given the transaction of assets from the estate to the organization, these foundations are dubbed as “Artist-Endowed Foundations” (AEFs). By the same token, they are often confused with the privately administered estates or family collections; however, as charitable legal entities, AEFs are scrutinized and strictly regulated by the law,⁹² particularly against “self-dealing,” which refers to any activity that benefits the insiders.

Christine J. Vincent (2019) outlines the functions of AEFs under three⁹³ main categories: The first is the “Grantmaking Foundations” which solely provide grants to support non-profit organizations and individuals without employing its charitable use assets, like The Andy Warhol Foundation for the Visual Arts (AWFVA).⁹⁴ The second is the “Study and Exhibition Foundations” which directly puts its charitable use assets into use and for scholarly research, publications, and exhibitions, like the Irving Penn Foundation.⁹⁵ The third one is the “Comprehensive Foundations” which adopts the combination of these objectives and furthers its engagement with the artistic community through artist residency programs, like the Joan Mitchell Foundation.⁹⁶

AEFs explained above have been increasing in number since the Postwar period, and more so in the first half of the 2010s,⁹⁷ particularly in the U.S.A.⁹⁸

⁹² In U.S.A. under federal tax code, foundations as tax-exempt charity organizations are obliged to disclose their donors and gifts and they are subject to the annual payout requirement, which is calculated according to the total value of assets. If assets in question are designated as “charitable use assets” they are not taken into consideration when calculating the payout figure.

⁹³ Vincent indicates a fourth category of AEFs under the title of “Estate Distribution Foundations” which is essentially the “Sunset Model” explained above, which lasts when the estate’s objectives are met. This model is opted for smaller estates that cannot afford an “In Perpetuity” model.

⁹⁴ <https://warholfoundation.org>

⁹⁵ <https://irvingpenn.org>

⁹⁶ “Creating a Living Legacy” (CALL) program of the Foundation provides support for the older artists for the establishment of their archives and inventory management since 2007.

<https://www.joanmitchellfoundation.org>

⁹⁷ <https://news.artnet.com/art-world/ongoing-artist-as-philanthropist-report-tracks-the-rise-of-endowed-foundations-1463578>

due to several factors. One of these factors concerns the philanthropic interests of the artists whose foundations support the artistic and educational ventures through diverse activities and sustains “bloodlines” at a time when federal funding for arts is decreasing (Berghoff, 2014). Berghoff touches upon a crucial aspect of the AEFs: supporting experimental artists and art forms that lack mass appeal is a shared legacy of AEFs who “give back” through their means.

By extension, De Oliveira brings up a radical perspective on the second factor:

“...desire to support like-minded practices (...) underlines not only a generosity of spirit, but presents also an example of continued co-authorship, which does not solely reside in the body of a work, but in the impact and influence it has on the wider cultural field”. (De Oliveira, 2020)

A third and self-explanatory factor is the charitable deduction of taxes that are used for promoting the artist legacies, which then brings the whole context of estates full circle: Charitable causes like grants and residencies, albeit crucial and endorsing, are not as elucidative for the artist’s persona and body of work. On that basis, an AEF functioning under a private foundation often morphs into a private museum by establishing a separate public charity or by entirely converting to the public charity status, both of which allow the general public to engage with the foundation as benefactors on more favorable terms for tax (Vincent, 2019).

2.2.5.1. Artist Museums

As discussed in the first chapter of the thesis, the artistic estate comprising the artworks, the archive, houses, and/or studios is the principal tool that relays the art historical account of the artist. That being the case, a private museum is

⁹⁸ <https://www.aspeninstitute.org/programs/program-on-philanthropy-and-social-innovation-psi/artist-endowed-foundations-initiative/>

arguably the *beau idéal* of many artists: it keeps their works and archive together, cross-referencing one another; focuses exclusively on the artists while showcasing diverse layers of their work; which in turn promote their legacies.

As indicated by Würtenberger (2016), private museums of visual artists too often indicate a regional connection due to the third-party sponsorships they necessitate, like the Andy Warhol Museum in Pittsburg; the Munch Museum in Oslo; the Van Gogh Museum in Amsterdam; or The Joan Miró Foundation in Barcelona, among numerous other examples. She explains that an artist being a local of a country, province, or municipality, would often attract fellow citizens, businesses, and local authorities to endorse these museum projects.

Since the Postwar period, the living and working spaces of the artists are increasingly seized upon as settings for private artist museums given their authenticity, which allows investigating the creative processes of the artists and visualizing their personal lives. According to the Artist's Studio Museum Network (ASMN)'s 2019 survey,⁹⁹ over half of "studio-museums" are founded after the 1950s, and nearly the quarter since the 2000s, while 29% of these were founded by the artist or initiated on account of their will by their families. Another important piece of data concerns the ownership of these museums and indicates that 40% of these belong to either a trust or a foundation.

Through temporary exhibitions, public and educational programs, research projects¹⁰⁰ academic partnerships¹⁰¹ and artistic residencies,¹⁰² these institutions, whose visitors are mostly (over 75%) domestic, underline a

⁹⁹ The study is conducted among 151 member museums from 23 countries by the ASMN, and has been initiated in the U.K. Accessed on December 10, 2020. For more information: https://www.artiststudiomuseum.org/media/file/ASMN_2019_Survey_Report_Magnus_von_Wistinghausen.pdf

¹⁰⁰ According to the survey, 86% of the studio-museums hold archives.

¹⁰¹ The study shows that 56% of the studio-museums are engaged in academic partnerships; 29% are collaborative exhibitions, 27% are research projects and 37% correspond to research seminars.

¹⁰² While the 81% of the artist-museums work with contemporary artists, 23% of these grant residencies regardless of their size.

correlation between their activities and their local public outreach, which then conceivably translates into their native discourse of art history.

2.2.6. External Representation of the Estates: Commercial Art Galleries

The visual artist estates often manage, promote, and deal their artwork assets through diverse modalities, as explained above. Yet, they may deliberately keep their distance from commercial activities and opt to entrust this task to a professional dealer or a commercial gallery, which usually represents the artists during their lifetime. Representation usually refers to a non-exclusive consignment relationship with a contract indicating the commission rates, and which allows to be periodically revised.

It is possible to argue several reasons why a commercial gallery collaboration is more appealing for the estates: galleries may help to digitize the archives, compile publications, store the works, and mediate on behalf of the estates with museums in addition to exhibiting the works. Moreover, as Gleadell (2009) indicates, the representation of a certain gallery “can impact quickly on the market,” meaning the market value of works may soar in the wake of such affiliations. This has been the case for Lee Lozano¹⁰³, whose paintings have substantially increased in price after Hauser&Wirth signed her; yet the estate’s manager Barry Rosen points out to a greater goal, namely the re-writing of art history¹⁰⁴ (Taylor, 2009). Indeed, the artists may be re-contextualized in relation to the gallery’s legacy and the fellow artists in the roster. The same article of Taylor reports that the Alice Neel Estate reckons their liaison with David Zwirner as a move towards placing the artist in the contemporary context rather than a historical one.

¹⁰³ American artist Lee Lozano (1930-1999) is known for her paintings and conceptual and performance works.

¹⁰⁴ Taylor notes the direct relation between galleries and art history writing through the example of PaceWildenstein’s president Marc Glimcher, who owns the publishing company Artifex Press. The company dedicated to creating digital CRs has worked on the projects of artists represented by Pace, like Agnes Martin and Sol LeWitt.

Since the beginning of the 2000s, however, it became evident that the galleries are implicitly after signing visual artist estates. A general motive is maintaining close relationships with the established estates, thus controlling the remaining unsold works, namely the supply, and by extension, having a certain authority, at times even a monopoly over the artists (De Oliveira, 2020). A remarkable example of this position is the Ropac Gallery¹⁰⁵ who has become the sole representative of Joseph Beuys Estate globally at the close of deliberations, which lasted five years (Duponchelle, 2018). Estates whose works have “art historical merit that had not reached their full market potential” (Hanson, 2017) have also come under the radar as new resources for the primary market since most secondary market artists are already signed by galleries.

Such collaborations are widely considered mutually beneficial: the galleries keep the artists and their work relevant by fostering contemporary critical attention and derive benefit from their achievements in return, which invigorate the gallery program as a whole. Even so, the gallery-estate collaboration is not immune to conflicts of interest since both parties have distinct natures and very distinct priorities. A striking example is the Francis Bacon Estate and Marlborough Fine Art’s case, where the gallery had also assumed the execution of the estate and was accused of grossly undervaluing and plundering the estate, hence the violation of fiduciary obligations.

2.2.7. Exit Strategies: Institutional Donations

Due to constraints of budget, space and/or time, or because the heirs prefer to surrender their obligations, visual artist estates may be donated partially or

¹⁰⁵ Founded in 1983 by Thaddaeus Ropac, the galleries have spaces in London, Paris, Salzburg and Seoul: In addition to the exclusive representation of Beuys Estate, the gallery represents the estates of Rosemarie Castoro Estate, Harun Farocki Estate, James Rosenquist Estate, Sturtevant Estate as well as Robert Mapplethorpe Foundation, Irving Penn Foundation, Robert Rauschenberg Foundation and Emilio Vedova Foundation. For more information: <https://ropac.net>

entirely to institutions like universities, museums, and public archives.¹⁰⁶ The Philippe Vandenberg's archive, for instance, is donated to the Gent University Library¹⁰⁷ in the artist's native city, whereas the Mayen Beckmann has donated her grandfather, Max Beckmann's archive and library to Munich's Pinakotheken.¹⁰⁸

This transfer of ownership is sometimes an emotional process for the artist families and can seem like “another death as the material remains of the practice leave the premises, heading towards vaults” (Reed, 2017).

However, all things considered, this externalization usually contributes to the legacy of the artist: Being included in the public database of an established institution underlines the historical significance of the artist, ensures the long term conservation of their donations, and enables access, promoting research (Connolly, n.d. & Vaknin et al., 2013).

¹⁰⁶ It is worthy to note that certain institutions like NIVAL in Ireland and, INHA and IMEC in France are rather interested in the documents revealing the circumstances in which works have emerged. These include audio-visual documentation pertaining to artworks, press releases, invites, press clippings, exhibition reviews, brochures, price lists and small-scale catalogues & gallery plans, exhibition programs, correspondences, letters, financial notebooks, diaries, visitor books, photographs, research notes, materials and other personal memorabilia/ephemera of sentimental value.

¹⁰⁷ Accessed on December 7, 2020: https://lib.ugent.be/fulltxt/RUG01/002/305/757/RUG01-002305757_2018_0001_AC.pdf

¹⁰⁸ Accessed on December 8, 2020: <https://www.artforum.com/news/munich-s-pinakotheken-receives-donation-of-max-beckmann-s-personal-effects-66949>

CHAPTER 3

3. THE CASE OF VISUAL ARTIST ESTATES IN TURKEY

As explained in the previous chapter, the estates of visual artists have gained significance in tandem with the growth of global art market from 1970's onwards, in view of their implication on art history and by extension, on cultural and artistic heritage. The assets of estates have begun being reckoned as the raw material for writing an accurate and comprehensive historical account of the artists and as bequests of collective memory rather than mere commodities in the art market. Consequently, the artistic milieu in the countries where estates gained recognition have begun establishing paradigms and ethics for the management of estates, constituting conferences and publications, or forming institutional entities which would help to orchestrate the estates in the best interest of the artists and public.

In this chapter, the context in Turkey will be explored to determine, to what extent the concept of visual artist estates is apprehended and whether there are any measures or regulations in place to preserve and promote the legacies of artists. Ultimately different cases of legacy stewardship will be inquired under six different categories to ascertain their approaches and problems regarding visual artist estates in Turkey.

3.1. THE HISTORICAL BACKGROUND OF THE CONCEPT

In Turkey, the 1980's mark a boom in the artistic sphere and its integration in to an operational art market in tandem with the neoliberal global economic policies. However, before delving into the 1980's, it will be helpful to briefly examine the historical background of the development in the artistic milieu and the pursuits of its stakeholders in Turkey.

The gist and cognizance of artistic legacies is essentially found in the last period of the Ottoman Empire. In his book “L’art ottoman”, Adolphe Thalasso writes on the first Istanbul Salon, which took place in 1901, and recounts that a group of artists comprised of the non-muslim instructors at *Sanayi-i Nefise* School¹⁰⁹ have organized the exhibition, and that they have also contributed financially to the project in order to “transfer their oeuvre to next generations”. Journalist and critic Regis Delbeuf, who is among the organizers of the Salon propounds that the artists are the absolute authority for pricing their works given they are the true owners of their *oeuvre* (Sinanlar Uslu, 2010 as cited in Rastgeldi, 2019). This period also sees the founding of the Ottoman Association of Painters¹¹⁰ with court’s support. It is noteworthy that the association has regulated the sales of their exhibitions with a program (Öz, 2013), however the emphasis has been laid on creating a market interest and demand for arts rather than the preservation of heritage.

At the turn of the century, the political and social transformation to modern Turkey has resulted in the stagnation of cultural activities in the first period of republic, due to the shortage of financial means as well as the scarcity of court elites and intelligentsia who demanded art, but had fled the country (Üstünipek, 1998). Right after the foundation of the republic, the state has devised new policies to create domestic capital as well as “to cultivate a national and local bourgeoisie, which was seen as the fundamental mechanism of progress and modernism” (Boratav, 2009 as cited in Rastgeldi, 2019).

In the same period, the state has given weight on cultural policies based on its objectives of modernization and Westernization, in order to reconstruct the country through the cultural revolution (Korur, 2008, p.12) and endorsed the

¹⁰⁹ “The Imperial School of Fine Arts”, founded by Turkish archeologist, art historian, curator and artist Osman Hamdi Bey in 1882.

¹¹⁰ *Osmanlı Ressamlar Cemiyeti*.

activities of State Painting and Sculpture Exhibitions, Galatasaray Exhibitions, Fine Arts Association and community centers “halkevleri” scattered around Anatolia; furthermore scholarships have been granted to artists¹¹¹ to enroll in foreign art academies, particularly in Germany and France (Korur, 2008, p.63) in order to stimulate supply and create demand for visual arts across Turkey. That said, the visual artists in Istanbul who were exposed to European artistic environment through the aforementioned scholarships abroad, have formed artistic groups like Independent Association of Painters and Sculptors and d Group.

The initial examples of privately owned, commercial art galleries emerged in this period: the “Taksim Permanent Painting and Sculpture Gallery” opened in February 1939 but the building was demolished shortly after. The ceramic artist İsmail Hakkı Oygar’s gallery in his studio space was another notable venture in terms of the initiatives the artists took but could only continue its activities for two years. (Öz, 2013; Rastgeldi, 2019). Coincidentally with the regression of state patronage, the private art galleries began appearing in Turkey after 1950’s and exhibitions focusing on individual artists have gained momentum.

Founded in 1950 by Adalet Cimcoz, Maya Art Gallery has been a pioneer in the field. It was perhaps the first professional commercial art establishment in the country that organized solo exhibitions and cut 25% commission from the sales to sustain the gallery. In return, the Gallery not only promoted artists¹¹² but also supported them and brought them in direct contact with contemporary

¹¹¹ Among the painters who were sent to France in the first year of Republic, in 1924 are Cevat Dereli, Refik Epikman, Şeref Akdik, Mahmut Cuda and Muhittin Sebati in addition to those who were sent to Germany, namely Ahmet Zeki Kocamemi and Ali Avni Çelebi. (Korur, 2008, p.31-32.)

¹¹² Among the artists who have been exhibited at Maya Gallery are: Avni Arbaş, Nuri İyem, Fethi Karakaş, Ömer Uluç, Kemal Sönmezler, Ferruh Başağa, Fikret Otyam, Yüksel Arslan, Adnan Çoker, Kuzgun Acar and Ali Teoman Germaner.

writers, which helped to include their accounts in the written art history (Öz, 2013).

The 1960's are regarded as a preparatory period for the art market in Turkey. New art spaces opening within prestigious retails like Vakko and Galeri Milar¹¹³; the prominent emergence of capital groups like those of Sabancı and Koç families as future art patrons; and the bank collections such as Akbank, Halkbank and Yapı Kredi are important developments of the period. In conjunction with the wealth growth of these different sectors, a collector group, represented by the likes of Kemal Erhan¹¹⁴, Mesut Hakgüden¹¹⁵, Jale Yasan¹¹⁶, Sabahattin Ergi¹¹⁷ and Hüseyin Kocabaş¹¹⁸ began to take shape in Istanbul and Ankara towards 1970s (Serpil, 2006, p.68-72).

In the 1970's Melda Kaptana's gallery has become a prominent hub for the artistic milieu in Istanbul until 1977. However the dynamics of this period still focused on the marketing of artworks by the former generation of artists to elites without any concerns about the groundwork of the burgeoning art market. (Pelvanoğlu, 2015, as cited in Rastgeldi, 2019). In fact, Aydın Cumalı states that in the 1970's the galleries had no point of reference for the prices of artworks, and the works of artists from distinct periods were same as if identical commodities.

¹¹³ Founded by the architect, publisher, graphic and furniture designer, Selçuk Milar in 1957 in Ankara, the Milar Gallery was selling contemporary furniture in the Italian and Danish style, along with the works of Bedri Rahmi Eyüboğlu, Abidin Dino, Avni Arbaş, Füreyya, Orhan Peker and Ferruh Başağa among others. (Ünalın, 2012).

¹¹⁴ Kemal Erhan was the co-owner of Hayat magazine and has written a book on Hoca Ali Rıza alongside his activities as a collector. (Serpil, 2006, p.68).

¹¹⁵ Hakgüden was a lawyer, who has founded the "Society of Antiquarians and Appreciators of Artifacts" (Antikacılar ve Eski Eserleri Severler Derneği) in 1971 (Serpil, 2006, p.69).

¹¹⁷ A collector of painters from the generation of 1930s, Ergi has been adamant about opening a "house-museum" according to the article written for Milliyet Sanat magazine by Kaya Özsezgin in 1975 (Özsezgin; 1975, p.18 quoted from Serpil, 2006, p.71).

¹¹⁸ Serpil (2006, p.71-72) states that Kocabaş has amassed an enormous collection of archeological artifacts and visual artworks that amounted to 7500 items.

A more striking case in this context is the Galeri Baraz, whose founder Yahşi Baraz has professed that he had found many important Turkish paintings in the desolated mansions neglected during urbanization, saying that he “took possession” of those works (Öz, 2013). Although Baraz’s actions can be argued to have helped saving these works from being destroyed, the very act underlines the undeclared modality of operations, which had reflected the ethos of the times.

The new economic policies of neoliberalism in the 1980’s have boosted the accumulation of capital and that directly reflected on the art scene. In this period the group of collectors has expanded, new private banks have been founded; these establishments began collecting artworks and opening exhibition spaces. In response to this demand, several art galleries successively opened, such as Galeri Lebriz, Istanbul (1980), Uart Sanat Galerisi, Istanbul (1981), Galeri Siyah Beyaz, Ankara (1984), and Galeri Nev, Ankara (1984) among many others (Saçlı, 2016).¹¹⁹

This surge of cultural spaces is also owed to the need for intellectual settings in the face of oppression following the coup d’état in September 12, 1980. As Deniz Artun explains, in the early periods of Galeri Nev, the demand was not towards owning works but rather for solidarity among the intelligentsia. The gallery thus followed a similar pattern with its precursor Maya Art Gallery, and brought the artists together with art historians and critics within the compass of its programs, thus acted as an agent for the inclusion of their *oeuvre* in the art history, at a time when the state museum in Ankara had been recently opened and private museums were nonexistent (Istanbul Art News, March 2014).

As the state’s support narrowed down to state museums, the increased activity and support of private sector corporations in the 1990’s have facilitated the

¹¹⁹ The dissertation of Erhan Saçlı is very illustrating in terms of the distribution of exhibition models in the 1980’s however the research does not explore the galleries’ activities regarding the legacy stewardship and dwells on the marketing operations.

integration of art scene of Turkey in the global artworld. This was predominantly evident with the International Istanbul Biennial, which raised awareness in the scholarly research on artist estates in conjunction with the notion of independently curated exhibitions. A prototype of these was the exhibition series, “Memory/Recollection”¹²⁰ curated by Vasıf Kortun,¹²¹ who has been on the forefront of non-commercial initiatives that underlined the historical significance of artistic productions in the late 1990’s.

In addition to private museums that opened in the early 2000’s, two critical establishments regarding the conservation of artistic heritage were the Platform Garanti Contemporary Art Center, which encompassed a contemporary art library and archive and the Santralistanbul, which embodied an art museum and an archive. While the Platform’s library and archive were opened to public as “Open Library” in 2007 and were then transformed into SALT after merging with Ottoman Bank Archives in 2011; Santralistanbul’s art center, which opened in 2007, could sustain its activities only until 2013, when the permanent collection was auctioned off at Maçka Mezat (Rastgeldi, 2019).

This sale received a strong backlash given some works were donated by the artists and/or their estates. The art archive of Zeynep Rona, once incorporated to Santralistanbul, has also become forlorn until its adoption by the Mimar Sinan University (Altuğ, 2014).

Another critical threshold for the development of visual arts landscape in Turkey has been the auctions since early 2000’s. The sale of the bankrupt

¹²⁰ The first of the exhibition series, “Memory/Recollection I” has opened at Taksim Art Gallery in December 9, 1991 and was prolonged until January 8, 1992 (originally the closing date was announced as December 30, 1991). It was followed by the “Memory/Recollection II”, which opened in May 4-25, 1993 at building #50 at Akaretler Row Houses in Istanbul. Source: SALT Research, online archives: <https://archives.saltresearch.org/handle/123456789/199631>; <https://archives.saltresearch.org/handle/123456789/1148>.

¹²¹ It is very crucial to note that Kortun has founded the Istanbul Contemporary Art Project (ICAP) in Tunel, which encompassed a library and an archive. Also hosting a series of contemporary art seminars, this institution, which was active from 1998 to 2000, was a pioneer model for future establishments led by Kortun.

Iktisat Bank Collection, and the aforementioned sale of Santralistanbul collection have sparked off arguments about the preservation of collections. As Rastgeldi (2019) indicates in her dissertation the fact that these incidents were featured in the economy pages of newspapers, the artworks began to be perceived by general public as investment goods rather than in terms of their art historical merits. This perception was furthered by the modern and contemporary art auctions organized by international companies like Sotheby's¹²², Bonhams¹²³ and Christie's¹²⁴ focusing on Turkey.¹²⁵

While these auctions created an interest in the artistic scene of Turkey, and propelled the foreign curators, collectors and representatives of institutions to visit the Istanbul Biennial and art galleries in Istanbul between 2011-2013 as attested by Haldun Dostođlu¹²⁶ (Toksöz, 2019), the rapid acceleration of the market activity in Turkey based on the sheer commercial objective of tapping into an international art market may have created a diversion from the focus of non-commercial, heritage-oriented management for the visual arts.

3.2. THE LEGAL FRAMEWORK

In Turkey, the main legal structure for the intellectual and artistic works is the Law No. 5846¹²⁷, which came into force on January 1, 1952. According to the

¹²² The first sale focusing exclusively on the modern and contemporary Turkish art took place in March 4, 2009 at Sotheby's London. The same auction house organized other sales on April 15, 2010 and April 7, 2011. <https://www.sothebys.com/en/search?query=turkish&tab=auctions>

¹²³ "Modern & Contemporary Turkish Art" sale was organized at Bonhams in London on April 5, 2011. <https://www.bonhams.com/auctions/19267/>

¹²⁴ Christie's sale "Modern and Contemporary Arab, Iranian and Turkish Art" took place on April 19, 2011. For details, see: <https://www.christies.com/en/auction/auction-8057-dub?filters=&page=2&searchphrase=&sortby=lotnumber&themes=>

¹²⁵ It is worth noting that other sales at Sotheby's and Bonhams featuring works by artists from Turkey were organized, but they were rather grouped under "Islamic", "Indian" or "Middle Eastern" sales after 2011.

¹²⁶ <http://qpmagtr.com/roportaj/haldun-dostoglu-ile-galeri-nev-istanbulun-32-yillik-parkuru/>

¹²⁷ "Fikir ve Sanat Eserleri Kanunu", Translation of the Law by Asst. Prof. Dr. Gül Okutan Nilsson with Asst. Prof. Dr. Feyzan Hayal Şehirali Çelik: Law on Intellectual and Artistic Works (Fikir ve Sanat Eserleri Kanunu) Annales de la Faculté de Droit d'Istanbul, Vol. 38. 2006 No. 55 (331-394). From:

definition given in the *Article 1*, the purpose of this law is “to establish and protect the moral and economic rights, on their products, of authors who create intellectual and artistic works (...); to regulate the conditions of exploitation of such products and to determine the sanctions for exploitations in breach of such rules and procedures.”

As established by this definition, the Turkish law system recognizes the Copyright as an aggregate of moral and economic rights, in conformity with the EU law and international norms. Correlatively, Turkey is a signatory of international treaties and agreements in alignment with WIPO standards¹²⁸, including The Berne Convention for the Protection of Literary and Artistic Works¹²⁹, which came into force in Turkey the same date as the very law, on January 1, 1952; also notably coinciding with the emergence of private art galleries in Turkey, as explained in Chapter 3.1.

Before delving into the types of copyrights pronounced in Law No. 5846, reviewing the definition of “Works of Fine Arts” in the *Article 4* of the same law is quite revealing as regards to its somewhat inadequate scope in the face of contemporary arts’ ever-expanding spectrum. As a matter of fact, the article emphasizes that these works holding “aesthetic value” cover a variety of artistic productions like oil and watercolor paintings, drawings, engravings, gildings, carvings, calligraphic works, silk-screen printing, graphic works, cartoons, photographic works and slides as well as three-dimensional sculptural works, to name a few. The definition is extended to the handicrafts, textiles and fashion designs as well as architectural works, yet it discards a crucial circumstance in contemporary art: the dematerialization of art towards 1970s has culminated in the creation of post-medium artworks like

<https://www.telifhaklari.gov.tr/resources/uploads/2015/10/26/Law%20on%20Intellectual%20and%20Artistic%20Works%20No.5846.pdf>

¹²⁸ See the full list of WIPO-administered treaties that are contracted by Turkey: https://wipolex.wipo.int/en/treaties/ShowResults?country_id=173C

¹²⁹ See: <https://www.wipo.int/treaties/en/ip/berne/>

performance and the New Media¹³⁰ art driven by new technologies, as briefly mentioned in Chapter 1.2. The current legislation for the copyrights is therefore imperfect in addressing these new forms of authorship using electronic media and their dissemination under Fine Arts, except for the photographic works. Coincidentally, Turkey is not among the contracting parties of the Beijing Treaty on Audiovisual Performances¹³¹.

On the other hand, the moral rights in the Law No. 5846 are consistent with the European legislation expounded in Chapter 2.1.4.1. and, are divided among four articles: The first of these is *Article 14 (Authority to Disclose the Work to the Public)*¹³², which states the author's exclusive right to make a work public by reserving her/him the right to prohibit the promotion or publication of the work, where the modality of disclosure is of such nature as would damage the honor and reputation of the author. According to the *Article 15 (The Authority to Designate the Name)*¹³³, the right to decide whether the work would be disclosed to public with or without the name of the author, or under a pseudonym is exclusively vested in the author. Also, *Article 16 (Prohibition of Modification)*¹³⁴ states that no abbreviations, additions or other modifications may be made to a work, or to the name of its author without her/his consent; again reserving him/her the right to prohibit any sort of modifications that prejudice or damage the reputation of the author and the work. Additionally, the *Article 17 (Rights of the Author against Persons Who Own or Possess a Work)* states that the author may request a unique work from its owner to feature it in retrospective exhibitions, subject to conditions of protection and provided that it would be returned to the owner. It is worth noting that the same

¹³⁰ New Media art defines the artworks which use sophisticated new technologies like Artificial Intelligence, Virtual Reality, browser art and software art in the wake of digitalism after 1980s.

¹³¹ Beijing Treaty was adopted on June 24, 2012 and came into force on April 28, 2020. For further information: <https://www.wipo.int/treaties/en/ip/beijing/>

¹³² This article confirms with "The Right to Disclosure" (*Le droit de divulgation*) and is appended on February 21, 2001 (4630/8) "The Right of Repentance or Withdrawal" (*Le droit de repentir ou de retrait*).

¹³³ This article confirms with "The Right to Claim Ownership" (*Le droit à la paternité*).

¹³⁴ This article confirms with "The right to Respect for the Integrity of the Work" (*Le droit au respect de l'intégrité de l'œuvre*).

article points out to the fact that persons who deal the works are obliged to disclose such right in auction or sale catalogues, or on related documents written for the buyers of the work; yet in practice, it remains unclear whether such information is properly imparted.¹³⁵

The economic rights in the Turkish law taxonomically differ from their counterparts in the European legislation and encompass five different rights independent of one another, which also last throughout the author's lifetime and 70 years following her/his death, as opposed to moral rights which are temporally unlimited.

The first expressed in the *Article 21 (Right of Adaptation)*, entitles the author exclusively with the right to exploit a work by adapting it. The *Article 22 (Right of Reproduction)*, implies the author's right to reproduce copies of a work in any form or by any method, wholly or partially, directly or indirectly, temporarily or permanently.¹³⁶ The *Article 23 (Right of Distribution)*, accords the right to rent, sell or distribute the original or copies of a work to the author; in addition to the right to import copies of a work that have been reproduced abroad with her/his permission and to exploit such works by way of distribution. The *Article 24 (Right of Performance)* covers exclusively the author or the authorized persons' right of exploiting a work through performance, whereas the *Article 25 (Right to Communicate a Work to Public by Devices Enabling the Transmission of Signs, Sounds and/or Images)* refers

¹³⁵ There is no relevant clause regarding *Article 17* in "The Conditions of Participating at an Auction" as promulgated on Artam Antik A.Ş. auction house's website. See: <https://artam.com/muzayede-katilim-sartlari>

¹³⁶ An exemplary, on-going trial regarding the violation of *Article 21* and *Article 22* in Turkey concerns artist Sarah Morris, whose paintings were shown at Dirimart Gallery in 2016, then were unlawfully used by fashion designer Cengiz Abazoğlu, who reproduced her work in 2019 for the *prêt-a-porter* retailer Adil Işık. From the online Zoom interview with Okke&Hekim Law Office, held on May 31, 2021. For the press coverage of the trial, see also: <https://www.sabah.com.tr/magazin/2020/09/03/dunyaca-unlu-ressam-sarah-morristen-cengiz-abazogluna-sok-dava-1599086242?paging=2>

to the exclusive rights of communicating the original or copies of a work by broadcasting.¹³⁷

While these last two articles fall under the *Right of Reproduction (Le droit de reproduction)* clauses in the European legislation, the third and a very pivotal part of the European economic rights, namely the ARR is not assigned under the category of economic rights (*Articles 20-25*) but is amended to the Law as per *Article 45*, “*Payment of a Share of Sale Proceeds of Works of Fine Arts*”. The decree¹³⁸ of the cabinet of ministers stipulates that each time the works of Fine Arts defined in *Article 4* mentioned above, (excluding the architectural works) or their limited original copies are subjected to a re-sale and a difference between prices, that is to say, a profit occurs, the natural or legal sellers are to pay a share of the price difference varying from 8 to 10% to the author or, if the author in question is deceased, to their heirs, or in the absence of heirs to a relevant collecting society. However, it also remains unclear whether the galleries impart this information at the initial sales of works, or if auction houses meet the law; given information accessed online demonstrates that auction houses may claim the right of recourse from the ARR.¹³⁹

At this juncture, a newspaper article is informative in terms of the current activities of collection societies and ARR in Turkey: According to the attorney of GESAM¹⁴⁰ (Güzel Sanat Eseri Sahipleri Meslek Birliği – Collecting Society of Authors of Fine Art), Abdullah Egeli, the beneficiaries incur a loss of revenue whereas the state suffers the loss of tax, adding that their lawsuit filed in 2011 for the ARR compensation in the name of two deceased artists without

¹³⁷ Painter Aylin Zaptçioğlu has filed and won a lawsuit on this clause, claiming for the compensation for her artworks, which were shown on a television series without her consent. For more information, see: <https://www.kulturservisi.com/p/aylin-zaptcioglu-ufak-tefek-cinayetlerde-izinsiz-kullanilan-tablolari-icin-yapimci-sirkete-actigi-davayi-kazandi/>

¹³⁸ Güzel Sanat Eserleri, İlim ve Edebiyat Eserleri İle Musiki Eserlerinin El Yazısıyla Yazılmış Asıllarının Satış Bedellerinden Pay Verilmesine İlişkin Karar: <https://teftis.ktb.gov.tr/TR-263695/guzel-sanat-eserleri-ilim-ve-edebiyat-eserleri-ile-musi-.html>

¹³⁹ See Article no. 21 on the “The Conditions of Participating at an Auction” as stated on Artam Antik A.Ş. auction house’s website. See: <https://artam.com/muzayede-katilim-sartlari>

¹⁴⁰ <http://gesam.org.tr/>

families, namely Mihri Müşfik and Fikret Mualla, whose works were auctioned off by Alif Art¹⁴¹ would be a leading case.¹⁴² However, it could not be ascertained to which degree the significance of the case was comprehended in the arts sector in Turkey, given the Supreme Court database, Kazancı¹⁴³, does only lead to a single case regarding *Article 45*, which does not involve authors of Fine Art first hand.¹⁴⁴

In Turkey, the works of Fine Art and the rights of authors are thus protected by the Law No. 5846, and their registration is not a prerequisite to establish rights; the enforcement and protection of copyright starts with the creation of work. Yet, it must be noted that the musical and cinematographic works must be registered before the General Directorate of Copyrights under the Ministry of Culture and Tourism to exploit the authors' rights (Ekici Tağa & Özdağistanlı, 2021). This division underlines once more the pitfalls of the Law on Intellectual and Artistic Works with respect to the video and New Media artworks, which are not directly addressed in *Article 4*. All in all, a common practice in Turkey is to certify artworks by a notary public to prove the creation date of the works.¹⁴⁵

An equivalent of the “Code of Best Practices in Fair Use for the Visual Arts” issued by CAA in USA has not been nominated in Turkey by an independent artistic organization, but the most prevalent defenses to copyright infringement actions are presumably based on the principles that called for the very Code in USA, such as the personal use or educational purposes within “freedom of

¹⁴¹ <https://www.alifart.com/>

¹⁴² <https://www.hurriyet.com.tr/kelebek/kimsesiz-ressamlarin-telif-davasi-18354022>

¹⁴³ <https://lib.kazanci.com.tr/solr/kanun/browse?q=5846+say%C4%B1%C4%B1+fikir+ve+sanat+eserleri+kanunu++>

¹⁴⁴ The case no. 2011/208 E., 2013/277 K. ruled on December 5, 2013 by the Supreme Court is between a photographer whose services were hired as a wedding photographer and the clients who objected his watermark on pictures, which he defended on the grounds of *Article 45*. However, it is evident that the case is not exemplary for the research in question, on the basis of the argument that the photographs taken with the intent of documenting a wedding differ essentially from those that are created for artistic purposes solely.

See: <https://lib.kazanci.com.tr/kho3/ibb/files/hgk-2017-11-134.htm>

¹⁴⁵ <https://thelawreviews.co.uk/title/the-intellectual-property-review/turkey>

quotations”¹⁴⁶, which are grouped as “Limitations” by the *Articles 30-38* of Law No. 5846. At any rate, the same law covers the civil and criminal actions against the infringement of moral and economic rights attached to the artworks by virtue of *Articles 66-75*.

A last but not least important topic in comparison with the international norms explained in Chapter 2, concerns the artists’ wills and the issue of intestacy in Turkey. The conditions of writing up a will and/or codicils are consistent with the standards in the West. The law of succession in Turkey is based on a parental system, which respectively imply that the estate of a deceased person without a will would be distributed among their next of kin, that is their descendants; if not alive, then their parents and their other descendants; if not alive either, then their grandparents and their descendants and if none of the above exists, the Turkish state.

As for the management of estates pursuant to wills, Trust model is not available under the Turkish legal system but the visual artists may express their intention to establish a legal entity by allocating their assets or a portion of their estate to a foundation they wish to be set up through their wills, hence a testamentary disposition.

On the other hand, Artist Pension Trust advised by curators and art professionals like Vasif Kortun and November Paynter to provide financial security for artists has engaged several artists from Turkey in 2000s. When the pension fund required the artists to pay for their storage in 2017, as explained in Chapter 2.2.4., certain company managers and advising professionals, including Kortun have penned a public letter, expressing their “deep disappointment.” Although the works of these artists are still in the APT

¹⁴⁶ Idem.

Collection¹⁴⁷, the system seemed to have failed to provide a solution for the financial precarity of visual artists, in their lifetime.

As for the afterlife phase, if the artist designates a foundation as heir, and allocates assets to it, the respective foundation also becomes responsible for the debts and revenues of the estate. If there is no such request to establish a foundation, the executors appointed by the artists, distribute the remainder of the estate among the heirs and/or beneficiaries according to the will, after paying any debts of the estate. Should a conflict arise about the administration of the will, an heir may file a claim in court and raise an objection, and may request an official inventory¹⁴⁸ (Mavioğlu, 2010).

An arresting case of artists' wills in the recent years has revolved around the Tiraje Dikmen Estate in Turkey: Dikmen¹⁴⁹, who has also inherited the estate of the French artist and academician Léopold Lévy, and interestingly enough, has inventoried¹⁵⁰ all his works to pay homage to her late professor herself, has drawn up her will back in 1970 at the Beyoğlu Notary No. 8¹⁵¹, given she had no other family than her estranged sister, painter Şükriye Dikmen. Leaving a significant number of real property in Istanbul, her studio apartment in Paris, her cash in her bank accounts as well as her mansion with all her artwork and

¹⁴⁷ Artists from Turkey, including İnci Eviner, Nevin Aladağ, Can Altay, Cevdet Erek, Köken Ergun, Ali Kazma, Gülsün Karamustafa, and Ahmet Öğüt have also donated works to the ATP Collection. See: http://aptglobal.org/en/Collection/Search/6/183/size_size_units-in

¹⁴⁸ A legal example was the case of the late painter Ömer Uluç's inheritance, which became a ground of conflict between the artist's daughter Elfe Uluç and his second wife Vivet Kanetti. Elfe Uluç has objected the share of Kanetti, filing a lawsuit at Beyoğlu 2nd Court of Peace for the establishment of artist's properties. See: <http://www.gazetevatan.com/ressamin-mirasi-mahkemelik-434204-gundem/>

¹⁴⁹ Born in 1925 in Büyükdada, Istanbul, Tiraje Dikmen has been raised amidst an artistic milieu due to her families close connections to the intelligentsia in Turkey. After completing her graduate and post-graduate studies at the School of Economics at Istanbul University, she attended the classes of Léopold Lévy at the State Academy of Fine Arts of Istanbul between 1943-1948. She then moved to Paris in 1949 with the scholarship awarded by the French government, and resided at the Parisian studio of Lévy until 1980s. Although she has never shut down her studio in Paris, she settled in the mansion in Büyükdada, where she was born and continued living there until her transfer to the Adora nursing home in 2012, where she passed away on September 1, 2014.

¹⁵⁰ <https://www.e-skop.com/skopbulten/turk-modernistler-tiraje-dikmen/1872>

¹⁵¹ <https://www.hurriyet.com.tr/yazarlar/ihsan-yilmaz/iste-tiraje-dikmenin-vasiyeti-41584965>

personal collection to the Istanbul University, Dikmen has stipulated clearly in her will that the university is to liquidate her assets and set up an institution which would fund the higher education of students in financial need. Upon her death, Dikmen's attorney¹⁵² has taken action by court decision to establish an official inventory of the estate at the mansion of Büyükada, and has handed over the inventory along with the expertise reports to the court.¹⁵³

Despite the meticulous approach of the artist, her estate was neglected and her mansion in Büyükada was locked up and left to the care of a security guard whose salary was not paid¹⁵⁴, resulting in the dereliction of her properties. In spite of their public statement,¹⁵⁵ Istanbul University's failure of fiduciary duties towards the estate holdings and Dikmen's legacy became all the more apparent, when the documents from the artist's personal archive, including journals and photographs had curiously appeared¹⁵⁶ at several auctions on July 2020, which were withdrawn from the respective sales with the endeavors of Istanbul Islands' Association for the Protection of Cultural and Natural Properties¹⁵⁷ (İAKTVKD). In the meanwhile, the case was taken to magistrates

¹⁵² An exceedingly detailed report on the legal process of the inheritance by Dikmen's attorney, Cengiz Akıncı, had appeared on the local gazette of Prince Islands, *Adalar Postası*. See: <https://adalarpostasi.com/2020/08/24/3002/>

¹⁵³ *Idem*.

¹⁵⁴ An article on T24 discussed the issue and stated that her mansion, housing the artist's personal property should have been turned into a museum. See: <https://t24.com.tr/haber/ihsan-yilmaz-tiraje-dikmen-in-muze-olmasi-gereken-esyasinin-korundugu-evi-olumunden-berisahipsiz,895049>

¹⁵⁵ The university has posted a statement, expressing that the artist's estate is now at the court: <https://www.istanbul.edu.tr/tr/duyuru/kamuoyu-aciklamasi-420066006D004E0076004F005400790046007700580039007900700046006200610041004F003200370077003200>

¹⁵⁶ The auction house, Artium Modern has attempted to sell a lot composed of 8 personal diaries of Dikmen, which were later withdrawn from the auction, however their provenance is highly obscure. Another sales were organized by Moda Müzayede and Pera Mezat, which included personal correspondence and even school report cards of the artist <https://www.artiummodern.com/urun/2457365/tiraje-dikmen-tiraje-dikmen-e-ait-8-adet-gunluk-imzali-1945-46-yillari>; <https://www.modamuzayede.com/urun/1972565/efemera-ressam-tiraje-dikmen-den-ressam-sukriye-dikmen-e-gonderilmis-kartpostal>; <https://www.peramezat.com/urun/turk-resim-sanati-ressam-tiraje-dikmen-e-ait-karne-yeni-turkiye-mektebi-1934-1935>

¹⁵⁷ Art historian Nergis Abıyeva accounts for the case in her article: <https://argonotlar.com/iyi-ki-dogdun-iyi-ki-urettin-tiraje/>

of the Court in Büyükada and the Mimar Sinan Fine Arts University was appointed as the “yediemin” (trustees) of the estate, as attested by the University’s statement on August 14, 2020¹⁵⁸.

Dikmen’s artworks and personal collection including Léopold Lévy’s¹⁵⁹ works are thus now under the protection of the Mimar Sinan University; the whole case surrounding the artist’s estate, howbeit her clear written instructions by force of her will and the involvement of cardinal institutions in Turkey, is still an exemplary case for the stewardship of artistic legacies and their heritage at stake.

3.3. EXAMPLES OF LEGACY STEWARDSHIP

The artist estates and the legacies they represent may be safeguarded and promoted by different modalities as explained in Chapter 2. In the following sections of the thesis, I will try to exemplify the experiences of living and deceased artists, the CR projects consecrated to certain names, as well as the ventures of institutional establishments to determine their objectives and struggles. Given the emphasis laid on the conservatorship of artistic legacies, the auction houses whose operations indicate more commercial interest in Turkey, are not surveyed as stakeholders.

3.3.1. Estates of Living Artists: Alev Ebüzziya Siesbye and Mehmet Gülerüz

With a career in contemporary ceramics that spans over half a century, Alev Ebüzziya Siesbye¹⁶⁰ speaks about the concept of time in several interviews.¹⁶¹

¹⁵⁸ <https://twitter.com/msgsuniversite/status/1294311293575454720>

¹⁵⁹ French painter and academician Léopold Lévy (1882-1966) was invited by the Turkish Republic in 1937 to direct and restructure Department of Painting at the Fine Arts Academy in Istanbul, where he taught until 1949.

¹⁶⁰ Alev Ebüzziya Siesbye (1938 -) is a Turkish-Danish ceramic artist, who has a prolific international career in contemporary ceramics. After studying at the Istanbul Academy of Fine Arts and Füreya’s Studio between 1956-1958, she worked in ceramic factories in Höhr-

The artist, who considers the Mesopotamian and Anatolian heritage among her sources of inspiration, tells that these artifacts go beyond their time, like “a carnation that passes from hand to hand” referring to poet, Edip Cansever.¹⁶² Enlarging upon her work, she often talks about “trying not to forget”, which makes it imperative to understand how her own estate is organized.

Alev states¹⁶³ that she has a systematic inventory in place, where her *oeuvre* including the images, captions as well as the copyright and price information of artworks are registered; adding that her galleries in Turkey and Belgium keep these along with their provenance records, and that she is not personally making use of any software inventory systems for such purposes. As with most artists who have such a long career, her inventory has evolved with an overall focus, meaning the exhibition history or the bibliography are not recorded specifically for each work.

Correspondingly, there have not been any CR projects on Alev to this day; however she has several monographs, including the book published by Galeri Nev Istanbul in 2016 with the sponsorship of Finansbank, which presents a compilation of her works ranging from 1971 to 2015. The artist and her gallery, who also stores her works, make her archive available for scholarly research. On the other hand, there are currently no provisions for the future in terms of legating or institutionalizing her estate under a foundation or a museum, and she states that she is not considering donating her estate. When asked whether she has ever issued a document stipulating her wishes and conditions, which would serve as a guide for the future conservators of her

Grenzhäusen in Germany, the Eczacıbaşı Ceramic Factories in Istanbul and the Royal Copenhagen factories in Denmark. Although she continued to work as a ceramic designer for Rosenthal AG between 1975-1990 and for Royal Copenhagen between 1984-2000, she began her independent studio practices in 1969. Currently she is residing and pursuing her studio in Paris, where she settled in 1987.

¹⁶¹ Akbank Sanat Konuşmaları: https://www.youtube.com/watch?v=_CoMsqou-oA

¹⁶² “Zaman, Tekrar ve Ellerin Düşleri Üzerine Bir Sohbet”, Serra Yentürk, QP Women Türkiye, no.2, Fall/Winter 2018

¹⁶³ From the e-mail correspondence with the artist, on November 2020.

work, she imparts that no such preparation has yet been made but that she gets legal counseling for her economic and moral rights.

Another accomplished artist is Mehmet Gülerüz¹⁶⁴ whose estate presents similar characteristics and issues in terms of inventory. A distinct aspect regarding the management of his estate is that his son, Kerimcan Gülerüz is an art professional with over 30 years of experience in the field, who says that he was “indoctrinated” by his father from a very early age for his position in the estate¹⁶⁵. His involvement connotes that the fiduciary duties towards the artist are carried out with prudence and loyalty, potentially generations after his demise and facilitates sorting the assets as explained in the first chapter.

Kerimcan Gülerüz gives the metaphor of a “house on fire” and explains that in certain periods of his lifetime, his father has taken some abrupt decisions and left behind significant groups of works, which he describes with the analogy of “time capsules”; some of these were later recovered with their joint efforts as family. He tells that it was almost like his father wanted to leave these works to their fate, perhaps unconsciously for posthumous discoveries, as it happens with most prolific artists in the history. The fact that the artist has moved his domicile between France, Belgium and USA from 1970s onward, storing some of his works and belongings in diverse storage spaces; gifting or lending them to his friends for certain projects, which were later forgotten about, also contributed to the disintegration of his *oeuvre* and to some deficiencies in his

¹⁶⁴ Turkish painter, sculptor and actor Mehmet Gülerüz (1938 -) entered The Istanbul State Academy of Fine Arts and studied in the Department of Painting between 1958-1966. He trained in Paris between 1970-1975 with the state scholarship, where he had several solo exhibitions. Upon his return to Turkey, he taught at the Istanbul State Academy of Fine Arts before settling in New York in 1980. The artists lived and worked in Turkey within the period of 1985-2000 and had been elected as the President of the Turkish Fine Arts Association. The 2000's have seen a series of exhibitions including major retrospective shows. Gülerüz currently lives and works between Istanbul and Paris.

¹⁶⁵ From the virtual interview with Kerimcan Gülerüz on May 15, 2021.

inventory¹⁶⁶. But the most jarring experience for the estate had been the disappearance of all sculptural works that were consigned to Galerie 2016 for an exhibition in 1987.¹⁶⁷

Despite these imperfections, Mehmet Gülerüz has been diligent to keep his works and archive in order, especially towards the end of 1980's because, as Kerimcan Gülerüz emphasizes, he was aware of the value of his works and his legacy. The retrospective exhibition of the artist at the Atatürk Cultural Center in 1987 laid the base for indexing his works in a more professional way. But it was only around 2008 that the estate adopted a structure that provided certificates of authenticity; so their indexing of works¹⁶⁸ continues also retroactively. Incidentally, the estate does not rely on a digital inventory software, rather treats the official website¹⁶⁹ as one that is transparent for public, but with limited content. For anything else, the estate makes its records and archive available for institutions or scholars with relevant purposes.

When asked about whether the estate is planning to convert into a more institutionalized body, Kerimcan Gülerüz explains that they were committed to the idea and had looked into establishing a foundation with their lawyers, but that they have postponed their plans to become a legal entity until a more reliable cultural and political environment is materialized. However, the estate is keen on supporting the creative endeavors with or without the label of a foundation: they engage with a younger artistic community since 2011 through the philanthropic program, "Mehmet Gülerüz Notebook Project," whose provision of the artistic material and prizes are completely financed by the

¹⁶⁶ Kerimcan Gülerüz discloses that, for instance, some works sold to Yahşi Baraz in the late 1980's were not photographed or documented; or the works on paper produced for Galeri Artist from mid to late 1990's were only partially documented. Ibid.

¹⁶⁷ Kerimcan Gülerüz tells that the Gallery 2016 has vanished and that they could never find a contact person ever again. The sculpture works are still lost. Ibid.

¹⁶⁸ The inventory goes as back as 1957 and includes the most recent works Gülerüz has completed this year.

¹⁶⁹ The official webpage of Mehmet Gülerüz contains 1671 works as of July 2021. For details, see: <http://www.mehmetguleryuz.com/works.php?lc=en>

estate.¹⁷⁰ If we return to the evaluation of De Oliveira, quoted in Chapter 2.2.5, this venture is a prime example of co-authorship that impacts a wider cultural landscape while exalting the artist's legacy.

There are several important books published on the *oeuvre* of Gülerüz, such as the "Drawings: 1963-1994"¹⁷¹ and the retrospective book "Mehmet Gülerüz: 1958-2008".¹⁷² Bringing together various ingredients of the personal archive¹⁷³ and anecdotes, the memoir "Güldüğüme Bakma"¹⁷⁴ however, bespeaks that Mehmet Gülerüz has clearly made an attempt to leave a "living legacy" because he has chosen to put his own (oral) history on record. On that account, the estate considers the audiovisual documents of his interviews, talks and discussions as an essential part of their archive and intends to collect these records as much as possible.

As for the CR, Kerimcan Gülerüz reflects that it is very necessary but not feasible without any institutional support right now, because they already have multiple fields of operation to maintain and to promote the estate. He adds that in Turkey, there are "gatekeepers" in the art institutions who tend to be very selective, and that *de facto* discourse insinuates that any artist who's not endorsed by these institutions has to undertake their projects themselves. In that context, Gülerüz regards SALT Research as the most and perhaps the only creditworthy institution for digitizing their archive. However he states that

¹⁷⁰ For detailed information: <http://www.mehmetguleryuz.com/news.php?p=5075&lc=en>

¹⁷¹ "Mehmet Gülerüz, Desenler 1963-1994". Canan Beykal, Turkish/English, Translated by: Deniz Şengel, Gallery Nev, İstanbul, 1994.

¹⁷² "Mehmet Gülerüz: 1958-2008". Wendy M.K. Shaw, English/Turkish, Translated by: Deniz Arslan, İş Sanat Culture Center, "Kibele" Art Gallery, İstanbul, 2009

¹⁷³ A good part of the personal archive including letters and photographs of Gülerüz was digitized for this book project, consequently Gülerüz does not feel the urgency to hyper-manage all archival materials at this point, but they are safeguarded nonetheless.

¹⁷⁴ "Mehmet Gülerüz Kitabı, Güldüğüme Bakma". Söyleşi: Ayşegül Sönmezay, Turkish, Türkiye İş Bankası Culture Publishing (Second Publishing), Nehir Söyleşiler Series, İstanbul, 2015

the institution did not approach the estate and that Mehmet Güteryüz is keen on conserving his estate as a whole rather than making institutional donations.¹⁷⁵

3.3.2. Estates of Deceased Artists: Cengiz Çekil

A pioneer in the conceptual art in Turkey, the estate of Cengiz Çekil¹⁷⁶ is an illustrative one in terms of the institutional sustenance it garnered in the last decennia of his life. Despite the crucial role he played in shaping the contemporary art after 1970's in Turkey, Çekil personally has rarely considered safeguarding his artworks, keeping their inventory or his archive orderly for his own interests. In fact, in the early periods of his career he gifted some of his works, which were coincidentally found or discovered years later when the family members paid visits to his friends.¹⁷⁷

Erden Kosova¹⁷⁸ considers his relocation between different cities since 1970s and his modest living conditions as influential factors for this disposition. He adds that none of his works from his Paris period has survived physically, such that most of his works were reproduced for his quasi-retrospective exhibition at the now-defunct Rampa gallery (Altuğ, 2020).

The same interview¹⁷⁹ informs us that Çekil has become somewhat more attentive of his works and his archive as per the pedagogical objectives he has

¹⁷⁵ Aziz Nesin Foundation, which was considered as a congenial structure for the estate had approached Mehmet Güteryüz in the past, but Güteryüz had digressed from that idea. Also looking back on the examples of Istanbul Modern and Santralistanbul, Kerimcan Güteryüz says that do not consider donations right now. From the virtual interview on May 15, 2021.

¹⁷⁶ Cengiz Çekil (1945-2015) is a Turkish artist and academician. Following his graduation from the Arts-Crafts Department at the Gazi Education Institute in Ankara, he studied sculpture at the *Ecole nationale supérieure des beaux-arts* from 1970 to 1975. After his return to Turkey, he worked briefly at the Istanbul Atatürk Education Institute as compulsory service in return for his scholarship, before settling in Izmir in 1978 where he spent the rest of his life, working successively at the Ege and Dokuz Eylül universities. Çekil has also served as the dean of the Faculty of Fine Arts department of the Dokuz Eylül University between 2004-2007 before retiring in 2007.

¹⁷⁷ From the interview conducted with Çekil's daughter, Eda Çekil on April 27, 2021.

¹⁷⁸ Writer, art critic and theorist.

¹⁷⁹ <https://acikradyo.com.tr/yolgecen/cengiz-cekil-21081945-10112015-hakkinda-bir-soylesi>

set during his tenure at the Dokuz Eylül University: Ezgi Arıduru notes that he has kept increasingly more works, personal ephemera and archival documents, like his lecture notes, the negatives from the exhibitions he participated and personal notebooks containing drawings and anecdotes, in the room allocated to him at the faculty. Another positive aspect of having this space on the campus was the presence of his then-assistant Sevgi Avcı who has diligently helped putting his works and archive together, creating the base for Çekil's oeuvre and archive.¹⁸⁰

After his retirement from the university in 2007, Çekil has moved most of his room's contents to his studio in Tarabya, Istanbul. When Rampa Gallery has begun representing the artist in 2010, his works were inventoried and have been moved to the Gallery's storage, leaving only his archival and artistic material in the studio.¹⁸¹

This period of gallery representation in his final decade is utterly significant¹⁸² given it marked two of the most substantial projects regarding Çekil's estate: Between 2012 and 2013, Çekil's archive¹⁸³ was digitized and made public with the collaboration of SALT Research under the artist's supervision and guidance. Secondly, right before the artist's passing in 2015, Rampa has initiated and conducted the artist's monograph. Although the project came to a halt when Rampa closed down in 2017, it was eventually assigned to SALT in 2019 with Çekil family's consent, under the patronage of gallery's co-founder, Leyla Tara Suyabatmaz and the book was published in 2020.¹⁸⁴

¹⁸⁰ <https://acikradyo.com.tr/yolgecen/cengiz-cekil-21081945-10112015-hakkinda-bir-soylesi>

¹⁸¹ From the interview conducted with Çekil's daughter, Eda Çekil on April 27, 2021.

¹⁸² It must be noted that Çekil's politically charged and poignant work, "Diary" from 1976 was included in the permanent collection of MoMA a year after the artist's initial exhibition at Rampa. The exhibition was curated by Vasif Kortun; who knew Çekil personally since 2001, and who served as the founding director of SALT between 2011-2017.

¹⁸³ <https://archives.saltresearch.org/handle/123456789/660>

¹⁸⁴ *Cengiz Çekil: 21.08.1945-10.11.2015, 2020*. Editors: Ezgi Arıduru and Merve Elveren, SALT / Garanti Kültür AŞ Publications, Istanbul.

Going back to the principles laid out in Chapter 2.1.2., Cengiz Çekil's case affirms that archival work lends countenance to scholarly research; it has indeed consolidated the art historical discourse of the book and helped to put the artist back on the map through museum exhibitions¹⁸⁵ which enhanced his visibility.

The closure of the gallery in 2017 was another turning point for the estate. That same year, Rampa's former gallery director Esra Sarıgedik Öktem has founded BüroSarıgedik in order to foster a more intimate model of artist representation¹⁸⁶ outside of the gallery concept and signed Cengiz Çekil in BüroSarıgedik's roster on the account of their long-standing collaboration. Accordingly, all his remaining works as well as his archive directly relating to his work were transferred along with their inventory to Sarıgedik¹⁸⁷, who now safeguards these assets and coordinates the projects of the estate.

The critical fact that Çekil's daughter, artist Eda Çekil is also represented by Sarıgedik suggests the notion of confidence and more importantly, allows a cross-generational perspective for the art historical narrative of both artists.

In spite of these major projects, which contributed tremendously for conveying the artist's legacy to future generations and relieved the family from certain conscientious responsibilities, the estate work is hardly conclusive. Eda Çekil tells that after her father's passing in 2015, they have emptied his studio in Istanbul and that she currently is keeping Çekil's personal archive in boxes at her apartment. She expresses that as much as she likes to hold on to these materials as an emotional reflex, it is only possible to protect them for a foreseeable future, and expresses her concerns about the uncertainty after her

¹⁸⁵ ARTER's exhibition "What Time Is It?" (13.09.2019-26.07.2020) was titled after Çekil's work; the show has included his eponymous work. Artist's daughter confirmed that the same institution is currently working on a solo exhibition of the artist, which will be curated by Eda Berkmen.

¹⁸⁶ <https://www.unlimitedrag.com/post/bir-sanatci-temsili-modeli-burosarigedik>

¹⁸⁷ Esra Sarıgedik Öktem could not make time for an interview due to the restrictions imposed by the lockdown during pandemics.

lifetime, given she does not have the means to establish a foundation singlehandedly at this point in time.

Eda Çekil imparts another striking information regarding the lack of understanding around legacy conservation: After his retirement, Çekil's room on the Dokuz Eylül University campus was given over to other professors of the faculty, who tried to preserve the memory of Çekil in this space, since the majority were his students. In 2019, the building that houses the Faculty of Fine Arts was declared¹⁸⁸ as not earthquake-resistant and the faculty members were given sacks to carry their belongings.

Considering this situation, Eda Çekil takes comfort that they had not donated any work to the faculty, yet tells that the whereabouts of the articles he left behind as memorabilia is not yet known.

3.3.3. *Catalogue Raisonné*: Fikret Muallâ and Semiha Berksoy

The life and work of the Turkish painter, Fikret Muallâ¹⁸⁹ represents one of the most extraordinary cases in the art history of Turkey, not because Muallâ was merely a “solitary and wounded, bohemian” artist figure, as repeatedly overemphasized by the mainstream narrative (Demir, 2020), but because he has

¹⁸⁸ <https://m.bianet.org/bianet/genclik/209893-dokuz-eylul-universitesi-guzel-sanatlar-tasiniyor>

¹⁸⁹ Fikret Muallâ Saygı (1903-1967), also written as “Moualla” in French resources, has left for Switzerland to become an engineer at the tender age of 16 when his father remarried upon the death of both her mother and grandmother because of the Spanish flu. He settled in Berlin to study at the Beaux-Arts, where he lived between 1920-1926. In 1927, he returned to Turkey and taught art classes at his alma mater, Galatasaray High School. In 1932 he briefly worked as a decorator for the Istanbul Municipality theaters and opened his first exhibition in Istanbul in 1934, before he was involved in a fight, after which he decided in 1937 to be hospitalized at Bakırköy Psychiatric Hospital instead of serving time. After losing his father, Muallâ decided to move to Paris in 1938. After fourteen years of artistic career, Mualla was admitted into Sainte Anne Hospital in 1953 where he stayed about three years. Despite his mental and physical struggles, Muallâ has opened several exhibitions in France and has been noticed by the art dealer Fernand Angles in 1959, who sustained and promoted the artist until the end of his life in 1967.

led an utterly stringent and dispersed artistic life, and gained an incredible recognition for his art nonetheless.

Prepared by Kerem Topuz¹⁹⁰ and Marc Ottavi,¹⁹¹ and published on August 2019, Fikret Muallâ's *Catalogue Raisonné*¹⁹² is the product¹⁹³ of an extensive and meticulous work that took two decades to bring precisely 2.452 artworks together, which entailed scrutinizing collections, surveying galleries and auction houses and studying every publication and exhibition catalogue that centered on the artist.¹⁹⁴ In the last paragraph of the CR's preface, Topuz writes that the publication is the "manifestation of an homage that should have been paid long ago to the artist," and that it intends to prevent the forgeries¹⁹⁵, which "crown the artist's success in fraudulent ways and damage his legacy" (Ottavi & Topuz, 2019)

The nomenclature of works in the CR is chronological¹⁹⁶; for each year, the themes of the artworks follow the same order: drawings, exterior scenes, interior scenes, bars, games, musicians, portraits, nudes, animals, still lives, landscapes and seascapes, abstractions and others. However, as the artists have periodically felt inclined towards certain themes, the rates of these themes vary from year to year. All known records of sales are provided under the works'

¹⁹⁰ Translator and researcher Kerem Topuz (1955 -) had a close connection with the artist owing to his father, veteran journalist and writer Hıfzı Topuz (1923 -), who remained close friends with Muallâ until the artist's death. Hıfzı Topuz had previously published a book on the artist called "*Fikret Moualla, Anatomie d'Un Bohême: Oeuvres, Temoignages, Anecdotes et Souvenirs*," which laid the basis for Kerem Topuz's research.

¹⁹¹ Working as an expert for auction houses over 25 years in Paris, Ottavi has participated in the Garrigou Estate Sale in 2001, which included about hundred works by Muallâ. He has been working on the inventory and archive on Muallâ ever since.

¹⁹² Although Muallâ has lived mostly abroad, I considered this CR among the cases of my research because it was intended to illuminate the practice in Turkey, given it was prepared in both French and Turkish.

¹⁹³ The publication is the first volume of the CR, the second volume is under way.

¹⁹⁴ From the Zoom meeting organized by Topuz and Ottavi on December 21, 2020.

¹⁹⁵ Although Topuz and Ottavi has presented couple of examples of fake Muallâs during their Zoom presentation on December 21, 2020, they have not included these in the CR and presented only the works they were sure of.

¹⁹⁶ A particular group of gouache works, which have never been published or exhibited publicly before, are kept together as a collection outside of this chronological order and are signaled with a yellow band on top of the page with the inscription "private collection."

captions that include medium, dimensions, date and signature information, and provenance, but neither the bibliographical references nor the exhibition history of works are included.

An important aspect of Muallâ's career underlined by this CR is that the artist's works before 1950, especially those created until 1938 prior to the artist's settlement in Paris are not very well archived due to several relocations between countries and cities, diverse occupations and his declining mental health, which is why the works of these periods are grouped simply under "Turkey Period before 1938" and "French Period 1939-1950" without any further ordination.

The early years in France, which clearly bear the mark of *Académie de la Grande Chaumière*, where he was trained under André Lhote and Othon Friesz, have also introduced Mualla to the "maisons closes" (brothels) with the start of the Second World War and later, the café society of Paris. Muallâ who started to frequent the famous Montparnasse institutions, such as *Le Select*, *La Coupole*, *La Rotonde*, *Le Dôme*, and *La Closerie des Lilas*, have surrendered a great deal of his paintings in these cafés in exchange for supper and drinks, which ended up in the trash since his works were not deemed worthy yet. Muallâ had eventually caught the eyes of Parisian dealers in the 50's, however he had not respected the exclusivity of the galleries, selling his works cheaper than the gallery prices to be able to pay for his room.¹⁹⁷ The hospitalization at Sainte Anne Hospital twice between 1953-1956 closes this turbulent chapter, but to the expense of his archive and drawings in crayon and pencil, which were stolen with their folders.¹⁹⁸ This anecdote clearly demonstrates the vulnerability of the artist figure under challenging conditions and the potential lapse in their legacy, if their respective artistic assets are not safeguarded.

¹⁹⁷ From the Zoom meeting organized by Topuz and Ottavi on December 21, 2020.

¹⁹⁸ Idem.

In the period after 1960's, Muallâ had been supported by Louis Lhermine as well as Fernand Anglès and Madame Anglès (Ottavi & Topuz, 2019); through their compassionate patronage, the artist had achieved a regular pace of production, which is proven by the 364 gouache works on paper that he had completed in just seven years despite his illnesses. Therefore, it is possible to consider this publication and its authors, which re-contextualize the artist's legacy, incorporate the posthumous findings and provide a reference for the authenticity of his oeuvre, as a form of stewardship.

Another CR published in Turkey addresses the life and the works of Semiha Berksoy¹⁹⁹, who is recognized as a multi-faceted artist or, in Dieter Ronte's words, as "a total work of art."²⁰⁰ Although presented as a *Catalogue Raisonné*, the publication differs fairly from the usual format. Published by Galerist Publications with the sponsorship of Odeabank in 2017, Berksoy's CR presents all the accessible works of the artist, precisely 570 works, including her earliest sketches from childhood years and those created at the Fine Arts Academy. Since Berksoy had a spontaneous and autodidact way of working, the artworks have not been grouped under themes or mediums but are presented in a more or less chronological order. However, the captions of her works do not mention any information regarding provenance, exhibition history or bibliographical references.

¹⁹⁹ Much like Fikret Muallâ, Semiha Berksoy (1910 – 2004), who was born in Istanbul, lost her mother at the young age of 7. She studied at the Istanbul Municipality Conservatory in 1928-1929 and at the Academy of Fine Arts, Namık İsmail, Refik Epikman and İsmail Hakkı Toygar studios (1929-1930). She starred in several theatrical productions with Muhsin Ertuğrul before becoming the Prima Donna of the Süreyya Opera in 1933. In 1936 she won the European competition of the Ankara State Conservatory and was accepted to the Berlin Music Academy Department of Opera. Completing her education in 1939, right after the proclamation of the Republic, she became the first professional opera singer in Turkey. After 30 years on opera stages, she held a painting exhibition in Ankara Language and History Faculty in 1961 and continued painting for the rest of her life. Semiha Berksoy, who was awarded the title of State Artist in 1998, participated in numerous institutional exhibitions and biennials including the 5th Istanbul Biennial (1997), Manifesta II (1998), Bonn Kunstmuseum and Vienna Kunstmuseum (2000), the retrospective exhibition at İş Sanat Kibele Art Gallery (2003), the 51st Venice Biennale (2005), Martin Gropius Bau (2009), Shanghai Biennale (2012) among others.

²⁰⁰ Dieter Ronte is a German art historian and the former director of Kunstmuseum Bonn. He was quoted in Zeliha Berksoy's article included in the CR.

In contrast, the publication includes remarkable texts by the artist's daughter, Zeliha Berksoy as well as Levent Çalikoğlu, Ferit Edgü, Dikmen Gürün, Beral Madra, Rosa Martinez, Dieter Ronte, Robert Wilson and Derya Yücel, and contain substantial insight for the evolution of Berksoy's works, and thus are helpful for the interpretation of her creative psyche and re-contextualizing her legacy.

According to Yücel, who had taken on the position of editor for the CR, the project was initiated by the artist's gallery, Galerist with the intention of producing a comprehensive book on the artist. (Şenliler, 2017) The intent in question may be considered as the rationale behind the publication's format, which approximates to a monograph rather than a CR, given it fails to submit certain factual information like the provenance, the exhibition history and bibliographical references for the artwork entries in the catalogue. More notably, Galerist's involvement in the project appears as unusual when ICRA's (International Catalogue Raisonné Association) doctrine, "the authors or editors should ideally have no financial interest in the works being catalogued"²⁰¹ is considered. However, it may be argued that Galerist has remained within the ethical lines given they supervised the project together with the Semiha Berksoy Opera Foundation presided by Zeliha Berksoy. Likewise, the gallery has treated the publication as a means to enrich the artist's legacy on an international level beyond financial expectations, as will be explained in the next chapter.

3.3.4. Commercial Galleries: Galerist and Galeri Nev

One of the leading and longest running establishments in the art market in Turkey is Galeri Nev, which was founded in 1984 by Ali Artun and Haldun

²⁰¹ <https://icra.art/about/catalogue-raisonne/what-is-a-catalogue-raisonne>

Dostođlu in Ankara.²⁰² The inaugural exhibition of Galeri Nev was consecrated to the drawings of the artist Abidin Dino,²⁰³ whose on-going representation by the gallery after 37 years suggests a strong commitment for the stewardship of artists' legacy.

That said, Dino's case is very telling about the challenges of managing estates in Turkey: director of the Ankara Galeri Nev, Deniz Artun explains²⁰⁴ that Dino himself has proposed to make editions out of his drawings and has assigned the economic rights of "Hand" series to Galeri Nev in his lifetime, because he had intended for these works to be affordable for anyone who wished to own them, regardless of their social or economic status. When the gallery set out to reproduce the series for the 10th year commemoration of Dino's demise, the artist's wife, scholar and writer Güzin Dino was informed of the project, even though the Gallery had the rights to the works. Despite the Gallery's attention and care, Artun expresses that after Güzin Dino's passing away in 2013, many works from the series were lost amid the quarrels between the estate's so-called heirs, and some of these works, the economic rights of which belong to the gallery, now appear on the glassware commercially produced by Paşabahçe.²⁰⁵ As the heirs of Dino's could not be determined by court, the gallery cannot find any other parties to take legal action with.²⁰⁶

²⁰² Today the Galeri Nev in Ankara is a separate gallery under the direction of Deniz Artun, whereas Galeri Nev İstanbul continues its operations under Haldun Dostođlu's direction in İstanbul, where the gallery opened its first space in 1987.

²⁰³ Turkish multi-disciplinary artist, filmmaker and stage designer Abidin Dino (1913-1993) is among the founders of "d Group". After working in the Soviet Union for several film projects, Dino settled in Paris in 1937 and joined in the artistic circles frequented by Gertrude Stein, Pablo Picasso and Andre Malraux. In 1939 he returned to Turkey and found the "Yeniler Grubu" before he was exiled to Anatolia for his political thoughts. In 1952 he settled in Paris for good where his work was included in the Musée de l'Art Moderne de la Ville collection and the French Association of Plastic Arts (UNAP) collection of which he became the honorary chairman in 1979. His first solo exhibition in Turkey was held in 1964 at Gallery 1 in İstanbul but his professional gallery representation was with Galeri Nev in 1984 in Ankara.

²⁰⁴ From the virtual interview with Deniz Artun on May 27, 2021.

²⁰⁵ <https://www.pasabahcemagazalari.com/sofra/bardaklar/bardak-setleri/abidin-dino-sarap-bardagi-2-li-set/u-10006087-213-4712>

²⁰⁶ Idem.

Another major problem in Dino's estate concerns the inventory of works. Artun tells that Güzin Dino was misadvised to photocopy the drawings, which she would consign or loan to exhibitions and galleries. As the works and their copies were not clearly marked or methodically classified and catalogued, they had begun jumbling together in Dino's drawers, resulting in misattributions, which still continue today. Due to this obscurity of provenance and authenticity problems, a CR of Abidin Dino could never been on the agenda for Galeri Nev, however several other publications were produced over the years.²⁰⁷

The aforementioned case of Tiraje Dikmen Estate has been another affair of consideration for the Gallery: Dikmen, who was the second artist that opened an exhibition at Galeri Nev, right after Abidin Dino's show, passed away in 2014 and her estate has been rendered completely dysfunctional due to negligence. The plundering of artist's house in Büyükdada have been chronicled by the artist's former lawyer, Cengiz Akıncı in 2020²⁰⁸ however a more crucial harbinger of this fate is evident in the words of Ali Artun, who strived to organize a retrospective exhibition for the artist in her lifetime:

“We opened the exhibition of Tiraje Dikmen at the gallery in 2002; ten years after that, I convinced Tiraje for a museum exhibition and I contacted the managers of the Pera Museum. They too were very excited about the project, they had several meetings at Büyükdada, but right around that time, Tiraje was placed under guardianship. And her guardians did not take any interest in the project. The dispersed treasure on the upper floor in her house needed to be handled by curators, who would accordingly prepare an exhibition with a proper catalogue, but they did not care about any of that and moved Tiraje into a nursing home.” (Abiyeva, 2020)

²⁰⁷ In 2018, a monograph was published by Galeri Nev Istanbul with the sponsorship of QNB Finansbank. It is worth noting that this publication only brought together the drawings and paintings so as to explore the artist's identity and work as a painter, as stated by Farah Aksoy's preface titled “Which Abidin?” but did not specify the dates for most works and omitted the provenance information completely.

²⁰⁸Published on Cengiz Akıncı's personal Facebook account on August 16, 2020, accessed on 20 March 2021: <https://www.facebook.com/1604292656/posts/10221205808807169/?d=n> ; <https://www.facebook.com/1604292656/posts/10221211821397480/?d=n> ; <https://www.facebook.com/1604292656/posts/10221216348510655/?d=n>

As explained above in Chapter 3.2, the Mimar Sinan University was assigned as a trustee (“yediemin”) by court and the artworks including the personal collection of Dikmen is taken under protection by the Istanbul Museum of Painting and Sculpture.²⁰⁹ Amid this ravelment, Deniz Artun expresses that the Gallery has been literally torn between acquiring the archival materials but that they ultimately decided to stay out of this process. Artun also adds that they were approached by certain people who tried to exploit and capitalize on the works they owned, and admits that they are utterly afflicted about the estate’s current condition, since their essential mission as a gallery to promote the research on the artist has also been nullified.

In Artun’s experience, it is much less stringent to work with artists who have heirs, as in the cases of Mübin Orhon, Nejad Devrim and Yüksel Arslan whose daughters Bénédicte Orhon, Veronica Devrim and Seli Arslan respectively, have actively helped establishing an intimate, collaborative working format between the second-generation representatives of these estates and the gallery. However, the circumstances and framework of each liaison are as unique as the artists themselves. For instance, Bénédicte Orhon keeps an exceedingly private inventory of works but periodically selects and consigns new works to the gallery; with each dispatch, she also sends an archival material²¹⁰ without an exception in order to contribute to the gallery’s archive. Conversely, the gallery had not received any archival material from Devrim’s estate until his solo exhibition in 2018, “Le grand mérite de Néjad, c’est d’être Néjad”,²¹¹ where a fascinating amount of archival material²¹² was contextualized around one

²⁰⁹ <https://twitter.com/msgsuniversite/status/1294311293575454720>

²¹⁰ To illustrate how intimate such relationships are, Artun mentions that Bénédicte Orhon always sends an archival piece to Artun’s son, Selim because Selim Turan, who was a close friend of the Orhon is his namesake. Although Orhon specifies these as gifts for Selim Artun, Deniz Artun adds all material to the gallery’s archive. (From the virtual interview with Deniz Artun on May 27, 2021.)

²¹¹ <https://galerinev.art/en/le-grand-merite-de-nejad-cest-detre-nejad>

²¹² The gallery collected archival materials from the general public through an open call, whereby the possessors of such materials about Nejad Devrim could register their documents on the gallery’s archival database. (From the virtual interview with Deniz Artun on May 27, 2021.)

single oil painting from 1954, shedding light on the social, political and artistic background of artist's creative endeavor. A part of these archival materials, bearing merely private information for the family are returned to Devrim family, whereas some documents, which have significance in the broader context of the artist's practice are still kept at the gallery's archive.

As such, in some instances, the exhibition projects necessitate an archive in the gallery, whereas in others, existing archival materials pave the way for exhibition and publication projects. The latter has been the case for Abidin Dino's "Par Avion" publication²¹³ presenting the postal correspondences of the artist with the poet Gülten Akin, which have been sourced from archives of gallery and Abidin Dino Archives that was bequeathed to the Sakıp Sabancı Museum by Güzin Dino.²¹⁴ It is safe to say, that the artists' archives are an important point of departure for the gallery today, given their thematically organized "Nev Nadir" exhibitions are born from the posthumous discoveries in the gallery's archive. A similar project is intended for Erol Akyavaş's estate: the gallery has appointed an employee to sort out Akyavaş's archive in Istanbul and categorized all materials in the past years, therefore has full knowledge over the contents of this archive but has not realized a project yet.²¹⁵

Yet, all things considered, Artun emphasizes that none of their collaboration with these names mentioned above, can be regarded as a comprehensive custody of an estate; that "the gallery merely possesses some articles bearing mainly sentimental and personal value" they personally value instead of consigning an exclusively profitable inventory from these artists, since the very foundation and on-going operations of the gallery is more in line "with

²¹³ The digital copy of the book, "Par Avion" can be found entirely online on the gallery's website: https://galerinev.art/storage/files/publications/par_avion.pdf

²¹⁴ The SSM Abidin Dino Archive contains 594 postal correspondences, 344 documents, 335 press clippings, 269 drawings, 250 photographs, 139 articles, 92 invitations, 29 brochures in addition to many other materials, which are all digitized by the Museum and made public online: <https://digitalssm.org/digital/collection/abidindino/search>

²¹⁵ From the virtual interview with Deniz Artun on May 27, 2021.

romantic values, personal paradigms and informal affiliations as opposed to professional modalities” of gallery management. In fact, the gallery omits written agreements by and large with these artists as per their amicable relationships,²¹⁶ which conceivably jeopardizes their legal position in certain cases like with the aforementioned Dino Estate. Furthermore, all rights still lie with the artists’ heirs; consequently the gallery is oftentimes uninformed about the recent activities and dealings about these artists’ works, according to Artun, who adds that the works returned to the estates after their consignment period may reappear elsewhere.²¹⁷

In light of this three-decennia-long gallery activity, Galeri Nev Ankara has ventured in two main projects to contribute to the art historical discourse in addition to the exhibitions and publications it undertakes. The first one is the NEVARCHIVE project, which was launched in 2005. Using a library database system, an individual archive is created for each artist who ever had an exhibition at Galeri Nev, where their works are inventoried together with relevant documents like letters, invitations, installation images, price lists and/or personal photographs and resums. In some cases, certain documents such as faxes that show the wear and tear of time are also digitally duplicated so as to preserve any existing information about artists. A code is assigned to each item, and the documents in the archive are cross-referenced. This helps to filter the archive and group the artists who are from the same generation, artists who have been included in the same publication or exhibitions and so forth. This archive is accessible online to the graduate students and art professionals with the authorization granted by the gallery.²¹⁸

²¹⁶ During my term as a gallery manager at the Galeri Nev Istanbul, which became completely autonomous from the Galeri Nev Ankara after 2000s, I have personally observed that a candid affiliation between the gallery and artists, discarding official agreements was indeed the custom of the enterprise, hence the “romantic values” that Artun mentions.

²¹⁷ From the virtual interview with Deniz Artun on May 27, 2021.

²¹⁸ Idem

The second project concerns the library of Galeri Nev, which had been downsized during gallery's move into its current address in Ankara. The content of the library is reduced to the publications focusing on represented artists, donating the rest, and thus creating a specialized library, which serves everyone today. It is exceedingly important to note here that Deniz Artun reminds that the galleries, that is to say, the gallerists are not immortal either. So when asked whether they ever considered turning the gallery into a legal institution, as in the example of Fondation Maeght, Artun answers that they have indeed looked into it on the 25th anniversary of the gallery. However they have decided to abandon the idea because Artun, who ran Galeri Nev in a rented space, had no landed property to endow for the foundation; but more importantly, the idea was given up based upon the mutual conviction that such formation would have not contributed in the favor of gallery's operations in a sustainable way because a gallery, by its nature, requires a certain level of liberty and "a personal touch" of its director rather than a board of managers who would have a secondary relation to the establishment and its artists, thus would be at odds with the fundamentally personal affiliations mentioned above. As for the question of donating, Artun imparts that they could not even access Bilkent University's Art Library during the research process of Nejad Devrim's 2018 exhibition, despite the fact that they have donated the library numerous publications and works over the years, including a complete set of Erol Akyavaş' series "Miraçname". Such obstruction imposed by the university library to the gallery is quite striking in terms of the deprivation of alliance among different key players of the artistic milieu in Turkey, while the impermanence of fidelity between these parties possibly explains why the galleries refrain from collaborations and/or donations; both resulting in the detriment of the very domain they constitute and mean to foster.

Founded in 2001, Galerist's constitutive mission has been defined as discovering and promoting younger generation of contemporary artists. As the gallery inched its way up the ladder of seniority, together with the artists it

represented, it has begun working with more established names like Sarkis and Nil Yalter by the 2010's. That said, 2014 has been a seminal year for Galerist when the gallery has included the estate of the late artist Semiha Berksoy in its roster. In the past three years, the gallery has signed two more estates: the first one was the late photographer, Şahin Kaygun in 2019,²¹⁹ and the second was the late artist Hüseyin Bahri Alptekin in 2020, respectively.²²⁰ The announcements concerning the representation of both artists have contained the word “estate”, which may well be read as a shift in the perception of the commercial art galleries in Turkey towards the concept.

These three estates are now managed by the gallery in cooperation with the artists' respective families. Among these, Semiha Berksoy is the only artist under whose name a foundation²²¹ is established so far. However, probably as a result of the Foundation's emphasis on the opera career of the artist, it is currently Galerist who keeps the artist's entire archive of visual art.²²² It may also be argued that the gallery is a more appropriate body for safeguarding these assets, given they often integrate into the Fine Art works owing to Berksoy's particularly autobiographical manner of working.

Berksoy's artworks, a substantial portion of which had been moved into the warehouses of Asya Nakliyat upon her death, have been transferred to the gallery's storage around 2018 under the supervision of the artist's grandson, Oğul Aktuna. In the period of the transfer, a posthumous discovery was made, and a series of portraits were found, which were later shown at Galerist in 2019.²²³ An equally crucial project was also undertaken during the storage transfer: Galerist has inventoried all works with a file number on its Artlogic database, where all related information regarding the provenance and loans or

²¹⁹ <http://www.galerist.com.tr/en/sahin-kaygun-2>

²²⁰ <http://www.galerist.com.tr/en/huseyin-bahri-alptekin-2>

²²¹ <http://www.semihberksoyoperavakfi.org>

²²² From the virtual interview with Müge Çubukçu on May 14, 2021.

²²³ <http://www.galerist.com.tr/en/portraits>

consignments is still kept up to date. As for the impact on the *oeuvre*'s appraisal, the market value of Berksoy has soared after the affiliation with Galerist, not because the gallery seized upon the estate's cachet, but because Berksoy has never been represented by a professional gallery before; hence the rectification of misestimated and devalued prices.²²⁴

Müge Çubukçu who is currently the Associate Director at Galerist imparts that the Berksoy estate reserves certain works for a prospective museum project.²²⁵ This approach implies that the legacy of the artist was also understood from the family's part, as in the example of Paul Klee given in Chapter 2.1.1, and by the artist herself. Indeed, Berksoy's recognition of death and legacy is evident in the story of Berksoy's *magnum opus*, "Bedroom" that is also known as the "memory room". Describing her mother, who was suffering heart attacks in 1994, Zeliha Berksoy writes: "I think she wanted to leave a great masterpiece pertaining to her life just before departing" adding that her mother wanted to tell "that she still has a right to live." (Berksoy, 2017, p.60-61)

The work in question speaks for another crucial matter concerning the artist's estate. Semiha Berksoy's bedroom has been donated to Mimar Sinan University by the artist, to be shown at the Istanbul Museum of Painting and Sculpture. Despite the news coverage²²⁶ of this bequest in 2003, Çubukçu notes that, to the best of her knowledge, the elements of Berksoy's bedroom had never left the storage to be installed at the museum.²²⁷ While this situation is linked with the bureaucratic uncertainty surrounding the museum since

²²⁴ Idem.

²²⁵ Çubukçu notes that the Ministry of Culture has allocated a space for the artist's museum in Galatasaray. Idem.

²²⁶ <https://www.cumhuriyet.com.tr/amp/haber/ask-ve-sanatla-yasayan-kadin-117138>

²²⁷ From the virtual interview with Müge Çubukçu on May 14, 2021.

2008,²²⁸ it is also very telling about the level of adherence to artists' wishes in Turkey.

As explained in the previous chapter, Galerist has published Berksoy's CR in 2017 after a research of one year. Although this publication is the most comprehensive monograph to date, Çubukçu notes that there are works, which were not featured in the CR because they had been gifted by the artists back in the day and could not be located.²²⁹ All in all, the gallery has put together all existing documentation of works and completed the CR. The English version of the publication was sent to foreign curators, which contributed to the gallery's bona fide objective to put Berksoy back on the international map²³⁰ as a visual artist. Currently, the gallery is in touch with SALT Research to digitize the artist's archive.

The second estate represented by Galerist is that of Şahin Kaygun,²³¹ whose interdisciplinary artistic career surpassed his short biological life. Kaygun has been adamant about exploring the boundaries of photography as a medium through the application of scratched, colored layers on his photographic works, attaching them a uniqueness rather than reproducibility. The artist's interview with Ara Güler in 1984 is a noteworthy anecdote regarding his mindset about his work and the legacy of his estate: asked whether he has a plan for the

²²⁸In June 2020, the museum's reopening date was postponed and remains uncertain ever since: <https://www.artforum.com/news/istanbul-museum-of-painting-and-sculpture-opening-delayed-again-83238>

²²⁹ From the virtual interview with Müge Çubukçu on May 14, 2021.

²³⁰ The gallery has participated in the Abu Dhabi Art fair in 2017 with a solo booth of Berksoy, where the CR was also presented. Omar Kholeif, who has seen the artist's works here, included a selection of paintings in the 14th Sharjah Biennial in 2019. Curators Bettina Steinbrügge and Nicholas Tammens, who have seen the works at Sharjah Biennial, included artist's works in the exhibition "Carnivalesca, What Painting Might Be" at Kunstverein Hamburg in 2021. Likewise, the gallery showed the artist's works at Frieze Masters in 2018, through which the artist's work was included in "The Moon" exhibition at Grand Palais, Paris in 2019.

²³¹ Şahin Kaygun (1951-1992), Turkish photography artist. He studied graphic arts at the State University of Applied Fine Arts in Istanbul, during which he developed an artistic interest in photography. He attended the Salzburg Summer Academy in 1980. He opened only three solo exhibitions in his lifetime but was recognized for his use of Polaroids. The artist has died in 1992, aged 41.

safeguarding and promoting his oeuvre in the posthumous phase, Kaygun tells that he has no information or assurance for the future of his works, adding that he doesn't consider this organization as his job; he only assumes the task of creating his art and that he cannot prevent it if all his work is set on fire after he dies. (Güler, 2018, p. 280)

Fortunately, this has not been the case with Kaygun's estate. Although his work had been away from the public eye for two decades after his passing, the early 2010's have been a turning point for his visibility. Now-defunct Elipsis Gallery began representing the estate and opened his solo exhibition in 2013, which was followed by the first retrospective on the artist at Istanbul Modern Museum in 2014.²³² After Elipsis terminated its activities in 2014, Kaygun's work was managed exclusively by the artist's daughter Burçak Kaygun, until Galerist's involvement in 2019. Emphasizing the progressive nature of relations between artist families and galleries, Çubukçu reminds²³³ that their affiliation with Kaygun's estate is very recent, that the remainders of artworks, which are not consigned to the Gallery for exhibitions or fairs, are therefore kept by the estate. However, she tells that the inventory and the digital archive was taken over from Elipsis, which may be interpreted as "the passing of the torch" between two galleries, who committed to the protection and the promotion of Kaygun's legacy.

Currently keeping their inventory on Artlogic, the gallery's representation has resulted in a surge of posthumous revelations about works' provenance, when previously acquired and unknown editions of Kaygun's works have been submitted to the gallery by collectors. The gallery, which has shown Kaygun's works at Paris Photo in 2019, plans to publish a CR on the artist and fully digitize its archive in the coming years.²³⁴

²³² https://www.istanbulmodern.org/en/exhibitions/past-exhibitions/sahin-kaygun_1491.html

²³³ From the virtual interview with Müge Çubukçu on May 14, 2021.

²³⁴ Idem.

Much similar with Kaygun's case is the estate of Hüseyin Bahri Alptekin, who had been previously represented by Rampa Gallery until its closure in 2017. As ascertained from Çekil's case, Rampa had kept a very ordinate and meticulous inventory of the artist according to Çubukçu, which was transferred in 2020 to Galerist's Artlogic database. The archive of the artist was likewise digitized by SALT Research before Galerist's affiliation with the estate and the physical archival materials were returned to artist's wife, artist Camilla Rocha, who allowed the digital archive to Galerist's use. The gallery, which has not effectuated any changes on the market value of Alptekin's oeuvre, plans to contribute the artist's legacy with a CR project and an exhibition at a museum in the near future.

3.3.5. Artist Archives and Museums: Ara Güler

The first photography artist museum and perhaps the most sophisticated archive center established in Turkey to date, are the Ara Güler Museum and the Ara Güler Archive and Research Center (Ara Güler Arşiv ve Araştırma Merkezi, AGAVAM) that are both located at Bomontiada, Istanbul. The museum has opened on August 16, 2018, which marked the 90th birthday of Ara Güler,²³⁵ after two years of meticulous work conducted by the team of AGAVAM.

Although an internationally acclaimed figure in the world of photography with a career that spans over half a century, materializing the immense project of establishing these two institutions had been possible with the support of Doğuş

²³⁵ Ara Güler (1928-2018) is a photojournalist born to Armenian parents in Istanbul. Güler has begun working with photography due to his father's profession as a chemist who developed Turkish film stock. His photographs were published in the Turkish-Armenian newspaper *Jamanak* in 1952 before the *Time-Life Company* opened an office in Istanbul. He was commissioned projects for foreign publications like *Paris Match* and the *Sunday Times*. In 1953, Güler joined the Magnum Agency. His works illustrating numerous publications and periodicals, as well as numerous institutional collections, Güler was a recipient of Master of Leica award in 1962 and France's *Légion d'Honneur* for his work.

Group.²³⁶ In 2016, a collaborative enterprise, namely the Ara Güler Doğuř Sanat ve Müzecilik Anonim Őirketi (Ara Güler Doğuř Art and Museum Incorporated Company) has been founded and a board presided by Ara Güler, was formed (Aktuđ, 2018). The agreement between Güler and Doğuř Group ruled that all rights of the company would be transferred to Doğuř Group. Although Güler has designated an heir²³⁷ he has not stipulated his heir to be a member of the board; indicating his preference to leave the management of his estate to a professional body that he deemed credible, owing to his long-standing relations with the founders of the group. The board today, is composed of executors and lawyers in addition to the art advisor of the group, ađla Sara. When Sülün is asked whether the majority of board members' expertise outside the artistic domain is or is not a handicap for the management of the museum of AGAVAM, he informs that the board here is a company board and that it rather supervises the financial and legal framework, leaving the artistic agenda to the managers of the AGAVAM.²³⁸

As explored in Chapter 2.2.3, establishing a company is also favorable when the works would continue to be produced and traded posthumously; in that respect, it is a plausible administrative method for these institutions managing and promoting²³⁹ Güler's estate. Moreover, this enterprise co-created with Doğuř Group was arguably a more dependable entity for Güler, who had previously set up the "Ara Güler Photography Education and Art Foundation" in 2012 with his own means and with similar concerns. In an interview²⁴⁰ the same year, the photographer mentions that the Foundation would look after and

²³⁶ The Doğuř Group is a global corporate that runs businesses in different sectors including automotive, construction, media, real estate, energy and hospitality & retail. For more information: <https://www.dogusgrubu.com.tr/en/corporate-profile>

²³⁷ Ara Güler had no children of his own in his two marriages; the heir in question is from his extended family.

²³⁸ From the virtual interview with the manager of AGAVAM, Umut Sülün on May 31, 2021.

²³⁹ AGAVAM is the sole body representing and marketing the prints of Ara Güler. These prints are not editioned, since Ara Güler has not indicated editions in his lifetime. Idem.

²⁴⁰ <https://hthayat.haberturk.com/yasam/roportajlar/haber/1008936-ara-guler-fotograf-hakikattir-sanat-olamaz>

coordinate his archive; another press coverage²⁴¹ informs that the foundation would set up a library, produce publications and organize events, workshops and classes to promote photography and photojournalism.

However, despite the pledge of the undersecretary of the Ministry of Culture and Tourism, who has expressed the Ministry's abiding support for the foundation,²⁴² it is likely that the artist could not procure the required means through state subsidies and/or individual efforts, thus gravitated towards such union.²⁴³ Moreover, as gathered from other cases, setting up a foundation was not favored by Ara Güler and/or Doğu Group, since such modality entails obligatory missions and engenders bureaucratic hurdles for foundations, as opposed to a company, which is much more flexible in its activities. Indeed over the past three years since its inauguration, the Museum has been able to showcase the artist's work in four major exhibitions²⁴⁴ accompanied by publications despite the quarantine restrictions. AGAVAM also collaborated with other institutions, like Istanbul Modern²⁴⁵ and Arkas Art Center,²⁴⁶ and substantiated the travelling exhibition organized by the Presidency of the Republic of Turkey, between London, Paris, Kyoto, New York and Rome.²⁴⁷ In the future, the museum plans to conceive other exhibitions from Güler's

²⁴¹ <https://www.fotopedi.org/ara-gulerin-fotografcilik-egitim-ve-sanat-vakfi-kuruldu-13909>

²⁴² <https://www.fotografdergisi.com/ara-guler-fotografcilik-egitim-ve-sanat-vakfi-kuruldu/>

²⁴³ Umut Sülün, who was among the Board of Trustees of the former Ara Güler's foundation states that the foundation was indeed terminated. He was included in the new formation as a consultant since he had direct insight about Güler's wishes and objectives. (From the virtual interview with the manager of AGAVAM, Umut Sülün on May 31, 2021.)

²⁴⁴ The exhibitions are: "Işık Çalan Adam" (16.08.2018-17.02.2019); "Aphrodisias" (28.02.2019-31.08.2019); "Hayalimdeki İstanbul Ya Bir Vapurdur Ya Bir Kuş" (01.09.2019-); "Aynı Rüyanın İçinde" (01.09.2019-).

²⁴⁵ "Two Archives, One Selection: Tracing Ara Güler's footsteps in Istanbul", May 29-December 8, 2019 https://www.istanbulmodern.org/en/exhibitions/past-exhibitions/two-archives-one-selection-tracing-ara-gulers-footsteps-in-istanbul_2293.html

²⁴⁶ "Merhaba İzmir!", Arkas Art Center, February 22-December 27, 2020 <http://www.arkassanatmerkezi.com/En/article.aspx?pageID=330>.

²⁴⁷ The exhibitions took place in Saatchi Gallery, London, April 24-May 5, 2019; Polka Galerie, May 25-June 15, 2019; Tofukuji Temple, July 1-10, 2019; Alexander Hamilton U.S. Custom House, September 23-October 4, 2019; Museo di Roma in Trastevere, January 30-May 3, 2020. For further information: <https://www.iletisim.gov.tr/english/haberler/detay/ara-guler-photography-exhibition-organized-by-the-presidency-to-be-opened-in-new-york-at-the-same-time-as-the-un-general-assembly>.

private collection that includes paintings and photographs of his contemporaries.

The building, “Güler Apartmanı” where the artists lived and kept his archive is currently under restoration to be converted also into a museum, which will allow the public to get a more personal account of the artist. Then again, certain circumstances hinder the process: the building is composed of two adjacent structures; the front façade is registered as a historical building whereas the rear front is not.²⁴⁸ On that account, the museum, which was initially planned to be inaugurated at the building owned and occupied by the artist in his lifetime, had to be moved over to Bomontiada to dodge bureaucratic obstructions. Güler’s declining health was also taken into consideration in this decision so that he could personally attend the opening of his museum and archive center.²⁴⁹

Prior to the removal of all items from the interiors of Güler Apartmanı for the restoration work, an “addressing” procedure was initiated in 2017 that took seven months; it encompassed the identification, documentation and individual labeling of each façade and surface on all seven floors of the building that housed the Ara Güler’s archive. Each item was assigned an ID, showing which compartment at which surface it was taken from, in which room and on what floor on the inventory. Transferred to the climate-controlled storages of the new premises at Bomontiada on July 2017, each of the boxes that contain the archive, carry a specific label matching with the sign that indicates the floor/room/surface/compartment data (Aktuğ, 2018). By help of such specific addressing, all items taken from the building, such as furniture, decoration, tools and the original boxes, which previously contained the archive, will be

²⁴⁸ Also given that the neighboring plot is partially registered and the sewage systems in that block are quite old, the process has been complicated. (From the virtual interview with the manager of AGAVAM, Umut Sülün on May 31, 2021.)

²⁴⁹ From the virtual interview with the manager of AGAVAM, Umut Sülün on May 31, 2021.

placed back in his museum upon its completion, hence reanimating the original setting of Güler Apartmanı.

The whole procedure at the archive consists of five steps: the accommodation of boxes in the climate-controlled archive storage by the conservation team is followed by the dry-decontamination of materials from dust and potential fungi or pest before moving on to other phases. Umut Sülün states that they were fortunate to find that Güler's archive was so well protected over the years that very few items were affected to a degree that was salvageable.²⁵⁰ The third step is the conservation process, which involves the transfer of materials to standardized acid-free archival sleeves, envelopes and containers. This stage is crucial in terms of historical consistency of the archive: the boxes containing numerous items including photographic material such as films, negative and positive reversal films, prints and other related documents are kept physically intact, following the exact same categorization and order of Ara Güler himself.

A critical aspect here is that Ara Güler has always archived his documents and prints by subject/theme instead of chronology.²⁵¹ This indicates that the photographer has considered an archival strategy rather than simply stockpiling his files. That being the case, the containers, like boxes, folders and envelopes are updated yet their contents are kept exactly the same. In fact, the old frames of reversal films, envelopes or other casings used by Güler are annexed in their respective folders because they often bear a hand-written note, and also because they provide information for the materials of the period, during which his practice was active.

²⁵⁰ Ara Güler Müzesi [@aragulermuzesi]. (2020, August 14). "Ara Güler Arşiv ve Araştırma Merkezi Gezisi"[Instagram video]. Retrieved from: <https://www.instagram.com/tv/CD3kYdHCunP/>

²⁵¹ Güler has indicated dates on these boxes if only a certain subject was too broad and included too many items to fit in a single box; hence a chronology was only established within the scope of subjects.

Sülün remarks at this point that Güler has always used higher quality materials than was found in his time in Turkey; deducing that the artist has apparently thought hard over his materials and system.²⁵² The only addition to the new containers is an inventory form attached on top of the file, which includes a barcode linked to this inventory form. The fourth stage in the archive is the digitization. The contents of each box that goes through the previous conservation room are being scanned here. Sülün indicates that all sorts of letters, notes, negatives, books, posters or newspapers are scanned with 1200 dpi resolution, whereas selected archival items or prints are scanned with 8000 dpi resolution for publication purposes. The back-ups of these data are all saved in the server rooms on the premises and these are again duplicated weekly in the servers of Doğuş Teknoloji at Gebze.²⁵³

To honor Güler’s legacy and wishes, AGAVAM prioritizes the digitization of the archive so as to provide material for scholarly research. The project director of the institution Çağla Saraç informs that the royalty fee would be waived for academic purposes (Aktuğ, 2018) so long as the copyright information is indicated and the image is not cropped.²⁵⁴ In return, Sülün emphasizes that the institution claims all rights for commercial activities without exception, with a broader emphasis on duty of respect towards the artistic legacy they have committed to preserve, rather than a financial pursuit. The institution stands firmly behind this approach regardless of the backlash it may cause, since copyright infringement is perpetrated too often Turkey, especially by those who are well informed about intellectual property rights, such as the publishing houses, galleries, auction houses or television channels. AGAVAM instigates warnings in such instances²⁵⁵ and takes judicial action if need be, with the aid

²⁵² Idem.

²⁵³ Idem.

²⁵⁴ The cropping is also allowed if the full image is included at the end of the publication.

²⁵⁵ The documentary by Coşkun Aral, titled “Bu Dünya Böyle Dünya: Ara Güler Belgeseli” which was broadcasted on YouTube and social media is an example of such action. The warning letter drawn up by the company has appeared on media, and has indeed received backlash; it is noteworthy that the journalist Hikmet Çiçek questioned why the estate was not

of Doğuş Group’s legal department. According to Sülün, the more they have claimed and exercised their rights, the more third parties began to seek authorization for using Güler’s works; and that it contributes to establish norms in a wider sphere. For all these reasons explained, AGAVAM places a contract with third parties stipulating the terms and restrictions of use.²⁵⁶

The launch of the Museum’s website and the archive’s database is delayed for several reasons. The first one concerns the expectancy of the public who was eager to see new exhibitions on Güler’s *oeuvre*. Due to the preparations for the exhibition projects mentioned above, Sülün tells that the digitization process and the indexing of the archive were delayed. Moreover, the quarantine period has been a setback for the conservation team, who could not physically access the archive for a period of time and could solely work on online servers for indexing or on editorial contents. Having said that, he further underlines that the institutions have never meant to rush the processes, and that any decision they make is the outcome of a regimented protocol because any action they take is now binding on behalf of the institutions. While the digitization phase is completed, Sülün indicates that indexing is a long-running task with respect to the detailed data they enter into the system to establish a highly efficient database.²⁵⁷

Ultimately, Sülün adds that they had no guidance when they have undertaken their projects in 2017, and that AGAVAM considers certain projects whereby they can share their know-how about archiving process and artistic legacy management to assist younger generation of artists or help orchestrating other estates,²⁵⁸ which would sustain their role as cultural custodians in Turkey.

institutionalized as a foundation. See: <https://odatv4.com/ara-gulerin-adina-bile-el-koydular-09042046.html>

²⁵⁶ From the virtual interview with Umut Sülün on May 31, 2021.

²⁵⁷ From the virtual interview with Umut Sülün on May 31, 2021.

²⁵⁸ Idem.

3.3.6. Archives and Institutions of Memory: SALT Research

SALT Research was founded in 2011 in assembly with the non-profit cultural institution SALT, as a specialized library and archive of physical and digital sources that focus on the cultural landscape of Turkey from the late 19th century onwards to our day.²⁵⁹

Having incorporated the Ottoman Bank Archives and Research Center (2003-2008), Platform Garanti Contemporary Art Center (2001-2007) and the Garanti Gallery (2003-2008), the overarching institutional body, SALT had obtained an accumulation of knowledge that provided insight for the preceding cultural heritage of the city, as stated by Meriç Öner,²⁶⁰ who also emphasizes that the practices of SALT Research do not merely amount to the “caretaking” of documents but to make them available in favor of the public in a sustainable way. (Öner, 2020)

As of today, SALT Research has three main archival collections²⁶¹, which are grouped under “Art”, “Architecture and Design” and “City, Society and Economy”. The collection dedicated to “Art”, focuses on the history of art in Turkey specifically after 1950 and constellates a plethora of materials and documents collected from artists, curators, and institutions among other cultural parties, shedding light on the cultural context of their time. Within this scope, a subcategory accommodates the “Artists” archives²⁶², bringing together various documents and materials from the personal archives of 13 artists, namely: Ahmet Öktem, Altan Gürman, Cengiz Çekil, Gülsün Karamustafa, Hüseyin Bahri Alptekin, İsmail Saray, Moni Salim Özgilik, Mustafa Altuntaş,

²⁵⁹ http://saltresearch.org/primo_library/libweb/static_htmls/salt/info_about_en_US.jsp

²⁶⁰ Meriç Öner is the Director of Research and Programs at SALT.

²⁶¹ <https://archives.saltresearch.org>

²⁶² <https://archives.saltresearch.org/handle/123456789/652>

Sabiha Rüştü Bozcalı, Serhat Kiraz, Kutluğ Ataman, Tomur Atagök and Yusuf Taktak.²⁶³

As opposed to the practices of similar archive institutions worldwide, such as IMEC (*Institut Mémoires de l'édition contemporaine*) in France, which retains the archives physically, SALT Research receives the archives on loan and returns them to their owners once they are digitized and made online.²⁶⁴ While this presumably bespeaks of the limited resources of the institution and does not resolve the problem of estates in terms of safeguarding their archival assets, as previously voiced by Eda Çekil and Kerimcan Güteryüz, it underlines the historical significance of the artists whose archives are represented; furthermore it enables and promotes sustainable research on their life and work, hence their legacy, as mentioned in Chapter 2.2.7.

Regarding the legal aspect of the archive, Sezin Romi²⁶⁵ tells that a written agreement is made with the owners of each archive, and only the materials, the copyright of which is owned by the artists or their heirs are made available online with the restriction of personal use clause.²⁶⁶ Every item in the archive is given an identifier and the rights holder²⁶⁷ is specified on the website along with the Rights Statement and information whether the item is open to everyone or if it may be reached locally on the premises of SALT.²⁶⁸ As for the

²⁶³ The archives of the artists Nur Koçak and Serhat Kiraz, as well as institutional archives of Mine Sanat Galerisi and Platform Garanti Contemporary Art Center are underway.

²⁶⁴ It should be noted however that SALT Research physically keeps the archives of two artists, namely İsmail Saray and Kutluğ Ataman.

²⁶⁵ Sezin Romi is the Senior Librarian and Archivist at SALT.

²⁶⁶ From the virtual interview done with Romi on May 7, 2021.

²⁶⁷ Within this group of artists whose archive is digitized by SALT Research, Altan Gürman is the only exception whose rightholder is not the estate. Romi explains that the artist's heir; Bilge Gürman has initiated the digitization of archive at SALT Research although ARTER held the rights. After this minor confusion, both institutions have cooperated for the archive. Today, it is ARTER, which conserves Gürman's estate and archive whereas SALT Research makes his archive accessible through its online database. The case presents therefore critical aspects regarding both the perplexity about entrusting an estate and the collaboration of different institutions.

²⁶⁸ Romi adds that during the Covid-19 lockdown period, SALT Research has facilitated the access to "local only" files in order to encourage research on artists.

selection of documents in the archive, Romi tells that SALT does not favor digitizing items that are inconvenient for online diffusion, given they strive to render it a “living” archive as a rule. To keep in line with this principle, they opt to digitize the items that contribute to the discourse of art history and leave out merely intimate materials. To that end, the institution works with the artists if they are alive, as in the case of Cengiz Çekil, whose presence during the project ensured that the archiving process was carried out according to his wishes and vision. In the absence of the artist or heirs, the archivist assumes this initiative to avoid a build-up of irrelevant materials, which may result in an ineffective archive. Regarding the registry of digital documents addressed in Chapter 1.2.2., Romi explains that they have to be very selective, that only the documents elucidating the research on artists are saved as pdfs.

This selective approach also extends to the estates. Romi explains²⁶⁹ that all archival work taken on by SALT Research is conducted with utmost care and that they are not favoring working on multiple archives at once. Furthermore, she underlines the fact that the medium of artists can be a criterion for the admittance or rejection of the digitization project; exemplifying that they have not yet worked on the archives of photographers, like Şahin Kaygun since it requires an additional expertise, even though these artists comply within the framework of the institution. The main criteria for including artists’ archives at SALT Research are the coherence of these personal archives with the art historical narrative of the institution, whose focus is Turkey after 1950, and their complementary aspect with respect to one another, according to Romi.

The liaisons between these artists indeed reveal new information or materials, which then pave the way for curatorial work. For instance, the written correspondences among Cengiz Çekil, Mustafa Altıntaş and İsmail Saray have been quiet enlightening for the history of Gazi Arts-Crafts Department in Ankara, which was later explored in the 2019 exhibition, “Idealist School,

²⁶⁹ From the virtual interview done with Romi on May 7, 2021.

Productive Studio”²⁷⁰ organized at SALT Ankara. Likewise, Romi mentions²⁷¹ that the 2013 exhibition, “Sacred of Murals”²⁷² shown at SALT Beyoğlu had originated from the digitization of the artist Ahmet Öktem’s archive, where the photographs of “First May Exhibition” of 1977 were found.

In addition to exhibitions organized at SALT, the archive also provides a basis for exhibitions elsewhere. Hüseyin Bahri Alptekin’s posthumous exhibition “Facts, Incidents, Accidents, Circumstances, Situations”²⁷³ at Muzeum Sztuki in Łódź for instance, have featured objects including commercial brochures, postcards, hotel stationary, and packs of cigarettes from the artist’s archive. These materials were contextualized as the vestiges of globalization, immigration, exile and intercultural circulation of images, which were recurrent themes in the artist’s practice (Romi, 2013) and were thus considered equally critical for the artist’s *oeuvre*. In a similar vein, the “Democratic luxury”²⁷⁴ exhibition at M HKA in Antwerp has underlined the thought processes of Alptekin by means of the studies, sketches and notes it borrowed from the archive at SALT Research.

The library of SALT Research is another crucial component of the institution in terms the externalization of visual artist estates and putting their assets to use for the benefit of general public. Although managed independently, its coherence with the archive is taken into consideration. The books owned by the artists’ estates, whose archives are digitized by SALT Research, are included in the library collection of SALT. Ahmet Öktem, Cengiz Çekil, Gülsün Karamustafa, Mustafa Altıntaş and Yusuf Taktak are the artists who have

²⁷⁰ For more information: <https://saltonline.org/en/1954/idealist-mektep-uretken-atolye>.

²⁷¹ From the virtual interview done with Romi on May 7, 2021.

²⁷² For more information: <https://saltonline.org/en/471>.

²⁷³ For more information: <https://msl.org.pl/huseyin-bahri-alptekin/>

²⁷⁴ For more information: <https://www.muha.be/programme/detail/26-h-seyin-bahri-alptekin-democratic-luxury>

donated a portion of their libraries²⁷⁵ whereas Hüseyin Bahri Alptekin's library has been completely donated to SALT Research's, which now bears the name of the artist as a specific section of the library collection. Despite the fact that SALT Research has not digitized any photographer's archive to this day, artist Nazif Topçuoğlu's library containing publications on photography that he has collected since 1980's were also donated to the institution. Romi mentions that many artists, curators and art professionals donate publications and that the names of these donors are always specified on the online library catalogue.²⁷⁶

It's worth to mention that the artist archives digitized at the SALT Research have also helped to produce new monographs on artists who previously had not have any significant publication in their name. The monographs of Cengiz Çekil and İsmail Saray are two examples in this respect. While Çekil's book preceded his institutional exhibitions as explained in the Chapter 3.3.2, Saray's book was published four years later than his 2014 exhibition at SALT. Romi expressed that this interval allowed her and Duygu Demir as the co-editors of the book to develop a self-critical approach.

Yet perhaps the most crucial impact of archival work and the ensuing exhibitions and publications is that it helps to find the "missing pieces of the puzzle" through the connections it brings about. A striking example of this is the rediscovery of İsmail Saray's work "EA-ARURU-KI" (1975): The work, which had been sent by the artist himself to the Museum of Modern and Contemporary Art in Koroška, Slovenia for an exhibition in 1975, was thought to be lost. In fact, the monograph published in 2018 by SALT, has featured the images of the work in its preparatory phases and the images from the Slovenian exhibition's catalogue as the only materials at hand, noting the whereabouts of the work as "not known" because it was "not returned" to the artist. Following

²⁷⁵ Art historian and critic, Prof. Kaya Özsezgin's (1938-2016) library, which included artist monographs, exhibition catalogues and periodicals published in Turkey after 1970s were also incorporated in the collection, providing a cross-reference for the archive.

²⁷⁶ From the virtual interview done with Romi on May 7, 2021.

the digitization of Saray's archive, which led to his exhibition and eventually to his monograph, the museum's director Andreja Hribenik has sent an e-mail to SALT Research in February 2020, stating that the work is in the permanent collection of the museum since 1975 (Romi, 2021) with the proof of a letter²⁷⁷ that was sent by Saray to the former-director of the museum, which is now included in the SALT Research archives. This case perfectly epitomizes the pitfalls of visual artist estates that neglect proper archival work and underlines the importance of institutions that help to construe a more solid account of the artists and reinstate their *oeuvre* in the art historical discourse.

²⁷⁷ <https://archives.saltresearch.org/handle/123456789/207935>

CONCLUSION

As a result of a year-long research conducted on the visual artist estates' management in Turkey, it has been understood that the stakeholders in the art market, including artists, heirs, galleries and institutions are in dire need of a collective conversation and professional guidance on the subject, since all parties whom could be contacted within the research period were willing to share their experiences. In addition to these particular experiences presented in the third chapter, the overall historical and legal framework enabled to deduct that:

The neoliberal politics of 1980s have boosted the accumulation of capital in Turkey and the support to visual art has rapidly shifted from state to private sector. This has paved the way for the integration to the international art scene. The first examples of galleries were founded in this environment but also as a response to the period of political turbulence, which brought forth the need of solidarity among the intelligentsia in Turkey that is centered on sociocultural activities. Following a propagation of galleries after the trailblazing models such as Maya Art Gallery, and private museums in parallel to the growing international prestige of the Istanbul Biennial, the art scene in Turkey has taken off in early 2010s, but has rather done so for the sake of magnifying the domestic market activity, without much emphasis on the protection or processing of artistic heritages.

This lack of consideration rooted in the nonchalance of visual artists and institutions such as galleries and museums, is quite apparent in the omission of legal actions based on the existing law of IP, namely the Law No. 5846 or the noninvolvement of art historians or artists in the collecting society, GESAM in Turkey. Over and above, the artists and their heirs often opt to consult the same attorneys as their galleries, thus jeopardizing the unfair monetization of their estate. In return, the galleries omit agreements with the artists on the grounds

of their personal relationships, hence potential disputes with the heirs or a legal gridlock in the absence of the artists they represent.

The interviews revealed that most artists disregard working with a professional inventory software and thereby cannot keep track certain records. Another explanation of this loss of data is related to the fact that the artists in Turkey have typically spent their lives abroad or frequently travelled, especially at a time when no electronic software was available. Consequently they are often bereft of a proper *Catalogue Raisonné*, for it requires substantial time and money to conduct research in their absence, but strive to publish monographies, often under modest conditions.

Furthermore, it has been understood that the artists, or heirs and/or galleries managing their estates have reservations about setting up legal entities such as foundations, given they cherish their independence from legally binding structures and taxes; however this arguably requires more effort to safeguard and promote their work in the afterlife of artists.

Perhaps the most damaging aspect of the negligence towards visual artist estates in Turkey is observable in the failure of fiduciary duties, as seen in the case of Tiraje Dikmen Estate, whose assets have almost decayed, or in the case of Semiha Berksoy Estate, whose masterpiece installation “Bedroom” has been long locked away from the public, despite the wills of both artists.

As a final note, it has been recognized that the visual artists in Turkey have few institutional collaborators other than their galleries and even then, they are inclined to seek the services of a particular institution, namely SALT Research to digitize their archives and make it available for scholarly research. However, despite SALT’s commitment to foster a historical discourse through the means of these archives, the institution can only assume limited projects within its means.

On the basis of the evidence collected for this research, it is advisable for visual artists to:

- Keep an inventory of works and configure the estate assets accordingly, in order to rule out potential factual errors and avoid the eradication of their legacies in future.
- Separate the tangible and intangible assets to help create funds for future projects, like setting up a library, museum or foundation.
- Classify the artworks and keep a group of works outside the art market to a “pension fund” or a source for the future management of their estates.
- Keep a record of works that have been gifted or stolen in the past.
- Compile a *Catalogue Raisonné* including the exhibition history, provenance and bibliographical references of each work; or make preparations thereof, so as to minimize the costs of research, as well as to co-author the art historical prominence of their legacies.
- Take the archiving of e-documents into consideration and develop a system for their database.
- Make sure their work is inventoried and contextualized for the purposes of scholarly research, apart from their visibility on the Internet.
- Place a copyright notice in the caption of artworks, be it on the digital or in print.
- Draft a will stipulating their conditions and wishes towards their estate holdings including the artworks, and addressing estates’ beneficiaries, to avoid the risk of lesser or wrongful posthumous exposure. To append codicils or revoke and re-write the will properly if need be.
- Not rely on third parties, such as galleries or estate executors to determine which asset is an artwork; what may be reproduced or recast.

- Get separate legal consultation from their galleries to avoid any malfeasance.
- Leave instructions for the assembly and exhibiting of artworks along with photographic and written documents.
- Ideally indoctrinating a descendant so as to ensure the continuity of their legacies, but to aim at composing a group of professionals to support the endeavors of the family.
- Be proactive about one's moral and economic rights and dully enforce them.
- Inform, consult or confirm forehand the acceptance of institutions for donations to avoid their "deaccessioning" in the future.
- Become members of the GESAM collecting society, if they cannot afford to pursue their royalties privately.

As such, if the visual artists take these recommendations into considerations and adopt those, which are applicable to their conditions, for the planning of their estates' afterlife, with the aid of stakeholders such as their heirs, galleries, dealers, auction houses, art historians, attorneys, collecting societies, foundations and museums, I reckon that the art milieu in Turkey would collectively improve in terms of legacy stewardship; more importantly, we would not only be concerned with safeguarding material remnants of the artworks of artists, but a more accurate and comprehensive art historical narrative would be recorded that will ensure the communication of their lives' work to future generations.

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