

Preface

In our times art is often created in order to constitute a part of a collection, private or public. It is not anymore conceived as part of a temple, a church, or a royal palace, as it was in the far past, but on the contrary it is destined to the isolated space of public or private collections. According to a certain opinion, this fact strengthened the oecumenical dimension of the art.

Art collections, as everything that concerns artworks, cultural objects in general, need an interdisciplinary approach, even when one wants to study their legal treatment.

A basic difference between the private and the public collections is that the latter are most often inalienable. Because of that, it is not easy to correct a “mistake” or, in other words, this is the reason why the “right to the mistake” is decisive in the history of art.

Notwithstanding their difference(s), the connection between public museums and private collections is very close: On the one hand, public museums, especially of contemporary art, may have a strong influence on the choices of artworks by private collectors and on the other hand, many museums were based on private collections or/and accept donations of artworks by private collectors.

Uses and legal regulations were and are often copied by states. Therefore, museums—a Western concept—were and are created all over the world, but also private collections are created and grow in various states, not only Western.

Copying laws is not a guarantee for a uniform legal treatment and is not always successful. Details in the legal mentality, the legal culture of each state cause differences at the interpretation or/and the application of laws. It follows from this that there are many—sometimes enormous—differences in the various laws as far as the constitution, management, etc., of private collections and (public) museums are concerned.

For example: There are different models of cultural politics that the states follow, with the (one of more) obvious consequence of difference in the treatment of public and private art collections. Sometimes collectors’ rights are “confronted” with the artists’ rights. The differences in national laws as far as this “confrontation” is concerned, are often big.

The circulation of the artworks may have unforeseen and undesirable results if it is not controlled. Different states have different legal regulations. These differences are due to various factors which may be taken into account by the states' legislators. However, it seems that there is a general agreement that the documentation of the artworks' provenance is very important. "All the countries should have or try to create systems that would prevent suspect or clearly illicit acquisitions of artworks."

Obviously, a complete study of all these issues would need several volumes; such is the richness and the complexity of the legal regulations enforced by the various states. Nevertheless, I tried to present as clearly as I could the legal "landscape" of the art collections, public and private, using detailed examples of the legal treatment of different issues by the national laws.

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