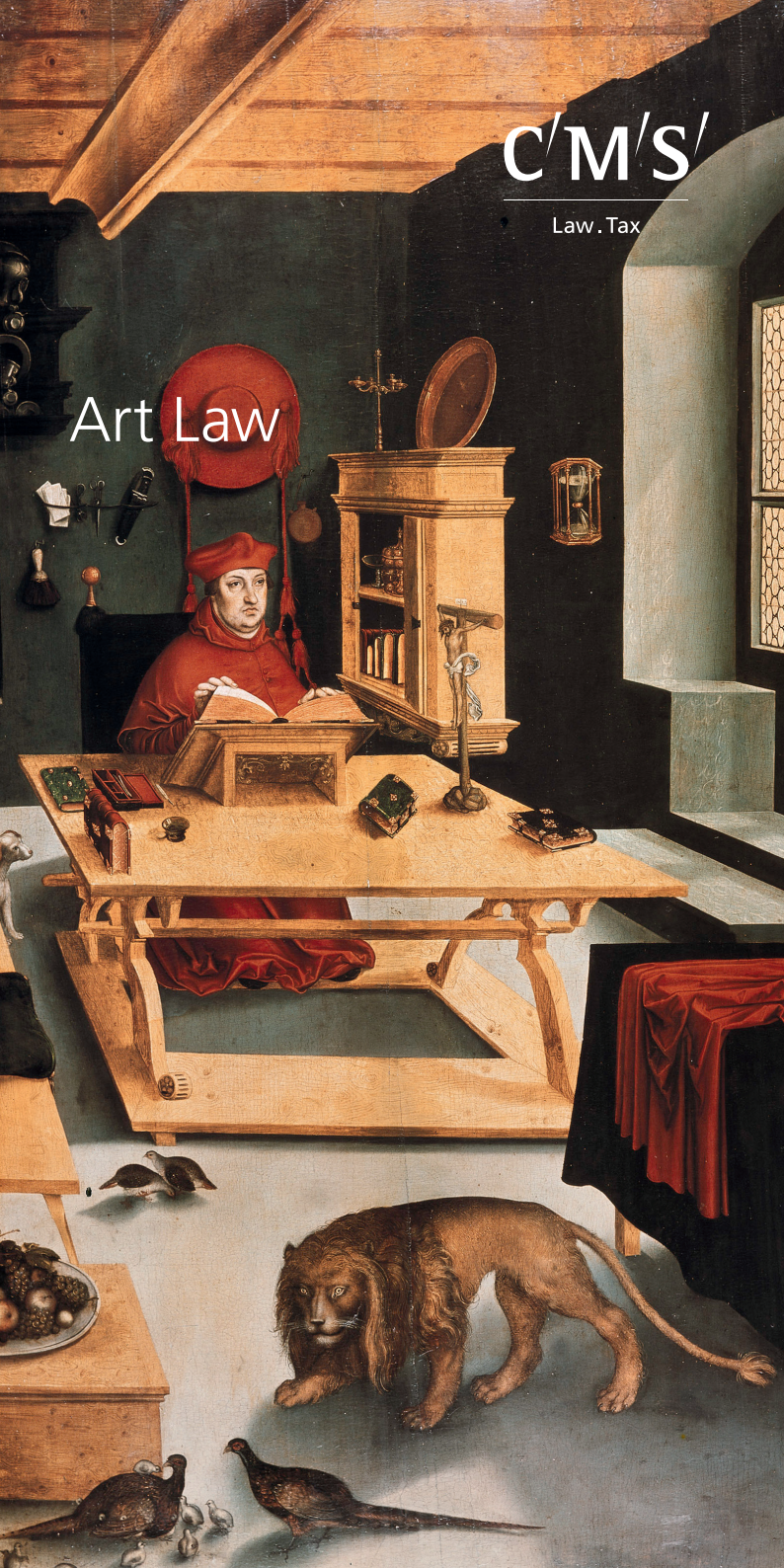


C/M/S/

Law . Tax

Art Law



## Safeguarding assets

Collecting art satisfies the desire to create something lasting and preserve our cultural heritage. Such cultural and financial assets require corresponding protection. We provide the necessary legal advice and support in this sensitive area.

Our role often involves working at the intersection of several areas of law. When conducting international art transactions, for example, it is necessary to prepare valuation reports, clarify tax and customs issues, ensure that the finance is in place, negotiate agreements, consider copyright aspects, and arrange transport and insurance. Investing in art also raises questions relating to the authenticity or provenance of works, where it is essential to obtain legal advice.

Matters relating to corporate and tax law also arise, especially if a foundation is to be set up. Inheritance law likewise plays an important role in our art practice.

## How we can help you

Many of the services provided in the art market are traditionally commission-based, thus involving a potential conflict of interests. In contrast, the advice we offer is impartial.

Providing one-stop legal advice is part and parcel of our day-to-day work. Close and efficient cooperation between our experts on art law, inheritance and tax law is ensured.

We also have access to a proven network of external service providers, such as insurers, haulage firms, art experts, provenance researchers, restorers and photographers. Other key contacts include major market players and publishing houses.

# Your contacts



## **Prof Winfried Bullinger**

Lawyer | Partner

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Recognised as one of Germany's leading experts on copyright. The German Federal Court of Justice regularly cites the Practical Commentary on Copyright Law (Praxiskommentar zum Urheberrecht) (Wandtke/Bullinger), which he co-edits. Prof. Bullinger is also an acknowledged expert on art law and co-editor of the Practical Handbook for Art Law (Praxishandbuch Recht der Kunst) (C.H. Beck, 2019).

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## **Hans Christian Blum**

Lawyer | Partner

Inheritance law specialist

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Specialises in asset and estate planning at both national and international level, corporate succession, foundations and trusts; advises wealthy individuals, family-owned SMEs, shareholder families and family offices.



**Benedicta von Rauch**

Lawyer

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Benedicta von Rauch advises clients (companies, museums, foundations, institutions, communities of heirs, artists' estates, family offices, banks and private individuals) on all aspects of art law and cultural property law, especially at the intersection with inheritance law, corporate law and tax law.

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In recent years, art law in particular has really grown in stature [...].

*JUVE Handbook, 2017/2018*

# CMS at your side

CMS advises SMEs and major corporations throughout Germany on all aspects of national and international commercial law. The ability to bring together experienced specialists from across a wide range of legal fields makes us a partner you can rely on.

Personal advice and responsiveness are the hallmarks of an efficient client relationship. We are committed to understanding the issues relevant to your needs and to advising you over the long term. This enables us to build a shared basis for providing reliable and fair advice on all legal and tax matters.



No other law firm has separate practices – some of which are very highly regarded – covering such a wide range of areas, while also serving the entire spectrum of clients from small SMEs to global corporations.

*JUVE Handbook, 2019/2020*

## Selected art law references

- **Private client** | Comprehensive advice on structuring a substantial estate comprising artworks; legal support in obtaining expert valuations; legal advice on the sale of works of art through art dealers and auction houses; legal advice on lending agreements.
- **Stiftung Kunstmuseum Bern** | Advice (inheritance law, tax law, art law) in matters relating to the estate of Cornelius Gurlitt.
- **Stedelijk Museum Amsterdam** | Advice on accepting a substantial donation and a loaned item (tax law, art law).
- **Significant estate comprising photographs** | Advising the heir in a complex relationship with a foundation.
- **Art collector** | Advice and court proceedings following the purchase of a forgery (copy of a work by an internationally established Italian artist).
- **Art seller (bank)** | Advice on the sale of an important work by a contemporary German artist.
- **Estate of an internationally significant painter** | Advice in relation to the person entrusted with marketing and advice on selling the estate.
- **Advice on art for a highly regarded private bank** | Drafting agreements covering the relationship between the bank and its customers with regard to art-related advisory services.
- **US financial services provider** | Support in disposing of a private collection acquired through enforcing claims.
- **Substantial estate** | Legal advice on restitution under the Unresolved Property Assets Act/Compensation Act (*Vermögensgesetz/Ausgleichsleistungsgesetz*) and coordination of the search for lost works by provenance researchers and a private detective.
- **Art collector** | Legal advice in relation to the artworks, monitoring of service providers (e.g. with regard to insurance/documentation/storage, etc.).
- **Estate of a well-known artist** | Termination of a contract with a gallery and demand for return of works.
- **Gallery** | Advice on drafting an agreement on working with a very elderly artist in relation to her estate.

- **Widow of an important German artist** | Tax law advice.
- **Estate of a major Bauhaus artist** | Advice on enforcing claims for return of items against a German institution, both in and out of court.
- **Estate of a notable artist** | Advice and representation in connection with enforcement of copyright usage rights in Germany.
- **Art collector** | Advice on concluding lending agreements with museums and safe custody agreements with archives.
- **Gallery** | Comprehensive advice provided to an injured party in a major scandal involving counterfeit art.
- **Hotel group** | Handling of an insurance claim (valuable fine art photographs).
- **Property owner** | Advice on copyright law relating to treatment of a mural during building work.
- **Collection** | Advice in connection with an artist's resale right under copyright law.
- **High-profile association** | Position paper on reform of the Protection of Cultural Property Act (*Kulturgutschutzgesetz*).
- **Significant private collection** | Advice on a financial transaction relating to loaned items located in a museum.
- **Expert** | Legal advice on publication of a catalogue raisonné.
- **Museum** | Legal advice on a restitution claim.
- **Private collection** | Legal advice in relation to an artwork registered on lostart.de.
- **Liechtenstein foundation of an artist's estate** | Advice in connection with the Protection of Cultural Property Act (*Kulturgutschutzgesetz*).
- **Sole heir of a notable artist** | Tax advice in connection with the acquisition, exploitation and tax-efficient transfer to a not-for-profit body.
- **Well-known gallery** | Tax advice on the VAT treatment of auction proceeds outside Germany.
- **Notable art collector** | Tax advice on putting an art collection into a foreign foundation.
- **Art seller** | Tax advice on selling an artwork outside Germany.

The sole purpose of this document is to provide information about specific topics. It makes no claims as to correctness or completeness and does not constitute legal advice. The information it contains is no substitute for specific legal advice. If you have any queries regarding the issues raised or other legal topics, please get in touch with your usual contact at CMS Hasche Sigle.

CMS Hasche Sigle is one of the leading commercial law firms. More than 600 lawyers serve their clients in eight major German commercial centres as well as in Beijing, Brussels, Hong Kong, Moscow and Shanghai. CMS Hasche Sigle is a member of CMS Legal Services EEIG, a European Economic Interest Grouping that coordinates an organisation of independent law firms. CMS EEIG provides no client services. Such services are solely provided by CMS EEIG's member firms in their respective jurisdictions. CMS EEIG and each of its member firms are separate and legally distinct entities, and no such entity has any authority to bind any other. CMS EEIG and each member firm are liable only for their own acts or omissions and not those of each other. The brand name "CMS" and the term "firm" are used to refer to some or all of the member firms or their offices.

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