



With auction houses eagerly awaiting the outcome, the legal disputes over the art collection of the late philanthropist Gustav Rau hinge on his mental state—and analysis of his brain tissue.

Estate of Mind

THE LEGAL BATTLE OVER THE ESTATE OF Gustav Rau has turned into a medical mystery. Even before the German collector died, debates over his mental competence had touched off court cases in Monaco, Switzerland and Germany, as *Art & Auction* reported in May. Now an examination of brain tissue collected during his autopsy promises to play a key role in settling both the imbroglio over his estate and criminal investigations into the behavior of his closest associates.

Rau was a copious art buyer at European auctions even while working as a doctor in Africa. His collection included works by Cranach, El Greco, Monet and Renoir, and was valued at more than \$300 million when he died in Stuttgart, Germany, last January. Rau's closest companions, Robert Clémentz, his personal secretary, and graphologist Sigrid Thost, believe he was

lucid until the end. But lawyers Alexander de Beer of Zurich and Teresa Giovannini of Lalive & Partners in Geneva, who worked for Rau's defunct Swiss art foundations, maintain he was mentally incompetent for the last four years of his life.

With the help of a neuropathologist, the district attorney in Stuttgart is now investigating claims by Giovannini that "third parties" in Rau's entourage exploited his feeble condition. In particular, the DA is trying to determine whether Clémentz and Thost sold dozens of Rau's works at auction without his knowledge. Under German law, such an investigation is not a claim by the government of wrongdoing. As Eckhard Maak of the Stuttgart DA's office explains, before charges are brought the state must be convinced of three things: that Rau was not competent when the works were consigned; that Thost and Clémentz knew it; and that they actually did something wrong, such as pocketing money from the sales.

Various doctors had ruled in different ways on Rau's mental competence during his last four years. But according to the neuropathologist's initial report, Rau was not mentally sound when he died. "The issue now is trying to project his mental competency backwards," Maak says, to determine his condition when transactions involving his art collection were made. "But the problem is that he had better and worse periods, not a straight-forward degradation."

A second Stuttgart investigation into allegations that Thost poisoned Rau also hinges on extensive lab work. "The first examination at the time of his death showed no poison in the body, so the idea that he was assassinated remains pure speculation," Maak says. "But we want to totally exclude that possibility, so we're waiting for the results of a second toxicological analysis."

Meanwhile, the neuropathologist's competency report is also eagerly awaited in Konstanz, Germany, where Rau officially resided. A civil court there is considering whether Rau was lucid when he signed his will in 1999, giving his art to Unicef of Germany with the stipulation that it be sold to raise funds for third world philanthropy. The ruling is expected this winter.

Any auctioneers salivating over the Rau collection will certainly have to wait. "Everybody expects that de Beer will run the Konstanz case all the way up to the German supreme court," says Anton Maurer, Unicef's lawyer in the matter. Maurer's Zurich associate, Dietrich Stettler, who represented Rau in Switzerland, points out that a settlement is always a possibility. "The Israelis and Palestinians hate each other, but they sometimes settle things between them," Stettler notes. Then again, given his choice of metaphor, expect a bitter conflict before these works appear on the auction block. **MARC SPIEGLER**