

Protection of cultural goods in the Community

GUIDELINES

FOR

ADMINISTRATIVE CO-OPERATION

BETWEEN

THE COMPETENT AUTHORITIES

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1. Introduction. Aim of the guidelines

The aim of these guidelines is to:

- remind interested persons and institutions of the existence of Community acts governing the exportation of cultural goods to non-Community countries and the return of goods which have unlawfully left the territory of another Member State;
- provide such persons and institutions with lists of the various authorities that may act to implement Community legislation;
- provide the competent authorities with all the information they need –categories of goods, legislation and national procedures, lists of competent authorities- to facilitate administrative co-operation both within the Member States and with their opposite numbers in the other Member States;
- provide recommendations on the best way of implementing and developing administrative co-operation between the various authorities and of exchanging information where necessary to protect cultural goods.

2. Community legislation

Article 30 of the Treaty of European Communities allows Member States to adopt measures to prohibit or restrict the free movement of the national treasures of artistic, historic or archaeological interest, justified by reasons of their protection. However, these measures may not entail internal border controls in the Community.

In order to preserve the principle of free movement and, at the same time, to protect the cultural heritage, a double safeguard has been adopted at Community level. It rests on two legislative acts, a Regulation and a Directive, and also a Regulation of implementation.

1. Council Regulation (EEC) No 3911/92¹, which covers the exportation of cultural goods, provides for uniform export controls for the cultural goods specified in it and requires a licence to be issued by the competent authorities. The licence must be presented together with the export declaration at the customs office where the export formalities are to be completed. For its implementation, Commission Regulation No 752/93² lays down the types of export licences that may be used, and the formalities for exporting such goods.
2. Council Directive 93/7/EEC³ sets up a mechanism for the return within the Community of cultural goods belonging to the national artistic, historical or archaeological heritage which have unlawfully left the territory of a Member State. One of the aims of the Directive is to create conditions for close collaboration between the Member States, particularly in investigating objects, which have been removed illegally.

3. Categories of goods covered by Community Regulations

The cultural goods covered by Community legislation – and for which an export licence is required under Regulation (EEC) No 3911/92 – are listed in the joint Annex to the two acts.

They are divided into 15 categories, according to their nature (corresponding as an indicative way to tariff headings in the Combined Nomenclature). The decisive criterion for being considered “cultural goods” is age (over 50, 75 or 100 years old, with exceptions for certain collections or for certain objects of particular interest). This criterion is also combined with minimum value (between 0 and EUR 150 000).

The list of these goods is set out in Annex I.

¹ Regulation (EEC) No 3911/92 of the Council, of 9 December 1992, on the export of cultural goods (OJ No L 395 of 31.12.1992. Modified by Regulation (EC) No 2469/96 of 16 December 1996 (OJ No L 335 of 24.12.1996 and by Regulation No 974/2001 of 14.5.2001 (OJ No L 137 of 19.5.2001)

² (OJ No L 77 du 31.3.1993). Modified by Regulation No 1526/98 of 16.7.1998 (OJ No L 201 of 17.7.1998)

³ Directive 93/7/EEC of the Council, of 15 March 1993, on the return of cultural objects unlawfully removed from the territory of a Member State (OJ No L 74 do 27.3.1993. Modified by Directive No 96/100/EC of 17.2.1996 (OJ No L 60 of 1.3.1996) and by Directive No 2001/38 of 5.6.2001 (OJ No L 187 of 10.7.2001)

4. Export licence

Any export of cultural goods, whether permanent or temporary, is governed by the above Regulation. As protection at the Community's external frontiers, the Regulation makes it compulsory to present a licence issued by to the relevant authority in the Member States – in most cases this one responsible for cultural matters. This licence, which is valid throughout the Community, must be presented, together with the cultural goods in question and the export declaration, to one of the customs offices empowered to carry out the export formalities.

The licence is needed for cultural goods listed in the Annex, whether or not they are national treasures (for example, the competent authorities may allow the temporary exportation of a national treasure as part of an exhibition, for repair or for expert appraisal). The export licence requirement may be waived for certain archaeological objects over 100 years old, which are of limited scientific or archaeological interest, **provided that they are not the direct product of excavations, finds and archaeological sites within a Member State and that their presence on the market is lawful.**⁴

If a national treasure does not fall within one of the categories listed in the Annex, a Community licence is not needed. In that case, it is national legislation, which applies, in accordance with Article 30 of the Treaty.

It is obvious that before issuing a licence the relevant authorities must ensure not only that the item to be exported has been identified as precisely as possible, but that there are no obstacles to that particular cultural item leaving the Community. They may obviously contact, and make the necessary approaches to, the authorities of another Member State in order to determine whether the goods left that country lawfully or may contact the competent authorities in order to be assured that the goods have not entered unlawfully.

5. Formalities to be completed

The implementing provisions contained in Regulation (EEC) No 752/93, as amended by Regulation (EEC) No 1526/98, define the three types of export licence introduced – “standard”, “specific open” and “general open” – and indicate the model form to be used in each case. The two types of “open” licences are used, respectively, to cover repeated temporary exports of cultural goods intended for a given person or organisation and temporary exports of cultural goods, which form part of the permanent collection of a museum.

The form for the standard export licence comprises three sheets (two sheets for the open licences): the application, the form for the holder/applicant, and the form to be given to the customs office. The Regulation also contains instructions for completing the form and the documentation which must accompany the application (invoices, expert appraisals, photographs etc.); physical presentation of the goods may also be required.

⁴ Most of the Member States don't use this possibility and require a licence, accompanied always by a photograph even in the case of an export of thousands of objets.

Standard licences are valid for a maximum of 12 months from the time of issue, while open licences are valid for a period not exceeding five years.

6. The return of cultural good within the Community

In order to complete the overview of the situation regarding the movement of cultural goods, there follows a brief explanation of the substance of Directive 93/7/EEC.

The Directive's terms are narrower; it applies only to those cultural goods, which are included in a category of the Annex and classified as belonging to the national, artistic, historical or archaeological heritage or forming part of the public collections of museums, archives or libraries or religious institutions' inventories.

It provides for the return of these goods where they have unlawfully left the territory of one Member State for another Member State, in violation of national legislation on the protection of the national heritage. The request for return is made before the courts; the Directive also contains provisions on the expenses incurred, the burden of proof and the compensation to be paid.

In addition to the return procedure, another priority objective of the Directive is to create the conditions for close administrative co-operation among the Member States. The Directive includes collaboration activities, such as the search for goods reported missing, notification of the discovery of cultural goods, the adoption of interim measures and mediation between the possessor of goods and the requesting state.

7. Administrative cooperation

Close co-operation and information exchange between the various authorities of the Member States are crucial to the protection and defence of the cultural heritage of the Member States. The cultural authorities play a important part of responsibility in this area.

With regard to customs authorities, we have to ask whether the necessary formalities for exporting cultural goods, particularly the presentation and control at the customs offices of an export licence issued by the designated competent authorities, following prior verification of the legality of the item in question, constitute important filters to guarantee protection at the external frontiers.

This means that those two authorities, i.e. customs and the competent authorities for cultural heritage, plus other persons or entities with a role in defending cultural heritage (police, museums, and agencies directly involved) must set up the necessary mutual collaboration mechanisms.

Council Regulation (EEC) No 3911/92 provides for two types of administrative cooperation, which should be used as extensively as possible:

1. The first is mutual administrative assistance between the Member States' customs authorities pursuant to Council Regulation (EC) No 515/97. Member States may, through the competent authorities appointed under Article 2(2) of Regulation (EEC) No 515/97,

exchange information likely to assist controls by the customs authorities to protect the cultural heritage.

2. The second involves establishing relations and fostering consultations between the customs authorities and the authorities responsible, under Article 4 of Council Directive 93/7/EEC, for applying that Directive on the return of cultural objects unlawfully removed from the territory of a Member State.

The aim is to create an interface between controls on legal exports and the detection of illegal exports.

Thus, the Member States may exchange any information likely to activate this interface between the application of “export” Regulation (EEC) No 3911/92 and “return” Directive 93/7/EEC through the competent authorities referred to in Article 4 of that Directive.

In other respects, it is recognised that all co-operation will be facilitated by actions, as for example:

- the reinforcement of systems to allow for improvement of the description of the goods and to enhance their traceability, for instance by an accompanying document;
- the establishment if possible of inventories of cultural goods to be protected;
- a wider knowledge of the different provisions applicable in the Member States

Unfortunately, since the entry into force of the Regulation and the Directive it has become apparent that there are serious problems with such co-operation.

In order to put an end to the obstacles linked to the:

- lack of previous consultation between the different actors and the partition of actions of each,
- insufficient knowledge of the correspondent of each operative sector,
- loss of efficiency of the working of the systems related to slowness and linguistic problems,

It is suitable to recommend the following actions, at national rather than Community level:

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A. At national level :

1. The dissemination among the various authorities (culture, police, customs, etc.) of up-to-date, complete addresses, so that they can contact each other directly and pass on information on a periodic and regular basis concerning the movement and trade, both legal and illegal, in cultural goods. The list of these addresses could be disseminated, with restricted access, by Internet.
2. The formalisation of regular meetings between these authorities (at central level) to share useful information on the subject, as well as the latest information of mutual interest or events in progress or stated in the Member State in respect of the rules of confidentiality and professional secrecy.
3. The reinforcement of the collaboration at national level between the different authorities (police, customs, culture, etc..) through the formalisation of bilateral and multilateral protocol agreements.
4. The establishment of IT networks and systems for accessing databases supplied by all the services concerned, including the use of e-mail in order to optimise the access to information. The databases could refer to a list of national treasures of the Member State and of cultural goods prohibited to leave national territory or to a list, regularly updated, indicating the national treasures and cultural goods stolen).

B. In the intracommunity relations (at Community level)

1. The appointment by each Member State of a central authority responsible to co-ordinate and to collect available information. This authority could be this one provided in Article 4 of the Directive 93/7/EEC. Thanks to its contact with the central authorities of the other Member States, these central authorities would be charged with the dissemination, inside the Member States, of data from different authorities (culture, police, customs....) to the other Member States and of centralising the exchange of information between the authorities of the different Member States.
2. The definition and structuring of information to be exchanged: in this regard, the drafting of standard information and advice forms could be considered, for example the essential terms used by Interpol.

3. The future development of IT networks: the setting up of networks systems or the compilation at Community level of national information to establish a list of national treasures prohibited to leave the country or stolen could serve as a starting point.
4. In the framework of relations between customs authorities, a more intense and frequent use between authorities of the MA communications procedure stated by Regulation No 515/97 on mutual assistance⁵, in order to provide information on irregular operations or breaches of the Community legislation, according to Article 6 of Regulation No 3911/92.
5. As regards the relations between national cultural services, consideration could be given to the exchange of updated contact points, the communication of national legislation applicable to the intra Community movement of cultural goods, as well documents of the cultural goods and of national licences allowing them to leave national territory or all another information, in order to improving the traceability of cultural goods and the issuing export licences.
6. Finally, the formalisation of direct links between police authorities in the Member States responsible in the fight against the traffic in cultural goods, to allow them to work more quickly and with more efficiency in their action.⁶

⁵ Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and co-operation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ No L 82 of 22.3.1997)

⁶ It should be stressed that EUROPOL **has since the year 2002**, within its competence, the investigation of the illegal traffic of cultural goods. At the international level, there is police co-operation through INTERPOL, but limited to the stealing of cultural objects, and not including the illegal exports.

ANNEX I

Categories of goods covered by Community legislation

A.1 Archaeological objects, whatever the value, more than 100 years old which are the product of :

- excavations and finds on land or under water (NC 9705 00 00)
- archaeological sites (NC 9706 00 00)
- archaeological collections

2. Elements forming an integral part of artistic, historical, archeological or religious monuments which have been dismembered, whatever the value, of an age exceeding 100 years (NC 9705 00 00 and 9706 00 00)

3. Pictures and paintings, other than those included in category 3A or 4, executed entirely by hand in any medium and on any material⁷, of a value equal to or more than €150.000

3A. Water-colours, gouaches and pastels executed entirely by hand on any material⁵ (NC 9701) of a value equal to or more than €30.000

4. Mosaics in any material executed entirely by hand, other than those falling in categories 1 or 2, and drawings in any medium executed entirely by hand on any material⁵ (NC 6914 and 9701), of a value equal to or more than €15.000

5. Original engravings of a value equal to or more than €15.000, prints, serigraphs and lithographs with their respect plates and original posters (7) (Capter 49 - NC 9702 00 00 and 8442 50 99)

6. Original sculptures of a value equal to or more than €50.000 or statuary and copies produced by the same process as the original⁵, other than those in category 1 (NC 9703 00 00)

7. Photographs of a value equal to or more than €15.000, films and negatives thereof (7) (NC 3704, 3705, 3706, 4911 91 80)

8. Incunabula and manuscripts, including maps and musical scores, singly or in collections⁹ whatever the value (NC 9702 00 00, 9706 00 00, 4901 10 00, 4901 99 00, 4904 00 00, 4905 91 00, 4905 99 00, 4906 00 00)

⁷ Which are more than years old and do not belong to their originators

⁹ As defined by the Court of Justice in its judgement in Case 252/84, as follows : « Collectors » pieces within the meaning of heading No 9705 of the Common Customs Tariff are articles which possess the requisite characteristics for inclusion in a collection, that is to say, articles which are relatively rare, are not normally used for their original purpose, are the subject od special transactions outside the normal trade in similar utility articles and are of high value ».

9. Books more than 100 years old, singly or in collections (NC 9705 00 00 and 9706 00 00) of a value equal to or more than €50.000

10. Printed maps more than 200 years old (NC 9706 00 00) of a value equal to or more than €15.000

11. Archives, and any elements thereof, of any kind, any medium or any value which are more than 50 years old (NC 3704, 3705, 3706, 4901, 4906, 9705 00 00, 9706 00 00)

12. (a) Collections (s) of a value equal to or more than €50.000 and specimens from zoological, botanical, mineralogical or anatomical collections (NC 9705 00 00)

(b) Collections⁶ of historical, palaeontological, ethnographic or numismatic interest (NC 9705 00 00) of a value equal to or more than €50.000

13. Means of transport more than 75 years old of a value equal to or more than €50.000 (NC 9705 00 00, Chapters 86-89)

14. Any other antique items not included in categories A.1 to A.13 (list non exhaustive) of a value equal to or more than €50.000

(a) between 50 and 100 years old :

- toys, games (Chapter 95)
- glassware (NC 7013)
- articles of goldsmiths' or silversmiths' wares (NC 7114)
- furniture (Chapter 94)
- optical, photographic or cinematographic apparatus (Chapter 90)
- musical instruments (Chapter 92)
- clocks and watches and thereof (Chapter 91)
- articles of wood (Chapter 44)
- pottery (Chapter 69)
- tapestries (NC 5805 00 00)
- carpets (Chapter 57)
- wallpaper (NC 4814)
- arms (Chapter 93)

(b) more than 100 years old (NC 9706 00 00)

ANNEX II

National provisions, Community legislation and International Conventions for the protection of cultural goods (in each Member State)

Austria

National legislation for the protection of the cultural heritage

1. National regulations (publication references)

Federal Act on the protection of monuments (Monument Protection Act, DMSG) Bundesgesetzblatt No 533/1923 as amended by BGB1 I No 170/1999

Regulation of the Federal Minister for Education and Cultural Affairs defining categories of cultural goods which do not require an export licence under the Monument Protection Act, BGBL II No 484/1999

2. Protection of national cultural goods

2.1 Framework of protection (nature and legal status of protected cultural goods)

Under Article 16 of the DMSG no export licence is required for monuments (cultural goods) if

- they are cultural goods which are protected or for which a protection application has been submitted;
- they are cultural goods which are not covered by the Regulation of the Federal Minister for Education and Cultural Affairs, BGBL II No 484/1999;
- they are archives.

2.2 Type of protection (procedure, export document, model, procedure for transfer and use)

Under Article 17 of the DMSG an application for export authorisation must be made to the Federal Monument Office (in the case of archives to the Austrian State Archives). The authorities have to weigh the interests defined and proven by the applicant against the public (national) interest of keeping the goods in Austria.

Economic reasons cannot be taken into account if an offer to purchase has been made in Austria (Article 20 of the DMSG).

An applicant can use the legal remedy of applying to the Federal Minister for Training, Science and Culture against a decision taken by the Federal Monument Office or appealing to the Federal Chancellor against a decision by the Austrian State Archives. These decisions can be contested in the Federal Administrative Court and/or Federal Constitutional Court.

2.3 Authority responsible for national protection

Federal Monument Office (Bundesdenkmalamt)

Export Department

Hofburg, Säulenhof

1010 Vienna

Tel:+ 43 (0)1/534 15 – 0

Fax: + 43 (0)1/534 15 -5107
e-mail: ausfuhr@bda.at

For archives:

Austrian State Archives (Österreichisches Staatsarchiv)
Nottendorferstraße 2
1030 Vienna
Tel: + 43 (0)1/795 40 251
Fax: + 43 (0)1/795 40 109
e-mail: adrpost@oesta.gv.at

3. Protection of national cultural goods

3.1 Definition of national cultural goods

These are defined as movables or immovables of human creation which are of historical, artistic or other cultural importance that must be safeguarded in the public (national) interest.

3.2 Nature of protection (legal status, export licence, model)

No restrictions on trade under civil law. Licences are required to export such goods under Article 17 of the DMSG (see point 2.1), see documents in Annex III.

4. Controls for the protection of the national cultural heritage

4.1 Authority responsible for export controls (contact point)

All customs offices

Federal Ministry for Finance
Department IV/27
Himmelfortgasse 4-8
1015 Vienna
Tel: + 43 (0)1 / 514 33
Fax: + 43 (0)1 / 512 09 27

e-mail: Post.VuB@bmf.gv.at

4.2 Police authority responsible for protection (contact point)

Federal Ministry for the Interior
Federal Criminal Office
Josef Holaubek-Platz 1
1090 Vienna
Tel: + 43 (0)1 / 24836-85026
-85027
Fax: + 43 (0)1 / 24836-85190

4.3 Nature of and legal basis for control

4.4 Type and method of control (special powers)

5. Penalties relating to cultural goods and national treasures

If the offence is not an offence falling within the jurisdiction of the courts, administrative penalties (fine) may be imposed under Article 37 of the DMSG. Under Article 34 of the DMSG cultural goods may be deemed to belong to the State under certain circumstances.

6. Other specific national regulations

6.1 Existence of the right of preemption, conditions

The State has no right of preemption, but under Article 20 of the DMSG an offer to purchase procedure can be instituted (provided there is no compulsory opposing order).

6.2 National tax law, special features

Special reductions in inheritance tax apply under certain conditions if cultural goods form part of a scientific collection.

6.3 Any other special features

7. (Internet or other) sites giving access to the above information

www.bda.at

www.bmbwk.gv.at

www.oesta.gv.at

Community legislation for the protection of the cultural heritage

1. Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State

1.1 Transposing legislation, reference documents

Federal Act transposing Directive 93/7/EEC, BGBl I No 67/1998

Regulation of the Federal Minister for Education and Cultural Affairs defining the categories of cultural goods within the meaning of the Federal Act transposing Directive 93/7/EEC on the return of cultural objects and unlawfully removed from the territory of a Member State, BGBl II No 483/1999

1.2 Central authority responsible for the return of cultural goods

Federal Monument Office
Export Department
Hofburg, Säulensiege
1010 Vienna
Tel: + 43 (0)1/534 15 – 0
Fax: + 43 (0)1/534 15 -5107
e-mail: ausfuhr@bda.at

For archives:

Austrian State Archives
Nottendorferstraße 2
1030 Vienna
Tel: + 43 (0)1/795 40 251
Fax: + 43 (0)1/795 40 109
e-mail: adrpost@oesta.gv.at

2. Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods

2.1 Authority responsible for issuing export licences

Federal Monument Office
Export Department
Hofburg, Säulensiege
1010 Vienna
Tel: + 43 (0)1/534 15 – 0
Fax: + 43 (0)1/534 15 -5107
e-mail: ausfuhr@bda.at

For archives:

Austrian State Archives
Nottendorferstraße 2
1030 Vienna
Tel: + 43 (0)1/795 40 251
Fax: + 43 (0)1/795 40 109

e-mail: adrpost@oesta.gv.at

2.2 Nature of controls

2.3 Penalties

2.4 List of customs offices authorised to carry out formalities

All customs offices

2.5 Authority responsible for carrying out controls (contact point)

All customs offices, see 2.1

2.6 (Internet or other) sites giving access to the above information

International conventions

1. Access to international conventions (information sites)

Accession to the 1970 UNESCO Convention and the UNIDROIT Convention is being considered.

2. Authorities responsible for planning the convention (contact point)

3. Framework of this convention, in the case of accession

4. Other international conventions (information sites)

BELGIUM

National regulations for the protection of cultural heritage

1. Texts of national regulations

Flemish Community

The bill (decree) concerning the protection of cultural goods of exceptional importance was put before the Flemish Parliament in July 2002. The bill is expected to become law in 2003.

2. National cultural protection

2.1 Scope of protection

Flemish Community

A list of protected cultural goods is to be drawn up under this bill. The cultural goods on the list may belong to either public bodies or private individuals.

2.2 Protection of cultural goods

Flemish Community

The cultural goods, which appear on the list of protected goods, may not be transported or exported without an export licence issued by the Ministry of Culture for the Flemish Community.

2.3 Authority responsible for national protection

4. Checks introduced to ensure the protection of national cultural heritage

4.1 Customs authority responsible for export controls (point of contact)

Administration des douanes et accises
Service Régimes divers – Direction 1
Tour Finances
Boulevard du Jardin Botanique, 50 – bte 37
B – 1010 Brussels
Tel. : 02/210.31.38
Fax : 02/210.32.47

4.2 Police authority responsible for the protection of cultural heritage (point of contact)

4.3 Nature and legal basis of customs controls

Customs controls are carried out at the export office when the export declaration is validated and also at the office of exit when it is recorded that the goods have actually left Community territory.

Legal bases: Community Customs Code and the Customs and Excise Act of 18 July 1997

6. Other specific national regulations

Flemish Community

The goods classified as historical monuments pursuant to the law (Decree) of 3 March 1976 regulating the protection of monuments and of rural and urban sites may not be transported or exported. They are considered to be an integral part of the stock of listed buildings.

Community Regulations for the protection of cultural heritage
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1. Council Directive 93/7/EEC of 15 March 1993 for the return of cultural objects

1.1 Texts of transpositions, references, websites and other sources of information

Law of 28 October 1996 for the return of cultural objects unlawfully removed from the territory of certain Member States (*Moniteur belge*, 21/12/1996)

1.2 Central authority in charge of enforcement and/or the return of cultural goods (point of contact)

Service Public Fédéral Justice (Public Federal Justice Service)
Directorat-général des Affaires Civiles et des Cultes
15 Boulevard Waterloo
1000 Brussels

Alex Coppije
tel. 02 542 67 00
alex.coppije@just.fgov.be
Lucien De Leebeeck
tel 02 542 67 70
lucien.deleebeeck@just.fgov.be

2. Council Regulation (EEC) No 3911/92 (EEC) of 9 December 1992 on the export of cultural goods

2.1 Authority empowered to issue export licences

Flemish Community

Ministerie van de Vlaamse Gemeenschap
Administratie Cultuur
Afdeling Beeldende Kunst en Musea
Parochiaansstraat 15
1000 Brussels
Hans Feys
tel. 02 553 68 26
hans.feys@wvc.vlaanderen.be
Bea Menschaert
tel. 02 553 68 26
bea.menschaert@wvc.vlaanderen.be

French Community

Ministère de la culture de la Communauté française
Direction générale de la culture et de la communication
Administration du patrimoine culturel, des arts plastiques et de l'artisanat de création
Boulevard Léopold II, 44
1080 Brussels

German Community

Ministerium der Deutssprachigen Gemeinschaft
Abteilung Kulturelle Angelegenheiten
Gospertstrasse 1 bis 5
4700 Eupen
tel. 087 59 63 00
fax. 087 55 6476

2.3 Sanctions

The Customs and Excise Act of 18 July 1997 and the Community Customs Code

2.4 List of customs offices empowered to carry out customs formalities

All customs offices

2.5 Authority empowered to apply controls (point of contact)

Administration des douanes et accises
Service Régimes divers – Direction 1
Tour Finances
Boulevard du Jardin Botanique, 50 – bte 37
B – 1010 Brussels
Tél. : 02/210.31.38
Fax. 02/210.32.47

International Conventions

1. Accession to an International Convention

Party to the UNESCO Convention of *14 November 1970* on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property.

DENMARK

National legislation for the protection of cultural heritage

1. National Regulations

Act on Protection of Cultural Assets in Denmark, No. 332, 4.6.1986

2. National Cultural protection

2.1 Framework of protection (nature and legal status of protected cultural goods)

Rare works of art, objects of importance to cultural history, books, manuscripts, documents and the like may not be taken out of Denmark without permission. This is decreed in the Act on Protection of Cultural Assets in Denmark, which came into force on 1st January 1987. The direct purpose of the Act is to ensure that objects of cultural value remain within the borders of Denmark.

If an application or an export licence is refused, the State must offer to buy the object at market price, though without having any right of pre-emption on this account.

Permission is given by a commission of five persons, the Commission on Export of Cultural Assets, which decides whether an export licence is to be granted or not. The Commission on Export of Cultural Assets has made an agreement with certain auction houses about a special procedure. Prior to the auction the Commission will go through the catalogue and if necessary inspect relevant items. On the basis of this inspection the Commission will then advise the auctioneer in writing as to which lots will require the Commission's permission in the event of the buyer wishing to take them out of Denmark after the auction. In such cases the auctioneer will be under an obligation to keep the relevant items in custody until an export licence has been granted

2.2 Protection of cultural goods (procedure, document for leaving the country, modalities to issue and use)

See enclosed form and 2.1.

2.3 Authority for the national protection

Kulturværdisudvalget
Kulturarvsstyrelsen
Slotsholmsgade 1, 3. sal
1216 København K
Tlf.: (45) 72 26 51 85
Fax: (45) 72 26 51 01
Email: eaj@kuas.dk / tro@kuas.dk

3. Protection of national treasure

3.1 Definition of national treasure

According to section 2 (1) in the Act on Protection of Cultural Assets in Denmark the Act applies to the following cultural assets which are not publicly owned:

- cultural objects of the period before 1660
- cultural objects older than 100 years and valued at DKK 100,000 or more
- photographs (regardless of age) if they have a value of DKK 30,000 or more.

In exceptional cases the Minister for Cultural Affairs can decide that the Act is also applicable to other objects of cultural interest.

Coins and medals are the only cultural objects explicitly exempted from the regulations of the Act.

Furthermore it is decided in the Executive Order of the Protection of Cultural Assets in Denmark that an overall quality evaluation should form the basis for the assessment of cultural objects worth protecting, and an important element of the Cultural Assets Committee's considerations must thus be whether the export will entail a substantial deterioration of the national cultural heritage. No distinction shall be made between Danish and foreign originators, and where the originator is unknown, between Denmark and other countries as country of origin. However, where the owner attests that the object which is subject to the general protection provisions in the Act on Protection of Cultural Assets in Denmark is created outside Denmark and was imported to Denmark within the last 100 years, an export licence must be granted.

3.2 Nature of the protection (legal status, licence for exit or accompanying document, model)

See 2.1.

4. Controls established to assure the protection of cultural national heritage:

4.1 Customs authority appointed for control of export (contact point):

Ministry of Taxation
Central Customs and Tax Administration
Customs Control Division
Østbanegade 123
DK -2100 Copenhagen Ø

Telefon : +45 35 29 74 00
Fax : +45 35 29 74 10
Email : KIC@tu22.ccta.dk

4.2 Police authority appointed for the protection (contact point)

Rigspolitichefens Afdeling A – NEC
Rejseholdet
Polititorvet 14
DK – 1780 Copenhagen V
Tlf.: (45) 33 14 88 88 ext. 5211
Fax: (45) 33 32 27 71
Email: NEC@politi.dk
Att.: Kjeld Agerskov Petersen

4.3 Nature and legal basis for the control

If the customs office of exit establishes a discrepancy in the nature of goods, the single administrative document and the export permit, it shall refuse the export.

The legal basis for the customs authorities control of goods is established in the Customs Executive Order no. 516 of 7.juni 2001.

4.4 Modalities of control (particular powers)

No comments

5. Penalties relating to cultural goods and national treasures:

If a person fail to declare or makes false declaration for customs, he can be punished according to Executive Order no 113 of 27. February 1996, Chapter 7.

According to Section 13 of the Act on Protection of Cultural Assets in Denmark contravention of Section 3 (1) or Section 4 shall be punishable by a fine.

6. Other national specific regulations

6.1 Existence of pre-emption right, condition of functioning:

No comment

6.2 National taxation, particulars

No comment

6.3 Any other particulars

According to section 28 of the Museum Act any person who finds an ancient relic or monument, including shipwrecks, cargo or parts of such wrecks, which at any time must be assumed lost more than 100 years ago, in watercourses, in lakes, in territorial waters or on the continental shelf, but not beyond 24 nautical miles from the base lines from which the width of outer territorial waters is measured, shall immediately notify the Minister for Culture. Such

objects shall belong to the state, unless any person proves that he or she is the rightful owner. Any person who gathers up an object belonging to the state, and any person who gains possession of such an object, shall immediately deliver it to the Minister for Culture. The Minister for Culture shall distribute such objects among relevant museums. The person who has gathered up the object cannot claim salvage money, but the Minister for Culture may pay a reward to the person concerned.

According to section 30 of the Museum Act objects of the past, including coins found in Denmark, of which no one can prove to be the rightful owner, shall be treasure trove (danefæ) if made of valuable material or being of a special cultural heritage value. Treasure trove shall belong to the state. Any person who finds treasure trove, and any person who gains possession of treasure trove, shall immediately deliver it to the National Museum of Denmark. The National Museum shall pay a reward to the finder.

According to section 31 of the Museum Act a geological object or a botanical or zoological object of a fossil or subfossil nature or a meteorite found in Denmark is fossil trove (danekræ) if the object is of unique scientific or exhibitional value. Fossil trove shall belong to the state. Any person who finds fossil trove, and any person who gains possession of fossil trove, shall immediately deliver it to the Danish Museum of Natural History. The Danish Museum of Natural History shall pay a reward to the finder.

7. Sites (Internet or other) to access the previous information

A site called www.kulturvaerdier.dk will be accessible at the end of 2002.

Community legislation for the protection of cultural heritage

1. Directive No EEC/93/7 of the Council, of 15th March 1993, on the return of cultural objects unlawfully removed from the territory of a Member State

1.1 Text of transposition, references

Act on the return of cultural objects unlawfully removed from the territory of an EU member state etc. Act no. 1104 of 22 December 1993

1.2 Central authority appointed in connection with the return of cultural goods

Kulturværdiudvalget
Kulturarvsstyrelsen
Slotsholmsgade 1, 3. sal
1216 København K
Tlf.: (45) 72 26 51 85
Fax: (45) 72 26 51 01
Email: eaj@kuas.dk / tro@kuas.dk

2. Regulation No EEC/3911/92 of the Council, of 9 December 1992, on the export of cultural goods

2.1 Competent authority for issuing the export licenses of cultural goods:

Kulturværdiudvalget
Kulturarvsstyrelsen
Slotsholmsgade 1, 3. sal
1216 København K
Tlf.: (45) 72 26 51 85
Fax: (45) 72 26 51 01
Email: eaj@kuas.dk / tro@kuas.dk

2.2 Nature of the control

See annex II, 4.3.

2.3 Penalties

According to section 4 (2) of Act on the return of cultural objects unlawfully removed from the territory of an EU member state contravention of Council Regulation 3911/92/EEC of 9 December 1992 on the export of cultural goods shall be punishable by a fine.

2.4 List of customs offices empowered to handle formalities for the export of cultural goods

All Customs Offices

2.5 Competent authority to implement controls (contact point)

See annex II, 4.1

2.6 Sites (Internet or others) to access previous information

No comment.

International Conventions

1. Accession to International Conventions

Denmark intends in the near future to accede to the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

2. Responsible authority appointed for the implementation of conventions (contact point)

Kulturministeriet
Nybrogade 2
DK - 1203 Copenhagen K

3. Framework of the UNESCO Convention, in case of accession

New national legislation will not be required in general.

According to Section 33 of the Act on Museums no museum may acquire an object if the object has been exported from another country contrary to the legislation of that country and the matter is subject to an international agreement which has been signed by the country in question and Denmark. If an acquisition has been made contrary to this, the object shall be returned in accordance with the international agreement before mentioned.

4. Other international conventions

None

5. Sites to access previous information:

www.kum.dk

6. Other specific national regulations

None

FINLAND

National legislation for the protection of cultural heritage

1. National regulations (publication references)

The Act on Restrictions to the Export of Cultural Objects 115/1999

The Decree on Restrictions to the Export of Cultural Objects 189/1999

2. National cultural protection

2.1 Framework of protection (nature and legal status of protected cultural good)

The Act (115/99) is applied to the movement of cultural objects both from Finland to other Member States in the Community, as well as to export outside the Community.

In accordance with the Church Code of Finland, interiors and fittings in churches are protected. According to Church Regulations, documents belonging to the church archives or valuable objects owned by the church cannot be sold or surrendered without the permission of the cathedral chapter. According to the Act on the Orthodox Church, any decision made by the church council for the sale or other transfer of moveable property that is meant for ecclesiastical purposes or is otherwise connected with church activity, may not be carried out without the permission of the church government.

The Act on Archives regulates the archiving obligations and destruction of documents by public archives and authorities. According to section 1 of the Act, records of established archives may not be taken out of Finland.

2.2 Protection of cultural goods (procedure, document for leaving the country, model, modalities to issue and use)

The Act (115/1999) applies to objects produced in Finland and also to such objects produced abroad that have been in Finland for at least 50 years during the last 100 years. However, if an object produced abroad has special value in the context of Finland's national history, this Act shall be applied to the object irrespective of the time its has been in Finland. The Act shall not apply to such objects, which are in the possession of a person who is the object's producer, designer or creator.

Objects that require an export licence are listed in groups in the Act in detail. In addition to archaeological objects found in land or water within the meaning of Finland's Protection of Antiquities Act (295/1963), an export licence is required for cultural objects that are older than 50 or 100 years depending on the group in which the objects are classified. An export licence is required for books and maps printed in Finland or for Finland before the year 1800 and books printed abroad before the year 1600. Irrespective of their age, an export permit is required for private archives and archive material and collections that are valuable due to scientific research or other special reason, natural history collections and specimens of these collections as well as objects related to national history or prominent persons.

The licence shall cease to be valid if the object is not taken out of the country within one year of granting the licence.

Exceptions regarding export licences

An export licence is not required if an object belonging to a public collection or archive or an object belonging to the Evangelical Lutheran Church or Orthodox Church or their congregation or group of congregations is taken from the country on loan for an exhibition, for conservation or for scientific research and then returned to Finland.

A performing artist or a person practising a profession is not required to apply for an export licence for an instrument or other equipment used in their work, which shall be returned to Finland after the performance or work is completed.

Parts 2 and 3 of the export licence for cultural goods must be presented to the Customs authorities at the point of export.

2.3 Authority for the national protection of cultural objects and national treasures

National Board of Antiquities
Nervanderinkatu 13
00100 Helsinki
09-40501

Under the decision of the Ministry of Education, the Finnish National Gallery and the War Museum deal with national licences for cultural objects according to their field of expertise.

War Museum
Maurinkatu 1
P.O. BOX 266
00170 Helsinki.
(09) 1812 6381

National Gallery
Kaivokatu 2
00100 Helsinki
(09) 173 361

The provincial museums operating in the city areas along the Gulf of Bothnia (Turku Provincial Museum, Satakunta Museum/Pori, K.H. Renlund's Museum/Kokkola, Pietarsaari City Museum, North Bothnia Museum/Oulu) and in the north, Tornionlaakso Museum/Tornio and in the south, Kymenlaakso Provincial Museum in Kotka deal with national export licences for cultural objects in their own **regions**.

3. Protection of national treasure

3.1 Definition of national treasure

Scientifically, artistically and historically valuable cultural objects

- in public collections
- in historical monuments and churches
- the export of which is not allowed (objects which have special value from the standpoint of Finland's national history and culture)

The competent licence authority's official or officeholder may prohibit the export of the cultural object. An export prohibition is final. A negative decision given under the Act 115/1999 may be appealed to the County Administrative Court as prescribed in the Act on the Application of Administrative Law (586/1996).

If the licence authority has rejected the export application and if the owner of the object so demands, the National Board of Antiquities or the National Gallery is entitled to redeem the object for the State.

3.2 Nature of the protection (legal status, licence for exit or accompanying document, model)

The Act (115/99) is applied to the movement of cultural objects both from Finland to other Member States in the Community, as well as to export outside the Community.

An export licence is not required if an object belonging to a public collection or archive, or an object belonging to the Evangelical Lutheran Church or Orthodox Church or their congregation or group of congregations is taken from the country on loan for an exhibition, for conservation or for scientific research and then returned to Finland.

4. Controls established to assure the protection of cultural national heritage

4.1 Customs authority appointed for the control of export (contact point)

National Board of Customs
Erottajankatu 2
P.O. Box 512
00101 Helsinki,
(09) 6141

4.2 Police authority appointed for the protection (contact point)

Keskusrikospoliisi
Jokiniemenkuja 4
P.O. Box 285
01301 Vantaa
Tel. : 358-9-8388661
e-mail : krp-kirjaamo@krp.poliisi.fi

4.3 Nature and legal basis for the control

The licence authorities and the Customs shall act as the supervisory authorities under the Act 115/1999.

If the licence authority has given an order for the return of the object within a specified time, which may be a maximum of two years, the owner of the object shall report to the authority that granted the licence that the object has been returned to Finland.

The Customs authorities may obligate the exporter of an object to apply for the licence, if a licence is required for the export of the object, or if it is unclear whether a licence is required for the export.

Parts 2 and 3 of the export licence for cultural goods must be presented to the Customs authorities at the point of export.

4.4 Modalities of control (particular powers)

5. Penalties relating to cultural goods and national treasures

The penalty for exporting an object in contravention of the Act 115/1999 or attempting to do so, is prescribed in Chapter 46 Section 5 of the Penal Code (39/1889):

Smuggling :

A person who, without the appropriate permission or otherwise in violation of import or export provisions or regulations, imports, exports or attempts to import or export goods, the import or export of which is prohibited or requires the permission or inspection of an authority, shall be sentenced for smuggling to a fine or to imprisonment for at most two years. (769/1990)

If the smuggling, when assessed as a whole, with due consideration to the value or quantity of goods or to the other circumstances connected with the offence, is to be deemed petty, the offender shall be sentenced for petty smuggling to a fine (system of day-fines is based on the offender's net income). Maximum is 120 day-fine. Confiscation is prescribed in the Act 875/2001.

6. Other national specific regulations

6.1 Existence of preemption right, conditions of functioning

If the licence authority has rejected the export application and if the owner of the object so demands, the National Board of Antiquities or the National Gallery is entitled to redeem the object for the State.

6.2 National taxation, particulars

The licence is subject to a fee as prescribed in the Government's Basis of Payment Act (150/1992). Municipal licence authorities are entitled to charge a corresponding fee for processing a licence. The fee may be cancelled on licences required under Section 7 paragraph 3.

6.3 Any other particulars

7. Sites (Internet or other) to access the previous information

The Act and Degree: <http://www.finlex.fi>

Information: <http://www.nba.fi>

1. Directive No EEC/93/7 of the Council, of 15th March 1993, on the return of cultural objects unlawfully removed from the territory of a Member State

1.1 Text of transposition, references

The Act on the return of cultural objects unlawfully removed from the territory of a Member State of the European Economic Area 1276/1994

1.2 Central authority appointed in connection with the return of cultural goods

The central authority entrusted with the tasks prescribed in the Act 1276/1994

Ministry of Justice

Eteläesplanadi

PL 25, 00023 Valtioneuvosto

(09) 160 03 or (09) 578 13

10,

2. Regulation No EEC/3911/92 of the Council, of 9 December 1992, on the export of cultural goods

2.1 Competent authority for issuing the export licences of cultural goods

National Board of Antiquities

Nervanderinkatu 13

00100 Helsinki

(09) 40501

National Gallery

Kaivokatu 2

00100 Helsinki

(09) 173 361

2.2 Nature of the control

The licence authorities are entitled, as necessary, to examine objects which are subject to public sale or for any other justifiable reason, and the export of which may possibly require an export licence.

The Customs authorities may obligate the exporter of an object to apply for the licence prescribed in Section 4, if a licence is required for the export of the object, or if it is unclear whether a licence is required for the export.

Parts 2 and 3 of the export licence for cultural goods must be presented to the Customs authorities at the point of export.

2.3 Penalties

The penalty for exporting an object in contravention of the Act 115/1999 or attempting to do so, is prescribed in Chapter 46 Section 5 of the Penal Code (39/1889):

Smuggling :

A person who, without the appropriate permission or otherwise in violation of import or export provisions or regulations, imports, exports or attempts to import or export goods, the import or export of which is prohibited or requires the permission or inspection of an authority, shall be sentenced for smuggling to a fine or to imprisonment for at most two years. (769/1990)

If the smuggling, when assessed as a whole, with due consideration to the value or quantity of goods or to the other circumstances connected with the offence, is to be deemed petty, the offender shall be sentenced for petty smuggling to a fine.

Maximum is 120 day-fine (system of day-fines is based on the offender's net income). Confiscation is prescribed in the Act 875/2001.

2.4 List of customs offices empowered to handle formalities for the export of cultural goods

All customs offices

2.5 Competent authority to implement controls (contact point)

National Board of Customs
Erottajankatu 2
P.O. Box 512
00101 Helsinki,
(09) 6141

2.6 Sites (Internet or others) to access previous information

<http://www.nba.fi>

International Conventions

1. Accession to International Conventions

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

The Act on adopting certain regulations of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 875/1999

The Decree for bringing into force the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the entry into force of the Act on adopting certain regulations of the Convention 876/99

Unidroit Convention on Stolen or Illegally Exported Cultural Objects

The Act on adopting certain regulations of the Unidroit Convention on Stolen or Illegally Exported Cultural Objects and the application of the Convention 877/1999

The Decree for bringing into force the Unidroit Convention on Stolen or Illegally Exported Cultural Objects and adopting certain regulations of the Convention and the entry into force of the Act on the application of the Convention 878/1999

Convention for the Protection of Cultural Property in the Event of Armed Conflict

The Act on the implementation of certain provisions of the Protocol for the Protection of Cultural Property in the Event of Armed Conflict and on the application of the Protocol 1135/1994

The Decree on the implementation of the Convention for the Protection of Cultural Property in the Event of Armed Conflict and the related Protocol and accepting and applying certain provisions of the Protocol 1136/1994

2. Responsible authority appointed for the implementation of conventions (contact point)

Ministry of Justice

Eteläesplanadi

PL 25, 00023 Valtioneuvosto

(09) 160 03 or (09) 578 13

10,

National Board of Antiquities

Nervanderinkatu 13

00100 Helsinki

(09) 40501

3. Framework of the UNESCO Convention, in case of accession

Finland has given the following explanation in connection with the deposit into custody of the instrument of ratification of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property :

The Government of Finland declares that it shall implement the regulations of Article 7 paragraph b subparagraph ii of the Convention in accordance with the obligations set by the

Unidroit Convention on Stolen or Illegally Exported Cultural Objects adopted in Rome on 24 June 1995.

4. Other international conventions

5. Sites to access previous information

www.unesco.org

France

National legislation for the protection of the cultural heritage

1. National regulations (publication references)

Law No 92-1477 of 31 December 1992 on goods subject to movement restrictions and the complementary responsibilities of the police, gendarmerie and customs (French Official Journal of 5 January 1993), as amended by Law No 94-679 of 8 August 1994 (French Official Journal of 10 August 1994), Law No 2000-643 of 10 July 2000 on the protection of national treasures (French Official Journal of 11 July 2002) and Law No 2002-5 of 4 January 2002 on French museums (French Official Journal of 5 January 2002).

Decree No 93-124 of 29 January 1993 on cultural goods subject to movement restrictions (French Official Journal of 30 January 1993), as amended by Decree No 95-24 of 9 January 1995 (French Official Journal of 11 January 1993), Decree No 97-286 of 25 March 1997 (French Official Journal of 28 March 1997) and Decree No 20001-894 of 26 September 2001 (French Official Journal of 29 September 2001).

2. Protection of national cultural goods

2.1. Framework of protection (nature and legal status of protected cultural goods)

French law differentiates between two types of cultural goods, which are subject to supervision by the Ministry of Culture and Communication, and the customs administration when they leave French territory:

- cultural goods
- national treasures.

2.2. Protection of cultural goods

In France cultural goods requiring a licence in order to be removed from France are virtually the same as those requiring a licence in order to be exported to third countries (with the same age and value thresholds with one or two exceptions).

- Legal status of cultural goods:

Cultural goods, which have been in France for more than two years, require a licence to leave the country.

Cultural goods imported lawfully less than fifty years ago are automatically authorised to leave the country unless they have been listed under Law No 79-18 of 3 January 1979 on archives or the Law of 31 December 1913 on historic monuments.

Cultural goods, which were imported on a temporary basis less than two years ago do not need a licence to leave the country, provided the temporary nature of their import can be proved.

- Nature of protection (procedure, licence to leave the country, model, issuing and utilisation procedures):

An export certificate issued by the Ministry of Culture and Communication must be obtained for cultural goods to be removed from France on a permanent basis.

This certificate shows that the cultural goods in question are not national treasures and can leave the country freely and permanently.

The certificate is valid indefinitely for goods of over 100 years old, and for 20 years, on a renewable basis, for other cultural goods.

If cultural goods are exported for restoration, expert appraisal or use in a cultural event, a licence allowing the goods to leave the country temporarily but requiring that they must be returned (on a specified date) replaces the export certificate (simplified and derogating procedure).

Cultural goods, which are of significant value for the national heritage, may be refused a certificate. They are then listed as “national treasures”.

- Procedure: a certificate is refused by the Minister of Culture and Communication after consulting the Consultative Commission for National Treasures, which comprises 12 representatives from the public authorities and civil society and is chaired by a member of the Council of State. The Commission issues a reasoned opinion.

A certificate can be refused for 30 months. The refusal may be renewed if the State wishes to acquire the national treasure and initiate a procedure to bid for the treasure under the conditions laid down by the Law of 10 July 2000. The State may consider purchasing the goods for itself or on behalf of a public body.

2.3 Authority responsible for national protection (issuing of licences)

Ministry of Culture and Communication

The heritage directorates within the Ministry of Culture and Communication (architecture and heritage, archives, books and libraries, museums) examine applications and issue licences for the category of goods for which they are responsible.

- Directorate for French museums (6, rue des Pyramides 75001 Paris)
- Directorate for archives (56, rue des Francs Bourgeois 75003 Paris)
- Directorate for books and libraries (180, rue de Rivoli 75001 Paris)
- Directorate for architecture and national heritage (4, rue d'Aboukir 75002 Paris)

The activities of these directorates are overseen by:

Direction des Musées de France (Directorate for French Museums)
Bureau du mouvement des œuvres et de l'inventaire
(contact point: Ms M. Bourlet)
6, rue des Pyramides
75001 Paris
Tel.: 33 1 40 15 34 66

4. Protection of national treasures

4.1. Definition of national treasure

National treasures are defined in France as:

- goods forming part of public collections
- goods listed as historic monuments under the Law of 31 December 1913 (including a large number of a cultural nature) or as archives under the Law of 3 January 1979;
- goods for which an export certificate has been refused (goods which are of significant value to France's heritage may be refused an export certificate).

A national treasure may be owned by either the public authorities or individuals.

4.2. Nature of protection (legal status, exit licences, model)

In France national treasures cannot be exported on a permanent basis.

Their temporary export for restoration, expert appraisal or participation in a cultural event or loan to a foreign public museum may be authorised for a limited period to be determined on the basis of the purpose of the application.

Temporary export of a national treasure to another Member State or a third country is authorised solely on the basis of a licence for temporary removal and mandatory return (on a specified date).

5. Controls for the protection of the national cultural heritage

5.1. Customs authority responsible for export controls (contact point)

Direction générale des douanes et droits indirects (Directorate-General for customs and indirect taxation)
bureau E/2 (contact point: Ms S. Halmagrand)
23bis, rue de l'université
75700 Paris 07 SP
Tel: 33 1 44 74 49 45

5.2. Police authority responsible for protection (contact point)

Office Central de lutte contre le trafic des Biens Culturels (OCBC)
(Central Office to combat trafficking in cultural goods)
(contact point: Mr J-F Lelièvre, Head of OCBC)
8, rue de Penthièvre
75008 Paris
Tel: 33 1 40 07 67 85

5.3. Nature of and legal basis for control

National movement controls and intra-Community frontier controls

Legal basis:

- 1) Law of 31 December 1992: checking holders of certificates or temporary exit licences
- 2) Article 215b of the French Customs Code: checking regular holders and proof of origin

5.4. Control procedures (special powers, scope and methods of investigation):

- 1) Movement: power to seize goods for ten days, renewable on authorisation by the Public Prosecutor for a maximum of 21 days for the purposes of verification and expert appraisal (Article 322a of the French Customs Code).
- 2) If the status of the cultural good or national treasure is established or if an infringement is deemed to have taken place, goods may be seized (Article 332(2) of the French Customs Code).
- 3) Customs can check and investigate the movement or export of national treasures and cultural goods with all persons directly or indirectly involved in an operation.

These checks may be undertaken at the time or after formalities are undertaken.

Customs officers' powers are defined in the French Customs Code. They can call for any document relating to the operation, question the persons involved and have access to commercial or private premises (in the latter case they require authorisation from the judicial authorities).

6. Penalties relating to cultural goods and national treasures

Criminal penalties under common law: Article 13 of the Law of 31 December 1992 imposes a two-year prison sentence or a fine of €457 347 on any person exporting or attempting to export from France, on a temporary or permanent basis, cultural goods or national treasures which are not accompanied by the requisite licences.

Customs penalties: any attempt to smuggle (Article 414 of the French Customs Code) or export cultural goods or national treasures which are not accompanied by the exit licences required in their country of provenance are subject to penalties.
Confiscation and customs fine (one to two times the value of the goods).

7. Other specific national regulations:

7.1. Right of preemption, conditions

In France the State can only exercise its right of preemption in public auctions.

7.2. National taxation, special features

A (4.5%) flat-rate tax on capital gains applies to individuals who export cultural goods to third countries on a permanent basis.

7.3. Any other special features

Goods listed as historic monuments under the Law of 31 December 1913 or as archives under the Law of 3 January 1979 cannot be exported permanently from France as they are deemed to be national treasures.

8. (Internet or other) sites giving access to the above information

Legislation (laws and decrees) can be found at: www.legifrance.gouv.fr

Application forms can be found at: www.cerfa.gouv.fr (under culture)

General information on the Ministry of Culture and Communication can be found at:
www.culture.gouv.fr

Practical information can be found at: www.service-public.fr

Community legislation for the protection of the cultural heritage

1. Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State

1.1. Transposing legislation, references, information sites

Law No 95-877 of 3 August 1995 transposing Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State (French Official Journal of 4 August 1995)

Decree No 97-286 of 25 March 1997 on the return of cultural goods unlawfully removed from the territory of a Member State (French Official Journal of 28 March 1995)

1.2. Central authority responsible for implementation and/or return (contact point)

Under Decree No 75-432 of 2 June 1975 (French Official Journal of 4 June 1997) as amended by Decree No 97-285 of 25 March 1997 (French Official Journal of 28 March 1997):

Office Central de lutte contre le trafic des Biens Culturels (OCBC)
(contact point: Mr J-F Lelièvre, Head of OCBC)
8, rue de Penthièvre
75008 Paris
Tel.: 33 1 40 07 67 85

2. Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods

2.1. Authority responsible for issuing export licences for cultural goods

Direction générale des douanes et droits indirects
Service des Titres du Commerce Extérieur (SE.TI.C.E.)
Contact point: Mr J. Camut, Head of SE.TI.C.E.
8, rue de la Tour des Dames
75009 Paris
Tel.: 33 1 55 07 45 95

2.2. Type of controls and methods used

At the time the export declaration (SAD), accompanied by the export authorisation (licence), is lodged at the customs office responsible for these operations.

Checks can also be undertaken at the time or after formalities are undertaken.

The powers relating to the implementation of Community legislation are defined by the French Customs Code. They allow customs officers to call for any document relating to the operation, question the persons involved and have access to commercial or private premises subject to the authorisation of the judicial authorities.

2.3. Penalties

Criminal penalties under common law: Article 13 of the Law of 31 December 1992 imposes a two-year prison sentence or a fine of €457 347 on any person exporting or attempting to export from France, on a temporary or permanent basis, cultural goods or national treasures which are not accompanied by the requisite licences.

Customs penalties: any infringement of the provisions of the Regulation are deemed to be a non-declared export and the goods may be seized or a fine of between one and two times the value of the object may be imposed (Article 414 of the French Customs Code)

2.4. List of customs offices empowered to carry out export formalities

Directorates	Offices
Bayonne	Pau Regional Clearance Centre
Bordeaux	Bordeaux-Bassens Bordeaux Mérignac
Burgundy	Dijon Regional Clearance Centre
Brittany	Rennes Regional Clearance Centre
Centre	Tours Regional Clearance Centre from 1 May 2002
Chambéry	Grenoble Regional Clearance Centre
Franche Comté	Besançon Regional Clearance Centre
Guadeloupe	Le Raizet airport
Guyana	Rochambeau airport
Le Havre	Le Havre port
Léman	Anney Regional Clearance Centre
	Annemasse Regional Clearance Centre
	St Julien Bardonnex Regional Clearance Centre
	Antenne de Vallard Thonex Regional Clearance Centre
Lille	Lesquin Regional Clearance Centre
	Lille Regional Clearance Centre
Lyon	Lyon Chassieu Regional Clearance Centre
Marseille	Marseille port
Martinique	Le Lamentin
Metz	Ennery Regional Clearance Centre
Midi-Pyrénées	Antenne de Toulouse Fondeyre Regional Clearance Centre
Mulhouse	Mulhouse Regional Clearance Centre
Nancy	Nancy Regional Clearance Centre
Nice	Nice airport
Paris	Paris Ney Regional Clearance Centre
	Paris République
	Antenne de Paris Garantie
Paris-East	Pantin (transit centre) Regional Clearance Centre
Paris-West	Gennevilliers (transit centre) Regional Clearance Centre

	Trappes Pissaloup
Loire	Nantes Atlantique Regional Clearance Centre
Poitiers	La Rochelle la Pallice Regional Clearance Centre
	Poitiers Regional Clearance Centre
Réunion	Saint Denis Gillot
Rouen	Rouen port
Strasbourg	Strasbourg Regional Clearance Centre
	Antenne de Strasbourg-Hausbergen

2.5. Authority responsible for carrying out controls (contact point)

Direction générale des douanes et droits indirects
bureau E/2 (contact point: Ms S. Halmagrand)
23bis, rue de l'Université
75007 Paris 07 SP
Tel.: 33 1 44 74 49 45

2.6. (Internet or other) sites giving access to the above information

Information concerning the role of customs can be found at:
<http://www.douane.minefi.gouv.fr> (under documentation et téléprocédure - entreprises et professionnels - opérations commerciales - caractéristiques de vos marchandises).

International conventions

1. Accession to international conventions (information sites)

Accession to the UNESCO Convention by Decree No 97-435 of 25 April 1997 publishing the convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property, Paris 14 November 1970 (French Official Journal of 3 May 1997)

Information on UNESCO can be found at: www.unesco.org

2. Authority responsible for applying the Convention (contact point)

Office Central de lutte contre le trafic des Biens Culturels (OCBC)
(contact point: Mr J-F Lelièvre, Head of OCBC)
8, rue de Penthièvre
75008 Paris
Tel.: 33 1 40 07 67 85

3. Framework of the Convention adopted by the Member State in the case of accession

France has adopted the same framework as that for Regulation (EEC) No 3911/92 (without category 3A introduced by Regulation (EC) No 2469/96 of 16 December 1996) with the same value and age thresholds.

4. Other international conventions

UNIDROIT Convention being ratified.

5. Sites giving access to the above information

Office Central de lutte contre le trafic des Biens Culturels
ocbc-doc.dcpj@interieur.gouv.fr

6. Other specific national regulations

- Implementation by France of the Allies declaration of 6 January 1943 on spoils and crimes of war and by virtue of its special relations with the Ministry for Foreign Affairs, the OCBC is responsible for criminal penalties relating to any claims.

- Any cultural goods for which a certificate has been refused are reported to the OCBC which enters them in its TREIMA database in which all works of art stolen in France or which might be in an lawful situation are recorded.

Germany

National legislation for the protection of the cultural heritage

1. National regulations (publication references)

Law transposing the European Community Directives on the return of cultural objects unlawfully removed from the territory of a Member State and amending the Law on the protection of German cultural goods against unlawful removal (Cultural Goods Protection Law - KultgutSiG) of 15 October 1998

Bundesgesetzblatt 1998 Section I No 70, p. 3162, published in Bonn on 21 October 1998

Amendment to Cultural Goods Protection Law of 8 July 1999

Bundesgesetzblatt 1999 Section I No 42, p. 1754, published in Bonn on 11 August 1999

2. Protection of national cultural goods

2.1 Framework of protection (nature and legal status of protected cultural goods)

Under the Law to protect German cultural goods against unlawful removal (AbwSchG), works of art and other cultural goods including goods belonging to libraries or archives are given special protection against export (including removal from the territory of the Federal Republic of Germany on loan or on a temporary basis) only if they are entered in a list of cultural goods or archives of national importance.

The Land authorities decide which goods are listed and the representative of the Federal Government for culture and media (formerly the Federal Minister for the Interior) can apply for goods to be listed in the national interest.

A licence is required for the export of cultural goods, which have been listed.

The Government representative for culture and media decides whether to issue licences for the export of listed (protected) cultural goods.

The law does not cover cultural and archive goods of national importance which are publicly owned; only the Federal or Land authorities are authorised to decide whether they can be sold or the approval of a public supervisory body is required under special legal provisions (Article 18 AbwSchG).

Nor does it apply to cultural and archive goods in the possession of churches or other religious communities recognised as corporations under public law or their supervisory institutions and organisations where the approval of a supervisory body is required under ecclesiastical law to approve the sale of such goods or authorisation by the State is required under the relevant legal provisions (Article 19 AbwSchG).

2.2 Type of protection (procedure, export document, model, procedure for transfer and use)

An export licence is required for listed cultural goods.

The representative of the Federal Government for culture and media decides whether an export licence can be issued - after statutory prior consultation of a special committee of experts (see point 2.1).

The licence is issued in writing according to German procedural law but there are no special printed forms for such licences.

2.3 Authority responsible for national protection

Representative of the Federal Government for culture and media

Graurheindorfer Straße 198

53117 Bonn

Tel.: 0049 1888 681-0-

Contact point:

BKM Referat K 24

Gerd Friedrich Trautmann

Tel.: 0049 1888 681 3504

Fax : 0049 1888 681 5 3504

e-mail: GerdFriedrich.Trautmann@bkm.bmi.bund.de

3. Protection of national cultural goods

3.1 Definition of national cultural goods

National cultural goods in Germany are:

Works of art and other cultural goods - including those belonging to libraries and archives - whose removal from the scope of the law to protect German cultural goods from unlawful removal would be a significant loss for German cultural heritage (Article 1 AbwSchG).

Decisions are taken at Land level in each individual case (see point 2.1).

3.2 Nature of protection (legal status, export licence, model)

Cultural goods listed and therefore protected may only be permanently exported from Germany in exceptional cases under a licence issued by the representative of the Federal Government for culture and media.

An export licence can be obtained from the Government representative for the temporary export of cultural for exhibition or restoration.

4. Controls for the protection of the national cultural heritage

4.1 Authority responsible for export controls (contact point)

Customs offices check the export of goods to third countries. In the case of goods exported to other Member States checks can also be carried out by so called mobile control units.

Central contact point:

Federal Ministry of Finance
Referat III B 1
Langer Grabenweg 35
53175 Bonn
Tel: 0049 1888 682 2480
Fax: 0049 1888 682 2555
e-mail: IIB1@bmf.bund.de

4.2 Police authority responsible for protection (contact point)

In Germany the police do not carry out any preventive or control measures to protect cultural goods of national importance (national treasures).

4.3 Nature of and legal basis for control

In the case of goods exported to third countries, all goods of a value of more than €3 000 or goods subject to bans and restrictions (e.g. cultural goods) must always be declared for prior clearance to the customs office where the exporter is located. This customs office carries out sample checks of the goods and documents to establish whether the goods in question are national treasures which cannot be exported or require a licence (Article 161 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code and Articles 791, 793 and 794 of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code and Article 1(3) of the German Customs Administration Law and Articles 1 and 4 of the Law to protect German cultural goods from unlawful removal).

When a licence for the export of national treasures is presented it is checked to ensure that it corresponds to the goods and is genuine (if necessary by consulting the issuing authority).

Mobile control units may stop vehicles and persons on German territory to check that the customs provisions or rules governing bans and restrictions for the goods in question have been observed (Article 10 of the Customs Administration Law).

4.4 Type and method of control (special powers)

All control powers available under customs law such as document checks, inspection of goods and searching of persons and vehicles. Customs do not have special powers for cultural goods. Goods may be confiscated by customs if the rules have not been observed.

5. Penalties relating to cultural goods and national treasures

A prison sentence of up to three years or a fine may be imposed for the unlawful removal of cultural goods covered by the Law on the protection of German cultural goods against unlawful removal (see point 2).

Any attempt to do so is also punishable.

Failure to comply with the notification obligations for such goods is deemed to be illegal and may be subject to a fine.

6. Other specific national regulations

6.1 Existence of the right of preemption, conditions

There is no right of preemption. If the possessor of a protected cultural good which cannot be exported is forced to sell the goods because of economic hardship, the authorities must provide compensation.

6.2 National tax law, special features

Listed cultural goods are exempt from inheritance tax.

6.3 Any other special features

7. (Internet or other) sites giving access to the above information

a) www.bundesregierung.de

- The representative of the Federal Government for culture and media
Practical information and legislation will be available shortly.

b) General information on German customs can be found at www.zoll-d.de

Information on the export of cultural goods can be found at www.zoll-d.de/b0_zoll_und_steuern/d0_verbote_und_beschraenkungen/g0_kulturgut/index.html

Community legislation for the protection of the cultural heritage
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1. Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State

1.1 Transposing legislation, reference documents

Law transposing European Community Directives on the return of cultural objects unlawfully removed from a territory of a Member State and amending the Law on the protection of German cultural goods against unlawful removal (KultgutiSiG.) of 15 October 1998 Bundesgesetzblatt 1998 Section I No 70, p. 3162, published in Bonn on 21 October 1998.

1.2 Central authority responsible for the return of cultural goods

**The representative of the Federal Government for culture and media
Graurheindorfer Straße 198**

53117 Bonn
Tel.: 00 49 1888 681-0-
Contact point:
BKM Referat K 24
Ministerialrat Gerd Friedrich Trautmann
Tel.: 0049 1888 681 3504
Fax : 0049 1888 681 5 3504
e-mail: GerdFriedrich.Trautmann@bkm.bmi.bund.de

2. Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods

2.1 Authority responsible for issuing export licences

A. Land authority a) Supreme Land authority b) Licensing authority	Contact point	a) Tel. No b) Fax No e-mail
Baden-Württemberg a) Ministerium für Wissenschaft, Forschung und Kunst Baden- Württemberg Königstraße 46 70173 Stuttgart b) Württembergisches Landesmuseum Schillerplatz 6 70173 Stuttgart	Joachim Uhlmann Prof. Volker Himmelein	a) 0711/279-2981 b) 0711/279-3213 joachim.uhlmann@mwk.bwl.de a) 0711/279-3410 b) 0711/-279-3455 info@landesmuseum-stuttgart.de
Bavaria a) Bayerisches Staatsministerium für Wissenschaft, Forschung und Kunst Salvatorstraße 2 80333 München b) Bayerische	Dr Peter Wanscher Dr Helge Siefert	a) 089/2186-2369 b) 089/2186-3651 peter.wanscher@stmwfk.bayern.de e

Staatsgemäldesammlungen Barer Straße 29 80799 München		a) 089/23805-107 b) 089/23805-221 http://bayerische.staatsgemaeldesammlungen.de/
Berlin A +b) Senatsverwaltung für Wissen-schaft, Forschung und Kultur Brunnenstraße 188-190 10119 Berlin	Liane Rybczyk	a) 030/90228 – 410 b) 030/90228 – 455 liane.rybczyk@senwfk.verwaltung-berlin.de poststelle@senwfk.verwaltung-berlin.de
Brandenburg a)+b) Ministerium für Wissenschaft, Forschung und Kultur Dortustraße 36 14467 Potsdam	Referat 14 Gunter Greve	a) 0331/866 4870 b) 0331/866 4998 gunter.greve@mwfk.brandenburg.de
Bremen a)+b) Senator für Inneres, Kultur und Sport Herdentorsteinweg 7 28195 Bremen	Reinhard Strömer	a) 0421/361 2717 b) 0421/361 4091 reinhard.stroemer@kultur.bremen.de
Hamburg a) Kulturbehörde der Freien und Hansestadt Hamburg Hohe Bleichen 22 20354 Hamburg b) Hamburger Kunsthalle Glockengießerwall 20095 Hamburg	Rüdiger Jörn Dr Ulrich Luckhardt Dr Hanna Hohl	a) 040/42824-294 b) 040/42824-291 ruediger.joern@kb.hamburg.de a) 040/428542-605 b) 040/428542-482 ulrich.luckhardt@hamburger.kunsthalle.de
Hessen a)+b) Hessisches Ministerium für Wissenschaft und Kunst Rheinstraße 23-25 65185 Wiesbaden	Dr Reinhard Dietrich	a) 0611/32-3463 b) 0611/32-3499 r.dietrich@hmwk.hessen.de
Mecklenburg-Vorpommern a) Ministerium für Bildung, Wissenschaft und Kultur Werderstraße 124 19055 Schwerin b) Staatliches Museum Alter Garten 3 19055 Schwerin	Dr Bernhard Hoppe Prof. Kornelia von Berswordt- Wallrabe	a) 0385/588 7420 b) 0385/588 7082 http://www.kultus.mv.de a) 0385/5958-112 b) 0385/56 30 90 otto@museum-schwerin.de
Lower Saxony a) Ministerium für Wissenschaft und Kultur Leibnizufer 9 30169 Hannover b) Niedersächsisches Landesmuseum Willy-Brandt-Allee 5 30169 Hannover	Sigrid Kurz Dr Heide Grape-Albers	a) 0511/120 2582 b) 0511/120 2801 oder 2805 sigrid.kurz@mwk.niedersachsen.de a) 0511/9807-620 c) 0511/9807-640 nlm.hlg@compuse.rve.com
North Rhine Westfalia		

<p>a)+b) Ministerium für Städtebau und Wohnen, Kultur und Sport Fürstenwall 25 40219 Düsseldorf</p>	<p>Theda Kluth</p>	<p>a) 0211/3843-565 b) 0211/3843-654 theda.kluth@mswks.nrw.de</p>
<p>Rhineland-Platinat a)+b) Ministerium für Wissenschaft, Weiterbildung, Forschung und Kultur Mittlere Bleiche 61 55116 Mainz</p>	<p>Dr Volker Hartmann</p>	<p>a) 06131/16 2747 b) 06131/16 4121 volker.hartmann@mwwfk.rlp.de</p>
<p>Saarland a)+b) Ministerium für Bildung, Kultur und Wissenschaft Hohenzollernstr. 60 66117 Saarbrücken</p>	<p>Christa Matheis</p>	<p>a) 0681/501 7432 b) 0681/501 7227 christa.matheis@mbkw.saarland.de</p>
<p>Saxony a) Sächsisches Staatsministerium für Wissenschaft und Kunst Wigardstr. 17 01097 Dresden</p> <p>b) Staatliche Kunstsammlungen Albertinum-Georg-Treu-Platz 2 01067 Dresden</p>	<p>Christopher -Jens Wittig Titus Graf</p> <p>Dr Martin Roth</p>	<p>a) 0351/564 6222 b) 0351/564-640-6222 Christoper.Jens.Wittig@smwk.sachsen.de a) 0351/564 6211 b) 0351/564-640-6211 Titus.Graf@smwk.sachsen.de a) 0351/4914-700 b) 0351/4914-777 martin.roth@sk-dresden.de</p>
<p>Saxony Anhalt a)+b) Kultusministerium des Landes Sachsen-Anhalt Abteilung Kultur Turmschanzenstraße 32 39114 Magdeburg</p>	<p>Kulturdirektor Ingo Mundt</p>	<p>a) 0391/567-3635 b) 0391/567-3855 ingo.mundt@mk.lsa-net.de</p>
<p>Schleswig-Holstein a)+b) Ministerium für Bildung, Wissenschaft, Forschung und Kultur des Landes Schleswig-Holstein Brunswiker Straße 16-22 24105 Kiel</p>	<p>Dr Sigurt Zillmann</p>	<p>a) 0431/988 5842 b) 0431/988 5857 e-mail not available</p>
<p>Thuringia a)+b) Ministerium für Wissenschaft, Forschung und Kunst Juri-Gagarin-Ring 158 99084 Erfurt</p>	<p>Dr Dieter Gentsch</p>	<p>a) 0361/37 91 610 b) 0361/37 91 699 dgentsch@tmwfk.thueringen.de</p>
<p>B. Federal authorities</p>		
<p>Bundesministerium der Finanzen Referat III B 1 Langer Grabenweg 35 53175 Bonn</p>	<p>Ulrich Piechowski</p>	<p>a) 01888/682-2460 b) 01888/682-2555 Ulrich.Piechowski(a)bmf.bund.de</p>
<p>Die Beauftragte der Bundesregierung für Kultur und Medien</p>	<p>Gerd F. Trautmann</p>	<p>a) 01888/681-3504 b) 01888/681-3823</p>

Referat K 24 Graurheindorfer Str. 198 53117 Bonn		GerdFriedrich.Trautmann@bkm.bmi.bund.de
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2.2 Nature of controls

In the case of goods exported to third countries, all goods of a value of more than € 3 000 or goods subject to bans or restrictions (such as cultural goods) must always be declared for prior clearance at the customs office where the exporter is located for prior clearance. This customs office carries out sample goods and document checks to establish whether the goods declared are national treasures which cannot be exported or require a licence (Article 161 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code and Article 791, 793 and 794 of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code and Article 1(3) of the Customs Administration Law and Articles 1 and 4 of the Law on the protection of German cultural goods from unlawful removal).

When a licence for the export of national treasures is presented it is checked to ensure that it corresponds to the goods and is genuine (if necessary after consulting the issuing authority).

So called mobile control units can stop vehicles and persons on Germany territory to check that the customs regulations or rules governing bans and restrictions have been observed for the goods carried (Article 10 of the Customs Administration Law).

All control powers available under customs legislation such as document checks, inspection of goods and searches of persons and vehicles. Customs do not have special control powers for cultural goods. The goods may be confiscated by customs if the rules have not been observed.

2.3 Penalties

2.4 List of customs offices authorised to carry out formalities

In Germany any customs office can clear cultural goods.

2.5 Authority responsible for carrying out controls (contact point)

Contact point for customs:

Bundesministerium der Finanzen
Referat III B 1
Langer Grabenweg 35
53175 Bonn
Tel: 0049 1888 682 2480
Fax: 0049 1888 682 2555
e-mail: IIIB1@bmf.bund.de

2.6 (Internet or other) sites giving access to the above information

- a) www.bundesregierung.de
- The representative of the Federal Government for culture and media

Practical information and legislation will be available shortly.

b) General information on German customs can be found at: www.zoll-d.de

Information on the export of cultural goods can be found at:
www.zolld.de/b0_zoll_undsteuern/d0_verbote_und_beschraenkungen/g0_kulturgut/index.html

International Conventions

1. Accession to international conventions (information sites)

Efforts are being made to ratify the UNESCO Convention.

2. Authority responsible for applying the Convention (contact point)

Auswärtiges Amt, Referat 600

Mr Fabri

Telephone: 0049 1888 17 3692

3. Framework of the UNESCO Convention in the case of accession

4. Other international conventions (information sites)

IRELAND

National Legislation for the protection of cultural heritage

1. National Regulations

Documents and Pictures Act (Regulation of Export) Act, 1945

National Cultural Institutions Act, 1997

2. National Cultural Protection

2.1 Framework of protection (nature and legal status of protected cultural goods)

Section 2 (1) of the Documents and Pictures (Regulation of Export) Act, 1945 provides that any document (other than a document wholly in print) which is over one hundred years old, any painting, any document declared by an order made by the Minister under subsection (2) of this section to be an article to which this Act applies.

Subsection (2) provides that the Minister may from time to time by order declare any document, which is in his/her opinion of national, historical, genealogical or literary interest, to be an article to which this Act applies and may revoke any such order.

Under Section 3 of the Documents and Pictures (Regulation of Export) Act, 1945 it shall not be lawful for any person to export any article to which this Act applies unless each person is the holder of an export licence authorising the export of the article and the licence is delivered at the time of export to the proper officer of customs and excise.

Section 4 (2) of the above Act states where an application is made to the Minister for an export licence to export an article to which this Act applied the Minister may request the applicant to afford the Minister such facilities as he/she may think necessary for the making within a reasonable time of photographic copies of the article, and in that case he/she shall not grant the export licence unless the request has been complied with.

Documents and Pictures (Regulation of Export) Act 1945

The National Cultural Institutions Act, 1997

2.2 Protection of cultural goods (Procedure, document for leaving the country, modalities to issue and use)

See 2.1 above

Application for a licence to export a cultural good is made to the relevant national cultural institution, i.e. National Library of Ireland, National Museum of Ireland, National Gallery of Ireland. The application and licence form are forwarded to the Department of Arts, Sport and Tourism for processing. The licence form is signed by an Assistant Secretary of the Department and sealed with the official seal of the Minister for Arts, Sport and Tourism. All documentation is then returned to the relevant institution for issue to the applicant. Copies

are retained on file in the Cultural Institutions Division of the Department of Arts, Sport and Tourism.

2.3 Authority responsible for national protection of cultural objects

**Department of Arts, Sport and Tourism
Cultural Institutions Division
Kildare Street
Dublin 2.**

Tel: 353 1 613 3800

Email: sylvialynam@dast.gov.ie

3. Protection of national treasure

3.1. Definition of national treasure

The Documents and Pictures (Regulation of Export) Act, 1945 regulates the export of documents and pictures with the object of preserving records of those which are of national, historical, genealogical or literary interest. Section 1 of the Act defines the word “document” to include any writing, drawing, map, chart, plan, photograph or film. See 2.1 above.

- (1) The Act applies to any document (other than a document wholly in print) which is over one hundred years old, any painting and any document declared by the Minister to be of national, historical, genealogical or literary interest.
- (2) The Minister may revoke any order declaring an article covered by this Act.

3.2. Nature of the protection (legal status, licence for exit or accompanying document, model)

See 2.1 and 2.2 above.

4. Controls established to assure the protection of cultural national heritage

4.1. Customs authority appointed for control of export (contact point)

**Office of the Revenue Commissioners
Customs Procedures A Branch
5th Floor Castle House
South Great George’s Street
Dublin 2.
Tel: 353 1 6748972
Email: customsa@revenue.ie**

4.2 Police authority appointed for the protection (contact point)

National Bureau of Criminal Investigation

*An Garda Síochána

Art and Antique Squad

Harcourt Street

Dublin 2.

Contact: Det. Sgt. George Kyne

Tel: 353 1 6663404

Email: dvsau@iol.ie

*The Irish Civic Guard (Police)

4.3. Nature and legal basis for the control

Documents and Pictures Act, 1945

National Cultural Institutions Act, 1997

4.4. Modalities of control (particular powers)

See 2.1 above

5. Penalties relating to cultural goods and national treasures

The National Cultural Institutions Act, 1997 provides that a person who contravenes section 49 (8) shall be guilty of an offence punishable relative to the object to which the offence applies.

6. Other national specific regulations

6.1 Existence of preemption right, condition of functioning

The National Cultural Institutions Act, 1997 Section 50 (2)(a) provides that in respect of any cultural object on the register, held in the care of an institution for an uninterrupted period of five years before the commencement of this section (commencement date 24 July 1997) the Minister may grant or refuse to grant a licence at his or her discretion.

The above conditions apply in the case of a cultural object in the care of an institution after the commencement of this section and remains in such care for an uninterrupted period of ten years - Section 50 (2)(b).

If not in the care of an institution, a licence must be granted but the article may not be exported within a period of one year to enable the State to attempt a purchase - Section 50 (2)(c).

The same provisions apply in respect of archaeological objects.

National taxation, particulars

The Taxes Consolidation Act, 1997 Section 1003 provides that persons who donate heritage items can credit the value of those items against their liabilities for certain taxes. The taxes covered by the relief are Income Tax, Corporation Tax, Capital Gains Tax, Gift Tax and Inheritance Tax. In order to obtain the tax credit, the heritage item(s) must be donated for no consideration - other than the tax credit itself.

- For the purposes of the relief, heritage item means any kind of cultural item including: any archaeological item, archive, book, estate record, manuscript and painting, and
- any collection of cultural items and any collection of same in their setting which are considered appropriate for donation to the national collections.

Heritage items may only be donated to an Approved Body as provided for under the legislation. The Approved Bodies are:

- National Archives
- National Gallery of Ireland
- National Museum of Ireland
- National Library of Ireland
- Irish Museum of Modern Art

The tests applied in order to determine whether a heritage item or collection of heritage items is appropriate for donation to the Approved Bodies are:

- (1) the heritage item(s) must be an outstanding example of the type of item involved, pre-eminent in its class, whose export from the State would constitute a diminution of Ireland's accumulated cultural heritage and must be suitable for acquisition by the Approved Bodies.
- (2) the open market value of the heritage item or collection of heritage items must be at least IR€100,000 and the aggregate open market value of all heritage items donated in a calendar year must not exceed €6m.

6.3 Any other particulars

It should be noted that not all sections of the National Cultural Institutions Act, 1997 have been enabled. The repeal of the Documents and Pictures (Regulation of Export) Act, 1945, under section 6 (1), has yet to be enabled.

Certain sub sections of Section 49 lists restrictions on the export of articles to which the Act applies but these sections have yet to be enabled by statute. The necessary examinations and considerations are underway to facilitate the earliest possible implementation of the relevant enabling orders.

7. Sites (Internet or other) to access the previous information

www.gov.ie

www.dast.gov.ie

www.revenue.ie

International Conventions

1. Accession to International Conventions

Ireland has not yet ratified the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

2. Responsible authority appointed for the implementation of the above UNESCO Convention

Department of Education & Science
Marlborough Street
Dublin 1.
Contact: 353 1 8734700
Website: www.education.ie

3. Other International Conventions

The UNIDROIT Convention on the International Return of Stolen or Illegally Exported Cultural Objects

Ireland has not yet ratified the UNIDROIT Convention. It is proposed that a working group be established to examine UNIDROIT and to consider its ratification.

Responsible authority

Department of Arts, Sport and Tourism
Kildare Street
Dublin 2.
Tel: 353 1 631 3800

Websites:

www.education.ie
www.dast.gov.ie
www.unesco.org
www.unidroit.org

Community legislation for the protection of cultural heritage

1. Council Directive 93/7/EEC of 15 March 1993 Directive 96/100/EC of the European Parliament and of the Council of 17 February 1997 which amends the Annex to Directive 93/7/EEC of 15 March 1993 Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State

1.1. Text of transposition, references

S.I. No. 182/1994 for the purpose of giving effect to Council Directive 93/7/EEC of 15 March 1993

S.I. No. 24/1998 for the purpose of giving effect to Directive 96/100/EC of the European Parliament and of the Council of 17 February 1997 which amends the Annex to Directive 93/7/EEC of 15 March 1993.

S.I. No. 498 of 2002 implements Council Directive 2001/38/EC of the European Parliament and of the Council dated the 5 June 2001, amending Council Directive 93/7/EEC of the 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State.

1.2. Central authority appointed in connection with the return of cultural goods

Department of Arts, Sport and Tourism
Cultural Institutions Division
Kildare Street
Dublin 2.

Tel 353 1 6313800
Email sylvialynam@dast.gov.ie

2. Regulation 3911/92 of 9 December 1992 on the export of cultural goods

2.1. Competent authority for issuing the export licences of cultural goods

Department of Arts, Sport and Tourism
Cultural Institutions Division
Kildare Street
Dublin 2.

Tel 353 1 6313800
Email sylvialynam@dast.gov.ie

The Department of Arts, Sport and Tourism is the competent authority for the issuing of these licences/declarations relating to this matter and does so while procuring appropriate professional/technical advice from the relevant national cultural institution.

National Gallery of Ireland
Merrion Square West
Dublin 2.
Email eduignan@ngi.ie

National Library of Ireland
Kildare Street
Dublin 2.
Email info@nli.ie

National Museum of Ireland
Kildare Street
Dublin 2.
Email noconnor@museum.ie

2.2 Nature of the control

Parts 2 and 3 of the EU Declaration Form must be presented to Customs and Excise at the point of export.

2.3. Penalties

See 5 above

It shall not be lawful for any person to export or attempt to export or sell for export any article to which Section 49 applies unless such person is the holder of a licence authorising the export of the article.

2.4. List of customs offices empowered to handle formalities for the export of cultural goods

All Irish Customs Offices at ports and airports.

2.5 Competent authority to implement controls (contact point)

Office of the Revenue Commissioners
Customs Procedures A Branch
5th Floor, Castle House
South Great George's Street
Dublin 2.
Tel: 353 1 6748972
Email customsabranch@revenue.ie

2.6 Sites (Internet or others) to access previous information

www.revenue.ie

ITALY

National legislation for the protection of cultural heritage

1. National regulations and publication details

Decree Law No 490 of 29 October 1999, published in the Official Journal of the Italian Republic No 229/L dated 27 December 1999, general series - Consolidated law on culture and environment.

2. National cultural protection: a single decree law brings together both Community and national regulations

2.1) *Framework of protection (nature and legal status of protected goods)*

Article 9 of the Italian Constitution lays down a broad interpretation of cultural goods. According to this article, designating an "object" as a "cultural good" is not simply an aesthetic judgement, but also rests on an assessment of the public interest in protecting objects which, whether directly or indirectly associated with the arts, are deemed to be worthy of conservation.

When the public interest in these objects (listed in Article 2 of Decree Law No 490/99) is "particularly important", the Ministry for Cultural Activities and Goods places them under a restriction.

A restriction is an administrative order declaring the good in question to be of particular importance and subjecting it to all the protective provisions in Decree Law No 490/99.

Under Italian law, there are two ways in which cultural goods can be taken out of the national territory: restricted goods may only leave the territory on a temporary basis; whereas goods which are less than 50 years old, or whose makers are still alive, can be permanently exported.

The following goods cannot be exported from national territory: all restricted cultural goods; and all goods listed under Article 2 and Article 3(1)(d), (e) and (f) of Decree Law No 490/99, in so far as their departure would constitute damage to the national historical and cultural heritage:

- Immovable and movable goods which present an historical, artistic and archeological interest (including the objects of numismatic, manuscripts, stamps, incisions, geographical maps, musical partitures, photographies which are relatively rare or have a value), provided that their authors not are alive or that are been executed more than 50 years
- Collections of exceptional artistic or historical interest
- Archives
- Libraries
- Film workings, photographies and sonorous reproductions more than 25 years
- Means of transport more than 75 years

- Objects and technical and scientific instruments more than 50 years.

On the basis of the above statements by Italy, cultural goods which are not restricted may be exported accompanied by two different administrative documents:

- *free movement certificate*
- *export licence (only for goods exported to destinations outside the European Union)*

Both these documents are issued by the national Export Offices.

Export licences may be issued by Export Offices at the same time as free movement certificates, and are valid for 6 months. An export licence can also be issued by the Office which issued a free movement certificate if that certificate was issued no more than 30 months previously.

*As regards the **importing** of cultural goods onto national territory, certificates for goods dispatched to Italy from a Member State, or imported from a non-member country, will only be provided by export offices on request.*

2.2) *Protection of cultural goods (procedure, document for leaving the country, model, modalities to issue and use)*

As regards export of cultural goods, we should begin by pointing out that permanent export of restricted goods **is prohibited**, whether the destination is a Member State or a non-member country. Non-restricted goods listed in Article 2 or Article 3(1)(d), (e) and (f) of Decree Law No 490/99 may be exported to other Member States if accompanied by a **certificate of free movement** valid for three years issued by an Export Office, and to non-member countries if accompanied by an **export licence**. Both these documents require the **authorisation of the competent directorate general**. Restricted goods and goods which are part of public collections, for which export authorisation has been denied, may only leave national territory **temporarily** for art exhibitions and other shows of great cultural interest. The Ministry grants or withholds consent for temporary exit, and imposes any necessary conditions. When such works are taken out of the country, their return must be guaranteed by a **deposit**, which may take the form of a bank guarantee or an insurance policy worth at least 10% of the value of the good. This guarantee will be cashed by the authorities if the objects in question are not brought back onto national territory within the period specified.

2.3) *Authority for national protection (control of National Treasure)*

Ministero per i beni e le attività culturali
Segretariato Generale
Servizio I
Via del Collegio Romano, 27
00186 Roma
Tel.: 39 06 6723592
Fax: 39 06 6723458
e-mail: ambuzzi@beniculturali.it

3. Protection of national treasures

In Italy, there is no such separate category, national treasure being interpreted as goods belonging to the State, as well as those which are in private hands and which are ‘restricted’ in the sense defined above under Framework of protection.

3.1) *Definition of national treasure (ibid)*

3.2) *Nature of the protection*: identical to that described above under point 2.2

4 Controls established to ensure the protection of national cultural heritage

4.1) *Customs authority appointed for control of export*: **All customs offices** (OJ C 18 of 21.1.2000)

4.2) *Police authority appointed for their protection*: with customs offices - the *Guardia di Finanza* (finance police) and the national police; nationally, the *carabinieri*, and in particular the Carabinieri Cultural Heritage Protection Office.

Comando Carabinieri Tutela Patrimonio Culturale [Cultural Heritage Protection Office]

Piazza S. Ignacio, 152

00186 Roma

Tel.: 3906-6920301

Fax:3906-69203069

E-mail: tpc@carabinieri.it

4.3) *Nature and legal basis for the control*: Public interest in protecting national heritage

4.4) *Modalities of control*: the *Guardia di Finanza* use specific indicators to determine which goods presented to customs may conceal illegal trafficking in works of art; the *Guardia di Finanza* have powers to inspect baggage, and the national police to search persons.

5 Penalties relating to Cultural Goods and National Treasures

Under Article 123 of Decree Law No 490/99 anyone transferring abroad objects of artistic, historical, archeological, ethno-anthropological, bibliographical, documentary or archival interest, or objects of the types listed in Article 3(1)(d), (e) and (f), without a certificate of free movement or an export licence, is liable to punishment by between one and four years' imprisonment, or a fine of between EUR 258.23 and EUR 5164.57. These penalties also apply to anyone who fails to return to the national territory cultural goods authorised for temporary export within the time limit set. The judge will order the objects in question to be confiscated, unless they belong to persons who were not involved in the execution of the crime. Confiscation will be carried out in line with the customs regulations governing smuggled goods. If the crime in question is committed by someone whose profession involves selling or exhibiting for sale cultural objects, the sentence imposed will be accompanied by an order prohibiting them from practising this trade in the future.

6 Other specific national regulations

6.1) *Existence of preemption right*. Under Article 68 of Decree Law No 490/99, the Export Office may propose that the Ministry for Cultural Goods and Activities and the Region concerned jointly should purchase the good for which a free movement certificate has been requested.

6.2) *National taxation, specific regulations.* Italian law provides for tax incentives for owners of restricted cultural goods. There are no particular regulations concerning the international circulation of such goods.

6.3) *Any other particular points.* As stated above, temporary export of cultural goods must be guaranteed by a deposit, which may also take the form of a bank guarantee or an insurance policy worth at least 10% of the estimated value of the good, and this deposit will be seized by the authorities if the objects authorised for temporary export are not returned to national territory within the time limits laid down.

7 Sites (Internet or other) where the above information can be accessed. The Italian institutions operating in this area do not yet have official web sites.

Community legislation for the protection of cultural heritage

1. Council Directive 1993/7 (EEC) of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State.

1.1. Implementing legislation, references. Italy transposed both Directive 1993/7 (EEC) and Regulation 3911/92 in a single act (Law No 88 of 30 March 1998). Law 88/98 was subsequently incorporated into Decree Law No 490 of 29 October 1999 – the Consolidated Law on Culture and Environment.

A database of cultural goods illegally removed from the country was instituted by Article 83 of Decree Law 490/99 and has been established within the Ministry, under the coordination of the Carabinieri's Cultural Heritage Protection Office.

1.2. Central authority appointed in connection with the return of cultural goods

Ministero per i Beni e le Attività Culturali
Segretariato Generale
Servizio I
Via del Collegio Romano, 27
00186 ROMA

2. Council Regulation (EEC) No 3911/92 of 9.12.1992 concerning the export of cultural goods

2.1 Authorities competent to issue export licences for cultural goods

The following export offices are the authorities competent to issue export licences for cultural goods

List of Export Offices for Ancient, Mediaeval and Modern Art

Bologna (40126)
C/O Sopr. Beni Artistici e Storici
Via delle Belle arti, 56
Tel. 051/243249 – Fax 051/251388

Cagliari e Oristano (09100)
C/O Sopr. Beni A.A.A. S.
Via Cesare Battisti, 2
Tel. 070/20101 - Fax 070/271534

Firenze (50125)
C/O Sopr. Beni Artistici e Storici
Piazza Pitti, 1

Genova (16126)
C/O Sopr. Beni Artistici e Storici
Via Balbi, 10
Tel. 010/205590 – Fax 010/202285

List of Export Offices for Contemporary Art only

Ancona (60121)
C/O Soprintendenza Archeologica
Piazza del Senato, 2
Tel. 071/206623

Bari (70100)
C/O Sopr. Beni A.A.A.S
Castello Svevo P.zza Federico II
Tel. 080/5214624

Perugia (08100)
C/O Sopr. Beni A.A.A.S.
Via Ulisse Rocchi, 71
Tel. 075/5734241

Sassari (07100)
C/O Sopr. Beni A.A.A.S
Via Montegrappa, 24
Tel. 079/216407 – Fax 079/217238

Milano (20121)
C/O Sopr. Beni Artistici e Storici
Via Brera, 28
Tel. 02/68460138 – Fax 02/72001140

Napoli (80100)
C/O Sopr. Beni Artistici e Storici
Piazza del Plebiscito (Palazzo Reale)
Tel. 081/407881

Pisa (56100)
C/O Sopr. Beni A.A.A.S.
Lungarno Pacinotti, 46
Tel. 050/26511 – Fax 050/598094

Roma (00185)
C/O Sopr. Archeologica Lazio
Via Cernia, 1
Tel. 06/4881457

Torino (10123)
C/O Sopr. Beni artistici e Storici
Via Accademie delle Scienze, 5
Tel. 011/549543 – Fax 011/549547

Venezia (30124)
C/O Sopr. Beni artistici e storici di Venezia
Piazza S: Marco, 63
Tel. 041/5210577 - Fax 041/5210547

Verona (37121)
C/O Centro Oper. Sopr. B. A.S. del Veneto
Via Corte Dogana, 4
Tel. 045/8005533

Palermo (90100)
Via Incoronazione, 11
Tel. 091/586190

Siena (53100)
C/O Sopr. Beni Artistici e Storici
Via del Capitano, 1
Tel. 0577/ 41246

Trieste (34132)
C/O Sopr. Beni A.A.A.S.
Piazza della Libertà, 7
Tel. 040/43631

Udine (33100)
C/O Centro Operat. B. A.A.A.A.S.
Via Zenon, 22
Tel. 0432/502709

Messina (98100)
C/o Museo Regionale
Via della Libertà
Tel. 090/361292

2.2 *Nature of the control*: substantial checks; power to propose placing a restriction on goods presented for export; power to exercise right to jointly acquire goods, power to refuse to issue a certificate. Under Decree Law No 490 of 29 October 1999, it is possible to appeal against decisions made by the Export Offices to the competent Director General.

2.3 *Penalties*. As stated above, the penalties for unauthorised export are stipulated in Article 123 of Decree Law No 490/99. According to this article, anyone transferring abroad objects of artistic, historical, archeological, ethno-anthropological, bibliographical, documentary or archival interest, or objects of the types listed in Article 3(1)(d), (e) and (f), without a certificate of free movement or export licence, is liable to punishment by between one and four years' imprisonment, or a fine of between EUR 258.23 and EUR 5164.57. These penalties also apply to anyone who fails to return to national territory cultural goods authorised for temporary export within the time limit. The judge will order the objects in question to be confiscated, unless they belong to persons who were not involved in the execution of the crime. Confiscation will be carried out in line with the customs regulations governing smuggled goods. If the crime in question is committed by someone whose profession involves selling or exhibiting for sale cultural objects, the sentence imposed will be accompanied by an order prohibiting them from practising this trade in the future.

2.4 *List of customs offices empowered to handle formalities for the export of cultural goods*. All Italian customs offices are empowered to handle export formalities. However, anyone intending to export cultural goods listed in Annex A of Decree Law No 490/99 must obtain the relevant authorisation from an Export Office (free circulation certificate granting ministerial authorisation or export licence).

2.5 *Competent authority to implement controls (contact point)*. All customs offices.

2.6 *Sites (Internet or other) where the above information can be accessed*. The relevant Italian institutions do not yet have official sites. However, the competent Directorate Generals keep official registers of free movement certificates issued.

International Conventions

1., 3. and 4. Accession to international conventions

Italy has signed the 1970 UNESCO Convention, the Aja Convention (on the protection of cultural goods in the case of armed conflict) and the 1995 UNIDROIT Convention.

2. Responsible authority appointed for the implementation of the conventions

Ministry of Foreign Affairs

5. Sites to access this information

www.esteri.it.

LUXEMBOURG

National legislation for the protection of cultural heritage

1. National regulations (publication references)

Act of 21 March 1966 concerning (a) the excavation of sites of historic, prehistoric, palaeontological or other scientific significance; (b) protection of the movable cultural heritage (Mémorial 1966, p. 379).

Act of 18 July 1983 concerning the preservation and protection of national sites and monuments (Mémorial 1966, p. 1390).

2. National cultural protection

2.1 Framework of protection (nature and legal status of protected cultural goods)

Listed objects may not be exported out of Luxembourg. Movable objects, including objects which are movable as such or immovable by reason of their intended use, may be listed by ministerial order if their conservation is deemed, for archaeological, historic, artistic, scientific, technical or industrial reasons, to be in the public interest.

Objects of cultural interest may not be exported without a licence issued by the Minister responsible for the Arts and Sciences.

A licence is required for objects more than a hundred years old or if the artist has been dead for more than fifty years.

However, no licence is required for the export of objects of cultural interest created outside Luxembourg by non-Luxembourgish artists which have been imported within the last one hundred years unless the objects originally came from the territory of the former Duchy of Luxembourg.

2.2 Protection of cultural goods (procedure)

A licence issued by the Minister responsible for the Arts and Sciences is required to export goods of cultural interest.

The Minister must give a decision on licence applications within a period of one month. If no decision is given within that deadline, permission is deemed to be granted.

2.3 Authority for the national protection

Ministère de la Culture, de l'Enseignement supérieur et de la Recherche
20, montée de la Pétrusse
L-2912 Luxembourg

3. Protection of national treasure

3.1 Definition of national treasure

No definition.

3.2 Nature of the protection (legal status, licence for exit or accompanying document, model)

4. Controls established to assure the protection of cultural national heritage

4.1 Customs authority appointed for control of export (contact point)

Administration des Douanes et Accises

C/o M. Emile Nothum

Tel: 00 352 29 01 91 245

M. Jean-Claude Nilles

Tel: 00 352 29 01 91 246

Fax: 00 352 48 49 47

B. P. 1605

L-1016 Luxembourg

4.2 Police authority appointed for the protection (contact point)

4.3 Nature and legal basis for the control

4.4 Modalities of control (particular powers)

5. Penalties relating to cultural goods and national treasures

Offences against the law on objects of cultural interest are punishable by a fine of between 2505 and 250 000 francs and/or a prison sentence of eight days to six months. The objects are confiscated.

Offences against the law prohibiting the export of listed goods is punishable by a prison sentence of eight days to six months and/or a fine of 10 001 to 30 000 000 francs.

Customs penalties: Articles 220-221 of the Customs and Excise Act 1977.

6. Other national specific regulations

6.1 Existence of pre-emption right, condition of functioning

The State may assert its claim to objects intended for export at the price fixed by the exporter. This right may be exercised within a month of presentation of the export application.

6.2 National taxation, particulars

Reduced rate of 6% VAT on most cultural goods.

6.3 Any other particulars

7. Sites (Internet or other) to access the previous information

Community legislation for the protection of cultural heritage

1. Council Directive 93/7/EEC of 15 March 1993 on the return of cultural goods

1.1 Text of transposition, references

Act of 9 January 1998 transposing Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State (Mémorial 1998, p. 136).

1.2 Central authority appointed in connection with the return of cultural goods

Ministère de la Justice
C/o M. Luc Reding
16, bd Royal
L-2934 Luxembourg
Tel: 00 352 478-4514
Fax: 00 352 22 52 96

2. Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods

2.1 Competent authority for issuing the export licenses of cultural goods

Ministère de la Culture, de l'Enseignement supérieur et de la Recherche
C/o M. Guy Dockendorf
20, montée de la Pétrusse
L-2912 Luxembourg
Tel: 00 352 478 6610
Fax: 00 352 40 24 27

2.2 Nature of the control

Checks are carried out on presentation of the export declaration together with the export licence at Luxembourg airport customs office.

2.3 Penalties

Criminal law penalties?

Customs penalties:

"If no licence is presented, the export declaration is inadmissible. If the goods concerned require no export declaration, customs shall not allow the goods to leave the country. If there are doubts as to the nature, age or value of the object presented for customs control and the customs office itself cannot decide whether the goods fall under the Community legislation, it shall contact the licence-issuing authority." Article 261 of the Customs and Excise Act 1977, as amended, provides for a fine of between 5000 and 50 000 francs.

2.4 List of customs offices empowered to handle formalities for the export of cultural goods

**Bureaux de douanes de Luxembourg-Aéroport
B.P. 61
L-6905 Niederanven**

2.5 Competent authority to implement controls (contact point)

**Administration des Douanes et Accises
C/o M. Emile Nothum
Tel: 00 352 29 01 91 245
M. Jean-Claude Nilles
Tel: 00 352 29 01 91 246
Fax: 00 352 48 49 47
B. P. 1605
L-1016 Luxembourg**

2.6 Sites (Internet or others) to access previous information

International Conventions

1. Accession to International Conventions

Ratification of the 1970 UNESCO Convention is in progress and of Unidroit 1995 under discussion.

2. Responsible authority appointed for the implementation of conventions (contact point)

3. Framework of the UNESCO Convention, in case of accession

4. Other international conventions

5. Sites to access previous information

6. Other specific national regulations

NETHERLANDS

NATIONAL LEGISLATION FOR THE PROTECTION OF CULTURAL HERITAGE

1. National Regulations

Wet tot behoud van cultuurbezit (Cultural Heritage Protection Act) 1 februari 1984, *Stb.* 49.

2. National Cultural protection

2.1 Framework of protection (nature and legal status of protected cultural goods)

The Cultural Heritage Protection Act forbids a given number of objects and collections to leave the State of the Netherlands. Such objects can only leave on a temporary basis (e.g. for exhibitions) with special permission of the State Secretary for Culture. Applications for this permission must be made to the Inspectorate for Cultural Heritage. At this moment (December 2002) some 200 objects and 30 collections are protected by the Cultural Heritage Protection Act. All these objects and collections are listed, their protected status is known by the owners. List of the protected objects and collections can be obtained from the Inspectorate of Cultural Heritage. The Act has a provision for immediate protection but this has been used only twice and never in the context of a refusal of an export licence. The European regulations are incorporated in the Cultural Heritage Protection Act.

2.2 Protection of cultural goods (procedure, document for leaving the country, model, modalities to issue and use)

The Netherlands use the official prescribed European licence form for cultural goods leaving the European Union. Protected objects (see above) are moreover accompanied by a special permission in the form of a letter giving them permission to leave the Netherlands on a temporary basis and signed on behalf of the State Secretary for Culture by the Chief Inspector for Cultural Heritage.

2.3 Authority for the national protection

Inspectorate of Cultural Heritage
Prins Willem Alexanderhof 28
P.O. Box 11583
2502 AN DEN HAAG
The Netherlands
Tel: 31 70 3028120
Fax: 31 70 3651914
E-mail: vanrappard@cultuurbezit.nl

3. Protection of national treasure

3.1 Definition of national treasure

National treasures are the objects as listed above. They must answer to the following criteria: They must be regarded as irreplaceable and indispensable, as such they should have either:

- a. a symbolic value, meaning that the object or collection serves as a clear memorial to persons or events which are of importance to the history of the Netherlands;
- b. a link function, meaning that the object serves as an essential element in a development which is of evident importance to the practice of science in the Netherlands, including the study of the history of culture;
- c. a benchmark function, meaning that the object makes an essential contribution to research into or knowledge of other important artistic or scientific objects.

3.2 Nature of the protection (legal status, licence for exit or accompanying document, model)

See 2.1

4. Controls established to assure the protection of cultural national heritage:

4.1 Customs authority appointed for control of export (contact point):

All Dutch customs officials have authority for the control of export of cultural goods

4.2 Police authority appointed for the protection (contact point)

National Police Agency
National Criminal Intelligence Department
L.J.M. van der Hulst
Europaweg 45
P.O. Box 3016
2700 KX ZOETERMEER
Tel: 31 79 3459664
Fax: 31 79 3459203
E-mail: klpd.opsporing@planet.nl

4.3 Nature and legal basis for the control

Wet tot behoud van cultuurbezit, art. 14b.

4.4 Modalities of control (particular powers)

see 2.1

5. Penalties relating to cultural goods and national treasures:

6. Other national specific regulations

6.1 Existence of preemption right, condition of functioning:

The Netherlands have no preemption regulation

6.2 National taxation, particulars

The Law on inheritance know the *Dation en lieu* by which inheritance tax can be paid in nature by giving the Dutch State a work of art or another cultural good. The value of such an object covers up to 120% of the inheritance tax.

6.3 Any other particulars

None

7. Sites (Internet or other) to access the previous information

www.cultinsp.minocw.nl

COMMUNITY LEGISLATION FOR THE PROTECTION OF CULTURAL HERITAGE
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1. Directive No EEC/93/7 of the Council, of 15th March 1993, on the return of cultural objects unlawfully removed from the territory of a Member State

1.1 Text of transposition, references

Cultural Heritage Protection Act, art. 14

1.2 Central authority appointed in connection with the return of cultural goods

Inspectorate of Cultural Heritage
Prins Willem Alexanderhof 28
P.O. Box 11583
2502 AN DEN HAAG
The Netherlands
Tel: 31 70 3028120
Fax: 31 70 3651914
E-mail: vanrappard@cultuurbezit.nl

2. Regulation No EEC/3911/92 of the Council, of 9 December 1992, on the export of cultural goods

2.1 Competent authority for issuing the export licenses of cultural goods:

Inspectorate of Cultural Heritage
Prins Willem Alexanderhof 28
P.O. Box 11583
2502 AN DEN HAAG
The Netherlands
Tel: 31 70 3028120
Fax: 31 70 3651914
E-mail: vanrappard@cultuurbezit.nl

and

Central Licensing Office for Import and Export (CDIU)
P.O. Box 30003
9700 RD GRONINGEN
Tel: 31 50 5232162

2.2 Nature of the control

Control is exercised by custom officials and by the inspectors of the Inspectorate for Cultural Heritage

2.3 Penalties

Penalties come under aart.1, 1° of the Economic Crimes Act, which has a maximum prison sentence of six years or fine of the fifth category.

2.4 List of customs offices empowered to handle formalities for the export of cultural goods

All customs offices can handle cultural goods

2.5 Competent authority to implement controls (contact point)

see above

2.6 Sites (Internet or others) to access previous information

www.cultinsp.minocw.nl

INTERNATIONAL CONVENTIONS

1. Accession to International Conventions

The Netherlands is implementing the second protocol of the Hague Convention

2. Responsible authority appointed for the implementation of conventions (contact point)

Ministerie van OCenW
Directie Cultureel Erfgoed
P.O. Box 25000
2700 LZ ZOETERMEER
Tel: 31 79 3234055

3. Framework of the UNESCO Convention, in case of accession

No accession yet

4. Other international conventions

Malta convention

5. Sites to access previous information:

6. Other specific national regulations

None

PORTUGAL

National legislation for the protection of the cultural heritage

1. National regulations (publication references)

- Law No 107/2001 of 8 September 2001 (Heritage Law) defining down the basis for policy and rules governing the protection and enhancement of the national heritage
- Decree-Law No 16/93 laying down the general rules governing archives and the archival heritage
- Decree-Law No 164/97 on the underwater cultural heritage.

2. National cultural protection

2.1. Framework of protection (nature and legal status of protected cultural goods)

The generic definition of cultural heritage is laid down in Article 2(1) and (2) of the Heritage Law:

- All goods which reflect a civilisation or culture and of relevant cultural interest must be afforded special protection and enhancement;
- The relevant cultural interest, whether it be historical, palaeontological, archaeological, architectonic, linguistic, documentary, artistic, ethnographical, scientific, social, industrial or technical, of goods forming part of the cultural heritage shall reflect values of history, antiquity, authenticity, originality, rarity, individuality or exemplariness.

Article 17 of the Law also defines the criteria which should be used to determine, in practice, the level of protection or to classify or list goods according to:

- the genius of their creator
- the symbolic or religious value of the goods
- the value of the goods in terms of customs or historical facts
- the aesthetic, technical or intrinsic value of the goods
- the value of the goods in terms of historical or scientific research.

Article 55 defines movable goods forming part of the Portuguese cultural heritage as works of art or works attributable to a Portuguese author, created or produced on Portuguese territory, resulting from the dismemberment of immovable goods situated on Portuguese territory, commissioned or distributed by national bodies or in their possession, representing or reflecting Portuguese customs or history and forming part of the natural constituents of Portuguese culture, which have been on Portuguese territory for 50 years and which, for any reason other than those referred to above, are of special interest for the study and understanding of Portuguese civilisation and culture.

Under Article 64 movable cultural goods which are a practical reflection of a civilisation and culture and which satisfy the description in Article 55 may not leave Portuguese territory without a prior dispatch or export licence.

In the future, the Law will be amended to ensure all goods of cultural, historic and other value may be accompanied by an identification document if requested by the relevant possessors.

2.2. Protection of cultural goods (procedure)

This procedure involves classification and listing. Irrespective of whether goods are regulated by any institute, their dispatch or export, whether on a temporary or permanent basis, requires the prior authorisation of the Ministry of Culture.

The certificate applying to third countries is also used for the dispatch of cultural goods within the EU. Consequently, in practice documents are standardised in the interest of simplification.

Protection is afforded to goods irrespective of their financial value.

The Heritage Law lays down special rules governing the archaeological, archival, audio-visual, bibliographical, phonographic and photographic heritage.

Each of these areas is regulated by separate institutes which give their opinions on whether the temporary or permanent dispatch or export is to be authorised or prohibited but do not have the authority to issue the licences for which the Portuguese Museum Institute is responsible.

Applications for the removal of cultural goods from Portuguese territory must be made to the Portuguese Museum Institute which may consult other departments within the Ministry of Culture depending on the type of goods involved. This Institute is responsible for the administrative procedure. The final decision is taken by the Minister of Culture.

2.3 Authority responsible for national protection

Ministério da Cultura (Ministry of Culture)
Instituto Português de Museus (Portuguese Museum Institute)
Palácio Nacional da Ajuda
Calçada da Ajuda, No 118
1300-018 Lisbon
Contact point: Manuel Bairrão Oleiro
Tel.: 35-1-21-3650800
Fax: 35-1-21-3647827
Website: <http://www.ipmuseus.pt>

In the cases referred to in Article 65(2) and (3) (national treasures) an order of the Minister of Culture or a governmental decree is required.

3. Protection of national treasures

3.1. Definition of national treasure

Article 15(3) of the Heritage Law has created the definition of “national treasure” to identify movable goods classified as being of municipal interest.

Articles 15(4) and Article 18(1) of the Heritage Law define such goods as those which have an inestimable cultural value and are, consequently, of national importance.

Article 18(2) lays down that movable goods belonging to individuals can be classified as being of national interest only if their degradation or removal would cause irreparable loss to the cultural heritage.

National treasures are defined in the light of the criteria laid down in Article 17 and Article 55(1).

National treasures may not be exported in accordance with this Article except in the cases laid down in paragraphs 3 and 4 thereof (see point 3.2).

3.2. Nature of protection (legal status, licence for exit or accompanying document, model)

Article 15(2) states that movable goods may be classified as being of national, public or municipal interest.

A good may be considered to be of national interest if its total and partial protection and enhancement constitute a cultural value of national importance (Article 15(4)).

A good may be considered to be of public interest if its protection and enhancement also constitute a cultural value of national importance but does not warrant the degree of protection pertaining to goods classified as being of national interest (Article 15(5)).

Goods are deemed to be of municipal interest if their total or partial protection and enhancement constitute a cultural value of predominantly municipal importance (Article 15(5)).

Legal protection is afforded to cultural goods, within the terms of Article 16, by means of classification and listing. Each form of protection gives rise to the relevant level of registration: classification or listing.

Article 18 states that classification means the conclusion of the administrative procedure whereby a particular good is deemed to be of inestimable cultural value.

Article 19 defines listing as the systematic listing, updating and exhaustive categorisation of existing cultural goods at national level with a view to their identification.

The listing of goods does not place special restrictions on the rights of private possessors.

Article 65 of the Heritage Law prohibits the permanent removal from Portuguese territory of goods classified or being classified as being of national interest except in the situations referred to in paragraphs 2 and 3 of this Article.

Article 65(2) states that the temporary export or dispatch of goods classified or being classified as being of national interest can be authorised solely by order of the member of the government responsible for culture or for cultural or scientific purposes or the temporary exchange for other goods of similar interest for the cultural heritage.

Article 65(3) stipulates that the permanent export and dispatch of goods classified or being classified as being of national interest which belong to the State may be authorised, on an exceptional basis, solely by the Council of Ministers for exchange for other goods abroad which are of exceptional interest for the cultural heritage.

4 Controls for protection of the national cultural heritage

4.1. Customs authority responsible for export controls (contact point)

Ana Isabel Pires
Direcção – Geral das Alfândegas e dos Impostos Especiais
Rua da Alfândega No 5 – r/c
1194-006 Lisbon
Tel.: 351-21-8813906
Fax: 351-21-8813984
e-mail: aipires@dgaiec.min-financas.pt

4.2. Police authority responsible for protection (contact point)

Polícia Judiciária
Contact point: Inspector João Neto
7a. Secção – Obras de Arte e Ambiente
Rua Gomez Freire, 174
1169-007 Lisbon
Tel. 351-21-3576123
Fax 351-21-3157132
e-mail: obras.arte@pj.pt
Website: <http://www.policiajudiciaria.pt> (list of stolen goods)

4.3. Nature of and legal basis for control

Legal basis: customs legislation, Heritage Law and the Law setting up the Portuguese Heritage Institute.

4.4. Methods of control (special powers, scope and investigation methods)

These are defined by customs law.

5. Penalties relating to cultural goods and national treasures

Criminal penalties

Article 100 of the Heritage Law states that crimes involving cultural goods shall be governed by the provisions of the Penal Code, and in particular by the following Articles of the Heritage Law which state in relation to movable goods:

Unlawful export is covered by Article 102 which states:

1- Any person exporting or dispatching a good classified or being classified as being of national interest, in the cases laid down in Articles 65(2) or (3), shall be subject to a prison sentence of up to five years or a fine payable within 600 days.

2- In the case of negligence the person concerned shall receive a prison sentence of up to one year or a fine payable within 120 days.

Fines

Paragraph (c) of Article 104 provides that the export or dispatch in breach of Article 65 of goods which are classified or are being classified constitutes a serious infringement which is liable to a fine of €2 500 or €500 000.

Article 105 states that infringement of the rules governing the presentation of licences for the export of cultural goods outside the territory of the European Union as laid down in Council Regulation (EEC) No 3911/92 of 9 December 1992 is a serious offence attracting fines of differing amounts.

Other penalties

Other penalties provided for in Article 108 may range from the confiscation of the goods which are the subject of the infringement to a ban on the exercise of the profession of antique dealer or closure of the establishment whose operation is subject to authorisation or licensing by the administrative authorities.

6. Other specific national regulations

6.1. Existence of the right of preemption, conditions

The right of preemption for a cultural good may be exercised solely under the terms laid down in Article 66(3) which states that the presentation of an application for export or dispatch of goods for the purpose of their sale gives the State the right of preemption for their acquisition. Article 37 states that co-possessors, the State, the autonomous regions and the municipal authorities enjoy a right of preemption, in descending order, in the event of the sale or proffering as payment of classified goods.

6.2. National taxation, special features

According to Article 99 of the Heritage Law, the definition and structure of the rules governing tax relief and tax incentives for the protection and enhancement of the cultural heritage are subject to autonomous law.

6.3. Any other special features

Article 99 provides for governmental financial support or special credit facilities to be granted under favourable conditions to possessors or other holders of the right to use classified or listed cultural goods where they undertake work to protect, conserve and enhance the goods.

7. (Internet or other) sites giving access to the above information

Legislation (laws and decrees):

Portuguese Parliament: <http://www.parlamento.pt>

Portuguese Museum Institute: <http://www.ipmuseus.pt>

Community legislation for the protection of the cultural heritage

1. Council Directive 93/7/EEC of 15 March 1993 on the return of cultural goods unlawfully removed from the territory of a Member State

1.1. Transposing legislation, references, information sites

The Heritage Law governing the protection and enhancement of the national heritage provides for the return of any cultural goods unlawfully exported from its country of origin irrespective of its monetary value nullifying any legal transaction on Portuguese territory.

Consequently Portuguese legislation already incorporates the technical amendments introduced by Directive 2001/308/EC of 5 June 2001.

Website: <http://www.parlamento.pt>

1.2. Central authority responsible for implementation and/or return (contact point)

Ministério da Cultura (Ministry of Culture)
Instituto Português de Museus (Portuguese Museum Institute)
Palácio Nacional da Ajuda
Contact point: Manuel Bairrão Oleiro
Tel.: 35-1-21-3650800
Fax: 35-1-21-3647821
Website: <http://www.ipmuseus.pt>

Gabinete de Relações Internacionais (International Relations Department)
Rua de São Pedro de Alcântara, No 45, 2nd floor
1269-139 Lisbon
Contact point: Patrícia Salvação Barreto
Tel.: 35-1-21-3241933
Fax: 35-1-21-3241966
e-mail: mcgri@mail.telepac.pt
Website: <http://www.gri.pt>

Polícia Judiciária (Judicial Police)
Contact point: Inspector João Neto
7a Secção – Obras de Arte e Ambiente
Rua Gomes Freire, No 174
1169-007 Lisbon
Tel.: 351-1-21-3576123
Fax: 351-1-21-3157132
e-mail: joao.neto@pj.pt
Website: <http://www.policiajudiciaria.pt>

2. Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods

2.1. Authority responsible for issuing export licences for cultural goods

Ministry of Culture
Palácio Nacional da Ajuda
Calçada da Ajuda
P-1300-108 Lisbon

2.2. Nature of controls and methods used

2.3. Penalties

2.4. List of customs offices authorised to carry out export formalities

Alcântara (North)
Lisbon airport
Alverca
Leixões
Oporto airport
Funchal
Ponta Delgada

2.5. Authority responsible for carrying out controls (contact point)

Ana Isabel Pires
Direcção Geral das Alfândegas e dos Impostos Especiais
Rua da Alfândega, No 5 – r/c
1194-006 Lisbon
Tel.: 351-21-8813906
Fax: 351-21-8813984
e-mail: aipires@dgaiec.min-financas-pt

2.6. (Internet or other) sites giving access to the above information

International conventions

1. Accession to international conventions

Accession to the UNESCO Convention, Paris, 14 November 1970

UNESCO: [http:// www.unesco.org](http://www.unesco.org)

2. Authority responsible for applying the Convention (contact point)

Polícia Judiciária

Contact point: Inspector João Neto

7ª Secção –Obras de Arte e Ambiente

Rua Gomes Freire, No 174

1.169-007 LISBON

Tel.: 351-21-3576123

Fax: 351-21- 315 71 32

email: joao.neto@pj.pt

3. National framework for the UNESCO Convention in the case of accession

This is the same as that for Regulation (EEC) No 3911/92/1996 and has the same age thresholds for works irrespective of their financial value.

4. Other international conventions

UNIDROIT Convention has already been ratified.

5. Sites giving access to above information

Website: [http:// www.policiajudiciaria.pt/](http://www.policiajudiciaria.pt/)

SPAIN

NATIONAL LEGISLATION FOR THE PROTECTION OF CULTURAL HERITAGE

1 - National Regulations (publication references)

- Law 16/1985 on Spain's historical heritage, Official State Gazette (BOE) of 29 June 1985.
- Royal Decree 111/1986 implementing Law 16/1985 on Spain's historical heritage, BOE of 28 January 1986.
- Royal Decree 64/1994 partially amending Royal Decree 111/1986, BOE of 2 March 1994

2 - National cultural protection

2.1. - Framework of protection (nature and legal status of protected cultural goods)

Under Spanish law there are three categories of cultural property whose removal from Spanish territory is controlled by the Culture Ministry and the Customs Services:

- 1 Objects of cultural interest
- 2 Objects included in the General Inventory of Movable Property
- 3 Objects over 100 years old.

Framework

An authorisation is required for removal from Spanish territory to other EU countries. Its terms are similar to those of the definitive and temporary export licences required for third countries. It is compulsory for the goods in categories 2 and 3: General Inventory of Moveable Property and objects over 100 years old.

Legal status of cultural goods

Lawfully imported cultural goods can take up the possibility provided for in Law 16/1985, granting a 10-year period during which the Spanish State cannot declare them unexportable. This period can be extended for a further ten years.

A cultural object definitively imported into Spain and which is not covered by the above possibility, comes under the general provisions of Spanish legislation, and is therefore assumed to belong to the third category of goods of Spain's historical heritage, i.e. goods over 100 years old.

Inclusion in the two first categories of protection is voluntary for privately-owned property.

2.2. - Protection of cultural goods (procedure, document for leaving the country, modalities to issue and use)

Goods of cultural interest can only leave Spanish territory temporarily for a specific purpose (exhibitions, restoration, etc...) and a limited length of time. Their return is compulsory. The other categories of protection require an export licence for definitive and temporary export, with the possibility of sale.

The Community authorisation form provided for in Regulation EEC No 752/93 is used for export to third countries of the cultural objects listed in the Annex to Regulation EEC No 3911/92.

The Spanish authorisation form is used in the case of temporary export, temporary export with the possibility of sale, or definitive export to other Member States or to third countries, of goods protected by Spanish legislation but not deemed to be cultural goods under Community legislation.

The export authorisations are signed by the Director-General of Fine Arts and Cultural Goods, and certified by the Deputy Director-General for the Protection of Spain's Historical Heritage.

2.3. - Authority for the national protection and for objects of cultural interest

Ministerio de Educación, Cultura y Deporte

Dirección General de Bellas Artes y Bienes Culturales (Director General: Sr. Joaquín Puig de la Bellacasa)

Subdirección General de Protección del Patrimonio Histórico Español (Subdirector General: Sr. Luis Lafuente Batanero

Telephone 34.91.7017035

Plaza del Rey, nº 1

28071 Madrid – Spain

(contact point: Mrs Pilar Barraca de Ramos

telephone 34.91.7017040

fax 34.91 5229305)

3 – Protection of objects of cultural interest

3.1. - Definition of objects of cultural interest

In Spain, objects of cultural interest include:

- Objects belonging to public collections
- Privately-owned objects that have been, or are in the process of being, declared objects of cultural interest.

Objects of cultural interest can belong to public institutions and collections and private individuals.

3.2. - Nature of the protection (legal status, licence for exit or accompanying document)

In Spain, objects of cultural interest may not be definitively exported.

Their temporary export for restoration, expert opinion, participation in a cultural event or storage in a foreign public institution may be authorised for a limited period.

Temporary export of objects of cultural interest to another Member State or a third country requires the issuing of a temporary export authorisation. Their return is compulsory.

4 – Controls established to assure the protection of national cultural heritage

4.1. -Authority appointed for control of export (contact point)

Ministerio de Hacienda

Agencia Estatal de Administración Tributaria

Departamento de Aduanas e Impuestos Especiales

Av. Llano Castellano, nº 17

28071 Madrid

Contact point: Mrs María Dolores Gómez de Salazar,

telephone 34.91.7289888

fax 34-91-7292065 or 34-91-3583172

4.2.- Nature and legal basis for the control

- Article 46 of the 1978 Spanish Constitution (BOE of 29 December 1978).
- Organic Law 12/1995 of 12 December 1995 on combating smuggling.

- Law 14/2000 of 29 December 2000 on tax, administrative and social measures (BOE of 30 December 2000), as amended by Law 24/2001 (BOE of 31 December 2001).
- Royal Decree 1649/98 of 24 July 1998 implementing Title II of Law 12/1995
- Royal Decree 1631/92 of 29 December 1992, imposing restrictions on the movement of goods and merchandise.

4.3. - Modalities of control (particular powers):

Where the Courts find that the offence of smuggling has been committed or the Customs services find that an administrative infringement of smuggling has been committed, not only are the corresponding administrative penalties or sanctions applied but the goods are also seized.

The smuggled goods and the means used to smuggle them are confiscated, as are the proceeds of the smuggling, whatever transformations they have undergone.

The goods confiscated by final judgment are awarded to the State.

5 – Penalties

5.1. - Relating to Spain's national heritage

Common law penalties:

The penalty for the crime of smuggling is a prison sentence, a fine ranging from two to four times the value of the goods, and confiscation of the goods. The Judges or Courts will impose the maximum penalty in cases where the offence is committed by or for persons, entities or organisations whose nature or activity could have facilitated committing the offence.

The penalty for the administrative infringement of smuggling is a fine of up to three times the value of the goods.

According to Article 29 of Law 16/1985, unlawfully exported goods become the property of the Spanish State and it is up to the authorities to take the necessary steps for the full recovery of the goods.

6 – Other national specific regulations

6.1 – Existence of preemption right, condition of functioning

The request for a definitive or temporary export licence with the possibility of sale constitutes an irrevocable offer of sale to the State for the declared value of the cultural object in question.

6.2. - National taxation, particulars

Law 16/1985 sets rates on the values declared for definitive and temporary export with the possibility of sale to third countries.

6.3. - Any other particulars

Moveable property belonging to ecclesiastical institutions and included in the General Inventory may not be exported.

Objects belonging to the Spanish archaeological heritage may not be exported, as they have been declared public property by Article 44 of Law 16/85, and hence are inalienable.

7 – Sites (Internet or other) to access the previous information

The legal texts can be found at the following site:

www.mcu.es

The export application forms are available from:

Ministerio de Educación, Cultura y Deporte

Subdirección General de Protección del Patrimonio Histórico Español

Plaza del Rey, nº 1

28071 Madrid – Spain

(Contact point: Mrs Pilar Barraca de Ramos

telephone 34.91.7017040

fax 34.91 5229305)

Community legislation for the protection of cultural heritage
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1. Council Directive No EEC/93/7 of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State

1.1 Transposition texts (references)

Law 36/1994 of 23 December 1994 incorporating Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State into Spanish legislation (BOE of 24 December 1994).

Law 18/1998 of 15 June partially amending Law 36/1994 (BOE of 16 June 1998).

1.2 Central authority appointed in connection with the return of cultural goods

Ministerio de Educación, Cultura y Deporte

Dirección General de Bellas Artes y Bienes Culturales (Director General: Sr. Joaquín Puig de la Bellacasa)

Subdirección General de Protección del Patrimonio Histórico Español (Subdirector General: Sr. Luis Lafuente Batanero

Telephone 34.91 7017035)

Plaza del Rey, nº 1

28071 Madrid – Spain

(Contact point: Pilar Barraca de Ramos

telephone 34.91.7017040

fax 34.91 5229305)

2 Council Regulation EEC No 3911/92 of 9 December 1992 on the export of cultural goods

2.1 Competent authority for issuing the export licences of cultural goods

Ministerio de Educación, Cultura y Deporte

Dirección General de Bellas Artes y Bienes Culturales (Director General: Sr. Joaquín Puig de la Bellacasa)

Subdirección General de Protección del Patrimonio Histórico Español (Subdirector General: Sr. Luis Lafuente Batanero

Telephone 34.91 7017035)

Plaza del Rey, nº 1

28071 Madrid – Spain

Contact point: Pilar Barraca de Ramos

telephone 34.91.7017040

fax 34.91.5229305

2.2 Nature of the control

The export declaration (SAD), together with the export authorisation issued by the Culture Ministry, must be presented to the Customs offices empowered to carry out export formalities for cultural goods.

2.3 Penalties

Article 2.1 of Law 12/1995 on combating smuggling defines the crime of smuggling, which includes unlawful export of goods with a value of over EUR 18 000. Article 3.1 lays down the penalties for this type of offence, which can include prison sentences and fines.

2.4 List of customs offices empowered to handle formalities for the export of cultural goods

PROVINCIAL CUSTOMS DEPARTMENTS	HANDLING OFFICES
DPA e II. EE. de SEVILLA	<ul style="list-style-type: none">• Sevilla.
DPA e II. EE. de CADIZ	<ul style="list-style-type: none">• Algeciras• Cádiz
DPA e II. EE. de MÁLAGA	<ul style="list-style-type: none">• Aeropuerto de Málaga.• Málaga
DPA e II. EE. de ZARAGOZA	<ul style="list-style-type: none">• Aeropuerto de Zaragoza.
DPA e II. EE. de BALEARES	<ul style="list-style-type: none">• Aeropuerto de Palma de Mallorca.• Edificio Aduana –Palma de Mallorca
DPA e II. EE. de LAS PALMAS	<ul style="list-style-type: none">• Aeropuerto de Las Palmas• Muelle
DPA e II. EE. de SANTA CRUZ DE TENERIFE	<ul style="list-style-type: none">• Aeropuerto de Santa Cruz de Tenerife – Reina Sofía.• Aeropuerto de Santa Cruz de Tenerife – Los Rodeos.• Santa Cruz de Tenerife
DPA e II. EE. de BARCELONA	<ul style="list-style-type: none">• Barcelona Edificio Aduana• Barcelona – Marítima.• Barcelona – Carretera• Aeropuerto de Barcelona – El Prat.
DPA e II. EE. de LA CORUÑA	<ul style="list-style-type: none">• Aeropuerto de Santiago de Compostela.• Coruña Edificio Aduana
DPA e II. EE. de MADRID	<ul style="list-style-type: none">• Central Guzmán el Bueno• Madrid – Carretera• Aeropuerto de Madrid – Barajas.• Madrid – Ferrocarril
DPA e II. EE. de ALICANTE	<ul style="list-style-type: none">• Aeropuerto de Alicante.• Muelle
DPA e II. EE. de VALENCIA	<ul style="list-style-type: none">• Valencia – Muelle de Aduana• Valencia – Marítima.• Aeropuerto de Manises.
DPA e II. EE. de VIZCAYA	<ul style="list-style-type: none">• Edificio Aduana• Bilbao – Marítima.• Aeropuerto de Bilbao.• Bilbao – Carretera Aparcabisa

2.5 Competent authority to implement controls (contact point)

Ministerio de Hacienda
Agencia Estatal de Administración Tributaria
Departamento de Aduanas e Impuestos Especiales
Av. Llano Castellano, 17
28071 Madrid
Contact point: María Dolores Gómez de Salazar

telephone: 34.91.7289888
Fax 34.91.7292065 and 34.91.3583172

2.6 Sites (Internet or others) to access previous information

Information on the role of the customs (legislation, documentation and procedure, customs agents, forms, commercial operations, characteristics of the goods, customs administrations, etc...) can be found at the following site:

www.aeat.es

International Conventions

1- Accession to International Conventions

Instrument of Ratification of the UNESCO Convention (BOE of 5 February 1982) on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, done at Paris on 17 November 1970.

2- Responsible authority appointed for the implementation of conventions (contact point)

Ministerio de Educación, Cultura y Deporte

Dirección General de Bellas Artes y Bienes Culturales (Director General: Sr. Joaquín Puig de la Bellacasa)

Subdirección General de Protección del Patrimonio Histórico Español (Subdirector General: Sr. Luis Lafuente Bataner

Plaza del Rey, nº 1

28071 Madrid – Spain

Telephone 34.91 7017035)

(Contact point: Pilar Barraca de Ramos

telephone 34.91.7017040

fax 34.91 5229305)

3- Framework of the UNESCO Convention, in case of accession

Spain complies with Article 1 of the 1970 Paris Convention.

4- Other international conventions

UNIDROIT Convention, ratified in May 2002.

5- Sites to access previous information:

The relevant legal information can be found at the following sites: www.mcu.es and www.boe.es

SWEDEN

National legislation for the protection of cultural heritage

1. National regulations (publication references)

- Cultural Monuments (etc.) Act (1988:950) with Amendments up to and including SFS 2000:265. Chap. 5. Safeguards against the exportation of certain items of historic interest.
- Cultural Monuments Ordinance (1988:1188) with amendments up to and including SFS 2002:18.

2. National cultural protection

2.1 Framework of protection (nature and legal status of protected cultural good)

Any person wishing to export an item of historic interest from Sweden must obtain permission to do so if the item is of the kind referred to in Cultural Monuments Ordinance (1988:1188) Section 24 § and 25 §.

In order to reduce the burden for institution receiving a grant from the State, National Heritage (NHB) board has issued a number of Open Licenses, which permit the export of certain specified objects without a need of obtain an individual S licence = Open General Export Licence (OGEL). No OGEL is granted by the NHB without the agreement of the permit-issuing authorities.

The provision do not override the requirement to obtain an open license under the Regulation 3911/92 (for exports to destinations outside the European Customs Union).

2.2 National protection of cultural goods (procedure, document for leaving the country, model, modalities to issue and use)

Export licence applications shall be submitted to the National Heritage Board (NHB). If it has been prescribed that the application is to be determined by another permit-issuing authority, the application is to be transmitted to that authority. The applicant shall, at the request of the permit-issuing authority, place the item at its disposal for inspection.

Questions concerning export permits are to be determined by the Royal Library, the National Heritage Board, the National Archives, the National Art Museum or the Nordic Museum Foundation (permit-issuing authorities).

2.3 Authority for the national protection and for the control of national treasures

National Heritage Board
(Riksantikvarieämbetet)
Box 5405
S-114 84 Stockholm
Telephone: +46 8 5191 80 00
e-mail: riksant@raa.se

Royal Library
(Kungliga biblioteket)
Box 5039
S-102 41 Stockholm
Phone: +46 8 463 40 00
e-mail: kungl.biblioteket@kb.se

National Archives
(Riksarkivet)
Box 12541
S-102 29 Stockholm
Phone: +46 87376350
e-mail: riksarkivet@ra.se

National Art Museum with the museum of Waldemarsudde
(Nationalmuseum)
Box 161 76
S-103 24 Stockholm
Phone: +46 851954300

The Nordic Museum Foundation
(Nordiska museet)
Box 27820
S-115 93 Stockholm
Phone: +46 851956000
e-mail: nordiska@nordm.se

3. Protection of national treasure

3.1 Definition of national treasure

The term Swedish items of historic interest refers to items which were actually or presumably made in Sweden or in some other country by a Swede. The term foreign items of historic interest refers to items made in another country by a non-Swede. For the purpose of determination under this Act, Sweden's boundaries at 1st July 1986 shall decide whether an object is to be deemed a Swedish item of historic interest.

Even if an item of historic interest is of major importance to the national cultural heritage, the Government may allow it to be taken out of the country if there are very strong reasons for doing so.

3.2 Nature of the protection (legal status, licence for exit or accompanying document, model)

Swedish and foreign items of historic interest and of major importance to the national heritage may not be taken out of the country without special permission. Any person wishing to export an item of historic interest from Sweden must obtain permission to do so.

Even if the item is of major importance to the national cultural heritage, permission shall be given for its exportation if

- 1- the owner migrates from Sweden to settle in another country,

- 2- the item has been acquired, through inheritance, legacy of partition, by a private person domiciled in another country,
- 3- the item is exported by a public institution in this Country or an institution receiving a grant from the State, municipality or a county council and is to be brought back to Sweden again,
- 4- the item is exported by an individual person for use in connection with public cultural activities and is to be brought back to Sweden again or
- 5- the item is temporarily in Sweden

4. Controls established to assure the protection of cultural national heritage

4.1 Customs authority appointed for the control of export (contact point)

HK Custom office
Tullverket
Produktionsavd, handelsenheten
S-Box 12 98 Stockholm
e-mail: hk.beredningssektionen@tullverket.se

4.2 Police authority appointed for the protection (contact point)

National Police Board
Rikskriminalpolisen
Box 12256
S-102 26 Stockholm
Phone: +46 8 4014672
e-mail: rikspolisstyrelsen@rps.police.se

4.3 Nature and legal basis for the control

Lag (1996:701) om Tullverkets befogenhet vid Sveriges gräns mot ett annat land inom Europeiska unionen. (Control)

Contraband (Penalties) Act (2000:1225). Law (2000:1244).

4.4 Modalities of control (particular powers)

See 2.1 above

5. Penalties relating to cultural goods and national treasures

Provision concerning penalties for the illegal exportation of items of historic interest and for attempted offence of this kind are contained in the Contraband (Penalties) Act (2000:1225). Law (2000:1244).

6. Other national specific regulations

6.1 Existence of preemption right, conditions of functioning

There is no right of preemption.

6.2 National taxation, particulars

6.3 Any other particulars

7. Sites (Internet or other) to access the previous information

Information on the export license requirement for cultural goods is posted on NHB website www.raa.se

Community legislation for the protection of cultural heritage

1. Directive No EEC/93/7 of the Council, of 15th March 1993, on the return of cultural objects unlawfully removed from the territory of a Member State

1.1 Text of transposition, references

- Cultural Monuments (etc.) Act (1988:950) with Amendment up to and including SFS 1994:1523. Chap. 6. Return of unlawfully removed cultural objects. Law (1994:1523).
- Cultural Monuments Ordinance (1988:1188) with Amendment up to and including SFS 2000:337.

A cultural object unlawfully removed after 31st December 1994 from a State included in the European Economic Area (EEA) and present in Sweden shall, on request, be returned to that state.

1.2 Central authority appointed in connection with the return of cultural goods

National Heritage Board
Box 5405
S-114 84 Stockholm
Phone: +46 851918000
e-mail: rikasant@raa.se

2. Regulation No EEC/3911/92 of the Council, of 9 December 1992, on the export of cultural goods

2.1 Competent authority for issuing the export licences of cultural goods

National Heritage Board
(Riksantikvarieämbetet)
Box 5405
S-114 84 Stockholm

Royal Library
(Kungliga biblioteket)
Box 5039
S-102 41 Stockholm

National Archives
(Riksarkivet)
Box 12541
S-102 29 Stockholm

National Art Museum
(Nationalmuseum)
Box 161 76
S-103 24 Stockholm

Nordic Museum Foundation
(Nordiska museet)
Box 27820

2.2 Nature of the control

Export licence applications shall be submitted to the National Heritage Board. If it has been prescribed that the application is to be determined by another permit-issuing authority, the application is to be transmitted to that authority. The applicant shall, at the request of the permit-issuing authority, place the item at its disposal for inspection.

Questions concerning export permits are to be determined by the Royal Library, the National Heritage Board, the National Archives, the National Art Museum or the Nordic Museum Foundation (permit-issuing authorities).

2.3 Penalties

Provision concerning penalties for the illegal exportation of items of historic interest and for attempted offence of this kind are contained in the Contraband (Penalties) Act (2000:1225). Law (2000:1244).

2.4 List of customs offices empowered to handle formalities for the export of cultural goods

All Customs Offices at ports, airports and custom offices.

2.5 Competent authority to implement controls (contact point)

HK Custom office
Tullverket
Produktionsavd, handelsenheten
S-Box 12 98 Stockholm
e-mail: hk.beredningssektionen@tullverket.se

2.6 Sites (Internet or others) to access previous information

Information on the export licence requirement for cultural goods is posted on the National Heritage Board website www.raa.se

International Conventions

1. Accession to International Conventions

Sweden acceded to the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, the 10 October 2002.

2. Responsible authority appointed for the implementation of conventions (contact point)

Ministry of Culture
S-103 33 Stockholm
Phone: +46 8 4051000

3. Framework of the UNESCO Convention, in case of accession

National legislation was not required

4. Other international conventions

None

5. Sites to access previous information

www.sweden.gov.se

UNITED KINGDOM

National legislation for the protection of cultural heritage

1. National Regulations

Import, Export and Customs Powers (Defence) Act 1939
Export of Goods (Control) Order 1992 (a) (“the Order”)

2. National Cultural protection

2.1 Framework of protection (nature and legal status of protected cultural goods)

An export licence -either open or specific - is required for all goods manufactured or produced more than 50 years before the date of exportation with certain limited exceptions (ie postage stamps, personal papers and goods manufactured by the exporter). The purpose of the export controls is to give an opportunity for the retention in the UK of cultural goods considered to be of outstanding national importance.

In order to reduce the burden on would-be-exporters, the UK Government has issued a number of Open Licences, which permit the export of certain specified objects without the need to obtain an individual UK licence from the Department for Culture, Media and Sport. There are currently two types in operation: The Open General Export Licence (OGEL) and the Open Individual Export Licence (OIEL). The OGEL permits the permanent export of those objects valued at below specified financial thresholds. An OIEL is granted to a named individual, company or institution, to permit either the permanent or temporary export of specified objects. No OIEL is granted by the Department for Culture, Media and Sport without the agreement of the relevant Expert Advisers in the national museums and galleries and all of the open licences have conditions attached.

These provisions do not override the requirement to obtain an individual licence under the Regulation 3911/92 (for exports to destinations outside the European Customs Union).

The UK individual licensing requirements guide UK policy on which licence applications are referred to Expert Advisers in the national museums and galleries.

If evidence can be provided with the licence application that the cultural object arrived in the UK within the last 50 years, a licence is not normally be referred to an Expert Adviser (in the national museums and galleries) and a licence is normally granted. However, If a cultural object has been illegally exported from another Member State of the European Customs Union on or after 1 January 1993, we would contact the relevant Member State.

2.2 Protection of cultural goods (procedure, document for leaving the country, model, modalities to issue and use)

Export licence required for all goods manufactured or produced more than 50 years before the date of exportation with certain limited exceptions. See 2.1.

2.3 Authority for the national protection

Department for Culture, Media and Sport

2-4 Cockspur Street

London SW1Y 5DH

Telephone: (44) 20 7211 6166/6168

Fax: (44) 20 7211 6170

Email: exportlicensing@culture.gsi.gov.uk

3. Protection of national treasure

3.1 Definition of national treasure

For those licences, which are referable to the Expert Advisers in the national museums and galleries, an Adviser may object to the granting of a licence where he or she believes that an object satisfies one or more specific defined criteria of national importance. Expert Advisers are entitled to view a cultural object before reaching a decision. If the Expert Adviser objects, the licence application is referred to the Reviewing Committee on the Export of Works of Art, a non-statutory independent body set up to advise Government Ministers whether a cultural object, for which an export licence application has been made, is of national importance.

The Reviewing Committee assesses the object under the same defined criteria (of national importance). If the object does not satisfy the criteria, the Committee will recommend that an export licence should be granted. However, if the object is considered to be of national importance, the Committee recommends to the Secretary of State for Culture, Media and Sport that a decision on the licence application should be deferred for a specified period (normally between two and six months although the Committee can recommend a deferral of any length) to enable an offer to purchase to be made at or above the fair market price (which will also be recommended by the Committee).

In most cases, offers to purchase are likely to come from public sources (museums, galleries or institutions); but a private offer may also be made. An owner of a cultural object is entirely free to accept or reject any offer. There is no compulsion on the owner to sell. If an owner accepts an offer, from either a public or a private source, the application for the export licence lapses. If there is no offer to purchase, an export licence is normally granted.

Where an owner does not accept an offer (at the fair market price) from a public source, an export licence will normally be refused. If an owner refuses an offer from a private source, Ministers will normally only refuse an export licence where the private offer included an undertaking with a public institution to guarantee reasonable public access, provide satisfactory conservation conditions and not sell the object for a specified period.

3.2 Nature of the protection (legal status, licence for exit or accompanying document, model)

See 2.1

4. Controls established to assure the protection of cultural national heritage:

4.1 Customs authority appointed for control of export (contact point):

Annemarie Dryden
HM Customs & Excise
Restrictions and Sanctions Team
1st Floor
New Kings Beam House
London SE1 9PY
Tel: (44) 20 7865 5275
Fax: (44) 20 7865 4961
E-mail: Anne-Marie.Dryden@hmce.gsi.gov.uk

4.2 Police authority appointed for the protection (contact point)

National Criminal intelligence Service
Spring Gardens
2 Citadel Place
London Se11 5EF
Contact: Helena Racki
Tel: (44) 20 7238 8060
Fax: (44) 20 7238 8112
E-Mail: london@ncis.x.gsi.gov.uk

4.3 Nature and legal basis for the control

Import, Export and Customs Powers (Defence) Act 1939
Export of Goods (Control) Order 1992

4.4 Modalities of control (particular powers)

See 2.1 above.

5. Penalties relating to cultural goods and national treasures:

It is an offence to make a false statement or to provide false paperwork in relation to an application for an export licence. The penalties are:

- i) on summary conviction to a fine not exceeding the statutory maximum; and
- ii) on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or to both.

It is an offence to export licensable goods without a licence or to bring licensable goods, without a licence, to a place in the UK with the intention of exporting them. The penalties are:

- i) the goods are liable to be seized; and
- ii) on summary conviction to a penalty of three times the value of the goods or £1,000 whichever is the greater.

It is also an offence to attempt deliberately to export or attempt to export licensable goods without a licence. This invokes powers of arrest and is punishable by up to seven years imprisonment.

6. Other national specific regulations

6.1 Existence of preemption right, condition of functioning:

There is no right of preemption. Although the purpose of a deferral of a decision on an application for an export licence is to provide an opportunity for an offer to purchase to be made (at the fair market price), the owner is free to reject such an offer; but this would normally result in the refusal of a licence. Please see 3.1 for further details.

6.2 National taxation, particulars

The Acceptance in Lieu (AIL) scheme enables works of art and objects of importance to UK heritage to be accepted into public ownership in lieu of tax. Qualifying property typically falls into the following categories: land; buildings; pictures; books; prints; archives; manuscripts; works of art; furniture; craft objects; historic objects; scientific objects; technological objects and other items. Objects may be accepted by the Secretary of State for Culture, Media and Sport agrees to their pre-eminence in terms of their national, artistic, historic or scientific interest as well as the valuation and condition of the property on offer. It is an important requirement of AIL that the public has full access to accepted items - chattels must go to public collections and land, buildings and *in-situ* offers must allow adequate access.

When property is transferred from one owner to another through gift or following a death, either Capital Transfer Tax or Inheritance Tax becomes payable. Payment of this tax liability may be deferred when the Inland Revenue accept that buildings are of outstanding historic or architectural interest; land is of outstanding historic, scenic or scientific interest; and chattels are of national, artistic, historic or scientific interest. In all cases the owner must undertake to comply with various conditions. The owner must agree to preserve the property and allow reasonable public access, and in the case of works and other objects, not to send them out of the United Kingdom (except for temporary exhibition).

6.3 Any other particulars

It is fundamental to the Government's policies for environmental stewardship that there should be effective protection for all aspects of the historic environment. The Planning (Listed Buildings and Conservation Areas) Act 1990 provides specific protection for buildings and areas of special architectural or historic interest. The Department for Culture, Media and Sport monitors the effectiveness of the controls.

The Secretary of State for Culture, Media and Sport has a duty under this Act to compile lists of buildings of special architectural or historic interest. The listing system has been fundamental to the policies of successive Governments to protect the country's built heritage. There is a presumption in favour of the preservation of listed buildings. Listed building consent is needed in respect of any proposal to demolish or alter a listed building in any way that would affect its special interest.

The main legislation concerning archaeology in the UK is the Ancient Monuments and Archaeological Areas Act 1979. This Act, building on legislation dating back to 1882, provides for nationally important archaeological sites to be statutorily protected as Scheduled

Ancient Monuments - thus requiring owners to obtain consent before carrying out works to them.

The Department for Culture, Media and Sport administers the Protection of Wrecks Act 1973 in England and designates wrecks off English waters under the Act and, related to this, acts as Secretariat to the Advisory Committee on Historic Wreck Sites.

The Treasure Act came into force on 24 September 1997 and has effect in England, Wales and Northern Ireland (the Act does not apply to Scotland where all ownerless objects belong to the Crown under the legal principle of *bona vacantia*). The purpose of the Act is to ensure that the most important discoveries of treasure are preserved for the nation by being offered to museums. Finders and landowners are rewarded. The Act has led to a substantial increase in cases of reported treasure.

7. Sites (Internet or other) to access the previous information

Information on the export licence requirements for cultural goods is posted on the DCMS website (www.culture.gov.uk)

Community legislation for the protection of cultural heritage

1. Directive No EEC/93/7 of the Council, of 15th March 1993, on the return of cultural objects unlawfully removed from the territory of a Member State

1.1 Text of transposition, references

The Return of Cultural Objects Regulations 1994 (SI 1994/501)

The Return of Cultural Objects (Amendment) Regulations 1997 (SI 1997/1719)

The Return of Cultural Objects (Amendment) Regulations 2001 (SI 2001/3972)

1.2 Central authority appointed in connection with the return of cultural goods

Cultural Property Unit

Department for Culture, Media and Sport

2-4 Cockspur Street

London SW1Y 5DH

Contact: Lynn Gates

Tel: (44) 20 7211 6163

Fax: (44) 20 7211 6170

E-Mail: lynn.gates@culture.gsi.gov.uk

2. Regulation No EEC/3911/92 of the Council, of 9 December 1992, on the export of cultural goods

2.1 Competent authority for issuing the export licenses of cultural goods:

Export Licensing Unit

Department for Culture, Media and Sport

2-4 Cockspur Street

London SW1Y 5DH

Tel: 020 7211 6164/6167

Fax: 020 7211 6170

Email: exportlicensing@culture.gsi.gov.uk

2.2 Nature of the control

Parts 2 and 3 of the export licence for cultural goods must be presented to HM Customs & Excise at the point of export.

2.3 Penalties

Penalties are the same as those applied to national export licensing requirements. Please see 5 of the national legislation questionnaire.

2.4 List of customs offices empowered to handle formalities for the export of cultural goods

All Customs Offices at UK ports and airports.

2.5 Competent authority to implement controls (contact point)

Annemarie Dryden
HM Customs & Excise
Restrictions and Sanctions Team
1st Floor
New Kings Beam House
London SE1 9Py
Tel: (44) 7865 5275
Fax: (44) 7865 4961
E-mail: Anne-Marie.Dryden@hmce.gsi.gov.uk

2.6 Sites (Internet or others) to access previous information

Information on the export licence requirements for cultural goods is posted on the DCMS website (www.culture.gov.uk)

International Conventions

1. Accession to International Conventions

The UK will accede, on 31 October 2002, to the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

The UK interprets the term “cultural property” to mean those objects listed in the Annex to Council Regulation (EEC) No 3911/1992 (as amended) and Directive 93/7/EEC (as amended).

As between EC Member States, the UK shall apply the relevant EC Legislation to the extent that the legislation covers matters to which the Convention applies.

The UK interprets Article 7(b)(ii) of the Convention that it may continue to apply the UK’s existing rules on limitations to claims made for the recovery or return of cultural objects.

2. Responsible authority appointed for the implementation of conventions (contact point)

Cultural Property Unit
Department for Culture, Media and Sport
2-4 Cockspur Street
London SW1Y 5DH

Contact: David Gaimster
Tel: (44) 7211 6144
Fax: (44) 7211 6170
E-mail: david.gaimster@culture.gsi.gov.uk

3. Framework of the UNESCO Convention, in case of accession

National legislation was not required.

4. Other international conventions

None

5. Sites to access previous information:

www.culture.gov.uk