

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.: [REDACTED]

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.TL.C.E.)
Contact point: Mr J. Camut, Head of SE.TL.C.E.
8, rue de la Tour des Dames
75009 Paris
Tel.: [REDACTED]

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
Chambery	Grenoble Regional Clearance Centre
Franche Comté	Besançon Regional Clearance Centre
Guadeloupe	Le Raizet airport
Guyana	Rochambeau airport
Le Havre	Le Havre port
Léman	Annecy 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.: [REDACTED]

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. [REDACTED]

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
[REDACTED]

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.