

INFORMATION ON THE REGULATIONS GOVERNING THE EXPORT OF CULTURAL PROPERTY FROM BOSNIA AND HERZEGOVINA

The export of cultural goods – artworks - from Bosnia and Herzegovina is regulated by Article 6, paragraph 5, of the law on Foreign Trade Policy of Bosnia and Herzegovina (Official Gazette of B&H, Nos 7/98 and 35/04), paragraph 1, subparagraph III, of the Decision on amendments to the Decision on the classification of goods into the export and import regimes (Official Gazette of B&H, Nos 22/98, 30/02 and 40/02), and Article 193, paragraph 1, of the Administrative Procedure Law („Official Gazette of B&H“, Nos 29/02, 12/04, 88/07, 93/09 and 41/13).

At the request of legal and natural persons and with the presentation of the documentation prescribed by the above decision, the Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina, based on the above mentioned regulations, takes a decision on the use of forms for exports of property based on the "D" authorisation for permanent and temporary export of works of art specified under the Law on Customs Tariff of B&H for the following items:

97.01 paintings, drawings, pastels, entirely handmade, other than drawings of tariff number 49 06 and crafts products painted or decorated by hand, collages and similar decorative plates;

- paintings, drawings, pastels;
- other;
- original engravings, printed pictures and lithographs;
- original sculptures and statues of any material;
- collections and examples of zoological, botanical, numerological, anatomical, historical, archaeological, paleontological, ethnographic or numismatic significance;
- antiques more than 100 years old.

The procedure to issue the decision on the use of forms for export of art based on the „D“ authorisation is provided for in the above decision on the classification of properties into the export and import regimes.

In terms of the mentioned decision, it is necessary to submit the following documentation to this Ministry in order to obtain a decision on the use of forms of permanent or temporary export of properties - artworks based on the „D“ authorisation: an application to use forms of exports of properties based on the „D“ authorisation (form prescribed by the Ministry is available for exporters), original copy of the consent of the competent ministry of culture of the entity for the purpose of obtaining the export authorisation (in the entity of Federation of B&H - Federal Ministry of Culture, Sport and in the RS entity - Ministry of Education and Culture - RS Institute for the Protection of Cultural, Historical and Natural Heritage), and, in case of temporary export, the specification of art that are exported, certified by the competent ministry of culture and entity.

Based on the Convention on temporary import - Istanbul. 26 June 1990 ("Official Gazette of B&H - International Agreements", No. 1/10) facilitates the circulation of art and cultural objects for which is given the temporary export licenses - Ata Carnet.

Foreign Trade Chamber of Bosnia and Herzegovina, issues the ATA Carnet (passport for properties) Use of ATA Carnets for temporary export of cultural objects and use of ATA

Carnet for temporary export of art and artistic works (based on the „D“ authorisation) can not be freely exported temporarily. Prior to purchase and use of the ATA carnet it should consult the competent authorities and from same to obtain approval and permission for their temporary export. The ATA CARNET shall be valid for a period of one year from the date of issue.

Entity Federation of Bosnia and Herzegovina

The basic laws and regulations governing the protection of cultural and historical heritage, movable and immovable, in the territory of entity Federation of Bosnia and Herzegovina is as follows:

- The General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement), Annex 8 - Agreement on Commission to Preserve National Monuments 1995

- Criteria for designation of the Property as a National Monument (Official Gazette of Bosnia and Herzegovina, No. 33/02 and 15/03) (Official Gazette of the Federation of Bosnia and Herzegovina, No. 59/02)

- Law on the Implementation of the decision of the Commission to Preserve National Monuments, established under Annex 8 of the Dayton Agreement (Official Gazette of the Federation of Bosnia and Herzegovina, Nos 2 / 02 and 27/02, 6/04 and 51/07)

- Law on the Protection and Preservation of Cultural, Historical and Natural Heritage of 1985, amended in 1987, 1993 and 1994("Official Gazette of SRB&H", Nos 20/85, 12/87) and ("Official Gazette of Federal Republic B&H", Nos 3/93, 13/94) – download law.

- Law on Spatial Planning and Land Utilization at the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina, Nos 2/05 and 72/07)

- Criminal Code of the Federation of Bosnia and Herzegovina, Articles 321 and 322 (Official Gazette of the Federation of Bosnia and Herzegovina, Nos 36/03, 37/03, 21/04 and 18/05)

- Law on Protection of Nature (Official Gazette of the Federation of Bosnia and Herzegovina, No. 33/03)

- Law on Environmental Protection (Official Gazette of the Federation of Bosnia and Herzegovina, No. 33/03)

- Law on Inspection of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina, No. 69/05)

The Law on the Protection of properties that are by the decision of the Commission to Preserve National Monuments declared a national monument ("Official Gazette of FB&H", No. 2/02, 08/02, 27/02, 6 / 04,51 / 07)

- Act on archival material and the Archives of Bosnia and Herzegovina (Official Gazette of B&H, No. 16/01)
- The law on archives FB&H ("Official Gazette of FB&H, No. 45/02);
- Law on Libraries (Official Gazette of Federal Republic B&H, No. 37/95), (Official Gazette of FB&H, No. 28/03);
- Law on Customs Offences of Bosnia and Herzegovina ("Official Gazette of B&H" No. 88/09).

Since 2007 government of the Federation of Bosnia and Herzegovina has adopted a set of orders governing issues of importance for the preservation of the cultural heritage in the territory of Federation of Bosnia and Herzegovina, such as:

- Order on the type, content, designation and preservation, control and validation of investment-related technical documentation (Official Gazette of the Federation of Bosnia and Herzegovina, Nos 88/07 and 51/08)
- Order on the publication of preliminary works of an investigative nature on national monuments (Official Gazette of the Federation of Bosnia and Herzegovina, No. 36/08)
- Order on the organization of building sites, mandatory documentation on the building site and participants in construction (Official Gazette of the Federation of Bosnia and Herzegovina, Nos 48/09 and 75/09)

The cantons that have adopted laws to protect the cultural heritage, which are in effect:

- Una-Sana Canton: Law on the Protection of Cultural Heritage (Official Gazette of Una-Sana Canton No. 3/04).
- Zenica-Doboj Canton: Law on the Protection of Cultural Heritage (Official Gazette of Zenica-Doboj Canton No. 2/00)
- Herzegovina-Neretva Canton: Law on the Protection of Cultural Heritage in Herzegovina-Neretva Canton (Official Gazette of Herzegovina-Neretva Canto No. 2/06) and Law on Approval to Build Outside the Boundaries of National Monuments or Outside Provisional Boundaries and Implementation of Protection Measures (Official Gazette of Herzegovina-Neretva Canton No. 5/08)
- West Herzegovina Canton: Law on the Protection and Use of Cultural, Historical and Natural Heritage ("Official Gazette of WHC", number 6/99)
- Sarajevo Canton: Law on Protection of Cultural Heritage ("Official Gazette of SC", No. 2/00)

Laws that regulates the export issue of cultural properties from Bosnia and Herzegovina generally prohibit permanent export.

Illegally exported cultural property is sanctioned by the Criminal Code of the Federation of Bosnia and Herzegovina (Official Gazette of Federation of Bosnia and Herzegovina No.

36/03) and law on customs violation offences of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina" No. 88/09).

Cultural goods of Bosnia and Herzegovina can only be temporarily out of the country by special security measures and protection with the agreement.

In accordance with the Decision on the classification of goods into the export and import regimes ("Official Gazette of Bosnia and Herzegovina", No. 41/02) - responsible ministry in the entity gives approval for the temporary export of cultural property from the territory of the Federation of Bosnia and Herzegovina.

Law on the Protection and Preservation of Cultural-Historical and Natural Heritage in Article 5 defines cultural-historical property and natural heritage, as well as property of general interest, which enjoy special protection and they are used under conditions and in the manner prescribed by law.

Article 9 includes the movable property which is supposed to be a feature of the cultural and historical resources, and provides previous protection, until law does not determine whether they have this characteristic.

Article 10 defines a movable objects dug out of the ground or taken out of the water, which is assumed to be a property of cultural-historical and natural heritage that is property of the state.

Article 11 defines the protection of movable property, paragraph (8) defines a permanent ban on the presentation of properties and limit of their temporary removal from the country;

Article 20 to Article 28 defines the propertie under the protection of the works in the field of visual and applied arts, crafts, techniques, museum material, archival material, valuable library, the old and rare books, films and film material. In accordance with these regulations for certain cultural properties.

The general ban on exports include movable cultural-historical and natural heritage that have previous protection and movable protected properties cannot be sustained out of the country - Article 56, paragraph 1 of Law on the Protection and Preservation of Cultural, Historical and Natural Heritage and Instruction on issuance licenses for export and import of arts and antiques.

Law on Implementation of Decisions of the Commission to Preserve National Monuments, established under Annex 8 of the Dayton Agreement (Official Gazette of the Federation of Bosnia and Herzegovina. Nos 02/02 and 27/02, 04/06 and 51/07)

Movable cultural property, declared as a national monument, can be temporary exported with the approval in only two cases (Article 58 Protective measures prescribed for each individual

national monument as stated conditions under which it can temporarily export property in the Decision of the Commission to Preserve National Monuments), and that :

1. because of restauration and conservation, expertise, only if there are no conditions in Bosnia and Herzegovina, and
2. for purpose presentation in abroad.

The Criminal Code of the Federation of Bosnia and Herzegovina (Official Gazette of Fedaration of Bosnia and Herzegovina, No. 36/03), prescribes sanctions that specifically serve for protection of cultural property, Article 321 - damage, destruction and illicit export of cultural monuments and protected objects of nature, paragraph (3) and (4) - provides prison sentence up to 3 years and Article 322 - Unauthorized disclosure of research activities and appropriation of cultural monuments, paragraph (1) and (2) provides for a fine and a prison sentence from 6 months to 5 years.

Entity of Republika Srpska:

Exports of cultural property in Republika Srpska administer the following:

- Law on Cultural Property of the Republika Srpska (Official Gazette of the Republika Srpska, Nos 11/95 and 103/08),
- Law on Archival Activity of the Republika Srpska (Official Gazette of the Republika Srpska , No. 119/08),
- Criminal Code of the Republika Srpska (Official Gazette of the Republika Srpska Nos 49/03, 108/04, 37/06, 70/06, 73/10, 1/12 and 67/13).

Criminal Code of the Republika Srpska in the context of crimes against property, provides the punishment for the crime of " exporting abroad objects of particular cultural or historical significance or natural rarities".

The Republic Institute for Protection of Cultural, Historical and Natural Heritage of the Republika Srpska only partly addresses the issue of movable cultural heritage - issues authorizations for the temporary export of cultural property.

Article 15 of the law on Cultural Property of the Republika Srpska states: Cultural property and property that enjoys previous protection must not be removed or exported abroad, unless otherwise is provided by this law.

Article 30 of the same law provides that the owner of a legally protected property is a legal or natural person that possesses cultural property on any basis, or the property that enjoys the previous protection. Articles 31 to 37 regulate the rights and obligations of the owners.

In Article 67, the Institute is authorized to give approval for movable property enjoying the previous protection so that they can be temporarily removed or permanently exported abroad.

Article 93 of the law clearly defines conditions under which the approval of Article 67 can be given: Movable cultural property can only be permanently removed abroad if there are

legitimate reasons for that. The approval for a permanent export or temporary removal of movable cultural property is given by the Institute, or the competent regional unit of the Institute.

In Chapter IX of the Law on Cultural Property of the Republika Srpska in Articles 97 to 100 are determined in detail conditions under which they work foreign exhibitions.

In Article 97 states: The Republika Srpska can give guarantees for exhibits certain foreign exhibitions on its territory which have special cultural and artistic value if the requirements established by this law.

The Government of the Republika Srpska defines which exhibitions should get guarantees in the previous paragraph.

The guarantee applies to exhibits certain foreign exhibitions that have special cultural and artistic value and for which the foreign state or owner conditioned display area by providing guarantees.

The guarantee shall be given even when high declared value exhibits insurance costs were extremely high, and a foreign state or owner exhibit accepts guarantee instead of insurance.

The guarantee shall be given for the time of the takeover until the return of exhibits to a foreign country, or the owner or other authorized person.

In Article 98 lists the guarantees of the law that can be given under the conditions that the institution for the protection, or other organization that organize the exhibition provided the appropriate organizational, professional, technical and other requirements for the protection of the exhibit.

In paragraph 2, Article 100 states that if of requirements are not met, prescribed by Article 98, the authority responsible for the fulfilment of this condition may order the closure of the exhibition.

In Article 99 states: Guarantee under Article 97 of this Law, the Republika Srpska commitment to develop up to the declared value of the exhibit, compensated for any damage caused in the event of damage, destruction or disappearance of the exhibit, if the damage is not compensated by organizer.

Document of guarantee under this low is issued by the Ministry of Finance.

Institute, Archive RS and institutions of protection, have the right of legal standing in terms of ensuring a measure of protection and use of cultural property and the initiation of criminal and offence proceedings, as provided by the provisions of Article 65 of the law on Cultural Property.