

2263. Rules on the Procedure for Issuing Export and Transfer Licences for Objects of Cultural Heritage

On the basis of Article 31 of the Cultural Heritage Protection Act (Official Journal of the Republic of Slovenia, no. 7/99, 110/02-ZGO-1 and 126/03), the Minister of Culture issues the following

Rules on the Procedure for Issuing Export and Transfer Licences for Objects of Cultural Heritage

I. GENERAL PROVISIONS

Article 1

These rules set out the procedure for obtaining a licence to export objects of cultural heritage outside the EU customs area and the transfer of objects of cultural heritage to EU countries and the maintaining of a register of issued licences and confirmations.

Article 2

(1) Objects of cultural heritage situated in the territory of the Republic of Slovenia may only be permanently or temporarily exported or transferred on the basis of a licence issued by the Minister responsible for culture (hereinafter: the Minister).

(2) Types of licences under these Rules are:

- standard export licence
- special open export licence
- general open export licence
- standard transfer licence
- special open transfer licence
- general open transfer licence

Article 3

An object of cultural heritage (hereinafter: an object) may only be permanently exported or transferred if it does not have the characteristics of a national treasure defined in Articles 1, 2 and 3 of the Rules on the Identifying Cultural Heritage Objects (Official Journal of the Republic of Slovenia, no. 73/2000; hereinafter: the Rules).

Article 4

The exporter or transferer (hereinafter: the exporter) of the object may be a natural person or a legal person who is the owner of the object or is authorised by the owner.

Article 5

(1) The application for an export licence or transfer licence shall be submitted by the exporter or a person authorised by the exporter, who shall be the party to the procedure of obtaining this licence. The application is submitted to the Ministry of Culture (hereinafter: the Ministry).

(2) An exporter may submit an application for the export or transfer of a consignment which may be a single object or a group of objects. If the exporter submits an application for a group of objects, each object shall be dealt with separately in the licence-issuing procedure.

(3) Under these rules a consignment means objects:

- exported by the same exporter
- destined for the same addressee abroad.

Article 6

Applications forms, all types of licences and certificates shall be printed in Slovene and English.

Article 7

The procedure for issuing an export licence shall be conducted by a responsible officer of the Ministry.

II. EXPORT OF OBJECTS

Article 8

(1) The exporter shall submit an application for the issuing of a standard export licence in accordance with Council Regulation (EEC) No. 3911/92 of 9 December 1992 on the export of cultural goods (hereinafter: Council Regulation (EEC) No. 3911/92), Council Regulation (EC) No. 2469/96 of 16 December 1996 amending the Annex to Council Regulation (EEC) No. 3911/92, Commission Regulation No. 752/93 of 30 March 1993, which prescribes the provisions for the implementation of Council Regulation (EEC) No. 3911/92 and Commission Regulation (EC) No. 1526/98 of 16 July 1998 amending Commission Regulation No. 752/93, which prescribes the provisions for the implementation of Council Regulation (EEC) No. 3911/92 (hereinafter: Commission Regulation (EC) No. 1526/98), and the provisions of the Rules on Identifying Cultural Heritage Objects, on an adapted form a sample of which is contained in Annex I to these Rules.

(2) A standard export licence shall be issued for temporary or permanent export, for a single object or for a group of objects, on the form under the preceding paragraph of this Article.

(3) If the consignment contains a group of objects that cannot be described on one form, it shall be necessary to append to the basic form a list of the objects with a description containing the data from columns 7 to 17 of the basic form and one copy of the second page of the form with a photograph measuring at least 8 x 12 cm for each object. The exporter must sign every page of the application.

(4) The licence shall be issued in two copies. The first sheet is the exporter's copy and the second is intended for the competent customs body.

Article 9

(1) The exporter shall submit an application for the issuing of a special open licence in accordance with Council Regulation (EEC) No. 3911/92 and Commission Regulation (EC) No. 1526/98 on the form a sample of which is contained in Annex II to these Rules.

(2) A special open licence shall be issued for the repeated temporary export of a specific object whose owner or lawful possessor is a specific person or organisation who will use or exhibit the object.

(3) The licence may only be issued on the condition that it is judged during the procedure that the exporter offers all necessary guarantees for the return of the object to the Republic of Slovenia in a good condition and that the object can be described and labelled in such a way

that during the period of the temporary export there is no doubt that the object being exported is that which is described in the special open licence.

(4) The licence shall be issued in two copies. The first sheet shall be retained by the exporter of his own use and for the purposes of customs procedure; the second sheet is intended for the archive.

(5) The licence is valid for a maximum of five years. After the expiry of this period the exporter must return the licence to the Ministry.

Article 10

(1) The exporter shall submit an application for the issuing of a general open licence in accordance with Council Regulation (EEC) No. 3911/92 and Commission Regulation (EC) No. 1526/98 on the form a sample of which is contained in Annex III to these Rules.

(2) A general open licence may be issued for every temporary export of any object that is part of the permanent collection of a museum or other institution housing a collection.

(3) The licence may only be issued on the condition that it is judged during the procedure that the exporter offers all necessary guarantees for the return of the object to the Republic of Slovenia in a good condition. The licence may be used for any combination of objects in a permanent collection on any occasion of temporary export. It may also be used for a range of various combinations of objects, either progressively or simultaneously.

(4) The licence shall be issued in two copies. The first sheet shall be retained by the exporter for his own use and for the purposes of customs procedure. The second sheet is intended for the archive.

(5) The licence is valid for a maximum of five years. After the expiry of this period the exporter must return the licence to the Ministry.

III. TRANSFER OF OBJECTS

Article 11

(1) The exporter shall submit an application for the issue of a standard, special open or general open transfer licence for the objects under Article 1 of the Rules under Article 3.

(2) The application shall be submitted on the appropriate form, a sample of which is contained in Annex IV to these Rules.

(3) If the consignment contains a group of objects that it is impossible to describe on one form it shall be necessary to append to the basic form a list of the objects with a description containing the data from columns 7 to 17 of the basic form and one copy of the second page of the form with a photograph measuring at least 8 x 12 cm for each object. The exporter must sign every page of the application.

Article 12

(1) With regard to the issuing of transfer licences, the provisions of Articles 7, 8 and 9 of these Rules shall *mutatis mutandis* apply.

(2) Standard and special open transfer licences shall be issued on the form of which a sample is contained in Annex IV of these Rules.

(3) The general open licence shall be issued on the form of which a sample is contained in Annex V of these Rules.

(4) The holder of a standard licence for temporary transfer must return the licence to the Ministry when the object is re-transferred to the Republic of Slovenia. If the Ministry establishes that the objects have not been reintroduced to the territory of the Republic of Slovenia within the prescribed deadline it shall notify the competent inspectorate in

accordance with the Return of Unlawfully Removed Cultural Heritage Objects Act (Official Journal of the Republic of Slovenia, no. 126/2003).

IV. CERTIFICATE

Article 13

(1) If it is established during the procedure of issuing an export licence or transfer licence that an object does not belong to any of the categories under the Annex to Council Regulation (EEC) No. 3911/92 and the Rules under Article 3, the Ministry shall issue a certificate guaranteeing that the export or transfer of the object is permitted.

(2) The original application shall be appended to the certificate. Each page of the certificate and the application must carry the stamp of the ministry and the signature of a responsible officer.

Article 14

The certificate must contain the following data: full name and exact address of the exporter, the number and type of objects destined for export or transfer, a declaration that the object does not belong to any of the categories under the Annex to Council Regulation (EEC) No. 3911/92 and the Rules under Article 3.

V. EXPERT OPINION

Article 15

In the licence-issuing procedure the Ministry shall obtain expert opinions from the competent national museums.

Article 16

The functions of the national museums under Article 15 are as follows:

- the preparation of an expert opinion on the classification of an object with regard to Article 1 of the Rules under Article 3
- the preparation of an expert opinion on the fulfilment of the criteria under Articles 2 and 3 of the Rules under Article 3;
- a description of the object if the party involved is unable to define all the fields from the column 'Description of the Object' in the application;
- an expert opinion on the suitability of guarantees of return in the cases under Articles 8, 9, 10 and 12 of the Rules.

Article 17

(1) A national museum shall prepare the expert opinion under the preceding Article within 14 days of being requested to issue an opinion. The expert opinion must be printed on paper bearing the letterhead and stamp of the national museum. It shall be signed by the person who prepared the opinion and by the director of the museum.

(2) In an expert opinion for temporary export, the national museum shall also check the guarantees and if necessary stipulate another form of guarantee that obliges the exporter to return the objects to the Republic of Slovenia within the envisaged deadline.

VI. ISSUING LICENCES AND CERTIFICATES

Article 18

- (1) The licences and certificates under these Rules shall be issued by the Minister.
- (2) If the exporter is exporting a consignment, the Minister may grant permission for only specific objects from this consignment to be exported.
- (3) Before receiving the export licence the exporter must settle all the costs of the procedure.

Article 19

- (1) If the application does not contain all the data required, the exporter will be asked to supplement the application or submit additional documentation. The deadline for the supplementation of the application may not be longer than 30 days from the date on which the request for supplementation was sent to the exporter. If the exporter fails to supplement the application or fails to submit additional documentation within the set deadline, the application shall be refused (on the basis of an order).
- (2) Notwithstanding the provision of the preceding paragraph, an application shall be processed even if it does not contain the data in fields 8, 11 and 13-18 of Commission Regulation (EEC) 752/93 and fields D 2-8 of Annex IV to these Rules. In this case the exporter must state his reason for not completing these fields.
- (3) If a responsible officer or national museum establishes that the data from the application are insufficient for the elaboration of an opinion, he/it may carry out additional investigation such as an inspection of the objects or a verification of their culture value.
- (4) If a responsible officer or national museum establishes that there is a suspicion that an object has been imported or transferred contrary to the legislation of the exporter country or Member State, or that it has in some other way been unlawfully obtained or deliberately damaged so as to reduce its value, it shall act in accordance with the first paragraph of Article 145 of the Criminal Procedure Act (Official Journal of the Republic of Slovenia, no. 63/94).
- (4) If the opinion with regard to the suitability of export or transfer is negative, the Ministry shall issue a decision on prohibition of export or transfer of the object, to which must be appended a copy of the application with a description of the object. The General Customs Office shall be notified of the prohibition of export or transfer within 24 hours. The exporter shall bear the costs of the preparation of the application and any costs under the third paragraph of this Article.

Article 20

- (1) The Ministry may revoke at any time any special open or general open licence if the conditions under which it was issued are no longer met. If the issued licence is not returned and could be used in an irregular manner, the Ministry shall immediately notify the competent inspectorate and in the case of export shall act in accordance with the fourth paragraph of Article 2 of Commission Regulation (EC) No. 1526/98.
- (2) In the case of temporary export or transfer, the exporter may request the Ministry for an extension of the licence if he establishes that it will not be possible to return the object to the territory of the Republic of Slovenia within the prescribed deadline.

VII. KEEPING THE REGISTER

Article 21

- (1) The Ministry shall keep a register of all licences and certificates issued. The following data shall be entered in the register of licences:
 - data on the exporter
 - country of destination

- type of licence
- record number and date of issue of certificate
- expiry date
- date of re-transfer of the object in case of temporary export
- data on the object: type of object, artist/maker, period of origin and special characteristics.

(2) The following data shall be entered in the register of issued certificates:

- data on the exporter
- country of destination
- record number and date of issue of certificate
- data on the object: type of object, artist/maker, period of origin and special characteristics.

Article 22

(1) The Ministry shall keep documentation on export licences, transfer licences and certificates. The Ministry shall store documentation permanently in accordance with the law.

(2) The data collected in the procedure for issuing export licences and transfer licences are counted as official data and may only be used for cultural heritage protection purposes.

VIII. FINAL PROVISIONS

Article 23

On the day that these Rules enter into force, the provisions of the Rules on the Procedure for Issuing Licences for the Export of Cultural Heritage (Official Journal of the Republic of Slovenia, no. 19/95) shall cease to apply.

Article 24

The Rules shall enter into force on 1 May 2004.

No. 617-63/2004/3

Ljubljana, 22 April 2004.

EVA 2004-3511-0009

Signed by:
Andreja Rihter
Minster of Culture

ANNEX I: Standard export licence form

ANNEX II: Special open export licence form

ANNEX III: General open export licence form

ANNEX IV: Standard and open transfer licence form

ANNEX V: General open transfer licence form