

**Decree on the Safeguarding of Movable Cultural  
Heritage**  
**D. 17-03-2022      Belgian Official Journal 19-01-2024**

The Parliament of the French Community has adopted and we, the  
Government, sanction the following:

**CHAPTER 1 - *Definitions and scope of application***

**Article 1** - For the purposes of this Decree, the following definitions shall apply:

1. "Movable cultural object": Any movable object lawfully and permanently located in the French Community and belonging to one of the categories listed in Annex 1, Section A, of Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural objects.

2. "In the French Community": In the French-speaking region or in an institution established in the bilingual area of the Brussels-Capital Region which, because of its activities, must be considered as belonging exclusively to the French Community.

3. "Outside the French Community": Any location other than that referred to in subsection 2.

4. "Treasure": Any movable cultural object classified pursuant to Article 3.

5. "Object of heritage interest": Any movable cultural object registered under Article 9.

6. "Religious heritage": Movable cultural object owned or held by a legal person governed by public law entrusted with the management of the temporal object of a recognised religion.

7. "Commission": The Cultural Heritage Commission referred to in Articles 82 to 84 of the Decree of 28 March 2019 on new cultural governance.

8. "Preventive conservation": Any measure taken with the aim of preventing, avoiding or delaying the deterioration of an object or a group of objects.

9. "Curative conservation": Any measure taken to stabilise the condition of an object that is deteriorating.

10. "Restoration": All actions carried out directly on a damaged or deteriorated object in order to re-establish its integrity.

11. "Transformation": All actions carried out directly on an object which are likely to change its condition.

For the purposes of this Decree, persons who have a right in rem in respect of movable cultural property other than the right of ownership are treated in the same way as owners.

**Article 2** - For the application of this Decree, except for the issuing of export licences referred to in Article 20, paragraph 1, subsection 1, the Government may, after receiving the opinion of the Commission, derogate from the age conditions set out in Annex 1, section A, of Council

Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods.

By way of derogation from Article 1, 1°, and without requiring the opinion of the Commission referred to in paragraph 1 of this Article, the Government may exercise the right of pre-emption provided for in Article 18 in respect of archives that are less than 50 years old.

## **CHAPTER 2 - *Safeguarding measures***

### **Section 1 - Classification as a treasure**

**Article 3** - With a view to their protection, the Government classifies movable cultural property that is of exceptional interest to the French Community because of its artistic, historical, archaeological, ethnological or scientific value.

Objects classified under this Article shall have the status of "national treasure" within the meaning of Article 36 of the Treaty on the Functioning of the European Union.

**Article 4** - To be so classified, an object must meet at least two of the following criteria:

1. Excellent state of conservation.
2. Rarity.
3. The link the object has to history or art history.
4. High quality of design and execution.
5. Recognition of the object by a community as an expression of its historical or cultural identity.
6. The interest of the group or collection that the object belongs to.

**Article 5** - An object classified as a treasure may not be moved, altered or destroyed, or undergo restoration or conservation treatment, without the prior approval of the Government.

The Government's approval is subject to certain conditions. These conditions include, depending on the case:

1. The duration of the relocation.
2. The conditions of transport, including the packaging of the goods.
3. The insurance to be taken out during the relocation.
4. The conditions of conservation at the temporary exhibition site.
5. The professional qualifications of the person responsible for working on the object.
6. The measures to be taken to document the object before it is destroyed.

**Article 6** - The Government exercises control over the state and conditions of conservation of objects classified as treasures, in accordance with the procedures it determines. This control covers the ambient air temperature and humidity, exposure to light, security devices designed to

prevent damage or theft, storage, packaging and the way in which the object is displayed, moved or used.

To this end, the Government may impose special conservation measures and organise on-site visits, subject to prior notice given to the owner or those in possession of the object.

**Article 7** - If a treasure loses the exceptional interest that justified its classification, the Government may, after consulting the Commission:

1. Declassify the object and include it on the list of objects of heritage interest, if it meets the conditions of Article 9.
2. Simply declassify it if the object is no longer of interest.

Any decision to declassify follows the same procedure as a decision to classify.

**Article 8 - §1.** Any object that is the subject of a classification procedure shall benefit from the protective measures referred to in Articles 5, 6 and 19 from the outset of the procedure.

**§2.** In case of emergency incompatible with the deadlines for initiating a classification procedure, the Government may decide to use the protective measures referred to in Articles 5, 6 and 19 for the object.

In this case, the Government will immediately refer the matter to the Commission and initiate the classification procedure.

**§3.** - The protective measures referred to in paragraphs 1 and 2 shall cease to have effect if the procedure does not result in classification.

## **Section 2 - The list of objects of heritage interest**

**Article 9** - The Government maintains a list of movable cultural properties that do not meet the conditions for classification but are nevertheless of great interest to the French Community because of their artistic, historical, archaeological, ethnological or scientific value.

To be eligible for registration, an object must meet at least one of the criteria mentioned in Article 4.

**Article 10** - The owner or holder of an object included on the list referred to in Article 9 is required to notify the Government of any change to the legal status of the object, its location or state of conservation, as well as any disappearance.

**Article 11** - If a piece of movable cultural property loses the outstanding interest that justified its listing, the Government may, on the advice of the Commission, remove it from the list.

Any decision to remove an object must follow the same procedure as a decision to register one.

### **Section 3 - Religious heritage**

**Article 12** - Legal entities governed by public law that are responsible for managing the temporal assets of a recognised religion are required to declare the pieces of movable cultural property that they own or hold to Government Services.

**Article 13** - The Government shall define the procedures for drawing up, updating and transmitting the declaration referred to in Article 12.

### **Section 4 - Publicising and enforcing protective measures**

**Article 14** - Decisions to classify or include an object on the list of objects of heritage interest take effect from the date of notification to those to whom they are addressed.

They are also published in the Belgian Official Journal. This publication constitutes official proof to third parties of the existence of a protection measure and is intended to:

1. Contribute to the fight against illicit trafficking of cultural goods.
2. Ensure the legal security of transactions on the art market.

The publication does not contain any information relating to the owner or holder of the object.

**Article 15** - The owner of an object classified as a treasure or included on the list of objects of heritage interest is required to inform any prospective buyer of the existence of the protection measure and the consequences thereof.

The protective measures provided for by this Decree may, in any event, be enforced against the new purchaser and any holders of the object.

**Article 16 - §1.** The Government shall draw up and keep up to date a list of:

1. Objects classified as treasures.
2. Objects included on the list of objects of heritage interest.
3. Religious heritage objects that have been declared to it.

To this end, it may collaborate with any public or private body that can contribute to this list.

**§2.** The aim of the list is to enable the Government and its departments to:

1. Carry out the tasks assigned by this Decree.
2. Transmit, where necessary, reliable information to the public authorities responsible for combating illicit trafficking in cultural objects.

**§3.** The Government will make the following information from the list available to the public and publish them on its website:

1. The name of the object.
2. The dating of the object.
3. A short description of the object.
4. An illustration of the object, while respecting the intellectual property rights in force.
5. The location of the object, with the agreement of the owner and, where applicable, the holder.
6. The safeguarding measure in force, the date on which it was decided and the date on which it was published in the Belgian Official Journal.

By way of derogation from paragraph 1, the information on the list referred to in paragraph 1, that relate to an object belonging to a religious heritage shall only be published if the object is classified or registered.

Communication to the public of the information on the list referred to in paragraph 1 is intended to:

1. Contribute to the right to cultural development, by informing the public of the existence of protected cultural properties located in the French Community.
2. Ensure the legal security of transactions on the art market, by informing potential buyers of the existence of a safeguarding measure.

### **CHAPTER 3 - Grants**

**Article 17 - §1.** The Government may award grants for the conservation or restoration of movable cultural property, subject to the conditions it lays down:

1. Classified as treasures, in accordance with Article 3.
2. Included on the list of objects of heritage interest, in accordance with Article 9.
3. Belonging to a religious heritage.

In the event of a shortfall in funding, priority will be given to grants for the assets referred to in subsection 1, followed by those referred to in subsection 2.

**§2.** The French Community's contribution to the costs borne by the beneficiary consists of:

1. Between 20% and 75% for curative conservation or restoration measures.
2. Between 20% and 60% for preventive conservation measures, including packaging the object.
3. Between 20% and 60% for scientific analyses and tests necessary for the conservation or restoration of the object.

The appropriateness of the grant and the determination of its amount are assessed as follows:

1. The applicable protection measure.

2. The type of measure, analysis or test envisaged.
3. Whether a previous grant was awarded for the same object.
4. The applicant's financial capacity.
5. Whether the measure, analysis or test envisaged is already covered by structural or one-off grants awarded by the French Community or another public authority.
6. Whether the object is or will be exhibited to the public.

**§3.** The Government may make the grant conditional upon the object in question being kept in the French Community for a period that it determines.

**§4.** No grant may be awarded in the event of non-compliance with the conservation conditions imposed by the Government pursuant to Article 6.

**§5.** Restorations and conservation treatments subsidised under the terms of this Article may only be carried out by persons with the professional qualifications defined by the Government.

#### **CHAPTER 4 - *Right of pre-emption***

**Article 18 - §1.** The Government has the power to exercise a right of pre-emption at the price of the last bid during:

1. Any public sale of an item classified as a treasure or included on the list of items of heritage interest.
2. Any public sale of movable cultural property not covered by subsection 1:
  - a) Which is organised in an auction house located in the French-speaking region or in the bilingual Brussels-Capital Region.
  - b) Which relates to an object that was lawfully and permanently located in the French Community prior to its arrival at the auction house.
  - c) For which the Government notified the auction house of its interest in the object.

The Government also has the power to exercise a right of pre-emption at a price agreed between the seller and the potential buyer, in the event of the sale by mutual agreement of an object classified as a treasure or registered on the list of objects of heritage interest.

Notwithstanding paragraphs 1 and 2, object belonging to the public or private domain of the State, a region or a community may not be subject to a right of pre-emption.

**§2.** The right of pre-emption referred to in paragraph 1 may also be exercised on behalf of:

1. Any museum recognised by the French Community.
2. Any private archive centre recognised by the French Community.
3. Any museum support operator receiving four-yearly operating assistance.

4. Any foundation recognised as being in the public interest:
- a) Established in the French-speaking region or in the bilingual Brussels-Capital Region.
  - b) And having the conservation and promotion of cultural heritage as one of its social object.

Objects acquired by pre-emption on behalf of the bodies referred to in paragraph 1 may not be resold without the prior approval of the Government.

**§3.** In the circumstances laid down in paragraph 1 subparagraph 1, subsection 1, the auction house must inform the Government Services at least thirty days before the auction is held.

**Article 19 - §1.** In the circumstances laid down in Article 18, the object may not be sold without the Government having been given the opportunity to exercise its right of pre-emption.

To this end, the seller or their agent draws up the deed of sale subject to the suspensive condition that the right of pre-emption is not exercised, and notifies the Government, by registered mail, of a copy of the deed and the identity of the purchaser. This notification constitutes an offer to sell.

**§2.** The Government has sixty days from the notification referred to in §1 to accept the offer.

If the Government does not react within the period referred to in subparagraph 1, the object in question may not be sold at a lower price or on more favourable terms without the Government again being given the opportunity to exercise its right of pre-emption.

If, at the end of a period of one year from the notification referred to in §1, the object has still not been sold, the seller may not put the object up for sale again until the Government has again been given the opportunity to exercise its right of pre-emption.

**§3.** Where movable cultural property is sold without knowledge of this Article, the Government may demand the subrogation of the rights of French Community or the body acting on its behalf, to the purchaser.

In the event of subrogation, the Government or the body acting on its behalf, shall issue a full refund to the purchaser, without being liable for any other obligations or compensation.

The subrogation action referred to in subparagraph 1 shall end ten years from the time when the Government becomes aware of the sale.

## **CHAPTER 5 - *The movement of movable cultural property***

**Article 20 - §1.** The Government has the power to issue, in accordance with the procedure it lays down:

1. The export authorisations provided for in Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods.

2. A certificate establishing that a specific item of movable cultural property is not the subject of safeguarding measures by the French Community for a validity period set by the Government.

**§2.** The Government may provide that the issue of the documents referred to in paragraph 1, subparagraph 1, subsection 2, is subject to the payment of a fee by the applicant.

**Article 21** - The definitive relocation of an object classified as a treasure outside the French Community is prohibited.

**Article 22** - By way of derogation from Article 5, the Government may authorise selected classified objects to be relocated several times during the period it decides without having to make an application for authorisation each time.

## **CHAPTER 6 - Penalties**

**Article 23 - §1.** A prison sentence of between eight days and three months and a fine of between EUR 100 and 100,000, or one of these penalties only, may be imposed on anyone who:

1. Performs an act referred to in Article 5 without prior authorisation, or in disregard of the conditions of the authorisation.

2. Fails to notify the Government in the cases referred to in Articles 10, 12 and 19.

3. Does not comply with the conservation requirements laid down in Article 6.

Any person who intentionally hinders or obstructs the officers and agents referred to in Article 27 in the performance of their duties shall be punished by a prison sentence of between eight days and six months and a fine of between EUR 26 and 200, or by one of these penalties only, without prejudice to the penalties provided for in Articles 271 to 274 of the Penal Code.

**§3.** By way of derogation from §1, paragraph 1, subsection 1, any person who, in violation of this Decree, relocates, initiates relocation or collaborates in the relocation of a treasure outside the French Community shall be punished by a prison sentence of four months to five years and a fine of EUR 300 to 100,000 or by one of these penalties only.

The penalties referred to in paragraph 1 are doubled if the offence is committed by a person who, by virtue of their profession or activity either:

1. Usually deals in movable cultural property.

2. Usually acts as the middleman in the type of transactions referred to in subsection 1.



3. Whose usual profession is linked to the management or conservation of movable cultural property.

**Article 24 - §1.** Treasures that are relocated or exported in violation of this Decree may be subject to protective seizure by the Government.

For the purposes of this provision, attempted removal or export is deemed to be removal or export.

**§2.** In the event of a serious or repeated breach of this Decree, the competent judge may, at the request of the Government, order the confiscation of this object for the benefit of the French Community.

**Article 25 -** A prison sentence of four months to five years and a fine of EUR 26 to 50,000 or one of these penalties only may be imposed on:

1. Persons who, when applying for an export authorisation as referred to in Article 20, subsection 1 of this Decree, knowingly make incorrect or incomplete declarations or provide incorrect or incomplete information.

2. Persons who export or organise the exportation of movable cultural object from the French Community outside the European Union without the export authorisation referred to in Article 20, subsection 1 of this Decree.

## **CHAPTER 7 - *The procedure***

**Article 26 -** The Government shall determine the procedures for implementing this Decree in accordance with the following principles:

1. Procedures for classification as a treasure or for inclusion on the list of properties of heritage interest may be initiated by the Government:

a) On their initiative.

b) On a proposal from the Commission.

c) At the owner's request.

d) At the request of the municipality in whose territory the object is located.

e) At the request of five hundred signatories domiciled in the French-speaking region or in the bilingual Brussels-Capital Region.

2. The Commission gives their opinion regarding procedures for classifying objects as a treasure or for including it on the list of objects of heritage interest, without prejudice to the Government taking safeguarding measures of their own.

3. The Commission gives their opinion on any request for relocation, transformation, destruction or disposal in application of Article 5, as well as on any request for a grant submitted in application of Article 17, without prejudice to the Government making its own decisions when urgent.

4. The owner of an object that is the subject of a procedure for classification as a treasure or for inclusion on the list of objects of heritage interest, as well as the holder of the object, are given the opportunity to state their observations within a period of at least sixty days, without

prejudice to the Government taking precautionary measures without waiting for said observations.

5. The Government will make its decision within six months of expiry of the sixty-day period referred to in subsection 4; failing this, it is deemed to have refused classification as a treasure or inclusion on the list of objects of heritage interest.

## **CHAPTER 8 - *Final provisions***

**Article 27** - Without prejudice to the powers of the judicial police, the contractual or statutory agents appointed by the Government are responsible for monitoring compliance with the provisions adopted by or pursuant to this Decree, and are empowered to investigate and draw up reports on any infringements of these provisions.

For the purposes of this Decree, these officers shall have the status of judicial police officers.

**Article 28** - Articles 1, §1, a) to d), and §§2 and 3, 2, 4 to 25 and 33, 35 and 36 of the Decree of 11 July 2002 on movable cultural property and the intangible heritage of the French Community are repealed, as is the annex to the same Decree.

In the title of the Decree referred to in the first paragraph, the words "movable cultural property and" are deleted.

Objects classified as treasures by virtue of the Decree, referred to in paragraph 1, have the status of treasures within the meaning of this Decree.

Classification procedures initiated under the Decree referred to in paragraph 1 shall continue in accordance with the provisions of the Decree.

**Article 29** - The following amendments are made to point 70 of the Annex to the Decree of 27 October 1997 containing the budgetary funds included in the general expenditure budget of the French Community:

1. In the title of the fund, the words "listed public or private movable property" are replaced by the words "public or private movable cultural property".

2. In the box describing the nature of assigned revenue, a paragraph 2 is inserted, worded as follows:

"Fees paid for the issue of an export licence or a certificate of non-protection for movable cultural property".

3. In the box describing the nature of the authorised expenditure, a new paragraph 2 is inserted and reads as follows:

"Acquisition of movable cultural property with a view to their protection."

**Article 30** - This Decree comes into force on 1 January 2023.

We hereby enact this Decree and order it to be published in the Belgian Official Journal.

Brussels, 17 March 2022

The Minister-President,  
P.-Y. JEHOLET

The Vice-Chair and Minister for the Budget, the Civil Service, Equal Opportunities and Supervision of Wallonia-Brussels Education  
F. DAERDEN

The Vice-Chair and Minister for Children, Health, Culture, Media and Women's Rights  
B. LINARD

The Minister for Higher Education, Social Welfare, University Hospitals, Youth Welfare, Centres of Justice, Youth, Sport and the Promotion of Brussels  
V. GLATIGNY

The Minister for Education  
C. DESIR