

Balance of Competences between EU & Member States

DCMS

Submission of Reviewing Committee on the Export of Works of Art

7th August 2013

1. The current system of controlling the Export of Works of Art is derived from both European Union law (which has direct effect in all EU countries, including the UK) and national UK law and there is no distinction between these two systems for the purposes of the Reviewing Committee which advises the Secretary of State on all export licence applications for cultural goods where refusal is suggested on the grounds that the object is a national treasure. By virtue of Article 36 of the Treaty on the Functioning of the European Union far-reaching competences in the field of culture remain with the Member States.
2. From our experience we believe the balance is right, works well and strikes the correct balance between on the one hand ensuring that national treasures can be protected, and on the other enabling owners of cultural goods to establish a free market price for them prior to export and enabling trade in cultural goods to work sensibly. The current balance respects the property rights of individuals, the freedom to buy and sell in the Single Market and does not impose an overly bureaucratic and ineffective system of controls. Examples from our experience can be found in our past annual reports copies of which are available on the Art Council's website at <http://artscouncil.org.uk/what-we-do/supporting-museums/cultural-property/export-controls/reviewing-committee/>.

The categories of cultural goods in the Annex to the 116/2009 Regulation which require export licences is restricted to certain types of objects as is the UK control. This makes it

manageable and workable. The monetary thresholds for the purposes of the UK system are reviewed regularly. There is also a mechanism for the categories and value thresholds in the Annex to the Regulation to be reviewed: we are aware that the Regulation is regularly considered by a committee made up of representatives from all the MS (Article 8) which operates in a consultative capacity to assist the Commission in its implementation of the Regulation and any revision of the Annex. Although there have been revisions to the categories there have been no revisions to the monetary thresholds since the Regulation came into force in January 1993 and given inflation we believe that these monetary value thresholds should be reviewed to avoid the system becoming administratively burdensome not only on those who administer it but also on the stakeholders.

3. The existing system, which is limited in scope by reference to the categories of objects and age and monetary thresholds in the Annex to the 116/2009 Regulation, is capable of being operated by officers who are not cultural goods experts and it is important that this continues to be the case. In view of the great differences between national laws, mutual recognition of prohibitions on dispatch without prior authorization are not a simple matter to agree and we believe that in the context of export controls the current harmonized system works best and is preferable. If mutual recognition is to be contemplated in this area it is imperative that before it is introduced a robust pan-EU electronic licensing/dispatch system and database which integrates with Customs' authorities is in place.