

Belgian Trade Controls on Movable Cultural Goods: Legislation and Competent Authorities

Article 127 of the Belgian Constitution assigns cultural matters to communities.

The Special Law of 8 August 1980¹ transferred competence for cultural heritage to the Communities and the Special Law of 8 August 1988² transferred competence for monuments and sites to the Regions.

Therefore, in Belgium, **movable cultural heritage** falls within the powers of the three Belgian communities (Flemish, French and German-speaking) while the powers to regulate **immovable cultural heritage** belong to the Regions (Flanders, Wallonia and Brussels). An exception has been established for the Brussels Region, which holds, since 2014 the powers to regulate the protection of both immovable and movable cultural goods (but no specific legislation has been adopted yet by the Region).

For the French-speaking Community, to be classified as cultural good (including a narrower category of “treasures”) the object has to meet thresholds of age and value that differ according to the type of good (paintings, books, photography, etc) similar to those set out in the Annex to the European Union Regulation 116/2009 on the export of cultural goods.

The classification of cultural goods is done by the French Community Government, which is advised by a consultative commission for the movable cultural property (*Commission consultative du patrimoine culturel mobilier*).

For the Flemish-speaking Community, the protection extends to movable goods and collections that are rare and indispensable because of their exceptional archaeological, historical, cultural-historical, artistic or scientific importance for the Flemish community (then becoming a ‘topstuk’). It is up to the Flemish Community Government to register cultural property items worthy of protection (‘topstukken’) on the list of the movable cultural heritage of the Flemish Community, although a good or collection can qualify as topstuk even if not included in the list.

The German-speaking Community Government keep an inventory of the “precious movable cultural property” and determines the criteria for inscription. Each listed cultural property is identified by a symbol whose content is determined by the Government.

For the export from the European customs territory of registered cultural objects located in the territory of the German-speaking Region, the provisions of Regulation (EC) No 116/2009 apply. The export authorization may only be granted by the Government for registered cultural property whose export has previously been authorised.

¹ 8 AOÛT 1980. - Loi spéciale de réformes institutionnelles, Moniteur belge, 15/08/1980, p. 9434. Available on: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&table_name=loi&cn=1980080802.

² 8 AOÛT 1988. – Loi modifiant la loi spéciale du 8 août 1980 de réformes institutionnelles, Moniteur belge, 13/08/1988, p. 11367. Available on: <https://wallex.wallonie.be/PdfLoader.php?type=doc&linkpdf=3125-2458-1418>.

COMPETENT AUTHORITY	Fédération Wallonie-Bruxelles (French speaking Community Government)	Flanders Community Government	German speaking Community Government (Ostbelgien)
REGION(S) CONCERNED	Wallonia and Brussels-Capital Region	Flanders and Brussels-Capital Region	
LEGISLATION	<ul style="list-style-type: none"> • Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods³ • European Directive 2014/60 on the return of cultural objects unlawfully removed from the territory of a Member State⁴ • Decree of the French Community of 11 July 2002⁵ 	<ul style="list-style-type: none"> • Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods • European Directive 2014/60 on the return of cultural objects unlawfully removed from the territory of a Member State • Decree of the Flemish Community of 24 January 2003 as amended⁶ 	<ul style="list-style-type: none"> • Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods • European Directive 2014/60 on the return of cultural objects unlawfully removed from the territory of a Member State • Decree of the German-Speaking Community of 20 February 2017⁷

³ Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods (Codified version). OJ L 39, 10.2.2009, p. 1–7. Available on: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32009R0116>.

⁴ Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012 (Recast), OJ L 159, 28.5.2014, p. 1. Available on: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32014L0060>.

⁵ Décret relatif aux biens culturels mobiliers et au patrimoine immatériel de la Communauté française, Moniteur belge, 24.09.2002. Available on: http://www.patrimoineculturel.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=4127475a50901a4d2110ea8b0ad7be1c052235ec&file=fileadmin/sites/colpat/upload/colpat_super_editor/colpat_editor/documents/Decrets/Decret110702.pdf.

⁶ 24 JANVIER 2003. - Décret portant protection du patrimoine culturel mobilier présentant un intérêt exceptionnel, Moniteur belge, 14.03.2003, p. 12329. Available on: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2003012440&table_name=loi.

⁷ 20 FEVRIER 2017. - Décret visant la protection des biens culturels mobiliers particulièrement remarquables, Moniteur belge, 4.04.2017, p. 48920. Available on: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&table_name=loi&cn=2017022019.