Commission Implementing Regulation (EU) No 1081/2012 of 9 November 2012 for the purposes of Council Regulation (EC) No 116/2009 on the export of cultural goods (codification)

[[X1]COMMISSION IMPLEMENTING REGULATION (EU) No 1081/2012

of 9 November 2012

for the purposes of Council Regulation (EC) No 116/2009 on the export of cultural goods

(codification)**]**

[[X1]THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods[(1)], and in particular Article 7 thereof,

Whereas:

(1) Commission Regulation (EEC) No 752/93 of 30 March 1993 laying down provisions for the implementation of Council Regulation (EEC) No 3911/92 on the export of cultural goods[(2)] has been substantially amended several times[(3)]. In the interests of clarity and rationality the said Regulation should be codified.

(2) Provisions are required for the implementation of Regulation (EC) No 116/2009, which provides, inter alia, for the establishment of an export licensing system for certain categories of cultural goods listed in Annex I to that Regulation.

(3) In order to ensure that the export licences provided for by the said Regulation are uniform, rules governing the drawing up, issuing and use of the form are necessary. To that end a specimen licence should be made available.

(4) In order to eliminate unnecessary administrative work, a concept of open licences for the temporary export of cultural goods by responsible persons or organisations for use and/or for exhibition in third countries is required.

(5) Member States that wish to take advantage of such facilities should be able to do so in relation to their own cultural goods, persons and organisations. The conditions to be fulfilled will differ from Member State to Member State. The Member States should be able to opt for the use of open licences or not and lay down the conditions to be met for their issue.

(6) Export licences should be made out in one of the official languages of the Union.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Committee referred to in Article 8 of Regulation (EC) No 116/2009,

HAS ADOPTED THIS REGULATION:

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 1081/2012. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Editorial Information

X1 Substituted by Corrigendum to Commission Implementing Regulation (EU) No 1081/2012 of 9 November 2012 for the purposes of Council Regulation (EC) No 116/2009 on the export of cultural goods (Official Journal of the European Union L 324 of 22 November 2012).

SECTION I

FORM OF LICENCE

Article 1

1 There shall be three types of licences for the export of cultural goods which shall be issued and used in accordance with Regulation (EC) No 116/2009 and with this Regulation:

a the standard licence;

b the specific open licence;

c the general open licence.

2 The use of export licences shall in no way affect obligations connected with export formalities or related documents.

3 Export licence forms shall be provided on request by the competent authority or authorities referred to in Article 2(2) of Regulation (EC) No 116/2009.

Article 2

1 A standard licence shall normally be used for each export subject to Regulation (EC) No 116/2009.

However, each individual Member State concerned may decide whether or not it wishes to issue any specific or general open licences which may be used instead if the specific conditions relating to them are fulfilled as set out in Articles 10 and 13.

2 A specific open licence shall cover the repeated temporary export of a specific cultural good by a particular person or organisation as set out in Article 10.

3 A general open licence shall cover any temporary export of any of those cultural goods that form part of the permanent collection of a museum or other institution, as set out in Article 13.

4 A Member State may revoke any specific or general open licence at any time if the conditions under which it was issued are no longer met. It shall inform the Commission immediately if the licence issued is not recovered and could be used irregularly. The Commission shall immediately inform the other Member States.

5 Member States may introduce whatever reasonable measures they deem necessary in their national territory to monitor the use of their own open licences.

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 1081/2012. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SECTION II

THE STANDARD LICENCE

Article 3

1 Standard licences shall be issued on the form, a model of which is set out in Annex I. The form shall be printed on white paper without mechanical pulp, dressed for writing purposes and weighing not less than 55 g/m^2.

2 Forms shall measure 210 × 297 mm.

3 Forms shall be produced in printed or electronic form and filled out in an official language of the Union designated by the competent authorities of the issuing Member State.

The competent authorities of the Member State in which the form is presented may ask for it to be translated into the language, or one of the official languages, of that Member State. In this case, the translation costs shall be met by the licence holder.

4 Member States shall be responsible:

a for having the forms printed, bearing the printer's name and address or identifying mark;

b for taking any measure necessary in order to avoid the forging of forms. The means of identification adopted by Member States for this purpose shall be notified to the Commission, for communication to the competent authorities of the other Member States.

5 Forms shall preferably be filled in by mechanical or electronic means. However, the application may be filled in legibly by hand; in the latter case it shall be written in ink and in block capitals.

Whatever the process used, forms shall not contain erasures, overwritten words or other alterations.

Article 4

1 Without prejudice to paragraph 3, a separate export licence shall be issued for each consignment of cultural goods.

2 For the purposes of paragraph 1, a consignment shall mean either a single cultural object or a number of cultural objects.

3 Where a consignment consists of a number of cultural objects, it is for the competent authorities to determine whether one or several export licences should be issued for the consignment in question.

Article 5

The form shall comprise three sheets:

(a) one sheet, marked as No 1, which shall constitute the application;

(b) one sheet, marked as No 2, for the holder;

(c) one sheet, marked as No 3, which shall be returned to the issuing authority.

Article 6

1 The applicant shall complete boxes 1, 3, 6 to 21, 24 and, if necessary, 25 of the application and the other sheets, except where pre-printing of the box or boxes is authorised.

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 1081/2012. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

However, Member States may provide that only the application need be completed.

2 The application shall be accompanied by:

a documentation providing all relevant information on the cultural object(s) and its (their) legal status at the time when the application is made, by means of any supporting documents (invoices, expert appraisals, etc.) where appropriate;

b a duly authenticated photograph or, where appropriate and at the discretion of the competent authorities, photographs in black and white or in colour (measuring at least 8 cm by 12 cm) of the cultural goods in question.

This requirement may be replaced, where appropriate and at the discretion of the competent authorities, by a detailed list of the cultural goods.

3 The competent authorities may require, for the purposes of issuing an export licence, the physical presentation of the cultural goods to be exported.

4 Any costs incurred by the application of paragraphs 2 and 3 shall be met by the applicant requesting the export licence.

5 In order that an export licence may be granted, the duly completed form shall be presented to the competent authorities designated by the Member States pursuant to Article 2(2) of Regulation (EC) No 116/2009. When the authority has granted the export licence, sheet 1 shall be kept by that authority and the remaining sheets shall be returned to the holder of the export licence or to his authorised representative.

Article 7

The following shall be presented in support of the export declaration:

(a) the sheet for the holder;

(b) the sheet to be returned to the issuing authority.

Article 8

1 The customs office responsible for handling the export declaration shall ensure that the entries on the export declaration or, if applicable, the ATA carnet, correspond to the entries on the export licence and that a reference to the export licence is entered in box 44 of the export declaration or on the counterfoil of the ATA carnet.

It shall take suitable measures for identification purposes. The measures may consist in the affixation of a seal or stamp of the customs office. The sheet of the export licence form which is to be returned to the issuing authority shall be attached to copy 3 of the single administrative document.

2 After completing box 23 in sheets 2 and 3, the customs office authorised to accept the export declaration shall return to the declarant or to his/her authorised representative the sheet intended for the holder.

3 The sheet of the licence form, which is to be returned to the issuing authority, must accompany the consignment to the customs office at the point of exit from the customs territory of the Union.

The customs office shall affix its stamp to box 26 of the form and return it to the issuing authority.

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 1081/2012. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 9

1 The period of validity of export licences shall not exceed 12 months from the date of issue.

2 In the case of an application for temporary exportation, the competent authorities may specify the time limit within which the cultural goods must be reimported into the issuing Member State.

3 Where an export licence expires without having been used, the holder shall immediately return to the issuing authority the sheets in his possession.

SECTION III

SPECIFIC OPEN LICENCES

Article 10

1 Specific open licences may be issued for a specific cultural good which is liable to be temporarily exported from the Union on a regular basis for use and/or exhibition in a third country. The cultural good must be owned by, or be in the legitimate possession of, the particular person or organisation that uses and/or exhibits the good.

2 A licence may only be issued provided the authorities are convinced that the person or organisation concerned offers all the guarantees considered necessary for the good to be returned in good condition to the Union and that the good can be so described or marked that there will be no doubt at the moment of temporary export that the good being exported is that described in the specific open licence.

3 A licence may not be valid for a period that exceeds five years.

Article 11

The licence shall be presented in support of a written export declaration or be available in other cases for production with the cultural goods for examination upon request.

The competent authorities of the Member State in which the licence is presented may ask for it to be translated into the language, or one of the official languages, of that Member State. In that case, the translation costs shall be met by the licence holder.

Article 12

1 The customs office authorised to accept the export declaration shall ensure that the goods presented are those described on the export licence and that a reference is made to that licence in box 44 of the export declaration if a written declaration is required.

2 If a written declaration is required then the licence must be attached to copy 3 of the single administrative document and accompany the good to the customs office at the point of exit from the customs territory of the Union. Where copy 3 of the single administrative document is made available to the exporter or his representative, the licence shall also be made available to him for use on a subsequent occasion.