

The Art Business Conference

4 September 2019

Export Licensing

Case Study



Pontormo, *Portrait of a Young Man in Red Cap* (1530). Courtesy of the UK Department for Culture, Media and Sport.

Facts:

- Formerly on loan to the National Gallery. Various assurances given that the owner would not sell the painting while on public loan. Sold to well-known US Collector, who applied for an export licence. Deferred and refused by the Reviewing Committee of the Export of Works of Art and Objects of Cultural Interest while UK institutions were given time to fundraise and make a matching offer. Now on temporary loan at the Getty in Los Angeles.

Questions:

- Where is UK Export control after Pontormo? A new era of risk for dealers and collectors?
- What was the recent DCMS consultation on tightening export controls?
- What does it mean for the UK art market?
- What about the new EU Regulations on the import of non-EU cultural goods?

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Alberto Burri (1915-1995), *Grande legno e rosso*, 1957-1959, 150 x 250 cm., wood, acrylic and combustion on canvas

Facts

In 2018 the Italian-domiciled owner of the painting by Alberto Burri (1915-1995), *Grande legno e rosso*, 1957-1959, 150 x 250 cm., wood, acrylic and combustion on canvas (**Artwork**) consigned the Artwork to an international auctioneer in order to offer it for sale at auction in New York.

Under a new law dated 4 August 2017, the permanent exportation from Italy of artworks made by non-living artists less than 70 years ago does not require an export license. For such works it is sufficient to file a unilateral declaration (*autocertificazione*) with the competent Export Office (1). However, the State is entitled to classify artworks made by a non-living artist between 50 and 70 years prior to the filing date as cultural property if such works present an “exceptional interest” for the completeness and integrity of the national cultural patrimony. The declaration of exceptional interest would prevent the relevant artwork from being permanently exported from Italy any time in the future.

The shipping agent duly filed an *autocertificazione* with the Export Office of Venice (2). The State acknowledged receipt of declaration and did not initiate a proceeding aimed at declaring the Artwork as exceptionally interesting. Consequently, the Artwork left the Italian territory and was offered for sale by auction in New York in November 2018. Following media debate in Italy, the Artwork failed to sell in New York.

Questions

- Has the extension of the time threshold from 50 to 70 years positively affected the Italian art market?
- How did the Italian State administration respond to the reform?
- What are the main issues that face the art market participants dealing with Italy?
- What reasonable regulatory measures should be advocated?
- How do the Italian time (70 years) and monetary (euros 13,500) thresholds interact with the different thresholds of the Regulation (EC) 2009/2016?

1. Before the reform the relevant age threshold was 50 years.

2. The *autocertificazione* is filed online through the platform SUE managed by the Ministry of Cultural Property.