

Export Licensing in Italy and England: The Basics

After the export licensing panel at The Art Business Conference on 4 September in London, it is helpful to summarise some of the discussed procedures, specifically in Italy and England, so that buyers and sellers can become more fluent with the process. Every European country has specific criteria and laws regarding export licensing. Quite rightly, they are concerned with conserving cultural patrimony, both of their native artists and collections amassed by their citizens.

In Italy, the process of applying for an export license for a work that is over seventy years old usually begins when the work arrives in the country. The piece has to be declared to the Ministero dei Beni Culturali at one of the eighteen different export office in the country. It is at this point that the work is issued a *Certificato di Arvenuta Spedizione* or, a “Certificate of Eventual Shipment”. This is a pre-registration with the Ministry and allows the work to legally remain in the country and must be renewed every five years. Once the shipment out of Italy is planned, this temporary license must be changed into an *Attestato di Libera Circolazione*, or a Certificate of Free Circulation. With the issuance of this license, the work is legally allowed to leave the country. This procedure must be followed no matter how lengthy or short the work’s stay in Italy will be.

The greatest concern when dealing with export from Italy is that works can be *notificato*, meaning that they have no domestic license and cannot leave the country. Once this ruling is made, then it cannot be withdrawn, but – unlike many other countries - there is also no obligation for the Italian state to purchase the work. Furthermore, the primary office in a particular city could have different standards for different works of art and many times it is unclear what those criteria are. For example, the Export Office of Venice could grant an *Attestato* for a picture, when perhaps the office of Naples or Genoa would have given a different ruling.

If, however, the work is under seventy years old, the owner must have an *Auto-Certificazione*, or Self-Declaration, which attests to the piece’s existence and its export from the country. This threshold was recently changed from fifty to seventy years old and, while it is too soon to tell how this will affect the Italian market, it does mean that more works will only need the *Auto-Certificazione*, resulting in a reduction of waiting times for the *Attestato*.

Turning to England, if a work is over fifty years old, an applicant has to provide proof that it has been outside of the UK in the last fifty years. This can be done, for instance, with a previous permanent export license from the UK or a license from another country. If it has not been outside of the country within the last fifty years,

then the applicant goes before a committee of experts who give a ruling as to whether or not the piece should be granted the license. This committee considers a series of conditions called The Waverley Criteria and evaluates whether the export of a work would be a misfortune for the country, if it is of great aesthetic significance or if it is exceedingly relevant to a particular branch of art, learning or history. This is meant to be applied to a small number of significant objects, but buyers still do need to educate themselves on what these conditions mean and how they apply to any artwork being considered.

If the committee does decide that the work should remain in England, then it must be purchased by the state or a private collector committed to keeping the work on display for public view. The value at which the work must be purchased is the amount stated on the export license application. It is here that the recent consultation by the Department for Digital, Culture, Media, and Sport shows its relevance. The central issue regards having a legally binding agreement for the purchase price of the work by the state as opposed to the original ‘gentleman’s agreement’.

The fundamental question is: what do export licenses mean for the market, both in England and in other European countries? Ultimately, it forces buyers and sellers to be more informed, which is not necessarily a negative. Specifically in Italy, those applying for licenses must consider the possibility of a decrease of a work’s value because it cannot leave the country and foreign sellers worry about exhibiting pieces in Italy or sending them for restoration. Buyers need to educate themselves on the laws and conditions, what they mean, and how they apply to any artwork being considering. They also need to become vigilant about asking questions regarding the export licenses. Sellers must be aware of any issues surrounding a picture or an object and honestly communicate to the buyer.

Ossad Art Management is a bespoke art registrar consultancy, focusing on the import and export of art from the United Kingdom, the European Union, and the United States. It was founded by Tova Ossad in March 2019 after she realised that there was a lack of specialist art registrar services that could be flexible according to each client’s requirements. She works on the administration of Temporary Admission Accounts, British and European customs procedures, collection management, and planning for the United Kingdom’s exit from the European Union.