

**Act amending the law on the protection of cultural property\***

Date: 31 July 2016

The Bundestag has adopted the following Act with the approval of the Bundesrat:

# **Act on the Protection of Cultural Property**

## **(Cultural Property Protection Act – KGSG)**

### Table of Contents

#### **Chapter 1**

##### **General provisions**

Section 1	Scope
Section 2	Definitions
Section 3	Competent authorities
Section 4	Internet portal on the protection of cultural property

#### **Chapter 2**

##### **Protection of cultural property against removal**

#### Part 1

##### Protecting national cultural property

Section 5	General principles
Section 6	National cultural property
Section 7	Entry in a register of cultural property of national significance
Section 8	Subsequent registration
Section 9	Cultural property owned by churches and religious communities
Section 10	Exceptions from registration of cultural property in the case of loans from abroad and upon return to the federal territory
Section 11	Change of location of registered cultural property
Section 12	Tax privilege for cultural property of national significance; compensation for sale due to economic hardship
Section 13	Deletion of registration

#### Part 2

##### Procedure and obligations to cooperate; publication

Section 14	Registration procedure
Section 15	Obligations to cooperate during the registration procedure
Section 16	Maintaining and publishing the registers of cultural property of national significance
Section 17	Public notice

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\* Article 1 of this Act serves to implement 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).

Part 3

Prohibition of damage and notification requirement

- Section 18 Prohibition of damage
- Section 19 Notification requirements

**Chapter 3**

**Movement of cultural property**

Part 1

General principles

- Section 20 Free movement of cultural property

Part 2

Export

- Section 21 Export ban
- Section 22 Licence for the temporary export of national cultural property
- Section 23 Licence for the permanent export of national cultural property
- Section 24 Exports of cultural property subject to a licence; authorization to issue statutory instruments
- Section 25 General open licence
- Section 26 Specific open licence
- Section 27 Licence for the export of ecclesiastical cultural property

Part 3

Import

- Section 28 Import ban
- Section 29 Exemptions from the import ban
- Section 30 Proving the lawfulness of the import

Part 4

Unlawful movement of cultural property

- Section 31 Unlawful export of cultural property
- Section 32 Unlawful import of cultural property
- Section 33 Seizure of cultural property
- Section 34 Safekeeping of seized cultural property
- Section 35 Revocation of seizure
- Section 36 Handing over of seized cultural property
- Section 37 Confiscation of seized cultural property
- Section 38 Consequences of confiscation; compensation
- Section 39 Costs related to seizure, safekeeping, preservation and handing over

**Chapter 4**

**Requirements related to the placing on the market of cultural property**

- Section 40 Ban on the placing on the market
- Section 41 General due diligence requirements

Section 42	Due diligence requirements related to the placing on the market for commercial reasons
Section 43	Reduced due diligence requirements related to the placing on the market for commercial reasons
Section 44	Increased due diligence requirements related to the placing on the market for commercial reasons
Section 45	Record-keeping and retention requirements
Section 46	Requirement to provide information
Section 47	Legal consequences of violations
Section 48	Inspection rights of the buyer

## **Chapter 5**

### **Return of unlawfully imported cultural property**

#### **P a r t 1**

##### **T h e r i g h t t o c l a i m r e t u r n**

Section 49	Claims for return under public law
Section 50	Claims for return by member states
Section 51	Claims for return due to violation of European Union law
Section 52	Claims for return by states parties
Section 53	Claims for return pursuant to the Hague Convention
Section 54	Civil law to be applied
Section 55	Limitation period of claims for return
Section 56	Commencement of the limitation period
Section 57	Suspension and recommencement of the limitation period and deadline for expiry

#### **P a r t 2**

##### **R e t u r n p r o c e d u r e**

Section 58	Return principle
Section 59	Request for return
Section 60	Colliding requests for return
Section 61	Tasks of the <i>Länder</i>
Section 62	Tasks of the supreme federal authorities
Section 63	Admissibility of return proceedings
Section 64	Costs related to administrative seizure
Section 65	Costs related to return and preservation measures

#### **P a r t 3**

##### **C o m p e n s a t i o n a n d r e i m b u r s e m e n t c l a i m s**

Section 66	Compensation in case of return
Section 67	Amount of compensation
Section 68	Reimbursement claims by requesting member states or states parties

## **Chapter 6**

### **Return of unlawfully exported cultural property**

Section 69	Claim for return from member states
Section 70	Claim for return from states parties

- Section 71 Costs
- Section 72 Ownership of returned cultural property

### **Chapter 7**

#### **Immunity from seizure**

- Section 73 Legally binding commitment to return cultural property in international lending
- Section 74 Issuing a legally binding commitment to return cultural property
- Section 75 Extension
- Section 76 Effect

### **Chapter 8**

#### **Data protection; joint procedure; customs**

- Section 77 Collecting and processing information, including personal data
- Section 78 Transfer of information, including personal data, to the competent authority
- Section 79 Joint procedure of the Federation and the *Länder*
- Section 80 Transfer of information, including personal data, to member states and states parties
- Section 81 Assistance of customs authorities; stopping cultural property
- Section 82 Obligation to declare imports and exports of cultural property from and to third countries

### **Chapter 9**

#### **Provisions on criminal and administrative sanctions**

- Section 83 Criminal provisions
- Section 84 Provisions on administrative fines
- Section 85 Confiscation and extended forfeiture
- Section 86 Special requirement for exploitation of cultural property
- Section 87 Tasks and competences of the customs authorities
- Section 88 Criminal and administrative fine proceedings

### **Chapter 10**

#### **Evaluation; transitional and exclusion provisions**

- Section 89 Evaluation
- Section 90 Continued validity and time limit of previous protection against removal
- Section 91 Exclusion of deviating *Land* law

Chapter 1  
General provisions

Section 1  
**Scope**

The Act shall govern

1. the protection of national cultural property against removal;
2. the import and export of cultural property;
3. the placing on the market of cultural property;
4. the return of unlawfully imported cultural property;
5. the return of unlawfully exported cultural property; and
6. the legally binding commitment to return cultural property in international lending.

Section 2  
**Definitions**

(1) Within the meaning of this Act

1. “archaeological cultural property” shall mean movable objects or aggregates of things which were made or processed by humans or provide information about human life in earlier times, which are or were in the ground or underwater, or for which this can be assumed given the overall circumstances;
2. “export” shall mean removing cultural property from the federal territory;
3. “third country” shall mean any state which is not a member state of the European Union;
4. “possessor” shall mean the person physically holding the cultural property on his own account;
5. “import” shall mean moving cultural property to the federal territory;
6. “holder” shall mean the person physically holding the cultural property for third parties;
7. “Hague Convention” shall mean the Hague Convention of 14 May 1954 for the Protection of Cultural Property in the Event of Armed Conflict (Federal Law Gazette 1967 II, p. 1233, 1235);
8. “country of origin” shall mean a member state or state party where the cultural property was made or which has such a close connection with the cultural property that it protects the cultural property as national cultural property upon removal from its territory;
9. “placing on the market” of cultural property shall mean offering, selling, brokering, distributing, marketing, passing or transferring free of charge for commercial exploitation or otherwise commercially exploiting cultural property on one's own behalf or on behalf of another;
10. “cultural property” shall mean any movable object or aggregates of things of artistic, historical or archaeological value or from other areas of cultural heritage, in particular of paleontological, ethnographic, numismatic or scientific value;

11. “institution preserving cultural property” shall mean any institution in the federal territory whose main purpose is to preserve and maintain cultural property and to ensure public access to this cultural property, in particular museums, libraries and archives;
12. “member state” shall mean any member state of the European Union, except the Federal Republic of Germany;
13. “Protocol to the Hague Convention” shall mean the Protocol to the Convention of 14 May 1954 for the Protection of Cultural Property in the Event of Armed Conflict (Federal Law Gazette 1967 II, p. 1233, 1300);
14. “unlawfully excavated” shall mean excavated in violation of domestic or foreign legislation on the protection of archaeological or paleontological cultural property, in particular without a licence required by such legislation;
15. “return” shall mean moving cultural property to the territory of the requesting state in order to fulfil a claim for the return of cultural property;
16. “aggregate of things” shall mean several related cultural objects, in particular archival holdings, library holdings, estates, collections or parts thereof;
17. “UNESCO Convention” shall mean the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Federal Law Gazette 2007 II, p. 626, 627);
18. the movement of cultural property
  - a) shall be “temporary” if it has been limited from the beginning to a maximum of five years;
  - b) shall be “permanent” if it exceeds a period of five years;
19. “state party” shall mean any state, except the Federal Republic of Germany, which is bound by the UNESCO Convention;
20. “register of cultural property of national significance” shall mean a national register in which a *Land* lists cultural property as being of national significance.
  - (2) Within the meaning of this Act, import and export shall not include
    1. the handing over of cultural property by way of legal assistance within the meaning of Section 66 of the Act on International Cooperation in Criminal Matters [*Gesetz über die internationale Rechtshilfe in Strafsachen*], as promulgated on 27 June 1994 (Federal Law Gazette I, p. 1537), last amended by Article 163 of the ordinance of 31 August 2015 (Federal Law Gazette I, p. 1474);
    2. the return of unlawfully removed cultural property pursuant to Chapter 5; and
    3. the return of cultural property to another country or from a foreign country on the basis of bilateral international agreements.

### Section 3

#### **Competent authorities**

(1) Within the meaning of this Act, competent authorities shall be the competent authorities of the *Länder*, unless this Act provides otherwise. The *Länder* shall appoint the competent authorities by law or statutory instrument.

(2) The central authority of the Federal Republic of Germany within the meaning of Article 4 of 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), corrected by Corrigendum to 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 (OJ L 147, 12.6.2015, p. 24), for contacts and cooperation among member states is the supreme federal authority responsible for culture and the media.

#### Section 4

##### **Internet portal on the protection of cultural property**

(1) The supreme federal authority responsible for culture and the media shall be obliged to establish and maintain a central Internet portal on the protection of cultural property. The Internet portal shall serve in particular to inform the public and to create transparency regarding the protection of cultural property, namely by

1. describing the tasks and objectives of the protection of cultural property;
2. describing national and international legal frameworks for the protection of cultural property;
3. supporting administrative procedures, for example by providing forms and guidelines;
4. providing a database to record protected cultural property; and
5. providing information about competent authorities and points of contact.

(2) Data provision on the Internet shall be ensured by the supreme federal authority responsible for culture and the media and the competent supreme *Land* authorities within their respective responsibility.

(3) The Federation and the *Länder* shall establish an administrative committee to coordinate the fulfilment of major tasks under this Act and to guarantee uniform administrative practice in the *Länder*, in particular to

1. agree on principles of publishing the registers of cultural property of national significance pursuant to Section 16;
2. agree on principles of the joint procedure pursuant to Section 79; and
3. foster cooperation between the Federation and the *Länder*.

In addition, the administrative committee shall advise the supreme federal authority responsible for culture and the media on operating the Internet portal. The administrative committee shall be composed of two representatives of the supreme federal authority responsible for culture and the media and one representative of each *Land*.

(4) The administrative committee shall make its decisions by simple majority. No decisions on issues which do not fall within the responsibilities of the *Länder* under this Act shall be taken if the representatives of the supreme federal authority responsible for culture and the media vote against them. The decisions shall be binding upon all *Länder* if they are made with a majority of three-quarters of the votes cast. A majority vote may be taken in a written procedure unless three-quarters of the members of the administrative committee object.

(5) To clarify further procedural issues and to specify the responsibilities in detail, the administrative committee shall adopt rules of procedure.

## Chapter 2

### Protection of cultural property against removal

#### Part 1

#### Protecting national cultural property

##### Section 5

##### **General principles**

As part of Germany's cultural heritage, national cultural property shall be subject to protection against removal from the federal territory under this Act.

##### Section 6

##### **National cultural property**

(1) National cultural property shall be cultural property which

1. is entered in a register of cultural property of national significance;
2. is publicly owned and part of the collection of a public-law institution preserving cultural property;
3. is owned by and part of the collection of an institution preserving cultural property which largely relies on public funding; or
4. is part of an art collection of the Federation or the *Länder*.

(2) Provided that the competent authority is granted permission by the lender or depositor, cultural property in a public-law institution preserving cultural property or an institution which largely relies on public funding shall temporarily also be considered national cultural property for the period of the loan or deposit contract. The lender or depositor may withdraw such permission at any time. The institution is to inform the lender or depositor about the legal consequences of waiving protection as national cultural property pursuant to Sections 69 and 70. Such protection shall cease with the termination or expiry of the loan or deposit contract.

##### Section 7

##### **Entry in a register of cultural property of national significance**

(1) The supreme *Land* authority shall enter cultural property in a register of cultural property of national significance

1. if it is particularly significant for the cultural heritage of Germany, its *Länder* or one of its historical regions and thus formative for Germany's cultural identity; and
2. if its removal would be a significant loss for Germany's cultural heritage so that keeping it in the federal territory is of outstanding cultural public interest.

Works by living authors or creators may be registered only with their approval.

(2) Aggregate of things which fulfils the criteria under subsection 1 shall be entered in a register of cultural property of national significance pursuant to subsection 1 even if its individual parts do not necessarily fulfil these criteria. Registration shall be allowed even if the aggregate of things

1. is partly destroyed;
2. is kept in different places within the country; or

3. is partly kept abroad.

(3) The supreme *Land* authority of the *Land* where the cultural property is kept upon initiation of the registration procedure shall be responsible for entry in a register of cultural property of national significance. Responsibility shall remain with the supreme *Land* authority until the decision on registration becomes incontestable.

(4) Registration of cultural property owned by the churches or the religious communities recognized as bodies under public law shall be governed by Section 9.

## Section 8

### **Subsequent registration**

(1) The competent supreme *Land* authority may enter cultural property exported in violation of Section 24 in a register of cultural property of national significance even after the export if the requirements pursuant to Section 7 (1) and (2) are fulfilled.

(2) Local responsibility for registration shall depend on the last permanent location in the federal territory. If such location cannot be identified, the supreme federal authority responsible for culture and the media shall appoint the competent supreme *Land* authority. In the process, the supreme federal authority responsible for culture and the media shall take into account the special connection of the cultural property with a *Land* for historical or other reasons.

(3) The competent supreme *Land* authority shall forfeit the right of subsequent entry in a register of cultural property of national significance if it fails to initiate the registration procedure within one year of discovering the unlawful export and the new location.

(4) Upon initiation of the registration procedure, the cultural property pursuant to subsection 1 shall be considered national cultural property until the decision on registration becomes incontestable.

## Section 9

### **Cultural property owned by churches and religious communities**

(1) The churches and the religious communities recognized as bodies under public law may apply to the competent supreme *Land* authority to have cultural property owned by them entered in a register of cultural property of national importance. Section 7 (1) and (2) shall apply accordingly.

(2) When applying for subsequent registration pursuant to Section 8, such application may be filed only within the period specified in Section 8 (3). The competent supreme *Land* authority shall immediately notify the church or the religious community recognized as a body under public law if it becomes aware of circumstances which allow for an application pursuant to subsection 1.

(3) The churches and the religious communities recognized as bodies under public law may file an application with the supreme *Land* authorities to have Section 6 (1) no. 3 apply to individual aggregates of things of its institution preserving cultural property and to the inventory of their liturgical space, provided that public funding is replaced by funding from the churches or religious communities.

## Section 10

### **Exceptions from registration of cultural property in the case of loans from abroad and upon return to the federal territory**

(1) For cultural property formerly located in the federal territory which was located outside federal territory before 6 August 2016 and is intended to be re-imported into the federal territory after 6 August 2016, the competent supreme *Land* authority may, if registration pursuant to Section 7 is possible and upon application by an institution preserving cultural property, assure the owner of the cultural property prior to the import that the cultural property will not be entered in a register of cultural property of national significance pursuant to Section 7, provided that the owner guarantees that the cultural property will for at least five years

1. remain in the federal territory without interruption; and
2. be made available as a loan for public exhibition at the requesting institution or for research purposes.

(2) To grant an assurance, the supreme *Land* authority may require the institution preserving cultural property pursuant to subsection 1 to conclude a contract with the owner of the cultural property on a possible purchase of the cultural property.

(3) The competent supreme *Land* authority shall include subsidiary provisions in the assurance pursuant to subsection 1 to ensure that the requirements of subsection 1 nos. 1 and 2 are met. Additional subsidiary provisions shall be permitted.

(4) The competent supreme *Land* authority may also conclude a public-law contract with the owner on the assurance pursuant to subsection 1.

(5) If cultural property is exported after the agreed period pursuant to subsection 1, it shall not be subject to the licence requirement pursuant to Section 24 (1) no. 2.

(6) If cultural property is exported in violation of the subsidiary provisions to the assurance pursuant to subsection 1 or of the public-law contract concluded pursuant to subsection 4, the cultural property shall be considered unlawfully exported. This shall apply also if, upon export, the owner violates an agreement with the competent authority or with an institution preserving cultural property pursuant to subsection 1.

(7) If a loan contract is concluded between a lender permanently or not only temporarily residing abroad and a domestic institution preserving cultural property, the competent supreme *Land* authority, upon application of the borrower, except where cultural property is re-imported pursuant to subsection 1, may assure the lender in writing prior to the import that no procedure for entry in a register of cultural property of national significance will be initiated for up to six months after the loan contract has ended. Cultural property which is in the country before 6 August 2016 on the basis of a loan contract within the meaning of the first sentence shall also not be subject to Section 7 (1) and (2) for up to six months after expiry of the loan contract. Exports within a period of up to six months after a loan contract pursuant to the first and second sentence has ended shall not be subject to the licence requirement pursuant to Section 24 (1) no. 2.

## Section 11

### **Change of location of registered cultural property**

(1) If cultural property entered in a register of cultural property of national significance is moved from one *Land* to another *Land* for less than one year, the entry in the register of cultural property of national significance shall remain valid.

(2) If cultural property entered in a register of cultural property of national significance is moved from one *Land* to another *Land* for more than one year, it shall be entered in a

register of cultural property of national significance of the *Land* to which it was moved. The direct possessor shall notify the now competent supreme *Land* authority of the change of location and the time of such change of location in writing or electronically.

#### Section 12

##### **Tax privilege for cultural property of national significance; compensation for sale due to economic hardship**

- (1) Cultural property entered in a register of cultural property of national significance shall enjoy tax concessions
  1. pursuant to Section 13 (1) no. 2 (b) (bb) of the Inheritance and Gift Tax Act [*Erbschaftssteuer- und Schenkungsteuergesetz*], as amended by Article 8 of the Act of 31 July 2016 (Federal Law Gazette I, p. 1914); and
  2. pursuant to Section 10g of the Income Tax Act [*Einkommensteuergesetz*], as amended by Article 7 of the Act of 31 July 2016 (Federal Law Gazette I, p. 1914).
- (2) If a permanent export licence pursuant to Section 23 is refused with final and binding effect, and if the owner of the cultural property of national significance is forced to sell it due to economic hardship, the supreme *Land* authority of that *Land* in which the cultural property is located, in consultation with the supreme federal authority responsible for culture and the media, shall seek a fair settlement, taking into account the tax concessions pursuant to subsection 1.

#### Section 13

##### **Deletion of registration**

- (1) If the circumstances which led to the entry of the cultural property in a register of cultural property of national significance have substantially changed, the supreme *Land* authority may delete the registration *ex officio* or upon request of the owner.
- (2) Circumstances shall always be considered to have substantially changed if, in view of deprivation, it has been established with final and binding effect or through final agreement between the stakeholders that the former owner was deprived of the cultural property between 30 January 1933 and 8 May 1945 due to National Socialist persecution and that the cultural property should be exported from the federal territory in order to reconstitute it to former original owners or their legal successors living outside the federal territory.
- (3) If cultural property has been transferred into the register of another *Land* pursuant to Section 11 (2), the supreme *Land* authority shall give the supreme *Land* authority originally responsible for registration the opportunity to comment before deciding on deletion.
- (4) For the procedure to delete the registration, Section 14 (1) to (5) shall apply accordingly.

#### Part 2

##### **Procedure and obligations to cooperate; publication**

#### Section 14

##### **Registration procedure**

- (1) The procedure for entry in a register of cultural property of national significance shall be initiated *ex officio* or upon request of the owner. The application shall be filed with

the supreme *Land* authority and shall include the following information:

1. the name of the cultural property;
2. the name and address of the owner and of the possessor;
3. the location at the time of the application; and
4. proof of meeting the registration requirements pursuant to Section 7 (1), first sentence, nos. 1 and 2.

(2) The supreme *Land* authorities shall convene expert committees which are not subject to directions. The committees shall be composed of five experts and shall be appointed for five years, with the possibility to be reappointed. Competent persons from institutions preserving cultural property, from research, art and antiquarian book trades, and private collectors shall be considered when appointing experts. Associations and organizations from these areas may suggest persons to be appointed. One competent person shall be appointed at the suggestion of the supreme federal authority responsible for culture and the media. The composition of the *Länder* expert committees shall be published on the Internet portal pursuant to Section 4. Before making a decision, the committees may also hear competent external persons.

(3) Cultural property may be registered only in consultation with the expert committee. The competent supreme *Land* authority shall hear the owner of the cultural property after consulting with the expert committee and before making a decision.

(4) Before deciding on entry in its register of cultural property of national significance, the competent supreme *Land* authority shall give other *Länder* the opportunity to comment if the cultural property has a special connection with these *Länder*, in particular for historical reasons.

(5) In the national interest, the supreme federal authority responsible for culture and the media may also apply for entry in a register of cultural property of national significance.

(6) The registration procedure shall end with the decision of the competent supreme *Land* authority on registration. If such decision is not made within six months after the procedure has started, the procedure shall be deemed to have been terminated without registration. Negotiations of the owner with the competent supreme *Land* authority, appeals filed by the owner during the procedure, and well-founded exceptional cases where external expertise pursuant to subsection 2, seventh sentence, is needed, shall suspend this time limit. The time limit shall also be suspended if the owner fails to comply with the obligations to cooperate pursuant to Section 15 or otherwise delays the procedure. If the procedure has been terminated without registration and if public notice of the termination has been given pursuant to Section 17, a new registration procedure, even in another *Land*, may be initiated only if the circumstances that led to the termination of the procedure have substantially changed.

(7) When able to prove that the cultural property exceeds the age and financial value thresholds of the Regulation referred to in Section 24 (1) no. 1, and explaining his legitimate interest and guaranteeing that the information provided is complete and accurate pursuant to subsection 1, the owner may apply for the competent authority to establish in a binding manner that the requirements for entry in the register of cultural property of national significance are not fulfilled. The competent authority may involve the expert committee convened pursuant to subsection 2. Subsections 4 and 6, fifth sentence, shall apply accordingly. The export of cultural property for which such binding establishment has been made shall not be subject to the licence requirement pursuant to Section 24 (1) no. 2.

## Section 15

### **Obligations to cooperate during the registration procedure**

(1) During the procedure for entry in a register of cultural property of national significance the owner, alternatively the direct possessor, shall be obliged

1. to provide the supreme *Land* authority with the information necessary to identify the cultural property, information on ownership and on the place of storage;
2. to provide the supreme *Land* authority with appropriate pictures of the cultural property, or to allow the competent supreme *Land* authority or a person authorized by the competent supreme *Land* authority to make such pictures; and
3. to grant or delegate to the supreme *Land* authority non-exclusive, permanent, global rights to reproduce and make publicly available the identifying information and pictures in order to use them for the register of cultural property of national significance.

Copyright rules shall remain unaffected.

(2) During the registration procedure, the owner, alternatively the direct possessor, shall be obliged to immediately notify the supreme *Land* authority of any changes to the information provided pursuant to subsection 1, first sentence, no. 1.

## Section 16

### **Maintaining and publishing the registers of cultural property of national significance**

(1) The *Länder* shall maintain their registers of cultural property of national significance according to the joint procedure pursuant to Section 79 (1), first sentence, and shall publish them centrally and for all *Länder* on the Internet portal pursuant to Section 4.

(2) Personal data of the owner or possessor, and the location of the registered cultural property must not be published. This shall not apply if this information is necessary to clearly denominate the cultural property.

(3) Upon publication, the supreme federal authority responsible for culture and the media shall take organizational and state-of-the-art technical measures to ensure that when published, entries remain undamaged, complete and up-to-date and can be attributed to their origin at any time.

(4) Regarding access to a publication, Section 15 (2), first to third sentence, of the E-Government Act [*E-Government-Gesetz*] shall apply accordingly.

(5) The details pertaining to the maintenance and publication of the registers shall be governed by decisions of the administrative committee pursuant to Section 4 (4) which are binding for all *Länder*.

## Section 17

### **Public notice**

(1) The competent supreme *Land* authority shall give public notice of each initiation and each termination of a registration procedure, of each registration, deletion or other change of an entry in a register of cultural property of national significance in the Federal Gazette and shall notify all stakeholders accordingly.

(2) Section 16 (2) shall apply accordingly.

Part 3

Prohibition of damage and notification requirement

Section 18

**Prohibition of damage**

(1) Destroying, damaging or changing the appearance of cultural property entered in a register of cultural property of national significance in a substantial and permanent way shall be prohibited, unless for the purposes of professional conservation and restoration or research on the basis of recognized scientific standards. Section 304 (1) and (2) of the Criminal Code [*Strafgesetzbuch*] shall remain unaffected.

(2) Subsection 1 shall apply also if the procedure to enter cultural property in a register of cultural property of national significance has been initiated.

Section 19

**Notification requirements**

(1) The direct possessor of cultural property entered in a register of cultural property of national significance shall be obliged to immediately notify the competent supreme *Land* authority of any loss, destruction, damage or any change to the appearance of the cultural property in a way which is not trivial and not only temporary. If possession changes, the new, alternatively the former direct possessor, shall be subject to the notification requirement.

(2) If the owner and the direct possessor of the cultural property are not the same person, the notification requirement pursuant to subsection 1 shall alternatively also apply to the owner.

(3) If ownership changes, the new owner of the cultural property, alternatively the former owner, shall be obliged to immediately notify the competent supreme *Land* authority of this change of ownership.

(4) Subsections 1 to 3 shall apply accordingly if the procedure to enter cultural property in a register of cultural property of national significance has been initiated.

Chapter 3

Movement of cultural property

Part 1

General principles

Section 20

**Free movement of cultural property**

Cultural property may be imported, exported and placed on the market unless this Act or any other national legislation such as directly applicable legal acts of the European Union, in particular, provide for bans or restrictions.

Part 2  
Export

Section 21

**Export ban**

Exporting cultural property shall be prohibited if

1. the procedure to enter the cultural property in a register of cultural property of national significance has been initiated and the decision on the registration has not yet become incontestable;
2. the licence required for the cultural property pursuant to Sections 22, 23, 24, 27 (1) to (3) is not available, or if no such licence has been granted pursuant to Sections 25, 26 or 27 (4);
3. the cultural property has been unlawfully imported pursuant to Section 32 (1);
4. the cultural property has been seized pursuant to Section 33 (1); or
5. the cultural property has been stopped pursuant to Section 81 (4).

Section 22

**Licence for the temporary export of national cultural property**

(1) Temporary exports of national cultural property pursuant to Section 6 to a member state or third country shall be subject to a licence.

(2) The licence shall be granted if the applicant guarantees that the cultural property to be exported will be re-imported into the federal territory in undamaged condition and within the period specified.

(3) The supreme *Land* authority of the *Land* in the register of which the cultural property is registered pursuant to Section 6 (1) no. 1 or where the cultural property is located pursuant to Section 6 (1) nos. 2 and 3 at the time of application shall be responsible for granting the licence. If the applicant is a legal person with several company seats, the *Land* where its headquarters are located shall be relevant when it comes to determining local competence. In compliance with *Land* law, the supreme *Land* authority may delegate its competence to another *Land* authority.

(4) The owner or an authorized third party may apply for an export licence.

(5) A licence obtained by threat, bribery or collusion or by furnishing incorrect or incomplete information shall be invalid.

Section 23

**Licence for the permanent export of national cultural property**

(1) Permanent exports of national cultural property pursuant to Section 6 to a member state or third country shall be subject to a licence.

(2) The licence shall be refused where, in consideration of the circumstances of the individual case, there are overriding significant interests of German cultural heritage.

(3) The licence shall be granted if, regarding a case of deprivation, it has been established with final and binding effect, or in a final agreement between those involved, that the cultural property was taken from its previous owner between 30 January 1933 and 8 May 1945 due to National Socialist persecution and is to be exported from the federal territory to

be restituted to its original owners living outside the federal territory or their legal successors outside the federal territory.

(4) The supreme federal authority responsible for culture and the media shall be responsible for granting the licence. Before a decision is made, it shall hear the opinion of the competent supreme *Land* authority and a committee of experts. Regarding the composition of the committee of experts, Section 14 (2) shall apply accordingly. In the event of a change of location pursuant to Section 11 (2), the supreme *Land* authority originally responsible for the registration shall also be heard.

(5) Once the licence has been granted, protection pursuant to Section 6 (1) shall end. The competent supreme *Land* authority shall delete registered cultural property from the register of cultural property of national significance once this cultural property has been exported.

(6) If the application for the permanent export of registered cultural property is rejected, the supreme federal authority responsible for culture and the media shall inform the supreme *Land* authorities consulted pursuant to subsection 4. At the owner's request, the supreme federal authority responsible for culture and the media and the *Land* authorities informed pursuant to the first sentence shall, under the organizational leadership of the Cultural Foundation of the *Länder*, consider the interests of everyone concerned and clarify the conditions deemed appropriate for a possible purchase of the cultural property by or on behalf of an institution preserving cultural property that is located in the federal territory and makes the cultural property publicly accessible. The goal of this clarification process shall be

1. to clarify which institution preserving cultural property has a collection that would be suitable for the cultural property;
2. to determine an appropriate price that gives due regard to the tax advantages of the owner pursuant to Section 12 (1) and other advantages of the owner;
3. to clarify whether and, if so, when and to what extent an institution preserving cultural property pursuant to no. 1 could receive public or private funding to purchase the cultural property;
4. to clarify all other modalities of a possible purchase.

To determine an appropriate price pursuant to the third sentence no. 2, the Cultural Foundation of the *Länder* shall enlist the help of external experts.

(7) Once the conditions of a purchase pursuant to subsection 6 have been clarified, an institution preserving cultural property pursuant to subsection 6 no. 1 may use this as a basis to offer to purchase the cultural property provided that funding is secured. If the owner proves that he or she filed the export application due to economic hardship, the federal and *Land* authorities shall work to ensure that funding for a purchase is secured and that the institution preserving cultural property makes a bid to purchase the cultural property. Section 12 (2) shall remain unaffected.

(8) The owner may accept the bid pursuant to subsection 7 within six months. If the purchase is not concluded, a new export application may be filed no earlier than five years after the previous application was rejected.

(9) In certain individual cases, the supreme federal authority responsible for culture and the media may, at the request of the *Land*, grant a licence pursuant to subsection 1 for future export on the basis of a public-law contract between the owner and the supreme *Land* authority if the conditions referred to in Section 10 (1) nos. 1 and 2 are met for at least 15 years. The supreme federal authority responsible for culture and the media shall require the institution located on federal territory to conclude a contract with the owner of the cultural property on a possible purchase of the cultural property. Additional subsidiary provisions shall be permitted.

(10) Section 22 (4) and (5) shall apply accordingly.

Section 24

**Exports of cultural property subject to a licence;  
authorization to issue statutory instruments**

(1) A licence shall be required for exports

1. to a third country pursuant to the directly applicable 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);
2. to a member state if the cultural property is subject to the criteria pursuant to subsection 2 when being exported to the internal market and if it is not the property of the author or the creator.

(2) Regarding exports to the internal market, the minimum age threshold and twice the minimum threshold for the cultural property's financial value pursuant to Annex I to Council Regulation (EC) No. 116/2009 shall apply with the proviso that, in terms of the categories listed below, the following increased minimum thresholds apply to cultural property pursuant to Annex I, Category A:

1. Number 3: 75 years and €300,000;
2. Numbers 4 and 7: 75 years and €100,000;
3. Numbers 5, 6, 8 and 9: 75 years and €50,000;
4. Number 12: 50 years and €50,000;
5. Number 14: 150 years and €100,000;
6. Number 15: 100 years and €100,000.

Coins shall not be considered archaeological objects falling into Category 1 of Annex I to Council Regulation (EC) No. 116/2009 if a large number of these coins exist, if they are of no relevant informational value to archaeology and if they are not protected as individual objects by a member state. In other cases, the categories pursuant to subsection 2, first sentence, shall apply in the light of the interpretation of the categories listed in Annex I to Regulation (EC) No. 116/2009.

(3) The member of the Federal Government responsible for culture and the media shall be authorized to raise the financial value thresholds to adjust them to price developments in the markets relevant to the categories referred to in subsection 2, first sentence, on the basis of a statutory instrument requiring the consent of the Bundesrat.

(4) The financial value of the cultural property relevant for the licence requirement pursuant to subsection 1 shall correspond to either the price paid within the past three years when the cultural property was bought or sold or, in other cases, to a justified domestic estimated value at the time of the application.

(5) The licence shall be granted if there is no export ban pursuant to Section 21 nos. 1, 3, 4 or 5 at the time of the decision on the application.

(6) The supreme *Land* authority of the *Land* where the cultural property is located at the time of application shall be responsible for granting the licence pursuant to subsection 1 if no other responsibility can be derived from Art. 2 of Regulation (EC) No. 116/2009 in the cases covered by subsection 1 no. 1. The applicant's place of residence or company seat shall be assumed to be the location unless proven otherwise. Section 22 (3), second sentence, shall apply accordingly.

(7) The supreme *Land* authority shall decide on the application for a licence within ten working days of submission of the complete application documents. In compliance with *Land* law, this *Land* authority may delegate its competence to another *Land* authority.

(8) The licence requirement pursuant to subsection 1 no. 2 shall be waived if it can be proved that the cultural property is located on federal territory only temporarily for up to two years. This shall not apply to cultural property that

1. has been unlawfully imported (Section 28); or
2. has been exported without a licence pursuant to subsection 1.

(9) Section 22 (4) and (5) shall apply accordingly.

## Section 25

### **General open licence**

(1) Regarding temporary exports of cultural property, the competent supreme *Land* authority may, upon application, grant an institution preserving cultural property a temporary general licence (general open licence) if this institution regularly exports parts of its collections temporarily for public exhibitions, restoration or research purposes. This general open licence may be subject to subsidiary provisions.

(2) The general open licence may be granted for exports to member states or third countries. Both licences may be granted with one notification.

(3) The applicant shall be required to guarantee that the cultural property to be exported will be re-imported in undamaged condition and within the period specified.

(4) The period of validity of a general open licence must not exceed five years. The competent supreme *Land* authority shall publish those institutions preserving cultural property that have been granted a general open licence on the Internet portal on the protection of cultural property referred to in Section 4.

(5) Parts of the collection of an institution preserving cultural property may be exempted from the general open licence by the competent supreme *Land* authority.

## Section 26

### **Specific open licence**

(1) Regarding regular temporary exports of cultural property, the competent supreme *Land* authority may, upon application, grant the owner or the legal direct possessor a temporary licence related to a specific cultural property (specific open licence) if the cultural property is to be repeatedly used or exhibited abroad.

(2) The specific open licence may be granted for exports to member states or third countries. Both licences may be granted with one notification.

(3) The licence may be granted only if the applicant guarantees that the cultural property to be temporarily exported will be re-imported in undamaged condition and within the period specified.

(4) The period of validity of a specific open licence must not exceed five years.

## Section 27

### **Licence for the export of ecclesiastical cultural property**

(1) Regarding temporary exports of national cultural property owned by a church or a religious community recognized as a body under public law, the church or religious community shall grant the licence pursuant to Section 22 in consultation with the competent *Land* authority.

(2) In procedures for granting a licence pursuant to Section 23 for the permanent export of national cultural property pursuant to Section 6 (1) no. 1 in conjunction with Section 9 (1) which is owned by a church or a religious community recognized as a body under public law, by way of derogation from Section 23 (4), second sentence, only the church concerned or the religious community recognized as a body under public law shall be heard. If the cultural property is national cultural property pursuant to Section 9 (3), the church or religious community shall grant the licence in consultation with the competent supreme *Land* authority.

(3) Churches and the religious communities recognized as bodies under public law may request that the cultural property they own should not require a licence to be exported to a member state pursuant to Section 24 (1) no. 2. In this case, it shall not be possible to subsequently enter the cultural property in the register of cultural property of national significance pursuant to Section 8.

(4) Sections 25 and 26 shall apply to churches and religious communities recognized as bodies under public law and to the institutions and organizations subject to their supervision with the proviso that the licence may be granted only in agreement with the competent church or religious community.

### Part 3 Import

#### Section 28

##### **Import ban**

Importing cultural property shall be prohibited if it

1. has been classified or defined as national cultural property by a member state or a state party and has been removed from the territory of this state under violation of its legislation protecting national cultural property;
2. has been removed under violation of directly applicable legal acts of the European Union which have been published in the Official Journal of the European Union and which limit or prohibit the cross-border removal of cultural property; or
3. has been removed due to an armed conflict under violation of Part I no. 1 of the Protocol to the Hague Convention.

#### Section 29

##### **Exemptions from the import ban**

The import ban shall not apply to cultural property that

1. on 6 August 2016 was lawfully located in the federal territory unless directly applicable legal acts of the European Union provide otherwise; or
2. is to be deposited in the federal territory where it is temporarily stored to protect it against the threats related to an armed conflict within the meaning of Part II no. 5 of the Protocol to the Hague Convention.

#### Section 30

##### **Proving the lawfulness of the import**

Anyone who imports cultural property classified or defined as national cultural property by a member state or state party shall be required to be able to show relevant documents to

prove the lawfulness of the export from the country of origin within the meaning of Section 28 no. 1. Such documents may include export licences granted by the country of origin and other documents in which the country of origin confirms that it was possible to lawfully export the cultural property.

#### Part 4

### Unlawful movement of cultural property

#### Section 31

##### **Unlawful export of cultural property**

(1) The export of cultural property shall be unlawful if it takes place in violation of Sections 21 to 27 or in violation of regulations of the European Union that explicitly limit or prohibit the cross-border removal of cultural property.

(2) The export shall also be deemed unlawful if the cultural property is not re-imported at the end of a period for a lawful temporary export or if subsidiary provisions on granting temporary export licences are violated.

#### Section 32

##### **Unlawful import of cultural property**

(1) The import of cultural property shall be unlawful

1. if the cultural property, when exported from another state, was removed

a) from the sovereign territory of another member state after 31 December 1992, or

b) from the sovereign territory of a state party after 26 April 2007

in violation of the legislation protecting national cultural property applicable in this state;

2. if the import violates Section 28; or

3. if the import violates any other legislation applicable in the Federal Republic of Germany.

(2) If the origin of the cultural property can be traced back to several present-day states and if it is impossible to clearly identify a certain origin, then the cultural property shall be deemed to have been unlawfully imported if, according to the legislation of any of the states in question, the cultural property should not have been exported without an export licence and if such an export licence was not granted.

#### Section 33

##### **Seizure of cultural property**

(1) The competent authority shall be required to seize cultural property

1. if there are reasonable grounds to believe that the cultural property

a) will be exported in breach of a ban pursuant to Section 21; or

b) has been imported in breach of a ban pursuant to Section 28; or

2. if during the import the documents required pursuant to Section 30 are not presented.

(2) Upon seizure of the cultural property, the person previously having custody shall receive a certificate specifying the seized cultural property and the reason for the seizure. If it is not possible to hand out a certificate, the seizure shall be recorded in writing so that it becomes apparent why the certificate was not issued.

(3) Objections and actions against the seizure of the cultural property shall have no suspensive effect. The seizure shall have the effect of a prohibition of disposal within the meaning of Section 136 of the Civil Code [*Bürgerliches Gesetzbuch*]; the prohibition shall also cover dispositions other than disposals.

(4) The competent authority shall immediately inform the supreme federal authority responsible for culture and the media of the seizure of cultural property so that it can perform its tasks pursuant to Section 62.

(5) It shall be prohibited to destroy, damage or change the appearance of seized cultural property in a way which is not trivial and not only temporary.

#### Section 34

##### **Safekeeping of seized cultural property**

(1) The competent authority shall be required to take seized cultural property into safekeeping. It may have the cultural property taken into safekeeping by the person no longer having custody or a third party unless this jeopardizes the purpose of the seizure. In this case, the cultural property may be passed to other persons or institutions only if the competent authority has given its written or electronically transmitted approval.

(2) At the beginning and after the end of the safekeeping, the competent authority or a third party appointed by the competent authority shall record the condition of the seized cultural property.

(3) The measures necessary to preserve the cultural property shall be taken or initiated by the competent authority.

#### Section 35

##### **Revocation of seizure**

- (1) The competent authority shall revoke the seizure of the cultural property if
1. the reasonable grounds referred to in Section 33 (1) no. 1 have ceased to exist;
  2. the requirements referred to in Section 33 (1) no. 1 (a) have ceased to exist;
  3. in the case covered by Section 33 (1) no. 1 (b)
    - a) the requirements of the return claim pursuant to Chapter 5 of this Act are obviously not met; or
    - b) the return claim pursuant to Chapter 5 has expired by limitation;
  4. in the case covered by Section 33 (1) no. 1 (b) the cultural property was seized with regard to a claim arising from Section 50 or Section 52 and
    - a) no request for return pursuant to Section 50 or Section 52 was made within six calendar months of notification pursuant to Section 62 (1) no. 1 or (2) no. 1;
    - b) the requesting member state or state party and the person obligated to return the cultural property have reached an amicable settlement; or
    - c) the decision on the legal action for the return has become incontestable;
  5. in the case covered by Section 33 (1) no. 1 (b) the cultural property was seized with regard to a claim arising from Section 51 and the cultural property will be returned;
  6. in the case covered by Section 33 (1) no. 1 (b) the cultural property was seized with regard to a claim arising from Section 53 (1) and the cultural property will be returned; or

7. as soon as there are, in the case of Section 33 (1) no. 2, no reasonable grounds to believe that the cultural property has been unlawfully imported.

(2) If a member state or state party has already filed a return request pursuant to Section 59 or if it is has been clarified which member state or state party could file such a request, the seizure may be revoked only if this member state or state party has given its approval unless the reason for the seizure is no longer valid.

#### Section 36

##### **Handing over of seized cultural property**

- (1) If the seizure has been revoked, the cultural property shall be handed over
  1. to the possessor in the cases covered by Section 35 (1) no.1 to 3, 4 (a) and no. 7;
  2. to the entitled person in the cases covered by Section 35 (1) no. 4 (b) and (c);
  3. to the member state or state party concerned in the cases covered by Section 35 (1) no. 5; or
  4. to the competent authority of the territory from which it came in the cases covered by Section 35 (1) no. 6.

(2) If the cultural property is handed over to the possessor, the possessor shall be notified of a period for collection. This period shall be sufficiently long. The notification shall also state that the cultural property will be confiscated if it is not collected within this period.

#### Section 37

##### **Confiscation of seized cultural property**

(1) Seized cultural property shall be confiscated by the competent authority if it cannot be delivered to the possessor in the cases covered by Section 36 (1) no. 1 because

1. the possessor is unknown and cannot be identified with a reasonable effort; or
2. the possessor does not collect the cultural property within the period referred to in Section 36 (2), second sentence.

The confiscation order shall be made public pursuant to *Land* legislation and published on the Internet portal referred to in Section 4. The supreme federal authority responsible for culture and the media shall be informed immediately of the confiscation so that it can perform its tasks pursuant to Section 62.

(2) The competent authority may have an institution preserving cultural property take the confiscated cultural property into safekeeping.

#### Section 38

##### **Consequences of confiscation; compensation**

(1) If seized cultural property is confiscated, the *Land* shall possess the cultural property once the confiscation has been ordered and it shall own the cultural property once the order has taken effect. The rights of third parties shall be extinguished once the order has taken effect.

(2) Unless ownership is re-transferred, the *Land* that now owns the cultural property shall, reciprocally and simultaneously against reimbursement of possible compensation for the third party pursuant to subsection 3, pay fair compensation at market value to the owner, whose rights are extinguished with the decision.

(3) If the cultural property was encumbered with the right of a third party that was extinguished with the confiscation, the *Land* that now owns the cultural property shall also fairly compensate the third party in money while giving due regard to the market value.

(4) No compensation shall be granted in the cases covered by subsection 2 if

1. due to the owner's at least grossly negligent behaviour the requirements for the seizure and the requirements for the confiscation of the cultural property were met;
2. the owner knew about the circumstances allowing for the seizure when acquiring the cultural property; or
3. under the circumstances that justified seizure and confiscation, it would be admissible on the basis of other legal regulations to permanently deprive the owner of the cultural property without compensating him.

The first sentence shall not apply if the refusal of compensation would constitute undue hardship.

(5) No compensation shall be granted in the cases covered by subsection 3 if

1. due to the third party's at least grossly negligent behaviour the requirements for the seizure of the cultural property were met;
2. the third party knew about the circumstances allowing for the confiscation when obtaining the right related to the cultural property; or
3. under the circumstances that justified seizure and confiscation, it would be admissible on the basis of other legal regulations to permanently deprive the third party of the right related to the cultural property without compensating him.

The first sentence shall not apply if the refusal of compensation would constitute undue hardship.

(6) The claim for compensation pursuant to subsections 2 and 3 shall expire 30 years after the confiscation order was announced.

## Section 39

### **Costs related to seizure, safekeeping, preservation and handing over**

The costs and expenses necessary for seizure, safekeeping, preservation and handing over of the cultural property shall be borne by the person no longer having custody. Sections 66 through 68 shall remain unaffected. The competent authority shall determine the amount to be reimbursed in a notification.

## Chapter 4

### Requirements related to the placing on the market of cultural property

## Section 40

### **Ban on the placing on the market**

(1) It shall be prohibited to place cultural property on the market that has been lost, unlawfully excavated or unlawfully imported.

(2) Executory contracts and transfer agreements prohibited pursuant to subsection 1 shall be invalid.

(3) Executory contracts and transfer agreements regarding cultural property exported in breach of Section 21 shall be prohibited.

(4) Anyone who has placed the cultural property on the market in violation of the ban pursuant to subsection 1 shall be obliged to compensate the acquirer for the damage and the expenses related to the acquisition and the preservation of the cultural property. This shall not apply if the person who has placed the cultural property on the market proves that he or she is not responsible for the violation.

## Section 41

### **General due diligence requirements**

(1) Anyone who places cultural property on the market shall be obliged to exercise due diligence in checking whether the cultural property

1. has been lost;
2. has been unlawfully imported; or
3. has been unlawfully excavated.

(2) The person placing cultural property on the market shall comply with the general requirements to exercise due diligence pursuant to subsection 1 if a reasonable person might assume that one of the offences referred to in subsection 1 has been committed. This assumption shall be made especially if, during the previous acquisition of the cultural property to be placed on the market,

1. an extremely low price was demanded without further explanation; or
2. the seller demanded cash payment for a purchase price exceeding €5,000.

(3) Exercising due diligence also includes verifying relevant information that can be obtained with reasonable effort or carrying out any other examination that a reasonable person would carry out under similar circumstances related to the placing on the market.

## Section 42

### **Due diligence requirements related to the placing on the market for commercial reasons**

(1) Anyone who places cultural property on the market in conducting his business shall, in addition to the obligations referred to in Section 41, be obliged

1. to establish the name and address of the alienor, deliverer, acquirer or ordering party;
2. to provide a description and an illustration that can be used to establish the identity of the cultural property;
3. to examine the provenance of the cultural property;
4. to examine documents proving the lawful import and export;
5. to examine bans and restrictions regarding import, export and trade;
6. to examine whether the cultural property is registered in publicly accessible registers and databases; and
7. to obtain a written or electronically transmitted declaration of the deliverer or alienor stating that he or she is authorized to have the cultural property at his disposal.

The obligations pursuant to no. 2 of the first sentence shall not affect copyright rules. The obligations pursuant to no. 3 through 6 of the first sentence shall be met in compliance with the reasonable effort and the economic reasonableness, in particular.

(2) The additional due diligence requirements referred to in subsection 1 shall not apply

1. to commercial book trade excluding the antiquarian market; or
2. to commercial trade in visual and audio media.

(3) Furthermore, the additional due diligence requirements referred to in subsection 1 shall not apply to cultural property

1. that does not constitute archaeological cultural property and
2. which has a financial value of no more than €2,500.

Coins shall not be considered archaeological cultural property within the meaning of no. 1 of the first sentence if a large number of these coins exist and if they are of no relevant informational value to archaeology.

The relevant financial value shall be the purchase price or, in other cases, a justified domestic estimated value.

#### Section 43

##### **Reduced due diligence requirements related to the placing on the market for commercial reasons**

Reduced due diligence requirements shall apply if

1. the author or creator of the cultural property places this property on the market; or
2. someone acquired the cultural property directly from its author or creator and places it on the market; or
3. someone places the cultural property on the market on behalf of the author or creator who created it.

In addition to the requirements pursuant to Section 41, reduced due diligence requirements shall include only those requirements referred to in Section 42 (1) no. 1 and 2. Section 42 (2) and (3) shall apply accordingly.

#### Section 44

##### **Increased due diligence requirements related to the placing on the market for commercial reasons**

If cultural property is placed on the market for commercial reasons, the criteria regarding the reasonable effort pursuant to Section 42 (1), third sentence, shall not apply to cultural property

1. if it has been proven or is assumed that this cultural property was taken from its original owner between 30 January 1933 and 8 May 1945 due to National Socialist persecution, unless it was restituted to the original owner or his heirs or they have come to a different final agreement regarding the deprivation;
2. from a member state or state party for which the International Council of Museums has published a red list of endangered cultural property; or
3. that is prohibited by a regulation of the European Union from being imported, exported or placed on the market.

Section 42 (3) shall not apply to cultural property pursuant to the first sentence.

#### Section 45

##### **Record-keeping and retention requirements**

(1) Anyone who places cultural property on the market in conducting a business shall be obliged to keep records of the examinations and facts established referred to in Section 42. Records and documents may be kept and secured electronically.

(2) The person obliged to keep records shall be required to retain the records and the related documents and certificates referred to in subsection 1 for 30 years. Subsection 1, second sentence, shall apply accordingly.

(3) Records referred to in other legislation shall be equivalent to the records referred to in subsection 1 if they correspond to the examinations and facts established pursuant to Section 42 and facilitate the establishment of the cultural property's identity pursuant to Section 42 (1) no. 2 as required in this legislation. Regarding the retention period, subsection 2, first sentence, shall apply.

#### Section 46

##### **Requirement to provide information**

(1) Anyone who places cultural property on the market in conducting a business, shall be obliged to provide, upon request, the competent authority

1. with records pursuant to Section 45, or
2. with information about the data obtained with regard to a cultural property pursuant to Section 41 (1).

The records to be presented pursuant to the first sentence shall be limited to the information necessary for the competent authority to perform its tasks under this Act.

(2) Section 29 of the Trade Regulation Code shall remain unaffected.

#### Section 47

##### **Legal consequences of violations**

If the competent authority has reliable evidence that record-keeping and retention requirements and the requirement to provide information pursuant to Sections 45 and 46 (1) have repeatedly been violated, it shall inform the trade supervisory authority so that this authority can check reliability within the meaning of Section 35 of the Trade Regulation Code [*Gewerbeordnung*].

#### Section 48

##### **Inspection rights of the buyer**

(1) If, under this Act or on the basis of civil law, an acquirer is sued for the return of the cultural property acquired, the acquirer shall have the right to inspect the records referred to in Section 45 and kept by the person who has placed the cultural property on the market pursuant to Sections 42 to 44 if he or she acquired the cultural property after 6 August 2016.

- (2) Subsection 1 shall also apply to cases where out-of-court settlement is sought, if
1. a member state or state party claims return; or
  2. confiscation of this cultural property is claimed due to National Socialist persecution.

## Chapter 5

### Return of unlawfully imported cultural property

#### Part 1

#### The right to claim return

##### Section 49

###### **Claims for return under public law**

(1) Claims for return of cultural property pursuant to this Part shall be public-law claims. Civil-law claims shall remain unaffected.

(2) The person obliged to return cultural property shall be the direct possessor, alternatively the direct holder.

##### Section 50

###### **Claims for return by member states**

At the request of a member state, cultural property shall be returned if

1. it was removed from the sovereign territory of a member state after 31 December 1992 in violation of this member state's legislation, and
2. on the basis of national legislation or administrative procedures, it has been classified or defined by the requesting member state, prior to or after its removal, as national cultural property of artistic, historical or archaeological value within the meaning of Article 36 of the Treaty on the Functioning of the European Union.

##### Section 51

###### **Claims for return due to violation of European Union law**

If cultural property has been unlawfully imported in breach of a directly applicable legal act of the European Union published in the Official Journal of the European Union, it shall be returned to the state concerned.

##### Section 52

###### **Claims for return by states parties**

- (1) At the request of a state party, cultural property shall be returned if it
  1. belongs to one of the categories referred to in Article 1 of the UNESCO Convention;
  2. was removed from the sovereign territory of this state party after 26 April 2007 in violation of this state's legislation;
  3. has been classified or declared, prior to its export from the requesting state party, as being significant pursuant to Article 1 of the UNESCO Convention or as being inalienable within the meaning of Article 13 (d) of the UNESCO Convention; and
  4. in terms of its provenance, is to be assigned to the requesting state party, especially if it belongs to the collection of an institution located in the territory of the state party or if an agreement pursuant to Section 60 has been reached.
- (2) If it cannot be clarified whether the cultural property was removed after 26 April 2007, the cultural property shall be assumed to have been removed from the sovereign territory of the state party after this date unless proven otherwise. This assumption can be

refuted only if it is proven that the cultural property was already located in the federal territory, in the single market or in a third country prior to this date. Pursuant to Section 27 (1) of the Administrative Procedure Act [*Verwaltungsverfahrensgesetz*] and pursuant to the administrative procedure acts of the *Länder*, it shall be permissible to make an affirmation in place of an oath to provide evidence pursuant to the second sentence. The authorities referred to in Section 61 (1) no. 7 and Section 62 (2) shall be responsible for administering such an affirmation within the context of the administrative mediation procedure.

(3) If it is proven that the cultural property was located in the federal territory or in the single market prior to 6 August 2016, then, by derogation from subsection 1, Section 6 (2) and Section 10 of the Act on the Return of Cultural Objects [*Kulturgüterrückgabegesetz*] of 18 May 2007 (Federal Law Gazette I, p. 757, 2547) in the version applicable until 5 August 2016 shall apply in terms of the state party's right to claim return and in terms of compensation, respectively.

### Section 53

#### **Claim for return pursuant to the Hague Convention**

(1) Cultural property pursuant to Chapter I Article 1 of the Hague Convention which has been imported in contravention of Section 28 no. 3 due to an armed conflict shall be returned to the competent authority of the territory from which it came pursuant to Part I no. 3 of the Protocol to the Hague Convention after the end of the armed conflict if

1. it was removed after 11 November 1967, and
2. the competent authority of the territory from which it came requests the return.

(2) Cultural property which has been deposited within the meaning of Part II no. 5 of the Protocol to the Hague Convention shall be returned after the end of the armed conflict; the requirements referred to in subsection 1 nos. 1 and 2 do not have to be met in this case.

### Section 54

#### **Civil law to be applied**

(1) The relevant provisions of a member state or state party shall determine the owner of the cultural property that was returned to the sovereign territory of another member state or state party under the provisions of this Act.

(2) Rights that have been acquired due to a contractual disposition or execution of judgment or enforcement of arrest shall not conflict with the obligation to return cultural property.

### Section 55

#### **Limitation period of claims for return**

(1) Claims for return shall not be subject to limitation if they relate to the return of cultural property that

1. belongs to public collections pursuant to Article 2 no. 8 of Directive 2014/60/EU; or
2. is listed in inventories of ecclesiastical or other religious institutions in the member states where it is subject to special protection arrangements under national law.

The claims pursuant to the first sentence shall expire 75 years after they arose. A claim shall not expire pursuant to the second sentence if the requesting member state lays down national provisions stipulating that such claims for return shall not expire.

(2) Except for the cases covered by subsection 1, claims for return shall expire, irrespective of knowledge, 30 years after the unlawful removal of the cultural property from the sovereign territory of the requesting member state or state party.

(3) All other claims for the return of cultural property referred to in this Part shall expire after three years.

#### Section 56

##### **Commencement of the limitation period**

The limitation period shall commence on the date on which the requesting member state or state party learns of the location of the cultural property and the identity of the person obliged to return the cultural property.

#### Section 57

##### **Suspension and recommencement of the limitation period and deadline for expiry**

(1) The provisions governing suspension of the limitation period pursuant to Sections 204, 206 and 209 of the Civil Code and recommencement of the limitation period pursuant to Section 212 of the Civil Code shall apply to the limitation period and deadline referred to in Section 55 (1), second sentence, accordingly.

(2) The limitation period and the deadline referred to in Section 55 (1), second sentence, shall also be suspended due to force majeure for as long as internal unrest, armed conflicts or similar conditions prevent the requesting member state or state party from advancing its claims.

### Part 2

#### Return procedure

#### Section 58

##### **Return principle**

Return may be achieved through an amicable settlement in the administrative mediation procedure or may be pursued through return proceedings initiated by the requesting state.

#### Section 59

##### **Request for return**

The request for return shall be filed

1. with the supreme federal authority responsible for culture and the media for a claim of a member state pursuant to Section 50; or
2. through diplomatic channels with the Federal Foreign Office for claims pursuant to Section 51 to 53.

#### Section 60

##### **Colliding requests for return**

If several member states or states parties file a request for return of the same cultural property and if it is not possible to clarify which member state or state party the cultural property is to be assigned to, it shall be returned only after the agreement of the member states

or states parties concerned has been recorded in writing and the supreme federal authority responsible for culture and the media and the Federal Foreign Office have been informed of this agreement.

## Section 61

### **Tasks of the *Länder***

- (1) The competent authority of a *Land* shall have the following tasks in particular:
  1. undertaking inquiries into cultural property suspected to have been unlawfully removed or unlawfully placed on the market;
  2. undertaking inquiries concerning the owner or the direct possessor of the cultural property in question;
  3. supporting the requesting member state or state party in undertaking inquiries, especially concerning the owner or the direct possessor of the cultural property in question;
  4. conducting or initiating measures preserving the seized cultural property;
  5. conducting measures ensuring that the cultural property is actually returned;
  6. conducting the administrative mediation procedure between the requesting member state and the person obliged to return the cultural property; and
  7. supporting the Federal Government in returning cultural property.

(2) The competent authority shall be obliged to provide support pursuant to subsection 1 no. 3 only if, within six months of notification pursuant to Section 62 (1) no. 1, a member state informs the competent authority that the cultural property falls within the meaning of Article 2 no. 1 of Directive 2014/60/EU. If a member state does not provide this information before the deadline expires, the competent authority shall no longer be obliged to take measures pursuant to subsection 1 nos. 4 and 5.

## Section 62

### **Tasks of the supreme federal authorities**

(1) The supreme federal authority responsible for culture and the media shall have the following tasks:

1. notifying the member state concerned of the discovery and seizure of cultural property suspected to have been unlawfully imported;
2. supporting the administrative mediation procedure between the requesting member state and the person obliged to return the cultural property; and
3. informing the central authorities of the other member states if the requesting member state has taken legal action to have the cultural property returned.

(2) In cooperation with the supreme federal authority responsible for culture and the media, the Federal Foreign Office shall have the following tasks:

1. notifying the state party concerned of the discovery and seizure of cultural property suspected to have been unlawfully imported; and
2. conducting the administrative mediation procedure between the requesting state party and the person obliged to return the cultural property.

Section 63

**Admissibility of return proceedings**

(1) Return proceedings initiated by a requesting member state or state party shall be admissible only if the following documents are attached to the statement of claim:

1. an adequate description of the cultural property including information about
  - a) identity and provenance;
  - b) the actual or presumed date of removal and
  - c) the actual or presumed location in the federal territory;
2. a declaration stating that, under national law or according to administrative proceedings of the requesting member state or state party, the cultural property is national cultural property; and
3. a declaration by the requesting member state or state party that the cultural property has been unlawfully removed from its sovereign territory.

(2) Return proceedings shall not be admissible if removal of the cultural property from the sovereign territory of the requesting member state or state party is no longer deemed unlawful at the time when the proceedings are initiated.

Section 64

**Costs related to administrative seizure**

If the competent authority has seized, pursuant to Section 33, the cultural property about the return of which the court has to decide, the court shall also be required to decide on the costs incurred by the competent authority in seizing the cultural property.

Section 65

**Costs related to return and preservation measures**

(1) The costs incurred in implementing a decision ordering the return of a cultural property shall be borne by the requesting member state or state party.

(2) The costs incurred in conducting or initiating necessary measures to preserve seized cultural property shall be borne by the requesting member state or state party. Section 64 shall apply accordingly.

Part 3

C o m p e n s a t i o n   a n d   r e i m b u r s e m e n t   c l a i m s

Section 66

**Compensation in case of return**

(1) If the direct possessor exercised due diligence when acquiring the cultural property, he or she may refuse to return the cultural property until the requesting member state or state party has awarded him or her fair compensation.

(2) In cases of gratuitous legal succession, both the legal predecessor and the legal successor are required to have exercised due diligence when acquiring the cultural property. If the cultural property was acquired by inheritance, the heir or legatee must allow the deceased person's lack of diligence to be asserted against him or her.

(3) In determining whether the direct possessor exercised due diligence, consideration shall be given to all the circumstances of the acquisition, in particular to

1. the documents about the provenance of the cultural property;
2. the export licence required under the law of the requesting member state or state party;
3. the character of the parties involved in the acquisition of the cultural property;
4. the purchase price;
5. whether the direct possessor consulted the accessible registers of stolen cultural property and any relevant information which he or she could reasonably have obtained; and
6. any other step which a reasonable person would have taken under the same circumstances.

(4) Section 52 (3) shall remain unaffected.

#### Section 67

##### **Amount of compensation**

(1) In determining the amount of compensation, consideration shall be given to the expenses incurred by the person obliged to return the cultural property in

1. acquiring the cultural property and
2. taking the measures necessary to preserve the cultural property.

The compensation must not exceed the expenses. No compensation shall be paid for lost profits.

(2) If the person obliged to return the cultural property continues to own the cultural property after its return, by way of derogation from subsection 1, the requesting member state or state party shall reimburse the person obliged to return the cultural property only for the expenses incurred by the person obliged in believing that he or she was allowed to leave the cultural property in the federal territory.

#### Section 68

##### **Reimbursement claims by requesting member states or states parties**

(1) The requesting member state or state party may demand that the persons who have unlawfully removed cultural property or initiated the unlawful removal of cultural property reimburse it for the costs incurred in the return procedure. Section 840 (1) of the Civil Code shall apply accordingly.

(2) Reimbursement pursuant to subsection 1 shall be claimed in ordinary courts.

#### Chapter 6

##### Return of unlawfully exported cultural property

#### Section 69

##### **Claim for return from member states**

(1) In consultation with the supreme *Land* authority of the *Land* in which the cultural property was permanently located before it was unlawfully exported, the supreme federal authority responsible for culture and the media shall claim return in and under the law of the

member state to which the cultural property has been unlawfully exported. If the last permanent location of the cultural property in the federal territory cannot be identified, the supreme federal authority responsible for culture and the media shall advance the claim.

(2) The supreme federal authority responsible for culture and the media shall immediately inform the competent central authority of the requested member state of its decision to initiate proceedings with the aim of securing the return of the cultural property concerned.

#### Section 70

##### **Claim for return from states parties**

(1) In agreement with the supreme federal authority responsible for culture and the media, the Federal Foreign Office shall claim the return of cultural property that has been unlawfully exported to the sovereign territory of a state party.

(2) Before the supreme federal authority responsible for culture and the media advances the claim, it shall consult the competent supreme *Land* authority of the *Land* in which the cultural property was located before it was unlawfully exported.

#### Section 71

##### **Costs**

(1) The necessary costs and expenses incurred in advancing a claim for return shall be borne by the person who has unlawfully exported the cultural property. Section 840 (1) of the Civil Code shall apply accordingly.

(2) The federal authority claiming the return pursuant to Sections 69 and 70 shall determine the amount to be reimbursed in a notification.

#### Section 72

##### **Ownership of returned cultural property**

The relevant German provisions shall determine the owner of the cultural property that was unlawfully exported and returned to the federal territory.

#### Chapter 7

##### Immunity from seizure

#### Section 73

##### **Legally binding commitment to return cultural property in international lending**

(1) If cultural property from abroad is lent temporarily for a public exhibition or other forms of public presentation, including prior restoration for this purpose, or for research purposes to a scientific institution or an institution preserving cultural property, the supreme *Land* authority may, in consultation with the supreme federal authority responsible for culture and the media, issue a legally binding commitment to return cultural property for the duration of the cultural property's presence in the federal territory. The duration of the legally binding commitment shall not exceed two years.

(2) The supreme *Land* authority of the *Land* in which the borrower's headquarters is located shall be responsible for issuing the legally binding commitment. In the case of several lending places, the authority of the first lending place shall be responsible.

## Section 74

### **Issuing a legally binding commitment to return cultural property**

(1) Upon application by the borrower, the supreme *Land* authority may, in agreement with the supreme federal authority responsible for culture and the media, issue the lender a legally binding commitment to return cultural property before the cultural property is imported. The application may be transmitted in written or electronic form.

(2) The legally binding commitment to return cultural property shall be issued in written form and include the wording “*rechtsverbindliche Rückgabezusage*” (legally binding commitment to return cultural property).

## Section 75

### **Extension**

(1) Upon application by the borrower, the supreme *Land* authority may, in agreement with the supreme federal authority responsible for culture and the media, extend the legally binding commitment to return cultural property. However, the maximum duration of two years must not be exceeded as a result of the extension. In justified exceptional cases, the duration of a stay in the federal territory may be extended to up to four years.

(2) Section 73 (2) shall apply accordingly.

## Section 76

### **Effect**

- (1) The legally binding commitment to return cultural property shall have the effect that
1. no conflicting third-party rights to the cultural property may be asserted against the lender’s right to the return of the cultural property;
  2. a procedure for entry in the register of cultural property of national significance cannot be initiated.

The legally binding commitment to return cultural property may not be cancelled, withdrawn or revoked and shall be immediately enforceable for the time the cultural property is located in the federal territory.

(2) Before the cultural property is returned to the lender – and no longer than the period of the issued legally binding commitment to return – legal action for recovery, arrest, attachment or seizure of the cultural property as well as official acts of enforcement or seizure shall not be permitted pursuant to this Act or any other legal provision.

(3) Exports conducted after the end of the loan contract shall not be subject to the licence requirement pursuant to Section 24.

## Chapter 8

### Data protection; joint procedure; customs

## Section 77

### **Collecting and processing information, including personal data**

(1) The authorities of the Federation and the *Länder* responsible for implementing this Act may collect, process and use information, including personal data, as necessary

1. to fulfil their tasks pursuant to this Act, to provisions under *Land* law on the protection of movable cultural property, to directly applicable acts of the European Union and the European Community which include prohibitions and restrictions; and
  2. to fulfil their tasks pursuant to the ordinance enacted on the basis of this Act.
- (2) The provisions regarding the protection of personal data shall remain unaffected.

#### Section 78

##### **Transfer of information, including personal data, to the competent authority**

(1) Public bodies within the meaning of Section 2 of the Federal Data Protection Act [*Bundesdatenschutzgesetz*] in the version promulgated on 14 January 2003 (Federal Law Gazette I, p. 66), last amended by Article 1 of the Act of 25 February 2015 (Federal Law Gazette I, p. 162) may transfer information, including personal data, to the authority of the Federation or the *Länder* which is competent pursuant to this Act as necessary for this authority to fulfil the tasks referred to in Section 77.

(2) Public bodies shall immediately notify the competent authorities of the Federation and the *Länder* if, in fulfilling their tasks, they become aware of cultural property that was or is to be imported or exported in violation of the import and export provisions.

(3) Giving reference to the relevant statutory provisions, the bodies responsible for instituting and implementing criminal proceedings or fines shall immediately notify the authorities of the Federation and the *Länder* which are competent pursuant to this Act with regard to criminal proceedings or fines related to cultural property which have been instituted or duly settled at the public prosecutor's office, in court or at the administrative authority which is competent for prosecuting the administrative offence and imposing due punishment. The first sentence shall not apply to proceedings instituted for an administrative offence which is punishable by a fine of up to one thousand euros.

(4) If another member state or state party files a request for legal assistance, subsection 3 shall apply accordingly and with the obligation also to notify the supreme federal authority responsible for culture and the media. The latter shall notify the Federal Foreign Office of requests for legal assistance from a state party.

#### Section 79

##### **Joint procedure of the Federation and the *Länder***

(1) The Federation and the *Länder* shall conduct a joint procedure within the meaning of Section 11 of the E-Government Act to ensure comprehensive protection of national cultural property. They shall be authorized to process information, including personal data, under the joint procedure.

(2) Each authority of the Federation and the *Länder* participating in the joint procedure shall be responsible for the lawfulness of its data collection, data processing and data use.

(3) The authorities of the Federation and the *Länder* participating in the joint procedure shall be subject to the Federal Data Protection Act when using the joint procedure. The competent supervisory authority within the meaning of Section 1 (5), second sentence, of the E-Government Act responsible for verifying compliance with data protection regulations in connection with the joint procedure shall be the Federal Commissioner for Data Protection and Freedom of Information. The responsibility of the *Land* Commissioner for Data Protection shall remain unaffected by the responsibility of the Federal Commissioner for Data Protection and Freedom of Information.

(4) In addition to data needed to identify cultural property, personal data of the owner and, if necessary, the possessor of the national cultural property shall also be processed under the joint procedure. In particular, these data shall include their names and addresses.

(5) Details of the joint procedure, in particular the bodies responsible for defining, amending, developing and complying with organizational and technical specifications pursuant to Section 11 (4), first sentence, no. 1 of the E-Government Act, shall be governed by binding decisions of the administrative committee pursuant to Section 4 (4).

#### Section 80

##### **Transfer of information, including personal data, to member states and states parties**

(1) The supreme federal authority responsible for culture and the media shall, upon reasonable request, provide the competent central authorities of a member state –

1. if necessary for their examination – with information on
  - a) whether the requirements for a request for return or for return proceedings are fulfilled; or
  - b) whether the requirements for issuing an export licence pursuant to Regulation (EC) no. 116/2009 are fulfilled; and
2. with information which may help find and return stolen cultural property or cultural property that was unlawfully imported into the federal territory.

In addition to non-personal data, information pursuant to the first sentence nos. 1 and 2 shall include the name and address of the current or previous owners or possessors, if this information is necessary for the examination of the other member state's competent authority.

(2) The Federal Foreign Office shall, upon reasonable request, provide a state party with

1. information on whether the requirements for a request for return or for return proceedings are fulfilled, if this is necessary for the state party's examination; and
2. with information which may help find and return stolen cultural property or cultural property that was unlawfully imported into the federal territory.

(3) Personal data may be transferred to authorities of member states and states parties only if such information is necessary for prosecuting return claims under this Act.

#### Section 81

##### **Assistance of customs authorities; stopping cultural property**

(1) Customs authorities shall assist, within their scope of competence, in supervising the import and export of cultural property which is subject to bans or restrictions pursuant to this Act or an ordinance enacted on the basis of this Act. If necessary to implement this Act or an ordinance enacted on the basis of this Act, customs authorities may transfer information collected in connection with their supervisory activities, including information subject to tax secrecy, to the competent authorities.

(2) The supreme federal authority responsible for culture and the media may transfer concrete risk assessments concerning states, goods or persons to the competent central customs authority.

(3) If supervision by the customs authorities provides indications of a violation of this Act or an ordinance enacted on the basis of this Act, customs authorities shall immediately notify the competent authority of the *Land* in which the cultural property is stopped.

(4) In the case of subsection 3, customs authorities shall stop the goods, their means of transport and packaging as well as the enclosed documents at the risk and expense of the

person importing the cultural property. They may also have a third party take the goods as well as their means of transport and packaging into safekeeping. Section 39 shall apply accordingly.

(5) The customs authority shall release the stopped cultural property, the means of transport and packaging as well as the enclosed documents if the other requirements and formalities for release are fulfilled and

1. the competent authority has notified the customs authority that it has seized the cultural property pursuant to Section 33;
2. the competent authority has notified the customs authority that the cultural property will not be seized; or
3. the competent authority has not notified the customs authority on how to proceed within three working days of notification pursuant to subsection 3; or
4. the competent authority has not notified the customs authority on seizure of the cultural property pursuant to Section 33 within ten working days of notification pursuant to subsection 3.

(6) It shall be prohibited to damage, destroy or change the appearance of cultural property stopped pursuant to subsection 4 in a substantial and permanent way.

## Section 82

### **Obligation to declare imports and exports of cultural property from and to third countries**

- (1) Declaration with the competent customs office shall be required for cultural property
  1. which is to be directly imported from a third country and, for the export from the country of origin, requires a licence from that country; or
  2. which is to be exported to a third country and, for the export from the internal market, requires a licence pursuant to this Act or a directly applicable legal act of the European Union published in the Official Journal of the European Union.
- (2) The declaration is to be made by the person importing or exporting the cultural property. The licences or other documents required for import or export shall be presented when making the declaration.
- (3) Upon request of the competent customs office, the cultural property to be declared shall be presented.

## Chapter 9

### Provisions on criminal and administrative sanctions

## Section 83

### **Criminal provisions**

- (1) Anyone who engages in the following shall be liable to imprisonment not exceeding five years or a fine:
  1. in violation of Section 21 nos. 1, 2, 4 or 5 exports cultural property;
  2. in violation of Section 21 no. 3 exports cultural property which he knows was unlawfully imported pursuant to Section 32 (1) nos. 1 and 2;
  3. in violation of Section 28 imports cultural property which he knows had been removed in violation of legislation referred to in Section 28;

4. in violation of Section 40 (1) places on the market cultural property which was lost or which he knows had been unlawfully excavated or unlawfully imported pursuant to Section 32 (1) nos. 1 or 2; or

5. in violation of Section 40 (3) concludes a contract of obligation or a contract of disposal for cultural property exported through an act referred to in no. 1 or 2.

(2) Anyone who exports cultural property in violation of Article 2 (1) of 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) shall also be subject to punishment.

(3) Anyone who damages, destroys or alters cultural property in violation of Section 18 (1), also in conjunction with subsection 2, shall be liable to imprisonment not exceeding three years or a fine.

(4) The attempt shall be punishable.

(5) In the cases of subsection 1 no. 4,

1. anyone who is motivated by commercial interests; or

2. anyone who acts as a member of a gang which has come together for the purpose of committing such offences on a continuing basis

shall be liable to one to ten years of imprisonment.

(6) Anyone who acts negligently in the cases of subsection 1 no. 1 or subsection 2 in conducting commercial activities shall be liable to imprisonment not exceeding three years or a fine.

(7) In the cases of subsection 1 no. 1, the court may reduce or waive the imposition of the sentence pursuant to Section 49 (1) of the Criminal Code if the perpetrator immediately returns the cultural property to the federal territory.

## Section 84

### **Provisions on administrative fines**

(1) Anyone who engages in the following shall be deemed to have committed an administrative offence:

1. in violation of Section 15 (2) fails to report or does so incorrectly, incompletely or too late;

2. in violation of Section 42 (1), first sentence, no. 1 fails to establish the name or address of a person or fails to do so in good time ;

3. in violation of Section 42 (1), first sentence, no. 2 fails to provide a description or illustration or fails to do so in good time; or

4. in violation of Section 42 (1), first sentence, no. 7 fails to provide a declaration or fails to do so in good time.

(2) Anyone who intentionally or negligently engages in the following shall be deemed to have committed an administrative offence:

1. in violation of Section 30, first sentence fails to carry a document required under that section when importing cultural property which he knows or should have known has been classified or defined as national cultural property by a member state or state party; or

2. in violation of Section 82 (3) fails to present cultural property or fails to do so in good time.

(3) The administrative offence shall be punishable by a fine of up to thirty thousand euros in the cases of subsection 1 nos. 2 to 4, and by a fine of up to one hundred thousand euros in the other cases.

## Section 85

### **Confiscation and extended forfeiture**

(1) If a criminal offence pursuant to Section 83 or an administrative offence pursuant to Section 84 (1) or (2) has been committed, the following objects may be confiscated:

1. objects related to the criminal or administrative offence; or
2. objects generated by an offence or used or intended to be used to commit or prepare an offence.

Section 74a of the Criminal Code and Section 23 of the Act on Regulatory Offences shall apply.

(2) In the cases of Section 83 (5) no. 2 Section 73d of the Criminal Code shall apply.

## Section 86

### **Special requirement for exploitation of cultural property**

(1) Cultural property which pursuant to Section 85 is subject to confiscation or forfeiture may be exploited only with the approval of the competent authority.

(2) Approval may be refused. As a rule, it shall be refused for cultural property

1. which is subject to the export licence requirement pursuant to Section 24 and whose entry in a register of cultural property of national significance is pending;
2. which might be subject to a return claim pursuant to Chapter 5 and for which the limitation period has not yet expired or the claim has not yet ceased to have effect; or
3. whose placing on the market is prohibited pursuant to Section 40 or whose placing on the market is subject to increased due diligence requirements pursuant to Section 44.

(3) Before exploiting cultural property of foreign countries, the Federal Foreign Office and the supreme federal authority responsible for culture and media shall be heard.

(4) Subsections 1 to 3 shall apply also in case of confiscation and forfeiture pursuant to other regulations.

(5) Exploitation of cultural property confiscated by the competent authority pursuant to this Act shall be possible only if the assessment of the requirements pursuant to subsection 2 has been concluded.

## Section 87

### **Tasks and competences of the customs authorities**

(1) In the case of criminal and administrative offences pursuant to Sections 83 and 84, the public prosecutor's office may also require the main customs offices or the Customs Investigation Offices to conduct investigations pursuant to Section 161 (1), first sentence, of the Code of Criminal Procedure [*Strafprozessordnung*] for offences covered by Section 83 (1) nos. 1, 2 or 3 in conjunction with Sections 4 and 6, and for offences covered by Section 83 (2) in conjunction with Section 4. In the cases of the first sentence, the competent administrative authority pursuant to Section 36 (1) no. 2 or Section 36 (2) of the Act on Regulatory Offences

[*Gesetz gegen Ordnungswidrigkeiten*] may also require the main customs offices and the Customs Investigation Offices to conduct investigations.

(2) Section 21 (3) of the Foreign Trade and Payments Act [*Außenwirtschaftsgesetz*] of 6 June 2013 (Federal Law Gazette I, p. 1482), last amended by Article 297 of the ordinance of 31 August 2015 (Federal Law Gazette I, p. 1474), shall apply accordingly.

## Section 88

### **Criminal and administrative fine proceedings**

If criminal offences pursuant to Section 83 fall within the responsibility of a local court, local jurisdiction shall lie with the local court in whose district the regional court is located which has jurisdiction for this district. The *Land* government may enact an ordinance specifying a different local jurisdiction of the local court if deemed useful out of consideration for economic or transport circumstances, the administrative structure or other local necessities. The *Land* government may delegate this authority to the *Land* judicial administration.

## Chapter 10

### Evaluation; transitional and exclusion provisions

## Section 89

### **Evaluation**

The member of the Federal Government responsible for culture and the media shall notify the German *Bundestag* and *Bundesrat* of the application of the Act five years after its entry into force, and of the administrative effort two years after the Act's entry into force.

## Section 90

### **Continued validity and time limit of previous protection against removal**

(1) The register of cultural property of national significance shall include cultural property registered pursuant to the Act to Protect German Cultural Property against Removal [*Gesetz zum Schutz deutschen Kulturgutes gegen Abwanderung*] in the version published on 8 July 1999 (Federal Law Gazette I, p. 1754), last amended by Article 2 of the Act of 18 May 2007 (Federal Law Gazette I, p. 757),

1. in a register of cultural property of national significance; or
2. in a register of archives being of national significance of a *Land*.

(2) The export of the following shall remain subject to a licence until no later than 31 December 2025:

1. works of art which were entered in the register of works of art being of national significance on the basis of the Reich Government Ordinance of 11 December 1919 on the Export of Works of Art [*Verordnung über die Ausfuhr von Kunstwerken*] (Reich Law Gazette I, p. 1961), last extended by the ordinance of 20 December 1932 (Reich Law Gazette I, p. 572), and for which the decision on entry in the register of cultural property of national significance is still pending; and
2. registered cultural property pursuant to the Act of 3 July 1980 on the Protection of Cultural Property [*Kulturgutschutzgesetz*] of the German Democratic Republic (Law

Gazette I, no. 20, p. 191) for which a decision on entry in a register of cultural property of national significance is still pending.

(3) For procedures initiated and published by 6 August 2016 the provisions of the Act to Protect German Cultural Property against Removal in the version published on 8 July 1999 (Federal Law Gazette I, p. 1754), last amended by Article 2 of the Act of 18 May 2007 (Federal Law Gazette I, p. 757, 2547), shall continue to apply until the procedure is completed.

#### Section 91

##### **Exclusion of deviating *Land* law**

*Land* law must not deviate from the regulations of the administrative procedure set out in Sections 7 to 17, 22 to 27, and 73 to 76.