

Art Business  
Intelligence

Oblyon

*Complications in the art trade in  
Spain and Italy*

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- Who we are
  - One stop shop
  - Art Business solutions
- Core Activity: transactions, collection management, completed by legal advice, due diligence, tax structuring
- Strategic positioning: why Spain and Italy?
- Objectives: bring opportunities to International market, professionalise our reality

Interesting facts:

## Global art market in constant growth

Country	Global Market Share 2013	Growth index 2013
USA	38%	+25%
China	38%	+25%
UE	32%	-3%
UK	32%	-2%
Italy	1%	0%

‘Arts Economics, Telaf Art Market Report 2014’

## SPAIN

Legal framework:

Law 16/1985, of 25th June 1985

Royal Decree 111/1986, of 10th January 1986

Export prohibited	Expressly declared part of
Need Authorisation	Items 100+ years or Included in
Export granted at all times	Legally imported
No Authorisation needed	Items 100- years OR 100+ years

## SPAIN

Type of Export Applications:

1. Permanent Export
2. Temporary Export
  - a. with option to sell
  - b. without option to sell

Permanent and Temporary with option to sell:

The declaration of value of the property subject to permanent export or temporary export with option to sell made in the export application has important consequences: firstly, because according to the provisions of Article 33 of the LPHE and Article 50 of RPHE it will be considered as an irrevocable offer for sale to the Administration at the price described in the application.

In these cases, when the export permit is not granted the Administration have a period of 6 months from the refusal to accept the offer to buy. This is a right of first refusal in favour of the State in which a certain doctrinal sector has seen some nuance expropriation. This right of first refusal enables the State to acquire assets of Spanish Historical Heritage in cases in which the holders thereof, where they will perform export, point to a value well below the market value of the property in its application.

Secondly, as stated in the application, the value will normally be considered as the base for export tax imposition - although the administration has the power to verify the actual value if it deems to be necessary.

## ITALY

Legal framework:

Constitution 1948

Civil Code, Section 822

Code of Cultural Heritage and Landscape, 2004 (CCHL)

Declaration of Cultural Interest:

Discretion of Governmental Administration

ITALY

Export prohibited ('Notifica')	Deceased artist, 50+ years, Items
Need Authorisation	Deceased artist, 50+ years, of
No Authorisation needed	Living artist, 50- years

Double Regime:  
Certificate of Free circulation (within EU)  
Export Licence (outside the EU)

Control on export is applied without considering the economical value of an item and by applying absolute discretion to evaluate historical/cultural value.

## Required Reforms to Italian Export System

Extension of value thresholds

Extension of artwork 'age' thresholds

Certificate of Free Circulation: release deadline review

Homogenous administrative export procedure



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