

LEGISLATIVE DECREE 22 January 2004, no. 42

**Code on cultural heritage and landscape, under Article 10 of Law
6 July 2002, no. 137**

In force as of 29-5-2020

**TITLE II
Criminal sanctions
Chapter I
Sanctions on Part Second**

Article 174
Unlawful exit or export

1. Any person who transfers abroad things of artistic, historical, archeological, ethno-anthropological, bibliographical, documentary or archival interest, as well as those indicated in Article 11, paragraph 1, letters f), g) and h), without a document certifying their free movement or an export licence shall be punished by a term of imprisonment of one to four years or a fine of € 258 to € 5,165.

2. The punishment prescribed in paragraph 1 shall also apply to anyone who does not return to the national territory, upon expiry of the relevant time limit, cultural assets whose exit or export has temporarily been authorised.

3. The court shall order the confiscation of the things unless these belong to someone who is not involved in the offence. Confiscation shall take place in compliance with the provisions of the customs regulation on smuggling.

4. If the act is committed by someone who owns a business for the sale or exhibition of things of cultural interest for purposes of trade, the judgment of conviction shall be followed by a disqualification measure under Article 30 of the Criminal Code.

Article 176
Taking unlawful possession of cultural assets owned by the State

1. Anyone who takes possession of the cultural assets referred to in Article 10 owned by the State pursuant to Article 91 shall be punished by a term of imprisonment up to three years and a fine of € 31 to € 516,50.

2. The punishment shall be a term of imprisonment of one to six years and a fine of € 103 to € 1,033 if the fact is committed by someone who has been authorised to do research under Article 89.

Articolo 177
Cooperation in the recovery of cultural assets

1. The penalty applicable to the offences covered by Articles 174 and 176 shall be reduced of one to two thirds when the guilty person plays a crucial or in any case remarkable role by cooperating in the recovery of the assets unlawfully taken away or transferred abroad.

Article 178
Counterfeiting of works of art

1. A term of imprisonment of three months up to four years and a fine of € 103 to € 3,099 shall be imposed on:

a) anyone who, for the purposes of making a profit, counterfeits, alters or reproduces a painting, sculpture or graphic work, or antiques or things of historical and archaeological interest;

b) anyone who, even without participating in counterfeiting, altering or reproducing things, puts on the market counterfeited, altered or reproduced paintings, sculptures, graphic works or antiques or things of historical or archaeological interest, or possesses them to put them on the market, or introduces them to that purpose into the territory of the State, or in any case circulates them pretending they are genuine,

c) anyone who authenticates works or things referred to in letters a) and b) which have been counterfeited, altered or reproduced even though aware of their being fake,

d) anyone who, through other statements, expert's reports, publications, stamps or labels or any other means, certifies or contributes to certifying works or things referred to in letters a) e b), which have been counterfeited, altered or reproduced pretending they are genuine while being aware of their being fake.

2. If the facts are committed while carrying on a trading activity, the sentence shall be increased, and a judgment of conviction shall give rise to disqualification pursuant to Article 30 of the Criminal Code.

3. The judgment of conviction for the offences covered by paragraph 1 shall be published in three newspapers circulating across the whole domestic territory designated by the court and published in three different places. Article 36, paragraph 3, of the Criminal Code shall apply.

4. The confiscation of counterfeited, altered or reproduced works or things indicated in paragraph 1 shall always be ordered unless they are things owned by people who are unrelated to the offence. Confiscated things are prohibited from being sold in sale auctions of *corpora delicti* for an indefinite period of time.

Article 179
Cases of non-punishability

1. The provisions of Article 178 shall not apply to those who reproduce, possess, put on sale or in any case circulate copies of paintings, sculptures or graphic works, or copies (**(or imitations)**) of antiques or things of historical or archaeological interest, expressly declared not to be genuine upon their exhibition or sale through an explanation in writing added to the artwork or the item or, when this is not possible due to the nature or size of the copy or imitation, through a declaration made upon their exhibition or sale. Such provisions shall not equally apply to artistic restoration when this has not been crucial in the reconstruction of the original work of art.