

Granting permission for the protection of loans
under section 6 (2) of the Cultural Property Protection Act
– Information for private lenders and depositors –

The German Act on the Protection of Cultural Property (Cultural Property Protection Act) entered into force on 6 August 2016. Under that Act, you, the lender/depositor of a work, have the right to your loan being covered by its specific protective mechanisms for the duration of the loan to a museum or other institution preserving cultural property in Germany (e.g. a library or archive). The institution must be a public-law institution or largely reliant on public funding. You **must explicitly grant permission** for your loan to enjoy the protection afforded under the Act.

Granting permission for the protection of loans

- **is free of charge,**
- **is revocable at any time and**
- **does not constitute an entry in a register of cultural property of national significance.**

Rather, the legal protection afforded is the same as that afforded to the holdings in the relevant institution preserving cultural property. The aim is to give private loans the same protection for the duration of the loan.

1. Advantages for lenders and depositors

Once permission has been granted for the work in question to be protected, your loan is considered, for the duration of the loan, as equal to the institution preserving cultural property's own holdings, i.e. as national cultural property. Having the status of national cultural property means that extended protective mechanisms under EU and international law apply in the event that the loan is unlawfully removed from Germany, for instance following theft. Both the EU's "Return Directive" and UNESCO's 1970 Convention grant far-reaching entitlements to return in such cases. Germany is responsible for asserting these claims for return abroad on behalf of the owner, i.e. the lender/depositor.

Naturally, ownership-based claims to recovery under civil law continue to apply, although owners must themselves assert these abroad. In addition, these claims generally become statute-barred after 30 years at the latest and lapse immediately in the event of any bona fide change in ownership abroad. The claim for return applicable to national cultural property, by contrast, is a claim under public law which is not barred by any acquisition in good faith made in the interim and can be asserted for a period of 75 years. Your private loans thus enjoy the same level of protection as the institution preserving cultural property's own exhibits.

2. Procedure for granting permission for protection

If you, the lender/depositor, wish to grant permission for protection of a work for the duration of the loan, please fill in and sign the enclosed declaration and return it to the following address (Name and address of the borrowing institution):

We will then forward your declaration to the competent Land (federal state) authority. The granting of permission and the protection afforded do not become effective until the Land authority has received such a declaration. You can withdraw permission, once granted, at any time. You must declare such withdrawal in writing and send it to us. We will forward the withdrawal notice to the competent Land authority. Withdrawal does not become effective until the Land authority is in receipt of the withdrawal notice.

3. Procedure for and legal consequences of waiving the right to protection

Should you, the lender or depositor, not wish to grant permission for the work to be protected, please confirm that we have drawn your attention to the legal possibility of such protection. This is important so as to ensure that it is clear that you are waiving the far-reaching claims for return under sections 69 and 70 of the Cultural Property Protection Act as well as the concomitant advantages (see 1. above). Please tick the appropriate box in the enclosed declaration (see page 4) to confirm that you have been made aware of the legal consequences of waiving this right, and then return the form to us after signing it. The declaration will not be sent to the competent Land

authority but will remain with us, the borrowing institution. You may still grant permission for the work to be protected at any point in the future.

4. End of protection

Protection ceases automatically once the term of the loan ends, i.e. as soon as the loan/deposit contract is terminated or expires.

Protection of loans under section 6 (2) of the Cultural Property Protection Act

– Declaration by the lender or depositor –

(Lender's or depositor's name and address)

“Lender”

and

(Borrowing institution's name and address)

“Borrowing Institution”

concluded a loan/deposit contract

for the period _____ to _____

for an indefinite period

on (date of the contract) _____ .

I have been informed by the Borrowing Institution about the legal consequences of waiving the right to the loan being protected as national cultural property pursuant to sections 69 and 70 of the Cultural Property Protection Act. I am aware that I may grant permission for the loan to be protected in this way either now (see below; please tick box if appropriate) or at any time in the future.

I hereby declare that I grant permission for the following loan(s) to be protected for the duration of the loan as national cultural property pursuant to section 6 (2) of the Cultural Property Protection Act:

(If necessary, please include a list of the relevant loan(s) on a separate sheet or an extract from the contract.)

I am aware that

- this declaration will be sent to the competent Land authority if permission is granted;
- I may withdraw permission at any time.

Place, date: _____ , _____

Lender's signature: