

## **POLITICAL OPINION**

**calling for the preservation of heritage sectors, in particular stained glass window making, organ building, and the restoration and conservation of historic monuments and buildings, works of art and cultural property, threatened by the ban on lead or the authorisation procedure proposed by the revision of the “REACH” regulation**

The European affairs committee of the French Senate,

Having regard to the Preamble and Article 3 of the Treaty on European Union,

Having regard to Articles 114, 167, 169 and 179 of the Treaty on the Functioning of the European Union (TFEU),

Having regard to the Preamble and Articles 14 and 22 of the Charter of Fundamental Rights of the European Union,

Having regard to the Convention Concerning the Protection of the World Cultural and Natural Heritage, adopted by the Member States of the United Nations Educational, Scientific and Cultural Organization (UNESCO) at its 17<sup>th</sup> General Conference in Paris on 16 November 1972,

Having regard to Regulation (EC) 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) 793/93 and Commission Regulation (EC) 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC,

Having regard to the publication by the European Commission on 14 October 2020 of the New Chemicals Strategy Towards a Toxic-Free Environment, as part of the Green Deal framework,

Having regard to the conclusions of the Council (2018/C460/10) of 21 December 2018 on the 2019-2022 work programme for culture,

Having regard to the initial impact assessment by the European Commission on the forthcoming revision of the REACH Regulation,

Having regard to the document published in English by the European Chemical Agency (ECHA) on 2 February 2022 on its website, entitled *Draft background document for lead, Document developed in the context of ECHA's eleventh recommendation for the inclusion of substances in Annex XIV*,

Having regard to the set of documents published in English by ECHA on 18 March 2022 on its website, under the "Information on chemicals" tab, under the heading *Recommendations for inclusion in the Authorisation List*,

Having regard to Articles R. 4412-149, R. 4412-152 and R. 4412-160 of the French Labour Code,

Having regard to Senate Information Report No. 533 (2015-2016) on the draft European resolution, presented by Mr René Danesi on behalf of the European Affairs Committee, concerning the exemption of crystal from the Directive on the restriction of the use of hazardous substances in electrical and electronic equipment (Directive 2011/65/EU of 8 June 2011), prepared by Mr Jean-François Rapin on behalf of the Senate Regional Planning and Sustainable Development Committee,

Having regard to Senate Information Report No. 426 (2019-2020) on *Mayors and protecting, renovating and enhancing historic architectural heritage*, by Mr Michel Dagbert and Ms Sonia de la Prôvoté on behalf of the Senate Delegation for Local Authorities and Decentralisation,

Having regard to Senate Information Report No. 556 (2021-2022) *New challenges, new issues: an ambitious European strategy for cultural heritage*, by Catherine Morin-Desailly and Louis-Jean de Nicolaÿ on behalf of the European Affairs Committee,

Having regard to Senate Information Report No. 765 (2021-2022) *Religious heritage at risk: the die has not yet been cast*, by

Mr Pierre Ouzoulias and Ms Anne Ventalon on behalf of the Culture, Education and Communication Committee,

Having regard to the opinion of the French Agency for Food, Environmental and Occupational Health & Safety (ANSES) “Referral No. 2013-SA-0042” and the collective expert report *Biological exposure values in the occupational environment: lead and its inorganic compounds* of 11 July 2019,

Having regard to the opinion of ANSES, “Referral No. 2019-SA-0147”, on lead contamination in outdoor public spaces, of 15 January 2020,

Having regard to Material Safety Data Sheet No. 59 “Lead and Mineral Compounds” published on the website of the French National Research and Safety Institute for the Prevention of Occupational Accidents and Diseases (INRS) in March 2020,

Having regard to the study “Lead poisoning in the French population. French human biomonitoring programme, Esteban survey 2014-2016”, published on the French public health agency’s website in March 2020,

Having regard to Technical Leaflet No. 25-2020 of the French Association of Art and Archaeology Restorers (ARAAFU), “Lead in conservation and restoration worksites, proceedings of the one-day workshop of 25 May 2018”,

Having regard to the joint statement on “ECHA’s plan to include lead in the list of substances requiring authorisation (Annex XIV of the REACH Regulation)”, published by the International Council on Monuments and Sites (ICOMOS), the International Council of Museums (ICOM) and the European Confederation of Conservator-Restorers Organisations (ECCO) on 26 April 2022,

Having regard to the Green Paper on European Cultural Heritage, published in February 2022, by Europa Nostra in partnership with ICOMOS and supported by the European Commission and the European Investment Bank,

Whereas the signatories of the Treaty on European Union state in its Preamble that they are “inspired by the cultural, religious and humanistic inheritance of Europe”;

Whereas the Charter of Fundamental Rights of the European Union, in its Preamble, recognises the “spiritual and moral heritage” of the European Union and calls on the Union to preserve and develop the resulting common values, while respecting the cultural diversity of the peoples of Europe;

Whereas the European Union is responsible, with due regard to the principle of subsidiarity, for ensuring “the conservation and safeguarding of cultural heritage” as a shared resource and a common asset of Europeans and for contributing to “the flourishing of the cultures of the Member States while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore”;

Whereas, under the terms of Article 4 of the UNESCO Convention of 17 September 1972, each State Party undertakes to ensure “the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory [...] to the utmost of its available resources”;

Whereas several dozen European cathedrals are included in the UNESCO World Heritage List;

Whereas stained glass windows, but also organs, lead roofs, facings, ornaments and coverings, and the many works of art and cultural property made of lead, occupy a unique place in French and European cultural heritage, most notably within France’s religious buildings, particularly its cathedrals, churches, castles, historic buildings and monuments, museums, public buildings and places of culture;

Whereas stained glass window making, organ building and the restoration of historical monuments and works of art are traditional crafts still practised today, extend far beyond the religious setting and offer many artists, craftsmen and apprentices a wealth of creative opportunities;

Whereas it is in the national interest, particularly in terms of tourist appeal, economic development and social cohesion, to protect, restore, develop and promote this heritage, whose purpose is also to serve as a place of worship;

Whereas those operating in these sectors, whether self-employed, in workshops or in companies, are constantly seeking to improve their manufacturing and restoration processes and adopt new techniques, provided that such techniques are available and meet their quality and performance requirements;

Whereas lead plays an irreplaceable role in creating stained glass windows, organ pipes and other features of built and non-built historical heritage, and whereas there is no suitable substitute in the current state of the art that would eliminate the need for this substance;

Whereas heritage sectors have taken exemplary steps, over and above the French and European legal requirements, to protect craftsmen and workers who come into contact with lead, in particular through the use of personal protective equipment and collective prevention measures detailed in recent reference documents;

Whereas a differentiated approach must be adopted with regard to the regulation of the use of certain chemicals, particularly given the economic and social impact on these sectors, the tonnage used and their ability to adapt to legislative and regulatory changes concerning them;

Whereas there are no scientific studies at this time establishing a direct link between lead poisoning and routine heritage restoration work or regular visits to heritage sites;

Whereas, in view of their use of lead in the restoration, maintenance and conservation of heritage and cultural property, the economic survival of companies, craftsmen and professionals in the field of heritage conservation, maintenance and restoration, and that of stained glass makers, organists and organ builders and the passing on of their know-how would be directly threatened by the ban on lead or by the authorisation procedure that would result from the new legal treatment of this substance by the European "REACH" regulation as is being proposed at this stage in the revision of this regulation;

Whereas such a ban or authorisation procedure under Annex XIV of the "REACH" Regulation would result in this know-how, stained glass workshops and workshops of other heritage craftsmen

moving to countries outside the European Union, most notably to the United Kingdom;

Whereas such a ban or authorisation procedure, because of the cost and complexity involved for small businesses, would threaten their economic viability and even the long-term survival of their know-how, leading to an irremediable loss in terms of conserving the cultural heritage of our territories, of France and of the European Union;

Emphasises the need to give wide-ranging consideration to heritage as a source of identity and a means of promoting the European Union and its territories;

Considers that such consideration requires the European Commission to make a real effort to work together, so that the considerable political, cultural and symbolic impact of what appear to be technical measures is not overlooked;

Regrets therefore those operating in the French and European heritage sectors are not more involved in discussions prior to any regulatory or legislative changes that could directly threaten their business activities;

Hopes that the grievances raised by these operators will be heard by the Government and the European authorities, so that the proposed revision of the “REACH” Regulation can reflect the pressing need to preserve, restore, develop and promote this cultural heritage;

Asserts that the need to protect European citizens against the harmful effects of certain toxic substances, including lead, must not impede the preservation of French and European cultural heritage in any way;

Calls for multidisciplinary scientific studies to be carried out at the European Union level, through research programmes financed by European funds, to document the health effects of lead in the heritage field;

Urges therefore that heritage uses be exempted or derogated under the REACH Regulation or under any other European legislation that may be put forward to limit the harmful effects of lead for reasons of health protection or workplace prevention, so

that activities relating to the preservation, restoration and creation of stained glass windows, organs and heritage features can continue to use lead under the conditions in which it is currently used;

Encourages the European Commission to make the case for this “cultural exception” in support of heritage, along with its ambitious plans to tackle chemical pollution, particularly in view of the forthcoming Council, which could decide on the new Work Plan for Culture for 2023-2026 and would provide an opportunity to include sustainable heritage as one of the top priorities of this four-year plan;

Considers that there is a need for a comprehensive review of the considerable increase in the scope of delegated legislative and implementing acts and the role of agencies, with a view to ensuring that measures taken in this regard can be effectively monitored for compliance with the principles of subsidiarity and proportionality, and to safeguarding the powers of the European lawmaker on key policy issues.