

PRACTICAL OPERATION OF THE 1995 UNIDROIT CONVENTION

CYPRUS

I. Information regarding the application of the UNIDROIT Convention (referring to the provisions of the Convention)

1. Ratification, approval, acceptance or accession

(a) Is your country a Party to the UNIDROIT Convention? **If so:**

- *Were implementing regulations required, and if so, in respect of which points?*

The Convention was ratified on 1.9.2004. No implementing regulations were required.

- *Did ratification/accession pose any particular difficulties and if so, what were these difficulties, and how were they resolved?*

No particular difficulties were posed

- *Did the use of the legal concepts employed in the Convention create any problems?*

No

2. Definition

In order to benefit from the system set in place by the UNIDROIT Convention, "cultural objects" need not be designated by the State, as is on the contrary required under the 1970 UNESCO Convention.

- *Which is the definition retained in your country's legislation?*

The definition in the Antiquities Law is retained which defines "antiquity" as: antiquity means any object, whether moveable or part of immovable property which is a work of architecture, sculpture, graphic art, painting or generally any form of all which has through human effort been produced, sculptured inscribed or painted or generally made in Cyprus earlier than the year 1850 A.D. in any manner whatsoever and from any material and which has been found, discovered or excavated in Cyprus or recovered from the sea within the territorial waters of Cyprus and includes any such object or part there of which has at a later date been added, reconstructed, readjusted or replaced subsequently. Provided that for works of ecclesiastical or folk art of great archaeological or artistic or historical value, the year 1940 A.D. shall be taken into account in place of the year 1850 A.D. irrespective of the place of manufacture or origin (Antiquities Law Article 2b).

3. Theft

- (a) **How many cultural objects are stolen** in your country each year, and where do most of these thefts occur (percentage) (museums, places of worship, private homes, archaeological sites, ...)?

Thefts occur in the areas occupied by the Turkish troops, which are not under the effective control of the Republic of Cyprus and, to a lesser extent, in churches located in remote areas. In the areas controlled by the Republic of Cyprus, 10 thefts were noted in 2009 and 13 in 2010.

- (b) **Claims for restitution of stolen cultural property** brought under the Convention

- *Has your country (or have any of its nationals) ever brought such a claim for restitution? What results were obtained (please enclose the relevant decision)?*

No claims were brought under this Convention.

- *Has your country (or have any of its nationals) ever been the subject of such a claim for restitution? What results were obtained (please enclose the relevant decision)?*

No

- (d) **Claims for restitution** of stolen cultural property **brought in accordance with other procedures**

- *Has your country (or have any of its nationals) ever brought such a claim for restitution? What was the procedure chosen? What results were obtained?*

The 1970 Convention was used for the return of a hoard of 161 ancient coins, illegally exported to Italy. The request to the Italian authorities was based on Article 3 of the European Convention on Mutual Assistance in Criminal Matters made in Strasbourg on 20 April 1959 which, together with the Additional Protocol to the Convention made in Strasbourg on 17 March 1978, was ratified by the European Convention on Mutual Assistance in Criminal Matters and the Additional Protocol to it (Ratification) Law of 2000, Law No. 2(III) of 2000 of the Republic of Cyprus.

- *Has your country (or have any of its nationals) ever been the subject of such a claim for restitution? What was the procedure chosen? What results were obtained?*

The request of the Russian Authorities to the competent authorities of the Republic of Cyprus for the return of 74 Russian icons was based on the European Convention on Mutual Assistance in Criminal Matters of April 1959 and the bilateral agreement, namely the Treaty of Legal Assistance in Civil and Criminal Cases, between the Union of the Soviet Socialist Republics and the Republic of Cyprus, concluded on 27.03.1987.

(e) A **cultural object that has been unlawfully excavated** (or lawfully excavated but unlawfully retained) shall be **considered stolen** when consistent with the law of the State where the excavation took place (Article 3(2)).

- *Does your legislation provide for State ownership of such objects? Please specify*

Yes. The Constitution of the Republic of Cyprus (Article 23) provides state ownership as follows: "The right of the Republic to underground water, minerals and antiquities is reserved". The Antiquities Law (Part I, Article 3) specifies that "all antiquities lying undiscovered at the time of the coming into operation of this Law, in or upon any land shall be the property of the Government".

- *Has your country encountered difficulties in obtaining recognition of such ownership in restitution proceedings brought before foreign courts? Please provide examples.*

Yes

(f) Claims for restitution of some objects (Article 3(4)) shall not be subject to **time limitations** other than a period of three years, unless a Contracting State makes a declaration to the contrary (Article 3(5)).

- *Does your legislation provide for such a time limitation? If so, what is that limitation and to what type of property does it apply?*

No, Law 183(1) of 2002 on the Return of Cultural Goods specifies that the application for a claim must be filed within a year after the member state has been notified of the area in which the cultural object is found.

- *At the time of ratification/accession, did your country make such a declaration or did it envisage doing so?*

Yes it made a declaration

(g) The concept of "**due diligence**" on the part of the possessor of the cultural object and the criteria applied in determining such (Article 4(1) and 4(4)).

- *Can you indicate any decisions handed down in your country as to the "diligence" exercised, or that should have been exercised, by a possessor (in particular in terms of the character of the parties), and as to the proof adduced?*

The exercise of due diligence is recommended by the Central Authority (Department of Antiquities) in cases where private museums or individuals purchase antiquities abroad or when auction houses have Cypriot objects on sale.

- *Does your country operate a "reasonably accessible register of stolen cultural objects"? Please specify*

Yes, the Department of Antiquities has a digitised register of missing objects and the Cyprus Police have a list of stolen objects.

4. Illegal export

(a) The conventional mechanism is based on breach of **national legislation** prohibiting the export of (certain) cultural objects.

- *Does your country have such legislation and if so, what type of object does it cover (please specify any references, where applicable)?*

Yes, the Antiquities Law, Cap 31 as amended – no person is allowed to export any antiquity without a license from the Department of Antiquities. (Antiquities Law, Article 27.1)

A permit to export antiquities is only allowed:

- a) for the purpose of a temporary exhibition in a museum or institution**
- b) for a long-term loan for the purpose of an exhibition to a museum or a university**
- c) for the study and scientific analysis of excavation material and samples of various findings (Antiquities Law, Article 27.2).**

(b) Article 17 of the Convention requires Contracting States to provide the Depositary with **written information** in one of the official languages of the Convention (English and French) **concerning the legislation regulating the export** of its cultural objects, and to update that information from time to time.

- *Did your country provide the Italian Government (the Depositary of the Convention) with the text of your country's relevant legislation or a summary thereof, within six months of ratification or accession, and has that information been updated since that time?*

Yes

(c) **Requests for the return** of illegally exported cultural objects **brought under the Convention**

- *Has your country (or have any of its nationals) ever brought such a request for the return of an illegally exported cultural object? What results were obtained (please enclose the relevant decision)?*

No

- *Has your country (or have any of its nationals) ever been the subject of such a request for the return of an illegally exported cultural object? What was the procedure chosen? What results were obtained?*

No

(d) Did your country's courts **encounter any difficulties** in applying the concepts enshrined in the Convention (for example, "significantly impairs" an interest, "significant cultural importance") when called upon to apply the UNIDROIT Convention – Article 5(3))?

No

(e) Requests for the return of illegally exported cultural objects in accordance with other procedures

- *Has your country (or have any of its nationals) ever brought such a request for return? What was the procedure chosen? What results were obtained?*

Yes, the 1970 UNESCO Convention. The objects were returned.

- *Has your country (or have any of its nationals) ever been the subject of such a request for return? What was the procedure chosen? What results were obtained?*

Yes, the case of the Russian icons mentioned above. They were returned to Russia.

II. Other legal, judicial and administrative measures taken by States – impact of Convention

1. More favourable rules

(a) The purpose of the Convention is to establish “**common, minimal legal rules** for the restitution and return of cultural objects between Contracting States” (Preamble) and it does not “prevent a Contracting State from applying any rules more favourable” to such restitution or return (Article 9(1)).

- *Does your country apply any other, or more favourable, rules in this field and if so, which?*

It applied the 1970 UNESCO Convention and the Law on the Return of Cultural Goods 183(1) of 2002.

2. Bilateral or multilateral agreements

(a) The Convention “initiates a process that will **enhance international cultural cooperation**” (Preamble) and offers the opportunity to States of entering into “**agreements** with one or more Contracting States, **with a view to improving the application of this Convention in their mutual relations**” (Article 13(2)).

- *Has your country entered into such agreements, or is it planning to do so? Please specify.*

Yes, bilateral agreements on the prevention of illicit trafficking were concluded with the USA, Switzerland, Russia, China, Israel and more such agreements with other third countries are under consideration.

- *If you are a State Party to the UNIDROIT Convention and have entered into such an agreement, did you send a copy of that agreement to the Depositary (please enclose a copy if appropriate)?*

Copies have not yet been provided

3. Impact of the UNIDROIT Convention

(a) Has the adoption of the UNIDROIT Convention resulted in any **practical changes** in the way your country protects its cultural property (whether you are a Contracting State or not)?

- *For example, has the Convention had a positive impact on the fight against illegal trafficking of cultural objects? Has its adoption affected the extent of trafficking in your country or of the transit of such objects through your territory?*

It provides an additional instrument and has a positive impact in the fight against illicit trafficking of cultural objects and it enhances public awareness.

(c) Since the Convention was first adopted, **non-binding instruments** have been developed relating to **"due diligence"**, such as "codes" for art dealers and auctioneers in the United Kingdom, or UNESCO's International Code of Ethics for Dealers in Cultural Property.

- *Does your country have such an instrument? Please specify*

Our country follows a code of "best practice" as defined in UNESCO and EU meetings on the subject of illicit trafficking, emanating from Conventions or Directives, in which we are participating.

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