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INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

COMMITTEE OF GOVERNMENTAL EXPERTS
ON THE INTERNATIONAL PROTECTION OF CULTURAL PROPERTY

Council Directive 93/7/EEC
of 15 March 1993
on the return of cultural objects unlawfully removed
from the territory of a Member State

Rome, May 1993

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE 93/7/EEC

of 15 March 1993

on the return of cultural objects unlawfully removed from the territory of a Member State

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Article 8a of the Treaty provides for the establishment, not later than 1 January 1993, of the internal market, which is to comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaty;

Whereas, under the terms and within the limits of Article 36 of the Treaty, Member States will, after 1992, retain the right to define their national treasures and to take the necessary measures to protect them in this area without internal frontiers;

Whereas arrangements should therefore be introduced enabling Member States to secure the return to their territory of cultural objects which are classified as national treasures within the meaning of the said Article 36 and have been removed from their territory in breach of the abovementioned national measures or of Council Regulation (EEC) No 3911/92 of 9 December 1992 on the

export of cultural goods ⁽⁴⁾; whereas the implementation of these arrangements should be as simple and efficient as possible; whereas, to facilitate cooperation with regard to return, the scope of the arrangements should be confined to items belonging to common categories of cultural object; whereas the Annex to this Directive is consequently not intended to define objects which rank as 'national treasures' within the meaning of the said Article 36, but merely categories of object which may be classified as such and may accordingly be covered by the return procedure introduced by this Directive;

Whereas cultural objects classified as national treasures and forming an integral part of public collections or inventories of ecclesiastical institutions but which do not fall within these common categories should also be covered by this Directive;

Whereas administrative cooperation should be established between Member States as regards their national treasures, in close liaison with their cooperation in the field of stolen works of art and involving in particular the recording, with Interpol and other qualified bodies issuing similar lists, of lost, stolen or illegally removed cultural objects forming part of their national treasures and their public collections;

Whereas the procedure introduced by this Directive is a first step in establishing cooperation between Member States in this field in the context of the internal market; whereas the aim is mutual recognition of the relevant national laws; whereas provision should therefore be made, in particular, for the Commission to be assisted by an advisory committee;

Whereas Regulation (EEC) No 3911/92 introduces, together with this Directive, a Community system to protect Member States' cultural goods; whereas the date by which

⁽¹⁾ OJ No C 53, 28. 2. 1992, p. 11, and OJ No C 172, 8. 7. 1992, p. 7.

⁽²⁾ OJ No C 176, 13. 7. 1992, p. 129 and OJ No C 72, 15. 3. 1993.

⁽³⁾ OJ No C 223, 31. 8. 1992, p. 10.

⁽⁴⁾ OJ No L 395, 31. 12. 1992, p. 1.

Article 15

This Directive shall be without prejudice to any civil or criminal proceedings that may be brought, under the national laws of the Member States, by the requesting Member State and/or the owner of a cultural object that has been stolen.

Article 16

1. Member States shall send the Commission every three years, and for the first time in February 1996, a report on the application of this Directive.
2. The Commission shall send the European Parliament, the Council and the Economic and Social Committee, every three years, a report reviewing the application of this Directive.
3. The Council shall review the effectiveness of this Directive after a period of application of three years and, acting on a proposal from the Commission, make any necessary adaptations.
4. In any event, the Council acting on a proposal from the Commission, shall examine every three years and, where appropriate, update the amounts indicated in the Annex, on the basis of economic and monetary indicators in the Community.

Article 17

The Commission shall be assisted by the Committee set up by Article 8 of Regulation (EEC) No 3911/92.

The Committee shall examine any question arising from the application of the Annex to this Directive which may be tabled by the chairman either on his own initiative or at the request of the representative of a Member State.

Article 18

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within nine months of its adoption, except as far as the Kingdom of Belgium, the Federal Republic of Germany and the Kingdom of the Netherlands are concerned, which must conform to this Directive at the latest twelve months from the date of its adoption. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 19

This Directive is addressed to the Member States.

Done at Brussels, 15 March 1993.

For the Council

The President

M. JELVED

ANNEX

Categories referred to in the second indent of Article 1 (1) to which objects classified as 'national treasures' within the meaning of Article 36 of the Treaty must belong in order to qualify for return under this Directive

- A. 1. Archaeological objects more than 100 years old which are the products of:
- land or underwater excavations and finds,
 - archaeological sites,
 - archaeological collections.
2. Elements forming an integral part of artistic, historical or religious monuments which have been dismembered, more than 100 years old.
3. Pictures and paintings executed entirely by hand, on any medium and in any material⁽¹⁾.
4. Mosaics other than those in category 1 or category 2 and drawings executed entirely by hand, on any medium and in any material⁽¹⁾.
5. Original engravings, prints, serigraphs and lithographs with their respective plates and original posters⁽¹⁾.
6. Original sculptures or statuary and copies produced by the same process as the original⁽¹⁾ other than those in category 1.
7. Photographs, films and negatives thereof⁽¹⁾.
8. Incunabula and manuscripts, including maps and musical scores, singly or in collections⁽¹⁾.
9. Books more than 100 years old, singly or in collections.
10. Printed maps more than 200 years old.
11. Archives and any elements thereof, of any kind, on any medium, comprising elements more than 50 years old.
12. (a) Collections⁽²⁾ and specimens from zoological, botanical, mineralogical or anatomical collections;
(b) Collections⁽²⁾ of historical, palaeontological, ethnographic or numismatic interest.
13. Means of transport more than 75 years old.
14. Any other antique item not included in categories A 1 to A 13, more than 50 years old.
- The cultural objects in categories A 1 to A 14 are covered by this Directive only if their value corresponds to, or exceeds, the financial thresholds under B.

B. Financial thresholds applicable to certain categories under A (in ecus)

VALUE: 0 (Zero)

- 1 (Archaeological objects)
- 2 (Dismembered monuments)
- 8 (Incunabula and manuscripts)
- 11 (Archives)

15 000

- 4 (Mosaics and drawings)
- 5 (Engravings)
- 7 (Photographs)
- 10 (Printed maps)

⁽¹⁾ Which are more than fifty years old and do not belong to their originators.

⁽²⁾ As defined by the Court of Justice in its Judgment in Case 252/84, as follows:

'Collectors' pieces within the meaning of Heading No 99.05 of the Common Customs Tariff are articles which possess the requisite characteristics for inclusion in a collection, that is to say, articles which are relatively rare, are not normally used for their original purpose, are the subject of special transactions outside the normal trade in similar utility articles and are of high value.'

50 000

- 6 (Statuary)
- 9 (Books)
- 12 (Collections)
- 13 (Means of transport)
- 14 (Any other item)

150 000

- 3 (Pictures)

The assessment of whether or not the conditions relating to financial value are fulfilled must be made when return is requested. The financial value is that of the object in the requested Member State.

The date for the conversion of the values expressed in ecus in the Annex into national currencies shall be 1 January 1993.
