

# Report on the application of the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

## ARGENTINA

### I. Information on the implementation of the UNESCO Convention of 1970

#### 1. Ratification of the Convention

Argentina ratified the Convention on 11 January, 1973.

#### 2. Implementation in the national legal system and in the organization of services

(a) References of the principal national regulations adopted in order to implement the 1970 Convention.

(b) Definition of “cultural property” used by the national laws

The Convention was ratified under Argentine Law 19943. “Cultural property” is understood in accordance with the 1970 Convention. “Historical and artistic cultural objects” are understood to be those manmade or in conjunction with nature, of irreplaceable character, whose peculiarity, unity, rarity, or antiquity gives them national or universal value from an historical, ethnological, or anthropological point of view.

(c) Specialized units

(d) Administrative coordination

In association with the Secretariat of Culture, the Argentina Committee for the Fight against Illicit Traffic of Cultural Goods was created in 2003, coordinated by the National Directorate of Heritage and Museums. It is composed of many groups, including (but not limited to) international organs of the Ministry of Foreign Relations, the Ministry of Education, the National Commission for UNESCO, the Federal Administration for Public Revenue, the Customs Bureau, INTERPOL, and the National Library.

These administrative organs coordinate to establish procedures to combat illicit traffic, raise public awareness, process the International Council of Museums Red List of cultural objects, maintain up-to-date identifying information on objects, implement training programs through regional workshops, and promote exchange of information within the various groups that comprise the committee. INTERPOL works with the National Center for the Protection of Cultural Heritage on affairs concerning stolen objects. Similarly, border and customs officials work with a specialized service to combat illicit traffic. Regional committees are being set up the country over.

(e) Working meetings

The National Committee convenes twice a month. Between meetings, the committee communicates electronically to exchange information regarding activities, procedures, enquiries, etc.

#### 3. Inventories and identification

(a) Inventories

The Museum Collections Management System is being implemented in the national museums. This tool will provide information for adopting preventive and protective security measures for cultural objects.

(b) Definition of “cultural property” and “national treasures”

With regard to national legislation, no category of “national treasures” is defined. National Law 12665 on cultural heritage does not articulate a hierarchy of objects; rather, all are considered on the same level.

(c) Reference to the Object ID standard

The institutions that use the Object ID are included in the country's inventory systems. Those that do not use a formal inventory system are encouraged to use the Object ID for a complete registry of goods.

#### (d) Systems to combat theft and to train staff

Relevant training and protocols have been developed for the security of various institutions. General procedures manuals are adapted to the specific needs of each institution. Additional security measures are taken in cases of catastrophe and emergency. The National Directorate of Heritage and Museums works with a Security Consultancy group to detect and correct vulnerable areas.

### 4. Archaeological excavations

#### (a) Basic principles of the regulations on archaeological excavations and on the monitoring of excavations in force

Excavations are regulated in accordance with Law 25743, as well as the respective provincial laws. Archaeological objects are the property of the State and the provincial territory they come from, as each jurisdiction has the right to establish internal regulations for archaeological surveys. They evaluate excavation permits, determine requisites for foreign scientific institutions that solicit permits, and coordinate relevant activity with schools and non-profit organizations.

The *National Registry of Archaeological Deposits, Objects, and Collections*, created by the National Institute of Anthropology and Latin American Thought, and the *National Registry of Paleontology*, created by the Argentina Museum of Natural Sciences, centralize provenance data from the 24 jurisdictions.

#### (b) Illegal excavations

Findings suggest that excavations are linked to the value objects can fetch on the international market. Objects are trafficked through auctions and the like, despite valid claims to ownership. It is important that collaboration exists between Latin American countries to verify the purchase and sale of objects outside of their country of origin. National, provincial, and municipal authorities work together and with the various customs and police forces to detect and combat looting.

### 5. Monitoring of the export and import of cultural property

#### (a) Estimate of the scale of the illicit export or import of cultural property (statistics)

To estimate the scale of the illicit export or import of cultural property is risky, as it is based on supposition and comparisons to other crimes. The National Center for the Protection of Cultural Heritage, created by UNESCO, is the authority on reported stolen objects and reports statistics on theft according to the nature and location of the object. It is likely that many stolen objects go unreported.

#### (b) Problem of the illicit export of cultural property

It is important to distinguish the various situations in which illicit exportation may occur: border crossings where control is strained by geographic obstacles, instances of smuggling, regulatory failure, etc. Through training programs for security and customs officials and an improvement in control systems, a greater number of cases of illicit traffic have been detected, especially in air traffic.

#### (c) Main rules for monitoring the export and import of cultural property

Argentine law recognizes three valid certificates for exportation and importation: one for art-historical objects, one for archaeological objects, and one for paleontological objects. To raise public awareness, information is distributed in art and antique galleries. These certificates are also made available online.

#### (d) Rules provided for the restitution of illicitly imported cultural property

In addition to general legislation and that of the relevant Conventions, specific bilateral agreements exist concerning the prevention of illicit traffic and the restitution of illegally imported objects.

#### (e) Obstacles encountered in securing the restitution of illicitly exported cultural property

The topic of restitution presents many obstacles. It constitutes a long, complex, and costly process, and resolution is not always favorable. A lack of willingness on the part of the importing country and a lack of international cooperation are the biggest difficulties. This lack of compromise and compliance with international agreements is particularly apparent in cases of restitution of archaeological objects.

#### (f) Circumstances in securing the restitution of a stolen cultural object

In 2005, three works of art, stolen in 1980, were found in France and returned to Argentina through legal intervention. In two cases of restitution of paleontological objects (2006, Australia; 2008, U.S.A.) the cooperation of the respective governments and INTERPOL was fundamental. The case of the Tafí mask, found in a French auction house in 2008, remains unresolved, despite judicial intervention.

### 6. System for trade-in, acquisition, ownership and transfer of cultural property

#### (a) Description of the cultural goods market in the country (financial volume of the market, number and turnover of auction houses including via the Internet).

No trustworthy facts exist concerning the volume of the traffic of cultural objects.

#### (b) Rules governing trade in cultural goods, measures in place for such trade (maintenance of a police register), in particular through the Internet (reference to the basic measures proposed by UNESCO, INTERPOL and ICOM)

In addition to general provisions for trade, the provenance of licitly trafficked cultural objects is closely regulated by the same administration that handles counterfeit money and terrorist funding. The National Directorate of Heritage and Museums is implementing a registry of cultural objects dealers and trafficked objects. With respect to internet censorship, a virtual network uses measures proposed by UNESCO, INTERPOL, and ICOM to preemptively inhibit prohibited traffic.

#### (c) Existing Measures to control the acquisition of cultural property

Resolution SCMC No. 04/2002 mandates that all museums that are part of the National Directorate of Heritage and Museums must take necessary measures to verify the provenance of an imported work. This measure is being extended to all organs concerned with the conservation of cultural heritage.

#### (d) Existing legal system concerning ownership of cultural property:

Inalienability applies to cultural items in national collections, as does it to yet unfound, unclassified, un-inventoried, un-catalogued, and unidentified objects. They are State and provincial territory.

#### (e) Special rules on the transfer of title deeds in respect of cultural property

Archaeological and paleontological objects must be registered in accordance with Law 25743 for holding.

### 7. Bilateral agreements

#### (a) Bilateral agreements concluded with other countries on the import, export and return of cultural property

To date, a specific bilateral agreement has been concluded with Peru. Similar agreements are underway with Colombia, China, Ecuador, Greece, Mexico, and Paraguay. In dealings with Peru, both governments have acted as plaintiffs in legal affairs. Argentina has returned two sets of archaeological objects to Peru. Argentina has taken action to recover objects from Colombia, Paraguay, and Brazil.

(b) Conditions set by the importing country with regard to the admissibility of requests for restitution from a country of origin

In general, such conditions are not set.

(c) Administrative aid or any other type of cooperation with neighbouring countries, particularly in respect of police and customs services?

MERCOSUR and UNASUR, adopted by regional blocs, are concerned with the prevention of illicit traffic. MERCOSUR holds meetings in an effort to standardize customs legislation that prevents illicit traffic and simultaneously promotes the licit circulation of cultural objects and services.

## **II. Code of ethics, awareness raising and education**

### **1. Ethical standards**

(a) Application of the UNESCO International Code of Ethics for Dealers in Cultural Property and the ICOM for museums

The ICOM Code of Ethics has been adopted by the National Directorate of Heritage and Museums. To aid the role of professionals and the function of institutions, museums in the provinces and other public offices who handle cultural objects are encouraged to adopt a similar code.

The UNESCO Code of Ethics is encouraged and disseminated in art and antique galleries and auction houses. Cultural objects dealers are invited to adopt the code; however, no formalities can oblige private entities to do so.

### **2. Awareness raising and education**

(b) Dissemination of the "One hundred missing objects" series and the ICOM Red Lists

The lists are disseminated, but distribution is low, and the effectiveness of the texts is directly related to the availability of the publications on behalf of the police, customs agents, border control officials, etc.

(c) Description of activities carried out to raise the awareness of the authorities and educate the public, children in particular, regarding the serious damage that can be caused by illegal excavations, theft of cultural property and illegal export.  
How far can UNESCO contribute to these activities?

Since 2006, Argentina has promoted the National Campaign for the Fight against Illicit Traffic of Cultural Objects, signs of which can be seen in airports, terminals, and border crossing stations. The National Committee is working with the Argentina Episcopal Conference to create a registry of religious objects.

UNESCO could contribute more effectively through the production and distribution of material on this topic in different languages. This would be especially useful for those who lack access to the internet.

## **III. Cooperation with other international and regional agencies**

### **Police**

(a) State of national cooperation with INTERPOL. Specialized police services to whom the heritage officials can call on for enquiries, legal proceedings and punitive measures

Argentina and INTERPOL began collaborating in 1992 and concluded an agreement between the Secretariat of Culture, the Federal Police, and ICOM in 2002. All enquiries and measures are processed through the National Center for the Protection of Cultural Heritage, a function of INTERPOL Argentina. The National Directorate of Heritage and Museums instructs all of its organs to communicate any action or movement that poses a threat to cultural heritage to INTERPOL.

(b) Check on the INTERPOL database on stolen objects when a cultural object is stolen. Transmission of information on the persons implicated in the theft of cultural property

The INTERPOL database is checked, as it is the only registry of stolen objects in Argentina.

(c) Specific training program for members of police services

In addition to standard police training, those wishing to join INTERPOL have access to seminars offered by the Directorate of Heritage and Museums and its affiliates.

(d) Punishment of fraud and theft related to cultural property via criminal law provisions. Specialized judges in this field

Legislation allows for sanctions and fines imposed for theft and fraud. Judges and prosecutors, alike, participate in training activities. The Research Unit on Crime and Smuggling works with the National Committee to establish procedures for the prevention and control of illicit trafficking.

(e) Cooperation with the United Nations Office on Drugs and Crime (UNODC)

Argentina works with the UNODC and implements its suggestions concerning the prevention of traffic alongside transnational organized crime and counterfeiting.

## **Customs**

(f) Status of cooperation with the World Customs Organization. Specialized customs services which could assist heritage officials in preventing the illicit export of cultural property

Cooperation with the WCO is done through the Customs Bureau of the Committee for the Fight against Illicit Traffic of Cultural Objects. This division works with the Division of Non-Economic Prohibitions and the Department of Specialized Investigation to execute policies that protect cultural heritage.

(g) Specific training program for members of the customs administration

Customs officials participate in training programs offered by the Directorate of Heritage and Museums, the National Institute for Anthropology, the Visual Arts Directorate, and the Museum of Natural Sciences.

(h) Reference to the UNESCO-WCO Model Export Certificate for Cultural Objects

The three Argentine export certificates were fashioned in 1973, before the UNESCO-WCO model. Since then, the certificate for paleontological objects has adopted the UNESCO-WCO model, and the certificates for archaeological and art-historical objects have partially adopted the format of the model.

**European Union** - Application of the Council of the European Communities Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State

## **IV. Other legislative, legal and administrative measures taken by the State**

**1. Accession to the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects**

Argentina ratified the Convention on 3 August, 2001.

**2. Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation**

Argentina was elected a Member for the term starting in 2009, prior to which the country had participated as an Observer.

**3. UNESCO Database of National Cultural Heritage Laws – contribution and update**

Argentina has submitted texts of legislation in their original language, as well as their English translation.