

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

COSTA RICA

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

1. Ratification of the Convention

Costa Rica ratified the Convention on 6 March, 1996.

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.

Although the Convention is the law in Costa Rica, there is no special legislation that implements its provisions in all cases concerning the illicit traffic of cultural objects. With the exception of archaeological, historic-architectural, and documentary heritage, Costa Rica does not have a cultural heritage law. A large portion of cultural objects, therefore, is not protected.

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

Costa Rica does not employ a definition of "cultural property."

(c) Specialized units

The National Museum of Costa Rica frequently cites provisions of the 1970 Convention in matters concerning control of archaeological heritage at the national and international levels, especially in regards to restitution and international enquiries.

The Department of Protection of Cultural Heritage particularly deals with the illicit traffic of Pre-Columbian archaeological objects. The department offers technical support to security and customs officers, INTERPOL, and legal professionals to determine the authenticity of confiscated objects.

(d) Administrative coordination

Coordination can be seen on different levels: technical support (verifying authenticity, shipping and handling), training, expert witness testimony in civil or administrative processes, inspection, reports, photography, certification, etc.

Training programs concerning reported objects and their seizure are offered to various groups each year. Training is currently conducted on a small scale, but Costa Rica would like to execute a national campaign to distribute informative pamphlets and compact discs on procedures and legislation.

(e) Working meetings

Meetings allow for the formation of a network of individuals concerned with protection, cultural heritage, and illicit trafficking. The resultant communication promotes a direct exchange of information regarding experiences respective to each country and recommendations.

3. Inventories and identification

(a) Inventories

National Archaeological Heritage laws define archaeological objects as property of the state (save those of private heritage), and, as such, are submitted to the National Museum of Costa Rica. Those objects, along with the products of investigations authorized by the National Archaeological Commission, are

entered in a registry that was updated and modernized in 2009. Other historical collections (furnishings, currency, stamps, etc.) are recorded as well. At the regional level, an inventory of zones of Pre-Columbian stone was begun in 2005 and already contains over 100 constantly-monitored zones.

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

Legislation for cultural property in Costa Rica concerns only archaeological, historic-architectural, and documentary heritage.

(c) Reference to the Object ID standard

The National Museum of Costa Rica has adapted the Object ID – using all standards for identification – to the specific needs of the collections, using different levels of information and access to security.

(d) Systems to combat theft and to train staff

All necessary security measures have been taken in keeping with the country’s economic means and human resources.

4. Archaeological excavations

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

Excavations are authorized solely by the National Archaeological Commission, a team of five representatives, respectively from: the University of Costa Rica, the National Museum, the National Commission for Indigenous Affairs, the Ministry of Education, and the Ministry of Culture and Youth. All excavations are supervised by the National Museum. Materials, field notes, and reports are given to the National Museum, and the site must be registered with the Department of Anthropology and History.

(b) Illegal excavations

Archaeological findings should be reported, but, unfortunately, this is not always the case. Given the expanse of archaeological richness in Costa Rica, illicit excavations and looting have persisted for years, activities as yet impossible to eliminate.

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)

Costa Rica does not rely on statistics to gauge the scale of illicit trafficking of cultural property, as many objects are the product of illicit excavations, and rarely can they be linked to a specific site. Knowledge of the circulation of Pre-Columbian objects is best seen in online auctions; yet, access to sales catalogues is often restricted.

(b) Problem of the illicit export of cultural property

Illicit traffic is a recurring problem in that each country “adapts” legislation (or not) pursuant to the 1970 Convention in different ways to their own systems, thereby producing an inequity of conditions for restitution. Another issue to consider is that of cost. In addition to simply recovering the object, there are fees associated with the use of attorneys and experts, shipping and handling, storage, etc.

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

Customs officials are unfamiliar with export certificates. Instead of a complex and extensive document, Costa Rican customs authorities promote simplified paperwork.

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

Other countries do not recognize the export certificates for restitution. They ask that the object in question be registered and that the date it left the country be indicated. As a product of illicit activity, such information cannot be known.

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

The primary obstacle in securing restitution is that countries adapt and apply the provisions of the 1970 Convention differently, with a variety of legal, administrative, political, and diplomatic procedures. Diplomatic attempts at restitution solicit proof that is impossible to produce. The text of the Convention is at times adapted to a system that varies, or, in the case of the United States, the Convention is ratified, yet remains subject to additional bilateral agreements.

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

The few cases of successful restitution have been achieved through political volition and diplomacy, not legal or administrative 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).

As the trade of Pre-Columbian archaeological objects is prohibited (and, therefore, an illicit activity), a study of the market is not possible.

(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)

The reported information received is the best way to monitor trade. In 2010, approximately 47 reports of trade, exportation, and findings were filed, not all of which yielded positive results for the Judicial Investigations Agency that handles such cases.

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

There are no rules for the traffic of cultural property.

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

Pre-Columbian archaeological objects are inalienable, imprescriptible items of public domain. Objects yet unfound and those acquired through authorized excavations, alike, are property of the State. Exceptions apply to adequately registered objects acquired before the observance of Law No. 7 of 1938.

(e) Special rules on the transfer of title deeds with respect to cultural property

Law No. 6703 – entered into effect on 19 January, 1982 – authorizes the National Museum of Costa Rica to transfer custody of archaeological objects for the creation of regional museums.

7. Bilateral agreements

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

To date, several bilateral agreements have been concluded, but it has not been necessary to use them for the restitution of cultural property. Among Latin American countries, in particular, administrative and diplomatic procedures employ applications of the Convention of San Salvador for the recovery of objects.

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

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

Administrative, customs, and political support is seen in cooperative efforts within Latin America.

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 is used. That the code is observed is a question of the ethics and principles of museum professionals and those whose work concerns cultural heritage.

2. Awareness raising and education

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

The red lists – those of Latin America, Central America, and, most recently, Guatemala – are known in Costa Rica.

(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?

To date, the majority of educational activities are tailored to police and legal authorities. It is necessary to educate a greater portion of the population, for which didactic material (pamphlets, laws, compact discs, posters, etc.) is needed. UNESCO could help by financing a campaign directed at specialized groups, adolescents, and children, especially those in rural areas where the problem of destruction of archaeological sites is severe. Resources should also be dedicated to border zones and tourism guides.

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

The INTERPOL office in Costa Rica was integrated into the Judicial Investigations Agency in 2010.

(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

To check the INTERPOL database, an object must first be reported stolen. In case of a possible find, the database is consulted, as is the Director of Heritage of the respective country of origin.

(c) Specific training program for members of police services

Training is offered, but there is no specific program.

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

Costa Rica has sanctions against theft, as well as legal professionals specialized in national archaeological heritage.

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

Costa Rica has no relation to the UNODC.

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

Costa Rica has no contact with the World Customs Organization.

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

There is no specific training program.

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

The UNESCO-WCO Model Export Certificate is not used.

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

Costa Rica has not ratified the 1995 Convention, nor does it consider ratification in the near future.

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

Costa Rica is unaware of the work of this committee.

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

It is unknown if Costa Rica has submitted information to this database, but it would happily contribute.