

CZECH REPUBLIC

**NATIONAL REPORT ON THE
IMPLEMENTATION OF THE 1970
CONVENTION ON THE MEANS OF
PROHIBITING AND PREVENTING THE
ILLICIT IMPORT, EXPORT AND TRANSFER OF
OWNERSHIP OF CULTURAL PROPERTY**

2011 – 2015

I. Information on the implementation of the UNESCO Convention of 1970 (with reference to its provisions)

1. Ratification of the Convention

(a) Has this Convention already been ratified?

The Convention came into effect for the former Czechoslovakia on 14 May 1977. Upon the split of Czechoslovakia into two separate republics, the Czech Republic as a successor to Czechoslovakia became party to the Convention with effect from 26 March 1993.

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

(a) Give the references of the principal national regulations adopted in order to implement the 1970 Convention?

Decree No. 15/1980 of the Minister of Foreign Affairs on the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

Through this regulation, the Convention was declared to apply to the State Party.

The following national regulations also serve to implement the Convention:

Act No. 20/1987 on National Heritage Management, as amended;

Act No. 122/2000, on the Protection of Museum-type Collections and on Amendment to Certain Other Acts as amended;

Act No. 499/2004 on Archives and Records Management and on Amendment to Certain Acts, as amended;

Act No. 71/1994 on the Sale and Export of Items of Cultural Value, as amended.

(b) A definition of "cultural property" agreeing with the definition proposed by the 1970 Convention is important in order to increase the effectiveness of international cooperation. State what definition is used by the national laws of the country concerned.

Act No. 20/1987 on National Heritage Management, as amended

As provided by this Act, the items declared by the Ministry of Culture to be cultural monuments include movable and immovable objects or sets of objects representing valuable evidence of historical development, mode of life and the social environment from the earliest times up to the present day as manifestations of people's creative abilities and work in diverse areas of human activity; such objects or sets of objects are so declared because of their revolutionary, historical, art, scientific and technical values and/or because of their direct relationship to outstanding persons or events. Outstanding cultural monuments may be declared national cultural monuments by a government regulation, specifying also the conditions of their protection.

Act No. 122/2000, on the Protection of Museum-type Collections and on Amendment to Certain Other Acts, as amended

The law lays down that a museum-type collection is a collection that, in its entirety, is relevant to the prehistory, history, art, literature, technology, natural sciences and social sciences, provided that it is composed of a set of collection items gathered by human activity. A collection item is a movable or immovable object or a set of such objects, including natural objects or human artifacts. The Ministry of Culture maintains a Central Register of Collections.

Act No. 499/2004 on Archives and Records Management and on Amendment to Certain Acts, as amended

The law lays down that an archival item is a document that was selected in public interest to be preserved and permanently filed and was listed in archival records because of its time of occurrence, content, origin, external attributes and sustained value given by its political, economic, legal, historical, cultural, scientific or informational relevance and importance; archival items also include seals, stamping devices and other tangible items related to archival stock or an archival collection, which were selected and included in archival records because of their time of occurrence, content, origin, external attributes and sustained value given by their political, economic, legal, historical, cultural, scientific or informational relevance and importance. A document is understood to be any written, video or audio information or any other recorded information, whether analogue or digital, created by, or delivered to, the originator. The law specifies which entities are obliged to maintain the documents and to enable selection of archival documents, and it also lays down the criteria of selection of archival materials and the rules of the recording thereof. In addition, the law makes it possible for certain archival materials to be declared archival cultural monuments (by the Ministry of the Interior) or national cultural monument (by the government through a government regulation).

Act No. 71/1994 on the Sale and Export of Items of Cultural Value, as amended

The law lays down that items of cultural value are natural objects or human artifacts, or sets thereof, that are relevant for history, literature, art, science or technology, and meet the criteria set out in the regulation that implements this law. However, this law does not apply to the sale and export of the objects or sets of objects that are cultural monuments or national cultural monuments (see above), to listed museum-type collections and collection items (see above) and to archival items (see above).

Act No. 101/2001 on the Repatriation of Illegally Exported Cultural Property, as amended, laying down the procedure of repatriation of cultural property, if illegally exported to the Czech Republic from another EU Member State or from the Czech Republic to another EU Member State

Amendment No. 1 to this Act contains an exhaustive enumeration of the categories of objects considered cultural property within the meaning of this Act.

Act No. 214/2002 on the Export of Certain Cultural Goods from the Territory of the European Communities, as amended in Act No. 281/2009

It is stated in this law, among other things, that export permits issued under this Act do not substitute for export permits, certificates, licences etc., issued under specific regulations. Under this law, export permits may only be issued by the Ministry of the Interior for archival items and the Ministry of Culture for other cultural property, and these two Ministries will only issue an export permit if there is a consent, permit, certificate or licence issued under a specific regulation, and will only do so for the period of time specified in such a consent, permit, certificate or licence.

(c) Have specialized units been established in order to prevent and combat trafficking and ensure international cooperation for the protection of cultural heritage? Within the Heritage Department? In other government departments (police, customs)?

The issue of preventing illicit trade in cultural property is addressed in the Czech Republic under the programme of 'Integrated System of Movable Cultural Heritage Protection' (the 'ISO Programme'), which is a set of administrative, systemic, legislative and financial tools and has been operating since 1993.

The programme is conducted by the Ministry of Culture, whose Department of Conservation of Movable Cultural Heritage, Museums and Galleries is directly involved in addressing these issues and is closely cooperating with specialised units of the Police

and Customs Service. This cooperation is coordinated (among other bodies) by the ISO Programme Advisory Board; representatives of the above-mentioned authorities, including those of the Roman Catholic Church, attend the meetings of the Advisory Board and are generally involved in the work on an ongoing basis as and when necessary.

Items of cultural value and cultural property are monitored as offered by auction houses, antiques shops, exchange events and web portals. The Ministry cooperates with the Czech Trade Inspection Board, the Czech Police and the National Heritage Management Institute to oversee the selling and the compliance with relevant trade and export legislation (Act No. 71/1994 on the Sale and Export of Items of Cultural Value, as amended) in the trade network.

- (d) *Describe briefly the administrative coordination of the activities of these specialized units, especially with the police and customs authorities.*

See 2(c)

- (e) *Are working meetings held to enable police officers, customs officials and ministerial representatives to meet and coordinate their activities?*

See 2(c)

3. Inventories and identification

- (a) *State briefly the extent to which inventories provide for the risks of misappropriation and theft.*

The most valuable parts of movable cultural heritage are listed on the Central List of Cultural Monuments of the Czech Republic, which is maintained in accordance with the Act on National Heritage Management (for this Act, see above). The List contains information about the owner and the basic identification features of movable heritage. Risk of fraud or theft is not indicated in this List.

Records of archival cultural monuments and national archival monuments, or archival items, are maintained in accordance with a special Act (see above). Law does not lay down the duty to include the risk of fraud or theft in these records.

As to the historic furniture stock in castles and chateaus and other historic buildings, if any, inventories or inventory books are understood to mean lists of items with their basic identification features as maintained *in fondo* in those buildings. (If such movable items are cultural monuments, they are also inscribed on the above-mentioned Central List of Cultural Monuments. Photo documentation is maintained on all these items. Risk of fraud or theft is not indicated in these inventories. The inventories are maintained in accordance with the internal regulations of the owner or manager of such a building; state castles and chateaus apply the internal regulations of the National Heritage Institute.

The role of the inventories of historic books in public libraries, listed by the Ministry of Culture [under Act No. 257/2001 on Libraries and Terms of Operating Public Library and Information Services (the Library Act), as amended] is played by libraries' specialised systematic catalogue, which are compiled according to the internal regulations of the libraries. Details on maintaining book records are generally determined by Ministry of Culture Decree No. 88/2002. Information on the risk of fraud or theft is not contained in these records.

However, if any item of the historic library stock is declared a cultural monument, it is listed on the Central List of Cultural Monuments of the Czech Republic, which is maintained in accordance with a special Act (see above). It must be added that individual documents from these libraries are only made available for reading in the library.

For museums and art museums, inventory books are understood to mean lists of these institutions' collection items with their basic identification data. Such inventories are maintained in accordance with Ministry of Culture Methodical Instruction No. 53/2001 for the management, recording and protection of museum-type collections in museums and galleries established by the Czech Republic or by regional authorities and local municipalities.

It is laid down in the methodical instruction among other things, that in order to ensure better protection of the collections, the collection institutions should maintain pictorial documentation of the collection items, especially those most exposed to theft, and may use for that purpose the pilot workplaces of the integrated protection system (see above). It is also laid down in the methodical instruction that the collection institution should have a special internal regulation specifying the principles of the protection of the information on how the security of the collections is provided, including, in particular, information about the security systems. Hence, possible risks are covered by each museum's or gallery's special internal regulations issued by management under Act No. 122/2000 (see above).

Another methodical document, Ministry of Culture Methodical Instruction No. 4688/2007, serves to ensure the conclusiveness of collection items recording and to determine how to treat the collections in the museums and galleries that keep and manage the collections owned by the state, regional authorities and municipalities. In its optional part on how to treat collection items of special nature or particularly valuable collection items, this document also determines that the above collection institutions should, for example, specify which items to keep in a special environment, which items to keep in strong rooms, bank safe vaults etc.

(b) Specify the degree of precision, at the national level, of the definition of "cultural property" covered by international conventions (see above 1.2(b)). State whether "national treasures" are identified in an official, tentative or exhaustive list.

Act No.101/2001 on the Repatriation of Illegally Exported Cultural Property, as amended, defines in its Section 2 the National Treasure of the Czech Republic as follows: "The National Treasure of the Czech Republic is represented by objects or sets of objects defined by special legal regulations as cultural monuments and national cultural monuments (1), museum-type collections and individual collection items (2), archival items (3), or objects of cultural value (4), provided that such objects of cultural value meet the conditions for being declared cultural monuments under a special legal regulation.

- (1) Act No. 20/1987 on National Heritage Management, as amended (see above).
- (2) Act No. 122/2000 on the Protection of Museum-type Collections and on Amendment to Certain Other Acts, as amended (see above).
- (3) Act No. 97/1974 on Archives, which was revoked with effect from 1 January 2005 by Act No. 499/2004 on Archives and Records Management and on Amendment to Certain Acts, as amended (see above).
- (4) Act No. 71/1994 on the Sale and Export of Items of Cultural Value, as amended (see above).

(c) To what extent is the Object ID standard used? Is the standard adapted to the State's needs?

The "Object ID" parameters as a minimum basis for descriptions are contained in all key database programmes used for keeping records in museums, galleries and recording systems of the national heritage managing organisation (the National Heritage Management Institute).

The Ministry of Culture requires that applicants for Ministry subsidies for support to recording and documentation must accept the basic rules of digitisation, including, but not limited to, a certain extent of the description of the objects, where the RLG REACH element set is required as the mandatory minimum basis.

- (d) *Are there systems to combat theft and to train museum staff and have specific measures been adopted for libraries, archival and manuscript repositories, and any specialized units established to monitor them?*

The employer has the obligation to train employees in managing the cultural property administered by the institution (the National Heritage Management Institute, a library, archive, museum or art museum).

Creation of conditions for more effective protection against theft of movable cultural property and against illegal export thereof is also a long-term objective of the ISO Programme (Integrated Protection System), especially its two sections concerning expenditures on:

- a) security and safety of the buildings where movable cultural property is deposited (e.g., museums, galleries, churches, monasteries, castles, chateaus, libraries and other), including electric security signalling, electric fire signalling, closed-circuit TV and other signalling, regulating and communication systems and mechanical guards.
- b) the equipment and operation of the units responsible for the digital recording and documentation of movable cultural heritage, including, but not limited to, such units in museums and galleries, the National Heritage Management Institute, and specialised workplaces of the Church.

4. Archaeological excavations

- (a) *Summarize the basic principles of the regulations on archaeological excavations and on the monitoring of excavations in force in the country.*

Archaeological research practice in the Czech Republic is regulated by Act No. 20/1987 on National Heritage Management, as amended, particularly its Sections 21, 21a, 22 (see above).

Movable archaeological finds are the property of: (1) the regional municipality in whose territory the finds were first discovered; or (2) the local municipality if the movable archaeological finds were first discovered in archaeological excavations conducted by an organisation partly financed from the municipal budget or by an organisational unit of the municipality; or the state, if the movable archaeological finds were first discovered during archaeological excavations conducted by a state organisation or by an organisational unit of the state. Movable archaeological finds owned by the regional municipality are deposited in a museum established by the region. Movable archaeological finds owned by the local municipality are deposited in a museum established by the local municipality, unless otherwise provided by law. Movable archaeological finds owned by the Czech Republic are as a rule deposited in museums established by the Ministry of Culture or in other organisations or organisation units of the state, provided that they permanently maintain museum-type collections.

Regional and local municipalities are obliged to transfer a movable archaeological find to the ownership of the Czech Republic under the conditions set out by the last-mentioned law (Act No. 20/1987), if the Ministry of Culture so requests.

A regional municipality may, upon agreement with the Ministry of Culture, issue a regulation with a Plan of Territory with Archaeological Finds for the region or a defined part of the region. Areas where archaeological finds occur or can reasonably be believed to occur are highlighted in this plan. The plan serves to safeguard the archaeological heritage and to ensure that those who are planning to build any structure in the area are aware of their notification duty under the last-mentioned Act from the beginning of preparation for construction. Monitoring any digging that can damage or destroy archaeological monuments or finds is treated in Section 2 of the Act. Under this provision,

any developer or home builder who plans to do construction work in a territory with archaeological finds must notify such plans to the Archaeological Institute of the Academy of Sciences of the Czech Republic and enable this institute or another authorised organisation to carry out rescue archaeological investigation.

Certain mechanisms for the protection of archaeological monuments are also specified in Section 176 of Act No. 183/2006 on Town and Country Planning and the Building Code (the Building Act), as amended, which imposes on home builders and developers the obligation to notify the Building Authority and the national heritage management bodies about any archaeological finds discovered at the building site. Section 176 of the Building Act also addresses the issue of protection of these archaeological finds, including the possibility to declare any such find a cultural monument, and, in addition, this provision confers the power to stop a construction project. The Building Act also enables to assert archaeological heritage management interests in town and country planning.

The Archaeological Institute of the Academy of Sciences of the Czech Republic in Brno and the Archaeological Institute of the Academy of Sciences of the Czech Republic in Prague are the only two institutions entrusted by law to carry out archaeological research.

Other legal entities (museums, national heritage management stations and units, universities, public service organisations etc.) or individuals possessing the prerequisites for professional performance of archaeological research may conduct archaeological research on the basis of permits issued by the Ministry of Culture upon consultation with the Archaeological Institute of the Academy of Sciences. These authorised organisations or individuals have the obligation to conclude with the Archaeological Institute an agreement on the range and conditions of archaeological research and the obligation to notify the Archaeological Institute about the commencement of any archaeological research project and to submit to it a report on the results of such an archaeological research project.

To obtain the permit, the applicant must prove having sufficient laboratory equipment and sufficient space necessary for the scientific study and documentation of the archaeological finds and for temporary storage of the movable finds. Good professional quality of the authorised organisation must be guaranteed by at least one person with university education who completed an accredited Master's programme in social sciences focused on archaeology, plus at least 2 years of professional experience. Such a person must be an employee of, or be in a relation similar to employment with, the applicant for the permit. The permit may be withdrawn from the authorised organisation if it fails to meet the conditions contained in the decision statement.

The Academy of Sciences of the Czech Republic oversees the archaeological organisations through its Archaeological Institutes in Prague (for Bohemia) and Brno (for Moravia and Silesia). The Academy's Archaeological Institutes monitor the start and end of archaeological investigations and the compliance with the agreements between the authorised organisations and the Academy of Sciences on the extent and conditions of carrying out the archaeological investigations.

In practice at present, archaeological research is almost exclusively focused on rescue excavations at sites endangered by construction or other activities.

The results of archaeological research are described in finds reports, which are transferred to the archives of the Archaeological Institutes of the Academy of Sciences of the Czech Republic no later than within 3 years after the end of the research. If an archaeological research is conducted at the site of a cultural monument or national cultural monument, the authorised organisation and the Academy's Archaeological Institutes must also notify the start of archaeological excavations to the National Heritage Institute, and submit to it copies of the reports on research results.

From the beginning of excavations, archaeological research must be recorded in a publicly accessible database managed by the Archaeological Institutes of the Academy of Sciences of the Czech Republic.

In accordance with law, administrative offences in the archaeology area are addressed by Regional Authorities and by the Ministry of Culture.

Archaeological Commissions are also active, to a different extent, at the regional level. Archaeological Commissions are voluntary bodies through which representatives of authorised organisations in the region coordinate their activities. Their tasks include mediation of information, communication and coordination of archaeological research work and archaeological heritage oversight in their respective territories.

The Academy of Sciences of the Czech Republic makes effort to strictly control and restrict research excavations at non-endangered sites under specific scientific projects (the project plans must be submitted for approval). There are practically no larger excavations of this type under way today.

(b) Is there a recurrent problem of illegal excavations? If so, what are the reasons and when did it begin? What steps have been taken to combat this scourge?

Illegal excavations are not a minor issue. It is related to prospecting using metal detectors, which is otherwise treated as one of the methods of archaeological research under relevant legislation. There are about 20,000 active amateur users of metal detectors in the Czech Republic at present. According to qualified estimates, they may find around 80,000-100,000 archaeological finds every year. Only a very small portion of this number gets to the rightful owner, such as the state, region or local municipality. Most of these objects remain in private collections without being properly treated and recorded (there are no records of the find circumstances) and are subject to illegal trade.

The issue of illegal excavations with the use of metal detectors first occurred in the 1990s, following the political and social changes of 1989. The areas frequented by 'treasure hunters' are monitored by the Police. Professional archaeologists and relevant administrative authorities are also involved in the efforts. The Police take measures focused on the sale of objects coming from archaeological excavations in the Czech Republic and (under cooperation schemes) in other countries.

Current legal regulations do not offer any specific measures against illegal excavations. However, certain steps are being planned in connection with the proposed amendment to Act No. 20/1987 on National Heritage Management, as amended, for example, monitoring, issuing licences, cooperation with experts.

Other illegal excavations (other than with metal detectors) are just a marginal issue. Small-scale illegal amateur excavations occur in feely accessible mediaeval or prehistoric fortifications and tumulus burial sites. Such attempts can be monitored and controlled within the existing system of archaeological heritage management and under existing legal regulations.

5. Monitoring of the export and import of cultural property

(a) Give an estimate of the scale of the illicit export or import of cultural property. Are up-to-date statistics compiled on the theft of cultural property?

The statistical extent of the illicit export and import of cultural property cannot be specified in detail because there are no official statistics on this issue.

The offer of objects of cultural value in the neighbouring countries and on the internet has been monitored by the Ministry of Culture in cooperation with the National Heritage Management Institute since 2004, when Act No. 101/2001 (implementation of EEC Directive No. 7/93) came into force. Several hundreds of objects (cultural property) stolen and illegally exported from the Czech Republic have been identified outside the Czech Republic on the basis of this monitoring since 2004.

Detailed overviews concerning stolen property are maintained by the Police of the Czech Republic. The Police databases contain objects – particularly those of cultural value – that were stolen through various types of criminal activity. The special database referred to as PSEUD (artwork recording system portal) contains objects for which documentation exists, including, in particular, pictorial documentation and/or a precise description. This database is maintained (enhanced and updated) on an ongoing basis by the relevant Regional Police Stations and is verified by the Criminal Police Service and Investigation Office of the Police Presidium of the Czech Republic. Documentation and information on high-value works of art are sent to the INTERPOL databases. Document scans and video recordings can be entered into the PSEUD database, as well as audio recordings, where necessary.

(b) Is the illicit export of cultural property a recurring problem? If so, for which reasons (lack of financial and human resources, shortcomings in the legal supervision framework, etc.)?

Illicit export of objects of cultural value is a persistent problem in the Czech Republic. Illegally exported objects also include, as mentioned, objects coming from illegal archaeological excavations using metal detectors. It is difficult to make an estimate of the volume of export of such archaeological finds outside the Czech Republic but it can be said that it is in the order of thousands annually. On the other hand, illicit export of movable items that are cultural monuments, collection items and archival materials is of marginal importance.

Offenders try to legalise stolen objects of cultural value and sell them advantageously. They succeed in doing this, for the most part, outside the Czech Republic, taking advantage of higher prices abroad. This is why they export their illicit goods to the neighbouring countries west and south of the Czech Republic.

Regrettably, some traders, including those who acquired such objects in a legal manner, are also involved in such practices. They know they are unable to obtain an export permit, and therefore they try to export the objects illegally to sell them for attractive prices.

Although this is a criminal wrongdoing, we do not believe that even the best measures – systemic, legislative, personnel or financial – could eradicate the problem before the price gap between the local and external markets is narrowed. Purchases by the state (the Ministry of Culture) could also contribute to mitigating the problem but this solution is hindered by the lack of available funds, which depend on allocations from the national budget.

(c) What are the main rules (administrative and legal) for monitoring the export and import of cultural property (existence of an export certificate, public information about the rules in force)? What categories of cultural property are covered by the rules?

The relevant rules are contained in the following laws:

Act No. 20/1987 on National Heritage Management, as amended

The National Heritage Management Act lays down that cultural monuments and national cultural monuments can be exhibited abroad or lent abroad, or exported abroad for other

purposes, but can be so exhibited, lent or exported only temporarily and only with the consent of the Ministry of Culture. The certificate permitting the export of a cultural monument is based on a regulation implementing the National Heritage Management Act. Customs authorities must, among other things, monitor whether the conditions set out in the consent of the Ministry of Culture to the export are complied with and whether the cultural monuments exhibited abroad, lent abroad, or exported abroad for other purposes have been returned in good condition. For objects showing the characteristics of a cultural monument that are intended to be permanently transferred to the Czech Republic, the customs authorities must also verify whether they are so transferred with the prior consent of the relevant body of the state from which they are to be transferred.

Act No. 499/2004 on Archives and Records Management and on Amendment to Certain Acts, as amended

This Act regulates the management of the recording of archive materials and the exportation thereof; they may only be exported on the basis of a permit issued by the Ministry of the Interior for only a specified period of time and for no purposes other than exhibiting, conserving and restoring, or for scientific examination. If a certain archival document is declared archival cultural monument, it may only be exported with the consent of the Ministry of the Interior and if an archival document is declared national cultural monument, it may only be exported with the consent of the government.

The Ministry of the Interior maintains records of the issued permits for the export of archival materials from the Czech Republic. The Ministry of the Interior also monitors if exported archival materials are brought back to the Czech Republic undamaged and within the specified period of time.

The Act also sets out sanctions for non-compliance with the rules applicable to the export of archival materials.

Act No. 122/2000, on the Protection of Museum-type Collections and on Amendment to Certain Other Acts, as amended

A collection or individual collection item may be exported for no purposes other than exhibiting it, or for the public presentation of their visual appearance and/or function, or for their treatment, conservation, restoration or scientific examination, and may only be so exported on the basis of a permit issued by the Ministry of the Interior for only a specified period of time under the conditions set out in the law. The regulation implementing this law contains, among other things, a certificate form for exporting collection items.

Act No. 122/2000 lays down the obligations of the customs offices in respect of the export of a collection or an individual collection item when releasing it for export or for outward processing, and when it is being brought back. When a collection or a collection item is being brought back, the owner must inform the Ministry of Culture to that effect and must, if so requested by the Ministry of Culture or the customs office, submit evidence to prove that the collection or collection item being brought back is identical with what was exported on the basis of a permit, and may also be requested to enable the inspection thereof.

The Act also lays down sanctions for non-compliance with its provisions.

Act No. 71/1994 on the Sale and Export of Items of Cultural Value, as amended

As laid down in this Act, if an object of cultural value is to be exported, it must bear a certificate for export for a specified period of time or a certificate for permanent export.

The Act also determines the maximum possible length of the validity period of such certificates.

The organisations that may issue such a certificate are enumerated in Amendment No. 2 to the Act. They include the professional national heritage organisation, selected state libraries and selected museums and museums of art.

The specification of the objects of cultural value is given in Amendment No. 1 to the Act. As stated, a certificate may not be issued if the object or set of objects are protected under the special legal regulations referred to above.

The Act also lays down that archaeological objects of cultural value and objects of sacred and ritual importance, if offered for sale, must bear a permanent export certificate. Offer for sale also means displaying the objects in public sale places, at auctions and collectors markets (which are monitored by the Police of the Czech Republic, see below). When an object of cultural value is sold, the purchaser must be given a counterpart of the certificate.

The Act prescribes the obligations of the exporter of an object of cultural value in relation to the customs office when exporting and/or importing such an object, and the obligations of the customs offices. If the customs office suspects that the object being exported is an object of cultural value, which is being exported without permission, and if the exporter fails to prove that the object being exported is not an object of cultural value, the customs office takes it into custody and notifies this to the relevant authorities. An expert opinion on whether the object being exported is or is not an object of cultural value must be prepared by the notified authorities for the customs office within a period prescribed by law.

The Act also lays down sanctions for non-compliance with its provisions.

Act No. 214/2002 on the Export of Certain Cultural Goods from the Territory of the European Communities, as amended in Act No. 281/2009

It is stated in this Act, among other things, that export permits issued under this Act do not substitute for export permits, certificates, licences etc., issued under specific regulations. Under this Act, export permits may only be issued by the Ministry of the Interior for archival items and the Ministry of Culture for other cultural property, and these two Ministries will only issue such a permit if there is a consent, permit, certificate or licence issued under a specific regulation, and will only do so for the period of time specified in such a consent, permit, certificate or licence.

The Act also lays down sanctions for non-compliance with its provisions and the role of the customs authorities.

(d) Do the rules provide for the restitution of illicitly imported cultural property?

Yes.

(e) What are the main obstacles encountered in securing the restitution of illicitly exported cultural property? What type of obstacles are they (administrative, legal or political) and why do they arise (legal loopholes, unwillingness by importing countries, lack of international cooperation, etc.)?

All the cultural property that has been identified outside the Czech Republic has been claimed and some of the claimed items have been returned on the basis of EEC Directive No. 7/93 and the national regulations implementing this Directive. The main obstacles to

returning illicitly exported cultural property back to the Czech Republic stem from the weaknesses inherent in the Directive, including:

- only a one-year deadline to file an action with the relevant court abroad; the deadline period starts when the applicant state has learned where the cultural property is and who possesses it;
- a vague and non-concrete definition of sufficient care when the property is acquired by a holder abroad;
- a very cautious approach of some importing countries.

(f) If the country has succeeded in securing the restitution of a stolen cultural object, describe the circumstances and state whether that involved legal proceedings, arbitration or alternative dispute resolution.

During negotiation about the repatriation of stolen objects we are trying to resolve the dispute in an alternative manner, referring to the ethical aspects of the case.

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

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

This request cannot be met in its specificity. Such information is not accessible and certain specific data is protected by law. The number of major auction houses is around ten.

(b) What are the main rules governing trade in cultural goods? Are control measures in place for such trade (maintenance of a police register), in particular through the Internet (for example, reference to the basic measures proposed by UNESCO, INTERPOL and ICOM)?

Any export of cultural property must comply with relevant acts of law, which have been referred to above.

In addition, antique dealers maintain books where identification data is recorded, including, among other things, the name of the person who offered the object for sale and the number of that person's identity card or another identification document. However, these books are only accessible to the Police of the Czech Republic and the Czech Trade Inspection Board.

The Police inspect the places where art objects are traded, including the points of legal sale as well as places where such goods may be sold illicitly. Internet artwork auctions and posted auction catalogues of individual auction houses are also inspected, as far as possible. Relevant authorities do this work at the national level, as well as in the regions under the authority of the Regional Directorates of the Police of the Czech Republic. In this respect, the Criminal Police Service and Investigation Office of the Police Presidium of the Czech Republic cooperates closely with the professional heritage management workplaces (National Heritage Management Institute) and other organisations under the Ministry of Culture in investigating the sales of stolen art objects. All databases existing in the Czech Republic, as well as the INTERPOL database, are used for the identification of suspect objects.

(c) Do measures exist to control the acquisition of cultural property (for example, mechanisms to prevent museums and similar institutions from acquiring cultural property exported illegally from another State)?

As to acquisitions for state-run museums, the origin of each object is thoroughly

examined. However, most of the acquisitions are reacquisitions of objects that were returned to their rightful owners in restitution proceedings on the basis of relevant legislation after 1989. At present these owners preferentially offer these objects to the state to buy them back. Given this, the origin of these objects is absolutely transparent.

For the managers and owners of all registered collections (collections are registered in accordance with Act No. 122/2000, referred to above), the Ministry of Culture has a binding set of rules for how to create and manage collections. These rules, referring to the Convention, include the testing and marking of the origin of each object.

(d) *Specify the existing legal system concerning ownership of cultural property:*

- *Is the principle of inalienability applied to cultural items in national collections and objects originating in heritage sites?*
- *What is the status of yet unfound cultural objects, of cultural items found by chance and archaeological artefacts found during legal or illegal excavations?*
- *Are there any due diligence requirements in place?*
- *What are the rules governing the search of provenance?*

In the Czech Republic, ownership of cultural property has the same status as the ownership of any other property.

The cultural property which is comprised in the collections of state-run museums and galleries or in the furnishings of state-owned castles and chateaus, or is part of the historic stocks of state-run libraries and archives, may only be alienable under the conditions laid down by specific regulations.

Such specific regulations include those contained in Act No. 219/2000 on the Property of the Czech Republic and the Representation of the Czech Republic in Legal Relations, as amended, under which the consent of the Ministry of Culture of the Czech Republic is required for any transfer of the title deeds in respect of state-owned immovable and movable cultural heritage items and museum-type collections: no agreement on title deed transfer can be valid without consent from the Ministry of Culture.

Relevant regulations are also contained in Act No. 212/2000 on Mitigation of Certain Property-related Wrongs Caused by the Holocaust, as amended, which includes a special provision on the transfer for nil consideration of title deeds in respect of state-owned property to be privately owned by persons who are holocaust victims and other persons, as taxatively determined by the Act.

Relevant regulations are also contained in Act No. 122/2000 on the Protection of Museum-type Collections and on Amendment to Certain Other Acts, as amended. This Act, which is referred to above, lays down that the owner of a collection is obliged to maintain the collection in its entirety and is not allowed to pledge the collection or any collection item or encumber it with any other easement: any such action would be declared null and void; and the Act also offers the tools to be used by the state to monitor compliance with the relevant legal provisions.

Legal trade with archaeological finds in the Czech Republic is restricted to items that were discovered before 1958. Under Section 23a of Act No. 20/1987 on National Heritage Management, as amended, archaeological finds discovered after 1958 are the property of the state and, since 2005, they may also be the property of a local municipality or of the relevant region.

Provisions of the last-mentioned Act apply to archaeological finds. Unauthorised archaeological excavations can be punished as a misdemeanour.

As to cultural property discovered by chance, the finder must conform to the general provisions contained in Act No. 89/2012 – the Civil Code, concerning lost property,

hidden property, or property whose owner is not known. The municipality on whose territory the property was discovered decides how to deposit the property. If appropriate, and if the finder or another person agrees, the municipality may decide to deposit the property with the finder or such another person. Property of a high value, including, but not limited to, larger amounts of money, is as a rule delivered by the municipality into legal custody or deposited in another suitable manner.

Due diligence requirements are regulated by law, including, in particular, Act No. 122/2000 and Act No. 20/1987.

- (e) *Are there special rules on the transfer of title deeds in respect of cultural property? If so, please summarize their content.*

There are special legal rules on the transfer of title deeds in respect of state-owned cultural property (see above). There are also special legal rules on the transfer of title deeds in respect of movable cultural property that has been declared cultural monument or national cultural monument: under Act No. 20/1987 on National Heritage Management, as amended, the owner who intends to sell a movable heritage item that is a cultural monument or national cultural monument must offer it first to the Ministry of Culture to buy it for the national collections. Under the same Act, the owner of such a movable heritage item must also notify any change of ownership thereof to the professional heritage management institution (National Heritage Management Institute) for the purposes of registration of cultural heritage items in the Central List Collections of the Czech Republic. At the same time, the owner must notify the purchaser in the purchase agreement that the item being sold/purchased is a cultural monument or national cultural monument.

As to museum-type collections that are listed in the Central Register of Collections under Act No. 122/2000 on the Protection of Museum-type Collections and on Amendment to Certain Other Acts, as amended, the owner of the collection must, when the title deed in respect of the collection is being transferred, notify the purchaser that the collection is registered in the Central Register of Collections. The owner must also submit to the Ministry of Culture within a statutory period a written request for a change in the entry in the Central Register of Collections (to enter the data concerning the owner of the collection).

Act No. 257/2001 on Libraries and Terms of Operating Public Library and Information Services (the Library Act), as amended, lays down that book-type documents in the historic library stock may only be disposed of with the consent of the Ministry of Culture. The library operator must offer such documents for purchase to the National Library of the Czech Republic.

7. Bilateral agreements

- (a) *List the bilateral agreements concluded with other countries on the import, export and return of cultural property and comment briefly on their results.*

No special bilateral agreements on the import and export of cultural property, or transfer of the title deeds thereto, have been concluded. Most of the recent general bilateral agreements on cultural cooperation contain a framework arrangement on cooperation in the areas covered by the 1970 Convention.

The Czech Republic has not recorded any case where any other country claims any special agreement to be negotiated, nor does the Czech Republic itself claim such an agreement.

- (b) *What conditions are set by the importing country with regard to the admissibility of requests for restitution from a country of origin?*

As no special bilateral agreements have been concluded, there are no special conditions in place.

(c) *Apart from these agreements, is there administrative aid or any other type of cooperation with neighbouring countries, particularly in respect of police and customs services?*

Yes.

II. Code of ethics, awareness raising and education

Ethical standards

(a) *Are the UNESCO International Code of Ethics for Dealers in Cultural Property and that of ICOM for museums known to the professionals concerned (in particular, curators, antique dealers, merchants and collectors)? How is their observance checked?*

See Point 3b above. The Ministry of Culture notified the largest professional association of Czech antique dealers, the Association of Antiquaries, about the adoption of the *Code internationale de déontologie pour les négociants de biens culturels* and invited them to follow suit. This professional organisation informed the Ministry that it had adopted a deontological code already in 1997, similar to that adopted by CINOA in Florence in 1987.

The Czech Association of Museums and Galleries and the member museums of the Czech ICOM Committee fully accept the ICOM Deontological Code, which is well-known among the professional public. Its Czech translation is posted at the website of the Czech ICOM Committee.

However, the state has no legitimate power to monitor compliance with deontological codes. Monitoring and control is the role of the professional organisations referred to above.

Awareness raising and education

(b) *Are the “One hundred missing objects” series and the ICOM Red Lists disseminated and read?*

Yes.

(c) *Briefly describe 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?*

Much importance is attached to the role of the media, which should address any illegal export or theft of cultural property.

For more information, see below.

III. Cooperation with other international and regional agencies

Police

(a) *What is the state of national cooperation with INTERPOL? What specialized police services can heritage officials call on for enquiries, legal proceedings and punitive measures?*

Relevant INTERPOL departments are always contacted in international cooperation schemes. It is for example possible to withdraw items from auctions, but the requests of our Police are not always met without hesitation and delay. Cooperation with overseas

partners is in many cases particularly problematic and lengthy. Unfortunately, red-tape delays occur increasingly even within the European INTERPOL. In some cases, the Czech Police had to reiterate their requests up to six times. Of course, we follow the practice of making subsequent steps by sending requests abroad upon taking the necessary immediate measures (e.g., stopping the auction of an art object).

Members of the Investigation Department of the Criminal Police Service and Investigation Office of the Police Presidium of the Czech Republic may request, or send a proposal for cooperation or for criminal proceedings to any Police unit in the Czech Republic. They can likewise request the assistance of any state administration body or a private entity under Act No. 141/1961 – Code of Criminal Procedure, as amended.

(b) If a cultural object is stolen, is the INTERPOL database on stolen objects checked? Is information on the persons implicated in the theft of cultural property transmitted to INTERPOL?

If a stolen cultural object is not found in the database of the Investigation Department of the Service and Investigation Office of the Police Presidium of the Czech Republic, it is looked up in the INTERPOL database. If the person that stole an object registered in the database is identified, INTERPOL is informed thereof.

(c) Do members of police services follow a specific training programme?

Police members attend relevant training courses organised by the Regional Police Directorates and the training courses organised by the Service and Investigation Office of the Police Presidium of the Czech Republic.

(d) Do criminal law provisions allow for the punishment of fraud and theft related to cultural property? Are judges specialized in this field?

No separate offence of theft or fraud related specifically to cultural property is defined. In any such case, attention is focused on the damage caused by the offence. Such cases are therefore treated as theft, fraud or embezzlement. However, it is set out in Section 229 of Act No. 40/2009, Penal Code, as amended, that anyone who damages another's important cultural interest protected by another legal regulation by destroying, making useless or trading away his or her own object of greater value enjoying protection under another legal regulation shall be punished by up to two years' imprisonment, prohibition of activity or forfeiture of the object concerned or another asset.

(e) Does cooperation exist with the United Nations Office on Drugs and Crime (UNODC)?

The Czech Ministry of Culture cooperates with the Police of the Czech Republic. International cooperation is carried out by the Police of the Czech Republic.

Customs

(f) What is the status of cooperation with the World Customs Organization and which specialized customs services can assist heritage officials in preventing the illicit export of cultural property?

The Czech Republic is a member of the World Customs Organisation (WCO). The General Directorate is a member of the Integrated System of Movable Cultural Heritage Protection (the 'ISO Programme', see above).

(g) Do members of the customs administration follow a specific training programme?

On request.

(h) Is the UNESCO-WCO Model Export Certificate for Cultural Objects used?

No. National export certificates had been implemented by special acts of law before the adoption of the UNESCO-WCO model export certificate. The national export certificates contain all the necessary relevant data.

European Union

Have particular measures been adopted to apply 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?

Yes, see above.

IV. Emergency situations and heritage at risk

(a) What is the strategy in place in your country to face emergency situations for heritage in case of natural disaster or conflict?

The Czech Republic does not have a specific emergency strategy for the cultural heritage area. General rules are provided in Constitutional Act No. 110/1998 on the Security of the Czech Republic. The government of the Czech Republic is entitled to declare a state of Emergency under Article 5 of Constitutional Act No. 110/1998 *et seq.* in the event of natural disasters, environmental or industrial accidents, incidents or other dangers, which to a significant degree threatens lives, health, property values or internal order and security. If a delay is imminent, the state of emergency may be declared by the Prime Minister. The government shall inform the Chamber of Deputies of its declaration of a state of emergency immediately. The government's decision may then be revoked by the Chamber of Deputies. The state of emergency may be declared only for a certain period and for a certain territory. When declaring a state of emergency, the government must also state its reasons and specify which rights are to be restricted and which obligations are to be imposed, and to what extent. The state of emergency may be declared for 30 days at the most. This time limit may only be extended upon prior consent of the Chamber of Deputies. The state of emergency shall end upon expiration of the period for which it has been declared, unless it is revoked earlier by the government or the Chamber of Deputies. Decisions on the state of emergency are made public in the mass communication media and are promulgated in the same manner as a law. Act No. 240/2000 on Crisis Management (the Crisis Act) lays down the powers of the public administration authorities and the obligations of legal entities and individuals for the period for which the state of emergency is declared.

(b) More particularly, what are the measures undertaken to implement UNSC Resolution 2199 (paragraph 17, 12 February 2015) for the protection of Syrian and Iraqi cultural heritage?

Revision of national legislations to align on the provisions of United Nations Security Council Resolution 2199, in particular the prohibition of cross-border trade of Syrian and Iraqi cultural property with the view to:

- **control of exports, imports and acquisitions;**

Czech legislation provides for adequate controls of exports, imports and acquisitions for public museums. In this respect, the Czech legal system namely relies on the following laws:

- Act No. 122/2000, on the Protection of Museum-type Collections and on Amendment to Certain Other Acts, as amended;
- Decree of the Ministry of Culture No. 275/2000, implementing Act No. 122/2000, on the Protection of Museum-type Collections and on Amendment to Certain Other Acts;
- Act No. 71/1994 on the Sale and Export of Items of Cultural Value, as amended; Act No. 101/2001 on Repatriation of Illegally Exported Cultural Property;
- Act No. 203/2006 on Certain Types of Support to Culture and Amendments to Certain Related Laws

- **a process of due diligence and checking of provenance in the acquisitions of cultural property, taking into consideration the principles of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects. A process of due diligence with reversal of the burden of proof on the possessor, when the acquisition is made by cultural institutions, public and private museums, art dealers or art experts is recommended**

A process of due diligence and checking of provenance in the acquisitions of cultural property is applied by public museums as a standard principle; the state support of acquisitions to public collections is strictly conditioned by the application of the due diligence principles and checking of provenance.

- **strengthened investigative and seizure procedures, including using emergency anti-terrorism laws and/or taking into consideration the European Convention on Mutual Assistance in Criminal Matters**

These points are included in the draft of the new Concept of Museography Development in the Czech Republic for the years 2015 to 2020 and also in the draft of the new document on the Integrated System of Movable Cultural Heritage Protection (ISO) to be submitted to the Government of the CR.

- **regulation of the art market and police records in monitoring acquisitions, including those by public and private museums**

In the European legal environment, such an approach is not possible; nevertheless in this respect current legal instruments in the Czech Republic are adequate.

- **strengthened penal sanctions against physical persons involved in the illicit trafficking of cultural property;**

In the current legislative environment of the Czech Republic this protection is adequate. In this respect, the state has adequate legislation that protects cultural heritage.

- **immediate measure to comply with resolution 2199, pending in-depth review of national legislation: the relevant coordinating Ministry may propose and establish concrete and practical measures institutions concerned must adopt; and instruct these institutions to report to the coordinating Ministry; so that the latter can report**

to the Security Council Al-Qaida Sanctions Committee as well as inform UNESCO of the outcomes.

In this respect, Czech legislation is adequate; hence it does not require any major revision. The only exception is the possible ratification of the UNIDROIT Convention in the future.

Revision of national legislations to align with relevant international standards, in particular the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, and the United Nations Convention Against Transnational Organized Crime (Palermo 2000)

1. Strengthen the systematic record of seized Syrian and Iraqi cultural property including:

- **accompanying relevant documentation such as photographs, descriptions and expertise reports;**
- **ensuring their safe and secure storage in line with international standards until the situation allows for their safe return to their country of origin; and**
- **sharing the information on the seized objects with INTERPOL, WCO and UNESCO.**

The Czech Republic does not have any register of confiscated Syrian and Iraqi cultural goods.

2. Awareness-raising and capacity-building initiatives to:

- **incorporate a mandatory heritage component in training of military and law-enforcement personnel;**

The Ministry of the Interior should be consulted on this issue.

- **establish and train national specialized anti-trafficking of cultural property police units and customs officers;**

The Ministry of the Interior should be consulted on this issue; nevertheless, the Ministry of Culture of the Czech Republic already has long-term collaboration with the Police Presidium of the Czech Republic.

- **sensitize museums and art market professionals on the prohibition of trade of Iraqi and Syrian cultural property;**

On this issue, a discussion is currently underway with the Association of Antiquaries (Asociace starožitníků, z.s.), a member of the International Confederation of Art and Antique Dealers' Associations (C.I.N.O.A.) and also with the Czech Association of Museums and Galleries.

- **disseminating information to the general public on the prohibition of trade of Iraqi and Syrian cultural property in particular in transit countries;**

See previous paragraph.

- **sensitize the general public through media, events, the web and social media on the value of Iraqi and Syrian cultural heritage – shared heritage/cradle of civilization, and the importance of its protection.**

The Ministry of Culture already does that. It now prepares the translation of the relevant UNESCO documents into the Czech language. These documents will then be posted on the mkcr.cz website.

3. Legal and technical tools

- **Make effective use of UNESCO-UNIDROIT Model Provisions on State Ownership of Undiscovered Cultural Objects, INTERPOL Works of Art Database and the communication platform of the World Customs Organization ARCHEO, as well as ICOM Red Lists;**

Although the Czech Republic has not ratified the UNIDROIT Convention, the principle of state ownership of undiscovered cultural objects is accepted.

- **Improve implementation of the UNESCO International Code of Ethics for Dealers in cultural property and ICOM Code of Ethics for Museums**

At present, the ICOM Code of Ethics is binding upon public museums in the CR.

4. Actions to be taken in Iraq and Syria at national level with the support of the international community

- **Map the archaeological/cultural sites in Iraq and Syria and establish appropriate monitoring mechanism at affected sites and/or at risk (including through satellite imagery), with a view to better document looting and trafficking of cultural property;**
- **Whenever possible, strengthen the guarded protection at sites/museums affected or at risk;**
- **Elaborate 3D documentation of collections at risk;**
- **Establishing/completing inventories for particularly undocumented collections.**

The CR is involved in the safeguarding of the Iraqi heritage sites both on the level of the government and via non-profit organizations. A government program to help safeguarding Iraq's cultural heritage started in 2004 and it still continues. So far, the latest completed project is a Czech archaeological mission in northern Iraq in 2015 which is now focused on one of the cities that were most damaged by Islamic fundamentalism – on Mosul.

V. Other legislative, legal and administrative measures taken by the State

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

(a) Has this Convention been ratified, in addition to that of 1970?

No.

(b) If not, please indicate, where applicable:

- *the stage of the ratification process reached by the State concerned (close to ratification, under way, actively under preparation, not considering ratification in the short, medium or long term) ;*
- *obstacles or difficulties encountered in completing the ratification process (whether legal, political or practical) and the means of overcoming them;*
- *the extent to which UNESCO can assist in completing the process.*

Ratification of the 1995 UNIDROIT Convention is the responsibility of the Ministry of Foreign Affairs of the Czech Republic. If the Ministry of Foreign Affairs takes steps leading to the ratification of the 1995 UNIDROIT Convention, the Ministry of Culture will actively cooperate on such an initiative.

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

Describe the extent to which the State concerned is following the work of the UNESCO Intergovernmental Committee (observer, member, State concerned by a case under discussion, etc.).

The Czech Republic has been member of this Committee several times. The Ministry of Culture has always been trying to implement its recommendations in its practice. The Czech Republic designated two experts who may serve as mediators and conciliators in the context of dispute resolution linked to cultural heritage.

3. UNESCO Database of National Cultural Heritage Laws

Indicate action taken to organize the contribution to the UNESCO Database of National Cultural Heritage Laws and to check whether it contains all historical and existing laws and regulations, including successive amendments.

The Czech Republic makes its cultural heritage regulations available to the UNESCO Database of National Cultural Heritage Laws on a regular basis.

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