

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

ESTONIA

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

1. Ratification of the Convention

Estonia ratified the 1970 Convention on 27 October, 1995.

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.

- Intra-Community Transport, Export and Import of Cultural Objects Act (2007)
- Heritage Conservation Act (2002)
- Museums Act (1996)
- Act on the return of cultural objects unlawfully removed from the territory of an EU Member State (RT I 2003, 51, 351; 2005, 39, 308)

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

There are four types of cultural property indicated in Estonian laws:

- Monuments
- Cultural objects
- Museum objects
- Public records

(c) Specialized units

International issues related to the protection of movable monuments and the exportation of cultural goods are within the competence of the National Heritage Board, a government body affiliated with the Ministry of Culture.

According to the Customs Law, Customs is entitled to control, seize, and confiscate cultural heritage. Customs does not have special units to control cultural heritage. Customs controls cultural heritage in a similar way to other goods under bans and restrictions. Customs officials receive special training and follow the necessary guidelines to control cultural heritage.

There are no specialized police units that deal exclusively with the prevention and combat of trafficking of cultural goods. The Police Board is responsible for the investigation of all cases of stolen cultural goods.

(d) Administrative coordination

Control is carried out by customs and border officers and by mobile units, if necessary. Both work under the Customs Managing Department.

The Police and Customs work in close cooperation. The Customs Board is responsible for customs check, and all items of suspicious or unknown origin are handed over to the Police. If necessary, the Police start investigation procedures. The efficient cooperation between Customs and Police is guaranteed by 24/7 service of both institutions and the relevant cooperation agreement between the Police Board, the Customs Board, and the liaison Officer of the Customs Board working in the structure of the Police Board.

(e) Working meetings

Working meetings with stakeholders are held when necessary. The National Heritage Board and the Tax and Customs Board concluded a cooperation agreement and have regular meetings.

3. Inventories and identification

(a) Inventories

The National Heritage Board (NHB) maintains the [national register of cultural monuments](#). On 2 September 2010, the register contained 27,835 monuments. Museum and archive collections contain additional objects of cultural value. The risks of misappropriation and theft are minimized by risk management and disaster plans, alarm systems, rapid reaction of the police, training, and awareness raising. The disappearance of any objects of cultural value is made publicly known. The list of stolen objects of cultural value, together with photos of such objects, is available on the National Heritage Board website.

There is a [web-based information system for museum objects](#). Its goal is to provide a comprehensive overview of museum collections and allow tracking down collection items in and outside museum(s). Entering data about the museum objects into the database is a work in progress.

Library collections are incorporated into the [Internet-based digital information system ESTER](#). Archives are digitizing fund lists and records which are placed in the [archives information system AIS](#).

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

See 2 (b) above for the definition of “cultural property.”

There is no separate list of “national treasures” (owned by the state or privately) as described in Article 5 (b) of the 1970 Convention. All museum objects and objects registered in the national register of cultural monuments are considered to be cultural objects of value. These official registers are constantly updated.

(c) Reference to the Object ID standard

Estonia uses the Object ID standard, which has been adapted to the State's needs.

(d) Systems to combat theft and to train staff

Museums, libraries, and archives have their own security and safety systems to guard against various threats like theft, vandalism, fire, water, pests, humidity, and harmful storage climate.

There is no universal system of training or safety measures applicable to all heritage institutions in Estonia or specialized units to monitor them. Many museums are housed in historic buildings that add to the complexity of installing adequate security, therefore tailor-made solutions are often needed. Heritage institutions prepare their own risk analysis according to their situation. These risk analyses are updated yearly under the supervision of the Ministry of Culture.

4. Archaeological excavations

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

130 supervision permits were issued for the 130 excavations conducted in the last five seasons. The amount of these works considerably exceeds the number of planned research works. In both cases the monument must be partly or completely disposed of. As the tendency seems to increase, more attention should be paid to scientific elaboration of the results of rescue excavations, and to the compilation of thorough treaties.

The cost of investigation is always borne by the person or enterprise responsible for the project or the damage caused to the remains. In addition, he pays the cost of the necessary conservation. The aim is to

preserve the damaged archaeological remains, depending on the possibilities. For that aim, different methods can be applied, such as restoration of the previous appearance of the object, display of excavated structures as a sightseeing goal, or complete reconstruction of the ancient monument.

An object may be placed under temporary protection from two weeks to six months in order to determine whether it qualifies as a monument.

All archaeological remains are protected by law from the moment of their inscription in the state register. It is also possible to halt the work and protect sites where archaeological finds may appear during development projects. In reality, both state owned and private companies prefer to promptly finance the excavations, instead of taking up a legal debate with the National Heritage Board.

The penalty for damaging archaeological remains ranges from a fine of five daily wages to a two-year sentence in prison, with the addition of the obligation to pay the costs of the rescue excavation.

Permission systems for field-walking, private collections

The NHB is charged with the inventory of monuments, maintaining the national register, signposting, mapping, protection, maintenance, keeping contact with the owners, issuing licenses for research, and keeping record of the reports, penalties, and issues concerned with finds and rewards – i.e. all activities apart from scheduled scientific research work. Hence, the NHB issues licenses for systematic archaeological field-walking. According to the Law of Property Act, a permit is also needed from the owner, although in practice a simple oral agreement is sufficient. Sometimes field-walking without agreement is also practiced. All archaeological finds belong to the State, though a few smaller private collections also exist. Taking possession of these collections by force is not topical provided preservation of these collections is guaranteed and access to them for the purpose of scientific research is secured. The Museums Act regulates this field. The state tries to hinder the formation of private collections by offering finder's fees; in this case handing over the find is a precondition.

The major challenge in Estonian archaeology at present is gaining control over the use of metal detectors or banning the use of metal detectors. During the Soviet period, metal detectors could not be obtained, hence their use during the past 15 years has been extremely active. Consequently, the sites are not looted and the equipment is modern and easily available. Presently the number of metal detector users is estimated to be around 400-1,000; although, not everybody is engaged in archaeological findings. Some people search for farm remains, war graves, and modern finds from the beaches. There is also a legal need for metal detectors in the areas of timber industry where the forest is damaged by wartime splinters and bombshells.

Limiting the use of metal detectors is hindered by a legal gap: it is not forbidden to visit protected sites and "bleep", but all excavation there is forbidden. It is difficult to determine the boundary between legal and illegal activities. It is forbidden to use metal detectors on monuments, except with special permits in order to carry out research. In practice, it is very difficult to control. It is not forbidden to use metal detectors on fields, for example, as lawyers have not found ways to regulate this. The general practice with determined users of metal detectors is that they systematically work in archives and study old maps, sometimes more thoroughly than scientists or archaeologists, and on the basis of their research they scan sites that are not protected, mostly sacrificial places and medieval village cemeteries. There is practically no control over the findings. In case of findings that are handed over to the state it is not clear whether its entirety has been turned over. It should be essential to implement an absolute ban as is in force in Sweden, especially Gotland. However, lawyers are unable to regulate this, and there are insufficient funds to carry out effective control. At the moment the NHB is involved with a court case to determine the value of a find that has been found by means of a metal detector. Archaeologists do not see any possibilities for co-operation under such circumstances.

Estonian Parliament is currently discussing amendments to the Heritage Conservation Act. The draft amendments foresee introducing a permit system for searching valuable cultural objects, including by use of metal detectors. The training and report system is made obligatory in the draft. The penalties for illegal digging and search for valuable cultural objects will be more severe.

(b) Illegal excavations

Apart from the aforementioned problem regarding the use of metal detectors and unsupervised wreck diving, there are no major problems with illegal archaeological excavations in Estonia. A few diggings by interested people have occurred who have not sought any illegal profit, but, rather, have taken an active interest in the history of their community.

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)

The scale of the illicit export or import of cultural property is relatively modest. All violations detected during the period of 2003–2007 were related to imports and thus classified as violations of the Customs Act. The majority of incidents concerned souvenirs purchased by travellers in Russia, apparently, and were not declared at the customs office in order to avoid paying necessary duties. There was only one case related to illicit export. In 2007 a painting and an expert evaluation of it were discovered hidden in a car at the Narva border inspection post. They were later confiscated by the authorities.

In cases of theft of cultural monuments, the theft is added to the relevant state register maintained by the NHB.

(b) Problem of the illicit export of cultural property

It is not a recurring problem.

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

The NHB maintains the national register of cultural monuments and issues licenses for the export of objects of cultural value, the possession of which is verified by customs. The Customs Act (paragraph 75) prescribes liability for the carriage of forbidden goods or goods which are subject to prohibitions and restrictions from another Member State of the European Union to Estonia or from Estonia to another Member State of the European Union.

Pursuant to the Intra-Community Transport, Export and Import of Cultural Objects Act, a licence is not required in case of import of a cultural object. Nevertheless, a cultural object is checked upon import. The checking is based on risk analysis, which includes checking of additional documents, the value of goods for customs purposes and ascertaining, where needed, whether the work is an original or a counterfeit.

The adviser to the Register Department of the NHB is charged with tasks related to exporting cultural property, including:

- informing clients about the procedures of the Republic of Estonia and the EU related to exports of cultural property;
- providing advice on the subject of exports of cultural property and cooperating with the Ministry of Culture, the Estonian Tax and Customs Board and the Police and Border Guard Board;
- where necessary presenting proposals to the Head of Department with regard to using expert advice in order to assist in establishing the true value of cultural objects.

The main legal act is Intra-Community Transport, Export and Import of Cultural Objects Act (2007) referred to above. The paragraph 2 of the Act lists the categories of cultural property covered by the rules.

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

The Act on the return of cultural objects unlawfully removed from the territory of an EU Member State was harmonized with European Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State. The NHB implements the necessary measures described in the Act. The Police and Border Guard Board and the Estonian Tax and Customs Board are to assist within their jurisdiction in finding cultural objects unlawfully removed from the territory of EU Member States to Estonian territory.

In accordance with the 1970 Convention, Estonia has agreed to co-operate with all Member States in order to facilitate the identification and return to their lawful owners of works of art and cultural property illegally brought into its territory, but the return of unlawfully removed cultural objects is legally regulated only with regard to EU Member States.

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

They can be seen in the different interpretations of the circumstances of how cultural property was taken out of a country of origin and in disputed ownership issues. The historical-juridical issues are complicated. Estonia has striven to adhere to the practice of international law by returning foreign cultural property and also retrieving many of its own cultural treasures. Nevertheless, a great number of national culture heritage treasures remain outside Estonia.

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

Estonia has had cultural property returned from many countries. These properties have, in various ways, been dispersed around the world (for instance, evacuated during wars and occupations):

- 1990: Germany returned the Tallinn City Archives that were taken from Tallinn in 1944, which contained documents from as early as the 8th century;
- 2002: Sweden returned the most important Estonian foreign policy documents from the years 1918-1939, including the original Tartu Peace Treaty signed by the Republic of Estonia and the Russian RFSR that had been evacuated to Sweden immediately before Estonia's occupation by the Soviet Union;
- 2004: USA returned General Laidoner's medal and order collection that was secretly taken to Finland during the German occupation; from there they were taken to Sweden and later to USA.

Estonia has also returned cultural property to other States:

- 1991: Estonia returned to Russia the Petchory Uspenski Monastery's library that had, upon Estonia's occupation by the Soviet Union, been kept in the Tartu University Library.
- 2003: Estonia returned to Germany an altar wing (~1505 AD) with Albrecht Dürer's painting depicting John the Baptist that was lost from the Bremen Athenaeum during World War II and was confiscated by Estonia's Customs Office in 1992.

Estonia has held bilateral negotiations on restitution issues as well as participated in international projects dealing with restitution matters of cultural property and concluded relevant agreements and programs with several partners.

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 of 2010 there are:

- 30 antiquities shops in Northern and Central Estonia (incl. Tallinn) ;
- 13 antiquities shops in Southern Estonia (incl. Tartu) ;
- 9 antiquities shops in Western Estonia (incl. Pärnu and islands).

In Estonia, there are 8 galleries that deal with cultural goods; in addition there are 4 galleries specialised in auctions.

(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 Intra-Community Transport of the Export and Import of Cultural Objects Act (2007) is the main legal act regulating the issue. The NHB coordinates the implementation of the Act. Art and antique dealers (as well as individuals) can also turn to the NHB for help in verifying the provenance of objects.

Auction houses involve experts in the appraisal of the objects sold by them in accordance with their auction rules and contracts. Should there be doubts regarding the legal ownership of some items, the competent authorities will be notified.

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

The Museums Act states the principles for replenishing museum collections. Upon replenishment of a museum collection, the museum shall, within available means, ascertain the origin of an object of cultural value such that the museum collection would not contain those that have been acquired illegally in Estonia or in another State or have been exported illegally from another State (paragraph 16).

A museum object shall be excluded from a museum collection if it has been consciously acquired in violation of the provisions of subsection 16 (2) of the Museums Act and is transferred to the owner or another State (paragraph 19).

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

According to the Museums Act, objects belonging to a museum collection shall not be transferred or granted (paragraph 14); however, a museum object may be handed over to another museum unless handing over damages the integrity of the collection and if the object is needed for the replenishment of the collection of another museum (paragraph 17). Moreover, the bases for exclusion of an object from a museum collection are listed (paragraph 19). This can happen if the museum object has been damaged and cannot be restored, has been destroyed or lost, is handed over to another museum, or has been acquired in good faith in violation of the provisions of subsection 16 (2) of this Act.

Items of cultural value (both State-owned and privately-owned) that have been given the status of cultural monuments are registered in the [state register of cultural monuments](#) as movable monuments.

Chapter 5 of the Heritage Conservation Act (2002) deals with findings of cultural value. According to this, a finding of cultural value is that which is found in the ground or on the surface of the ground, inside a construction, under water, or in the sediment of a body of water; which is either a natural feature or has historical, archaeological, scientific, artistic, or other cultural value and which has no owner or the owner of which cannot be ascertained (paragraph 30). Findings of cultural value belong to the State. State supervision is exercised by the NHB.

7. Bilateral agreements

Estonia has entered into a number of bilateral agreements and programs on cultural cooperation that include also the issues of import, export, and return of cultural property. Such bilateral agreements have been concluded with Armenia, Bulgaria, the Philippines, Georgia, Croatia, Israel, Italy, Cyprus, Latvia, Lithuania, Mexico, Poland, Portugal, France, Germany, the Czech Republic, Turkey, Ukraine, Hungary, and the Russian Federation.

These agreements contain broad provisions. An example of a specific reference to and concrete result of such agreement between Estonia and Germany is the fact that, in 2003, Estonia returned to Germany an altar wing [see point 5 (f)].

To give an example of the programs that offer, inter alia, the possibility to engage in a partnership to help protect cultural heritage and to repatriate cultural property, Estonia would like to mention the First Executive Programme of the Cultural, Educational, Scientific, and Technological Co-Operation between Estonia and Italy between 2005-2008. According to point 5.4, the Parties commit themselves to collaborate in the fight against illegal trafficking of cultural goods by precautionary, repressive, and remedial actions in accordance with their respective national legislations and in compliance with the UNESCO 1970 Convention and UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995).

In accordance with the above mentioned Conventions, both Parties also agree to co-operate in order to facilitate the identification and return to their lawful owners of works of art and cultural property illegally brought into their respective territories.

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 for Museums is well known among professionals. It has been translated into Estonian and is available in the Internet, for instance from the [Information Centre of Estonian Museums](#). The UNESCO International Code of Ethics for Dealers in Cultural Property is less known.

2. Awareness raising and education

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

Professionals are aware of “One hundred missing objects” series and the ICOM Red Lists through the work of the ICOM Estonian National Committee; however, these documents have neither been translated into Estonian nor disseminated to a wider audience.

(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?

One of the objectives of the national curriculum developed by the Ministry of Education and Research is to raise the awareness of children and young people about the values of cultural heritage and foster its appreciation. Many Estonian museums have established education centres. Visitors of all ages are welcome to participate in the various educational activities. For instance, the Art and Museum Education Centre of the Estonian Art Museum offers art education programmes through lectures, art studios, workshops, art clubs, etc. for children, youth, and adults.

The education programs also introduce the principles of replenishment of museum collections, inter alia preservation, art restoration, as well as issues of theft, looting, and illegal export and import of cultural goods.

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

All competent national authorities are aware of relevant INTERPOL services. There are no specialized police services in Estonia that deal exclusively with cultural heritage issues.

(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

Yes.

(c) Specific training program for members of police services

No.

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

There are relevant criminal law provisions, but no judges specialized in this field.

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 WCO is very good. The customs head office has one expert specialized in cultural heritage protection and export, the responsibilities of whom include teaching and giving guidance to custom regions and field officers.

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

Customs officers, who study at the Civil Academy, take special courses on cultural heritage. Besides that, cultural heritage export is a subject in customs officers' base course. The NHB offers additional training concerning cultural heritage export issues.

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

Estonia uses a [movement/export licence](#) that is in keeping with under national legislation.

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

The Act on the return of cultural objects unlawfully removed from the territory of an EU Member State was harmonized with European Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State.

Directive 93/7/EEC was also taken into consideration when drafting the Intra-Community Transport of the Export and Import of Cultural Objects Act (2007).

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

Estonia is not currently considering ratification of the 1995 UNIDROIT Convention.

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

Estonia follows the work of this Committee as an Observer.

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

As of January 2011, the database contains the following national laws:

- Museums Act (1996)
- Heritage Conservation Act (2002)

- Act on the return of cultural objects unlawfully removed from the territory of an EU Member State (2003)

The Intra-Community Transport of the Export and Import of Cultural Objects Act (2007) will be added to the database.