

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

GEORGIA

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

1. Ratification of the Convention

Georgia is party to the Convention by Notification of Succession as of 4 November, 1992.

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.

Legislation relevant to the protection of cultural property consists of the Constitution of Georgia, international treaties and agreements, Georgia Law *On Exporting from and Importing Cultural Property to Georgia*, and Georgia Law *On Cultural Heritage*.

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

"Cultural property" is defined by *On Cultural Heritage* as "immovable or movable property created at any historical point in time as a result of a creative process by any materials and means which has artistic, aesthetic, ethnological, archaeological, historical, religious, memorial, scientific, technical, or technological value" and by *On Exporting from and Importing Cultural Property to Georgia* as objects of "archaeological, pre-historical, historical, literary, artistic, scientific, and other spiritual or national value."

Cultural property is that which is: created on Georgian territory by the Georgian nation or any other that previously or currently resides there; created on Georgian territory by individuals without Georgian citizenship; found on Georgian territory; gifted or purchased with permission from a foreign state; or purchased by the Georgian archaeological, ethnographic, or natural history expeditions with consent from a foreign state.

Modern souvenirs and mass produced assets are not included in the realm of cultural property.

(c) Specialized units

The Ministry of Culture and Monument Protection has created a legislative base with relevant scientific and technical agencies to regulate the export and import of cultural property. In addition, Order No. 747 of the Cabinet of Ministers created in 1995 a special structural unit in the Ministry of Culture. This Experts Commission consists of invited specialists from different fields.

(d) Administrative coordination

(e) Working meetings

3. Inventories and identification

(a) Inventories

The Ministry of Culture and Monument Protection compiles a state registry of the cultural property covered by the law. The Ministry also maintains an inventory of cultural objects to be exported from Georgia, as well as a state registry of imported goods.

In accordance with Article 50 of Georgian Law, movable monuments are subject to inscription in the state registry. As such, the Ministry of Culture and Monument Protection's Department of Cultural Property and Cultural Industry created the State Target Program of the Inventory of Movable Monuments in 2001.

The Commission of Registering Inventory was also established, including specialists from the Academy of Sciences, the Institute of the History of Georgian Art, museums, and the cinema-photo-audio archive. Legislation stipulates that, in collaboration with relevant specialists and experts, the Ministry of Culture and Monument Protection is responsible for issuing passports to inscribe objects in the inventory system and for creating an electronic database of cultural property and registration documents.

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

Software was developed to create the National Treasury Protection Registry, and standardized registration forms were developed for monuments of all types.

(c) Reference to the Object ID standard

A version of a sample of the Object ID identification indicators has been translated and sent to all museums and stakeholders.

(d) Systems to combat theft and to train staff

The Ministry of Culture and Monument Protection shall inform the public about lost or stolen objects via publications, mass media, or other legally permissible means. Civil society organizations and citizens have the right to unimpeded access to information on the protection of Georgian cultural heritage.

4. Archaeological excavations

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

The provisions for legally permissible excavations are explained in Articles 11 and 12 of *On Cultural Property*. A permit is required to conduct archaeological excavations. Article III of *On Cultural Heritage* explains that if a piece of cultural heritage is found, or if there is legitimate cause to expect such a finding, the individual or entity engaged in the activity must stop and inform the Ministry of Culture and Monument Protection.

(b) Illegal excavations

The problem of illegal excavations (or so-called “black archaeology”) is relevant as much today as in the past. It persists because of a lack of protection of cultural heritage, improper work on behalf of both government and non-government organizations, uncoordinated work with law enforcement agencies, and inconsistencies in current legislation. A low level of public awareness and perhaps the current socio-economic status of the country contribute to the endurance of the problem.

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)

(b) Problem of the illicit export of cultural property

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

According to chapter 3 of *On Exporting from and Importing Cultural Property to Georgia*, the Ministry of Culture and Monument Protection regulates the export and import of cultural property in conjunction with the Ministries of Finance, Justice, and Interior. The Ministry of Culture's Department of Cultural Heritage Strategy issues permits – for single use, valid for three months – for the export of cultural property. Exportation and importation conducted during times of full or partial territorial occupation are considered in violation of the law.

Article 34 of *On Exporting from and Importing Cultural Property to Georgia* articulates the priority purchasing right of the State, under which, if cultural property is to be exported for the purpose of a sale, Georgia has the right to retain it based on its historical, artistic, and/or cultural value.

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

In cases of seizure of illegally imported cultural property, the claimant shall compensate the citizen, legal entity, or bona fide buyer if they are party to the international provisions of the Convention. Otherwise, compensation is given voluntarily or in accordance with Georgia legislation.

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

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

The owner of cultural property may apply to the relevant Georgian agency for assistance in returning objects illegally exported to a foreign state. The State is the guarantor for restitution of ownership.

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).

(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)

Sales of cultural property from exhibitions, collections, monuments of the State Museum Fund, archives, libraries, etc. are allowed only by consent of the Ministry of Culture and Monument Protection. Revenues may be used only for purchases of historical, artistic, or cultural property of equal value.

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

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

Chapter 7 of *On Cultural Heritage* concerns ownership rights for cultural property, in particular issues of state-owned monuments, transfer of ownership of state-owned protected archaeological lands (and those included in the list of world heritage sites), and usage rights. Transactions are conducted in agreement with the Ministry of Culture and Monument Protection of Georgia.

Archaeological objects found during excavations conducted without permits are considered State property and are to be registered by the Ministry of Culture and Monument Protection.

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

7. Bilateral agreements

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

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

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

II. Code of ethics, awareness raising and education

1. Ethical standards

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

The ICOM Code of Ethics has been translated and sent to all museums and stakeholders.

2. Awareness raising and education

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

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

To raise awareness, the following have been translated and sent to all museums and stakeholders:

- “Legal and Practical Measures against Illicit Trafficking in Cultural Property”, a UNESCO handbook; and
- “Basic Actions Concerning Cultural Objects Being Offered for Sale over the Internet”, developed by UNESCO, INTERPOL, and ICOM.

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

(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

(c) Specific training program for members of police services

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

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

Customs

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

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

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

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

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

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

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

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