

## **GEORGIA**

# **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

### 1. Ratification of the Convention

Georgia acceded 1970 Convention on the Means of prohibiting and Preventing the Illicit Import, export and Transfer of Ownership of Cultural Property in 1993.

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

Pursuant to Resolution N747 of the Cabinet of Ministers of Georgia dated 6 December 1995, the Ministry of Culture and Monument Protection of Georgia has been assigned the task to regulate the export/import of cultural properties from/to Georgia.

In this connection, a special structural entity and an expert commission were set up in 1995 at the Ministry of Culture and Monument Protection of Georgia and staffed by invited experts in various fields.

Permits for Export and Temporary Export of Cultural Properties from Georgia are issued by the Cultural Heritage Department of the Ministry of Culture and Monument Protection of Georgia, in compliance with the Law of Georgia on Cultural Heritage and the Law of Georgia on Export and Import of Cultural Property.

Permit for Export and Temporary Export of Cultural Properties from Georgia provides the basis for the transportation of such properties across the customs and state border of Georgia.

Georgia applies uniform Permit for Export and Temporary Export of Cultural Properties from Georgia. Such permit is granted for a single use and is valid for 3 months.

Application for Permit for Export of Cultural Properties from Georgia may be filed by the owner of the property or his/her authorized representative.

The applicant must be notified of the decision taken within a maximum of 1 month from the day on which the application is received.

Permissions are granted in compliance with the Law of Georgia on Cultural Heritage and the Law of Georgia on Export and Import of Cultural Property, which stipulate that such permits are issued to:

- a) A piece of fine arts created with any material and any technique;
- b) A piece of decorative, applied art created with any material and any technique;
- c) Objects connected with historical events or with the creative activities of historical persons;
- d) Objects and/or parts of objects discovered during archaeological excavations or in cultural layers by chance;
- e) Cult objects made of any material and technique;
- f) Unique manuscripts, incunabula, civic and electric documents, books, diplomas and publications possessing historical, artistic, scientific and literary interest;
- g) Documents of the National Archive, including photo, film and video archives;
- h) Ethnographical objects;
- i) Pieces of one hundred years old unique furniture and musical instruments;
- j) Monuments connected with the development of science and technology;
- k) Original artistic assemblages and montages in any material;
- l) Original engravings, prints, lithograph and original forms their printing;
- m) Dismembered (movable) parts and fragments of artistic, architectural and historical monuments, monuments of monumental art;

- n) unique manuscripts, incunabula, poliotypes, printed documents, books, deeds, civil and secular documents and publications singly or in the collections are of special historical, artistic, scientific and literature importance;
- o) postage stamps, other philatelic materials, revenue and similar stamps singly or in collections;
- p) Rare specimens of flora and fauna, minerals and all the other rare specimens of interest for anatomy, paleontology and mineralogy singly or in collections;
- q) Other movable objects, including copies of historical, artistic, scientific or other kind of cultural significance and protected by the state as the monuments of history and culture;

The owner of the cultural property applying for the Permit is required to submit the following:

1. Sample(s) to be exported;
2. 3 color photos (9X13) of each sample to be exported;
3. Passport data of the exporter;
4. Receipt of permit fee (14 GEL) to be paid by the exporter at any bank of Georgia.

The Permit is not required for the export of contemporary souvenir items and wholesale cultural goods. In this case, the Ministry will issue a letter specifying that the object(s) in question does not fall into the category of cultural property. The applicant applying for the letter will have to pay a permit fee and submit the following:

1. Object(s) to be exported;
2. 3 color photos (9X13) of each object to be exported;
3. Passport data of the exporter.

If the cultural property is of value, a decision on the reasonability of its export abroad will be taken by the Commission on Cultural Properties and Movable Monuments under the Cultural Heritage Council of Georgia, which meets once a week on a regular basis.

The owner is required to submit the following to the Ministry for consideration at the Commission's meeting:

1. Object(s) to be exported;
2. 3 color photos (9X13) of each object to be exported;
3. Passport data of the exporter;
4. Receipt of permit fee (14 GEL) to be paid by the exporter at any bank of Georgia.

The Commission's meetings may also deal with other strategically important issues. A special commission may be set up, if required, consisting of experts from various institutes and scientific-research centres. The Commission may review letters from various law-enforcement agencies as well, requesting to assess the value of lost or stolen cultural properties. There is a number of other

issues, which can be solved on the basis of experts' respective findings.

### **3. Inventories and identification**

By Georgian Parliament Resolution N26 of 16 December 1993, Georgia acceded to the Paris Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property dated 14 November 1970. Based on Article 5 (b) of the Convention, the Parties to the Convention undertake to “establish and keep up to date, on the basis of a national inventory of protected property, a list of important public and private cultural property whose export would constitute an appreciable impoverishment of the national cultural heritage”.

At the same time, pursuant to Article 50 of the Law of Georgia on Cultural Heritage Protection: “Movable monument and any object that is considered movable based on its designation and nature, irrespective of its owner, shall be subject to inclusion into the national inventory”.

In view of the foregoing and with a view to making the cultural heritage protection one of the priority tasks of Georgia's national policy, the Ministry of Culture and Monument Protection of Georgia launched in 2001 the implementation of the State Programme on Movable Monument Inventory and Passportization. A Commission on Movable Monument Inventory-Passportization and Registry was established to develop a mechanism for carrying out inventory and passportization of movable monuments and to bring this mechanism into compliance with international standards. The Commission includes experts from the Georgian Academy of Sciences, Institute of History of Georgian Art, Archive of Audio-Visual and Film Documents, museums. A specialized group of experts was set up at the Commission and a computer programme was developed to ensure inventory and passportization of movable monuments in the territory of Georgia and other objects that are considered movable based on their nature and to create a national treasury protection register. Uniform registration forms were introduced for all types of movable monuments.

In accordance with the previous version of the Law of Georgia on Cultural Heritage Protection, movable monuments, according to their artistic, historical, aesthetic and spiritual values, used to fall into three categories:

- Movable monument of particular importance;
- Movable monument of national importance;
- Movable monument of local importance.

Status of movable monument used to be granted on the recommendation of the Cultural Heritage Council based on the materials jointly provided by the Department of Cultural Properties and Cultural Industry and the Commission of Movable Monuments and Register.

The specialized groups of experts covered the following areas of cultural heritage: archaeology, ethnography, manuscripts, pictorial art of the Middle Ages, numismatics, new

and contemporary pictorial art, oriental art, musical instruments, unique furniture, audio-visual and film documents. Heads of specialized groups used to submit their reports in advance, on the basis of which the volume of works to be carried out was determined.

Owing to the lack of funds, the Ministry had to first identify priorities and then input data to

databases according to these priorities. This programme represented a guarantee for the protection of movable monuments.

National Monument Protection Register was created, which gave a clear picture of the national treasury held by the State.

In 2004, after the Monument Protection Department was reorganized and incorporated into the Ministry of Culture as one of its structural entities, the Department of Cultural Properties and Cultural Industry was transformed into the Division of Movable Monuments under the Cultural Heritage Department. The functions of the Division consisted in identifying private and state-owned cultural properties in the territory of Georgia; granting status of movable monument or other object considered movable based on its designation and nature; granting permits for the export of cultural properties from Georgia.

During the same period, expert commissions were abolished and a sub-commission of cultural properties and movable monuments was set up incorporating the functions of 2 commissions (directing the inventory-passportization process of movable monuments and assessing cultural properties to be exported from Georgia).

It should also be noted that the Ministry of Culture and Monument Protection of Georgia is

responsible for the inventory and passportization of not only those movable monuments that are within the scope of its competence but also of those movable monuments that are preserved by other authorities (National Archive, Academy of Sciences, Patriarchate, etc); for developing a unified database and register documents; for drafting normative acts regarding the granting of status.

#### **4. Archeological excavations**

The Law of Georgia on Cultural Heritage regulates legal relations arising in this field and ensures the protection of Georgia's cultural heritage including archaeological heritage.

The Law sets forth terms and conditions for conducting archaeological excavations (Articles 11 and 12). The Law prescribes rules, which the permit holder is required to comply with in order to conduct archaeological excavations (Articles 47, 48, 50, 51, 52, 53, 54, 55).

The problem of illegal archaeological excavations (so-called black archaeology) used to and still continues to persist in Georgia.

The problem is largely caused by the ineffective and inconsistent operation of governmental and non-governmental sector, lack of coordination with law-enforcement agencies and defects in legislation. The main cause of the problem is, however, the population's low level of awareness

and weak civic position.

The status of accidentally discovered cultural properties, as well as of archaeological objects uncovered through illegal or legal excavations is regulated by Articles 1, 10, 11, 12, 13, 14, 15, 16, 33 of the Law of Georgia on Cultural Heritage.

Criminal sanctions for illegal archaeological excavations and/or damage of the archaeological objects are envisaged by Article 259<sup>1</sup> of the Criminal Code of Georgia (hereafter CCG). According to the paragraph 1 of the said article, performance of any kind of work on an archaeological site without a licence, or intentional damage or destruction of the site shall be punished by a fine or deprivation of liberty for a term of up to two years.

According to the paragraph 2 of the aforementioned article, the same offence committed by negligence is punishable with fine or deprivation of liberty up to one year.

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

During 2014-2015 to the National Central Bureau of Interpol (NCB of Interpol) of Georgia from central bureaus of Interpol of various countries were introduced 203 cases related to missed or stolen samples of cultural heritage, from which 34 cases concern examination and 169 searching.

Article 259<sup>4</sup> of the CCG provides for the criminalisation of illegal export of the cultural property from Georgia. The said provision applies to all categories of cultural properties such as monuments, archaeological objects or other cultural values defined by the legislation of Georgia. Under Article 259<sup>4</sup> of the CCG illegal export of monuments and other cultural values from Georgia is punishable by a fine or deprivation of liberty for a term of up to two years.

Article 214 of the Criminal Code of Georgia criminalizes the violation of customs rules during the transportation of cultural values through the customs border of Georgia. Under article 214 paragraph 3 of the CCG, the above-mentioned conduct is punishable with fine or deprivation of liberty for a term from four to seven years.

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

Georgia is a free market economy where prices regulate themselves. There are tens of art galleries in the territory of the country, of which the most popular are: International Art Centre, TBC Gallery, Muza International Centre of Culture, Universe Gallery, Vanda Gallery, Vernissage Gallery, 9

Gallery, Gala Gallery, New Gallery, Tiflis Avenue, Vache Gallery, Baia Gallery, Line Art Gallery,

Apollo Gallery, Chardin Gallery, Varla Gallery, Orbeliantubani Gallery.

The establishment of a house of auction would regulate the situation in the region's art market and

hence, is of paramount importance to Georgia and Transcaucasus as a

whole.

It is also important to set up a technically equipped art authentication centre, the project of which will be prepared at the National Museum of Georgia.

Currently, art authentication procedures are largely based on theoretical methods (visual examination and comparative analysis) which are not sufficient to establish the authenticity of art works and other technical specifications.

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

Non-governmental organizations responsible for cultural heritage ethics at the Ministry of Culture and Monument Protection of Georgia, legal entities of public law under the Ministry, respective ministries of the Autonomous Republics, except local municipalities and city councils are as follows:

- ICOMOS Georgian National Committee
- Georgian Museums Association
- ICOM Georgian National Committee
- Georgian National Committee of the Blue Shield
- Cultural Research Centre
- International Art Centre
- Tbilisi Hamkari

The Ministry of Culture and Monument Protection of Georgia carries out training activities to raise the awareness of various age-groups of the population on the necessity of protecting and preserving cultural heritage items. Methodological work is underway to prevent black archaeology, as well as theft and illegal export of cultural heritage items.

Information on wanted (missed/stolen) samples of cultural heritage is provided by Interpol member countries to the Informational-Analytical Department of the MIA of Georgia, where is possible to check whether the specific sample is wanted.

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

According to Article 30 of the Order N 1062 of the Minister of internal Affairs of Georgia on Activities of NCB of Interpol of the MIA and cooperation rules with it:

(1) In case of (theft) loss of a sample of cultural heritage on the territory of Georgia investigative or other competent authority addresses to Bureau with a request to announce international search for it, if there is a reasonable ground to presume that, mentioned item has been transferred out of border of Georgia.

(2) To the specified application shall be attached:

a) Criminal case description;

b) 2 (colored) photos of missed item;

c) detailed description of missed item;

d) List of countries, where presumably the item was transported to, in case of availability of information.

e) Any other type of information related to mentioned item.

(3) Request is filed by competent official of the investigative authority to the Bureau.

(4) Upon receiving the request the Bureau within 3 working days, shall make one of decisions specified here:

a) Take measures in order to comply with the request;

b) For announcement of international search request additional details in case of providing insufficient information.

c) Does not comply with the request if it contradicts listed requirements.

(5) The investigative authority in case of obtaining any information on special cultural heritage, immediately informs the Bureau, which if necessary, depending on application recipient, provides mentioned information bureau of Interpol of foreign country or the General Secretariat.

(6) In case of receipt information on specified matter via Interpol channel, the Bureau according to marking attributed to parcel, but not later than 3 days, informs of it a search initiator.

(7) Search initiator immediately informs the Bureau on activities performed on the basis of specified information.

(8) Searching of samples of special cultural heritage is terminated upon application of investigative authority, where there are legal grounds for its termination defined by the law.

(9) In case of receipt information from bureau of Interpol of foreign country on loss of special cultural value, the National Bureau examines whether the parcel includes any information necessary for

conducting search for special cultural value and in case of affirmation within the time limit defined by marking attributed to parcel, addresses to competent law enforcement authority with the motion on performing search for item specified in the request.

(10) In case of detection of wanted item or obtaining any information about it, the respective law enforcement authority immediately informs the Bureau, which according to marking attributed to the parcel, not later than 3 days, provides communicated information to the Bureau of Interpol of foreign country – search initiator.

In 2006, 2008, 2010 and 2011 by organizing the Ministry of Culture and Monuments Protection of Georgia, Shalva Amiranashvili Museum and Mtskheta Municipality were conducted special trainings on issue: “Readiness and Management during natural Disasters and armed Conflicts”. In trainings took participation managers of south Caucasus museums and 15 representatives of the National Treasure Protection Division of the LEPL Security Police Department of the MIA. Workshops aimed at awareness building in the field of national treasure protection during armed conflict or natural disasters.

Criminal Code of Georgia establishes sanctions for unlawful actions related to cultural property, in particular they are prescribed by Articles 183 and 214(3), Chapters XXXII<sup>1</sup> and XXXII<sup>2</sup>.

### **Participation of supporting agencies**

LELP Emergency Management Agency of the Ministry of Internal Affairs (MIA) of Georgia coordinates evacuation measures of movable cultural heritage.

Patrol Police Department of the MIA ensures protection of public security on the evacuation routes and sending/receiving points.

LEPL Security Police Department of the MIA ensures protection of movable cultural heritage within the emergency area.

Ministry of Defense of Georgia – participates in evacuation measures of movable examples in accordance with the rule established by the legislation of Georgia.

National Bank of Georgia – organizes evacuation of financial values protected in national bank to safe area.

LEPL Public Broadcaster – organizes evacuation of TV/Radio records of historical significance and other values of national significance to safe area.

### **Customs**

1. Non-tariff control division of Customs Department is in charge of monitoring of importation and exportation of cultural valuables.
2. Non-tariff control division has permanent specific program of trainings for the customs officers for monitoring of importation and exportation of cultural valuables
3. Ministry of culture and Monument Protection of Georgia is in charge of issuance of permit on export for cultural valuables. Permit issuing is regulated under the Georgian law on “Export and import of Cultural valuables from/to Georgia”.

#### **IV. Emergency situations and heritage at risk**

Concerning protection of cultural heritage during natural disaster, conflict or other emergency cases, there is an emergency management common system guided by Nation Plan of Response to Emergencies that operates in Georgia.

In Accordance with Function 17 “Ensuring Evacuation Measures of Movable Cultural Heritage “ of the National Plan of Response: The Ministry of Culture and Monuments Protection of Georgia aiming at ensuring evacuation of movable cultural heritage to safe area develops main activities and coordinates them in common with supporting agencies.

In case of emergency the evacuation management of movable examples is done by the Ministry of Culture and Monuments Protection of Georgia on national level.

On autonomous and local levels the Ministry of Culture and Monuments Protection of Georgia ensures evacuation of heritage with support of authorities of Local Self-Government.

For ensuring of evacuation movable cultural heritage from emergency areas is conducted a prior planning. In order to organize of evacuation are established preparing, sending/receiving points for movable cultural heritage.

Tasks for ensuring evacuation of movable cultural heritage are:

- Taking protection measures for movable cultural heritage;
- Establishing of groups for preparing, packing and shipping of movable cultural heritage;
- Transportation of movable cultural heritage from emergency areas;
- Allocation of transport vehicles necessary for the evacuation of cultural heritage, determination of evacuation routes;

- Determination of facilities necessary for placement of movable cultural heritage, ensuring of their safe placement and allocation;
- Preparing of recommendations on issues related to evacuation of movable cultural heritage and planning/taking necessary measures.

Being a state party to the 1970 Convention, Georgia undertakes relevant measures with regard to preventing illicit trade of cultural objects on the territory of Georgia. The transit and import of cultural objects belonging to other states is regulated by the Law of Georgia on Export and Import of Cultural Property. According to the article 6 of the Law, the cultural objects wanted by the competent foreign authorities are prohibited to be imported on the territory of Georgia. Moreover, according to the article 19 of the abovementioned document, after passing relevant custom procedures, the imported cultural object is registered and the corresponding information is submitted to the Ministry of Culture and Monument Protection of Georgia.

It is to be mentioned that there has not been any cases of illicit import of Syrian and Iraqi cultural objects on the territory of Georgia yet. In case of the precedent, the Government of Georgia, in close cooperation with the relevant international organizations, will return cultural property to the country of its origin.