

UNESCO 1970 Convention - Periodic Reporting Form 2019

Respondent Information

Name: Delegation of Germany/Délégation d'Allemagne

Position :	Permanent Delegation of Germany to UNESCO
Organization/Agency :	Permanent Delegation of Germany to UNESCO
Country :	Germany

Policy and Legislative Framework

1. Did your country implement the 1970 UNESCO Convention, and if so, how?

	Civil Law
	Criminal Law
X	Specific Law

Please describe the specific law(s) used by your country.

Specific law: Act on the Protection of Cultural Property (Cultural Property Protection Act – KGSG) of 31 July 2016, entry into force: 6 August 2016. Online available in the UNESCO Database on national laws and at: http://www.gesetze-im-internet.de/englisch_kgsg/index.html

2. Does your country have an overall policy and/or strategy for fighting illicit trafficking of cultural property (i.e., a document that describes the country's overall vision for fighting illicit trafficking)?

X	Yes
	No

3. Please provide the name and year the policy was passed (and web link to the policy/strategy if available).

Germany launched a specific website on the protection of cultural property in 2016: <http://www.kulturgutschutz-deutschland.de> This website includes information on: (1) Legislation in Germany, at EU- and UN-level (UNESCO Conventions), (2) the authorities in charge, contact details and export certificates, (3) database on cultural property of national importance protected in Germany, and (4) database on national export laws of foreign countries for authorities, customs, tourists and the general public.

4. Please describe your country's overall legal framework for protecting cultural property from illicit trafficking, referencing specific laws and years passed (including specific provisions on the return of cultural objects illegally exported from other States Parties to the Convention).

The 2016 Act on the Protection of Cultural Property replaced and unified previous legislations of 1955 and 2007. The 2016 Act implements the 1970 UNESCO Convention, the first protocol to the 1954 Hague Convention as well as EU law. It provides provisions on: 1. the protection of cultural property being of national importance, 2. Import and export regulations for cultural property, 3. the return of cultural property (art. 50-53 of the 2016 Act), 4. Due diligence requirements for placing cultural property on the market, 5. Penal Sanctions.

5. **To what extent does your country’s policy and legislation on this issue address the following topics (Please rate the degree of achievement in accordance to options available in the drop down boxes below).**

5	Excellent
4	Very Good
3	Good
2	Satisfactory
1	Poor

5	Clear definition of cultural property
3	State ownership of undiscovered cultural heritage
5	Regulations on trade of cultural property
5	Export controls
5	Export certificates
3	Certificate of authenticity
5	Import controls
5	Establishment of national services
5	National inventory of cultural property
3	Inventory requirements for museums, public institutions, private collections
4	Protection of archaeological sites and regulation of archaeological excavations
4	Public education and awareness raising
5	Measures to prevent museums and similar institutions from acquiring illegally exported cultural property
5	Prohibition of import of cultural property stolen from a museum or religious/secular institution
4	Regulation of the diplomatic pouch
5	Provisions for the return of cultural objects stolen from a museum or other public institution
5	Sanctions (criminal and/or administrative and/or civil) of illicit activities related to destruction and illicit trafficking of cultural property
4	Requirement of register of sales for antique dealers, auction houses, dealers of cultural heritage and art galleries

4	Protection of underwater cultural heritage
4	Regulations regarding the use of metal detectors
4	Regulations regarding the trade of cultural artefacts on internet
Other (please specify):	

6. **Did your country's legal framework regarding illicit trafficking of cultural property change as a result of ratifying the 1970 Convention?**

X	Yes
	No

7. **What laws were passed or changed as a result of ratification? (Please provide the name of the law and the year it was passed)**

Act Implementing the Cultural Property Convention of 18th May 2007 subsequently replaced by Act on the Protection of Cultural Property (Cultural Property Protection Act – KGSG) of 31 July 2016, entry into force: 6 August 2016. For details see answer to questions 1 and 4 above.

8. **Please add any additional comments on the legislative/policy framework**

□

9. **Has your country implemented a policy to prevent the illicit export of cultural property?**

X	Yes
	No

Please specify :

Based on the 2016 Act: regular consultations between the authorities in charge on the federal and regional level. Training seminars for customs and police authorities. Online information on: www.kulturgutschutz-deutschland.de

10. **Does the implemented policy include the requirement of a legally issued export certificate of the country of origin and/or transit?**

X	Yes
	No

Please specify :

Legal import of cultural property into Germany requires an export certificate of the country of origin if such cultural property (or categories thereof) is protected by that state. Please note: new EU Import Regulation on cultural property coming from outside the EU Single market will be adopted soon.

11. Has your country encountered difficulties in returning/restituting cultural property to its place of origin due to incompatibilities with national judicial decisions?

	Yes
X	No

Implementation and operative framework

Institutional Framework

12. Does your country have a specialized service for the protection of cultural property (as described in Article 5 of the Convention) whose functions may include drafting laws and legislation, establishing national inventory, promoting establishment/development of scientific and technical institutions, organizing the supervision of archaeological sites, establishing rules for curators, antique dealers, etc., developing educational activities and/or publicizing the disappearance of cultural property?

X	Yes
	No

13. Please describe this service's major roles and responsibilities.

Competencies under the 2016 Act are divided between the federal authorities and the regional authorities. The competence to regulate import and export of cultural property, the rules on trade (due diligence, record-keeping etc.) is with the federal authorities, whereas the competence to individually designate cultural property as being of national importance (by entering them in a register) and to protect archeological sites and other immovable cultural property is exclusively with the regional authorities (Länder).

14. Please indicate which of the following departments/ministries/agencies also have specialized services for the protection of cultural property against illicit trafficking (mark all that apply).

	Magistrates and/or judges
X	Police, gendarmerie, and/or Department of Interior
	Public prosecutor
X	Customs
	None
X	Other (please specify): The obligations under the 2016 Act are divided between the federal authorities and the regional authorities.

15. Please describe the roles and responsibilities of these specialized services in more detail.

Federal Police and Federal State Police (partially) as well as Customs authorities have special departments dealing with cultural property crimes. They conduct investigations and support the state prosecutors (however, there exists no special department on the judicial level). Culture administrations on both the federal and regional level are responsible for the implementation of the rules on import, export and trade (due diligence), individual designation of cultural property being of national importance and the return of stolen/ illicitly exported cultural property.

16. **How do relevant stakeholders (Ministry of Culture, police, customs, etc.) coordinate regarding the protection of illicit trafficking? Mark all that apply**

X	Formal coordinating committee, working group, etc.
	Coordination lead by specialized service (as described in Article 5), antenna or focal point
X	Communication and meetings as necessary (i.e., for specific cases)
X	Cross-trainings (i.e., trainings for police from Ministry of Culture staff)
	No Coordination
	Other (please specify) :

17. **Please provide more detail on this coordination, including how it functions and who is involved.**

Regular consultations between the authorities in charge on the federal and regional level (3-4 times a year). Training seminars for customs and police authorities.

18. **Does your country use a database of stolen cultural objects?**

X	Yes, we have our own national or/and regional database that is not linked with the INTERPOL database
	Yes, we have our own national or/and regional database that is linked with the INTERPOL database
	Yes, we use the INTERPOL database (and do not have our own national database)
	No, we do not currently have a national database or use the INTERPOL database
	We would request assistance to establish such a database

19. **Please provide additional details on how your country uses such a database.**

The German federal police has its own database and cooperates closely with INTERPOL in order to guarantee the exchange of information. In addition, there is a public database for stolen and displaced cultural property during WWII, especially for Nazi-looted art: (<http://www.lostart.de/Webs/EN/Datenbank/Index.html>)

Protection and Prevention Systems

20. **To what extent do museums and religious or secular public monuments have their own specific inventories of their cultural property/collections?**

	All/almost all cultural property is inventoried
X	Most, but not all, cultural property is inventoried
	Some cultural property is inventoried, but significant gaps remain
	Very little cultural property is inventoried
	No/almost no cultural property is inventoried

21. **Please provide additional details on these inventories, specifying whether they are digitized, and including any challenges in creating/maintaining them.**

Most institutions in Germany, both on the national and regional level, have their own specific inventory. These are partially digitalized or digitalization is in progress. Strengthen the digitalization of inventories and archives is a task of major importance to the German authorities. However, not all small (privately held) institutions might have professional inventories.

22. **To what extent does your country have a centralized national inventory of cultural property?**

X	All/almost all protected cultural property is inventoried
	Most, but not all, protected cultural property is inventoried
	Some protected cultural property is inventoried, but significant gaps remain
	Very little protected cultural property is inventoried
	No/almost no protected cultural property is inventoried

23. **Please provide additional details on this inventory, including any challenges in creating/maintaining it.**

Due to the principle of federalism, Germany does not have a centralized national inventory of all cultural property. However, the German Cultural Property Protection Act of 2016 designates cultural property that is publicly owned and part of the collection of a publicly held or funded institution to be "national cultural property". The collections of public institutions are inventoried by the respective institution. The inventories are usually not published; however, some are online (in total or partially). There is, however, an inventory (database) available online of cultural property specifically and individually designated as being of national importance: www.kulturgutschutz-deutschland.de.

24. **Please describe the extent to which looting/pillaging/illegal excavations of archaeological and ethnological objects is a challenge, including actions taken to combat it.**

Unfortunately, illegal excavations of archaeological objects happen in Germany, too. Effective site management, the development of valid guidelines for (legal) metal detector use and awareness raising campaigns are undertaken in order to avoid illegal excavations. The Association of Federal State Archaeologists engages in a « Commission illegal archaeology ». One focus of the commission's work is to cooperate closely with Ebay Germany to monitor the market place with archaeological objects in order to prevent online sales and auctions of illegal finds.

25. **Has your country undertaken any public awareness campaigns related to the protection of cultural property in the past five years?**

X	Yes
	No

26. **Please describe, including methods, target audience, etc.**

Germany launched a specific website on the protection of cultural property in 2017: www.kulturgutschutz-deutschland.de. This website includes information on: (1) Legislation in Germany, at EU- and UN-level (UNESCO Conventions), (2) the authorities in charge, contact details and export certificates, (3) database on cultural property of national importance protected in Germany, and (4) database on national export laws of foreign countries for authorities, customs, tourists and the general public. It provides specifically compiled information for target groups, e.g. museums, private collectors as well as art and antiquities dealers. Accompanying the new legislation in 2016, the authorities on the federal and regional level have published several brochures, leaflets, flyer etc. to inform about the legislation.

27. **To what extent is the public in your country engaged in the protection of cultural property? Examples of engagement may include :**

5	Excellent
4	Very Good
3	Good
2	Satisfactory
1	Poor

3	Protection of local archaeological and heritage sites by the public (eg. assistance in monitoring of sites, support in documenting etc.)
4	Return of objects to relevant authorities
4	Sharing information on stolen objects with authorities
5	Placing pressure on museums to change acquisition policies
3	Advocating for policy change

28. **Overall, to what extent do police and/or gendarmerie have the necessary resources and knowledge to address cultural property crime?**

	To a great extent
X	To a considerable extent
	To some extent

	To no extent
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29. Overall, to what extent do customs officers have the necessary resources and knowledge to address cultural property crime?

	To a great extent
	To a considerable extent
X	To some extent
	To no extent

30. What type of training do police receive on cultural property crime?

	No specific training on this issue
	Training has occurred in the past, but is not ongoing
	Training occurs periodically
X	In-depth, specialized training for officers working on this issue
	Assistance is required from UNESCO and its partners
	Other

31. Please provide additional details on the content and frequency of these trainings.

Special trainings have been conducted after the entry into force of new legislation: the Act on the Protection of Cultural Property of 2016. The specialized unit of the German Federal Police regularly takes part in international conferences, trainings and seminars. So do officers of the German customs criminal investigation unit.

32. What type of training do customs officers receive on cultural property crime?

	No specific training on this issue
	Training has occurred in the past, but is not ongoing
X	Training occurs periodically
	In-depth, specialized training for officers working on this issue
	Assistance is required from UNESCO and its partners
	Other

33. Please provide additional details on the content and frequency of these trainings.

Special trainings have been conducted for customs officers, including a specific manual on the procedures to be conducted with regard to the Act on the Protection of Cultural Property of 2016.

34. **To what extent have museums in your country adopted a code of ethics, such as the ICOM Code of Ethics, that is in line with the principles of the 1970 Convention?**

X	All or almost all have adopted such a code of ethics
	Most have adopted such a code of ethics
	Some have adopted such a code of ethics
	None/only a few have adopted such a code of ethics
	Other (please specify) :

35. **Please provide additional details on the degree to which museums adhere to such a code of ethics.**

The ICOM Code of Ethics is widely known and respected by the museums in Germany.

36. **To what extent do dealers and auction houses in your country follow practices that are in line with the principles of the 1970 Convention, such as those outlined in the UNESCO International Code of Ethics for Dealers in Cultural Property and the Operational Guidelines of the 1970 Convention?**

X	All or almost all follow such practices
	Most follow such practices
	Some follow such practices
	None/only a few follow such practices
	Other (please specify) :

37. **Please provide additional details on the policies and practices of dealers and auction houses in your country.**

Before the entry into force of the Act on the Protection of Cultural Property in 2016, art and antiquities dealers and auction houses associations had declared themselves devoted to different codes of ethics. Since the new legislation has been enacted, art and antiquities dealers have to perform detailed due diligence requirements specified in the 2016 Act when placing cultural property on the market. Moreover, they are obliged to keep record of their due diligence activities and findings in their registers for 30 years.

38. **How has your country engaged art and antiquities dealers around the issue of illicit trafficking of cultural property?**

Based on the Act on the Protection of Cultural Property of 2016 the federal government is in regular exchange with the German art market, e.g. via regular consultations and manuals on the specific regulations of the 2016 Act.

39. **Do you regulate the trade of cultural objects on internet?**

39. Do you regulate the trade of cultural objects on internet?

X	Yes
	No

40. Have you entered into a specific agreement with an internet platform?

X	Yes
	No

International Cooperation

41. Please list any bilateral agreements your country has regarding the protection of cultural property, including the years for which the agreement is in effect.

Under German law, no bilateral agreements are required in the implementation of the 1970 UNESCO Convention. All States Parties to the Convention have the same rights and procedures under the 2016 Act.

42. Please indicate how the 1970 Convention helped with return/restitution cases your country has been involved in?

	To no extent	To some extent	To a considerable extent	To a great extent
Provided a legal framework for return/restitution			X	
Provided a moral framework for return/restitution				X
Provided a diplomatic framework for return/restitution				X
Other (please specify):				

43. Please provide additional details on or examples of how the 1970 Convention has facilitated return/restitution cases

The 1970 UNESCO Convention provides the legal framework for the Act on the Protection of Cultural Property of 2016 on the return of cultural property to States Parties to this Convention. With regard to EU Member States, EU-legislation (Directive 2014/60/EU) provides the legal framework for the return of cultural property to other EU Member States.

44. Does your country have a system in place to facilitate international cooperation (e.g. single points of contacts and easily accessible information) in cases of illicit trafficking of cultural property?

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X	Yes No
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If yes, please specify

As central point for EU Member States: Federal Government Commissioner for Culture and the Media. As central point for Non-EU Member States: Federal Foreign Office. All contact details and regional authorities are available online: www.kulturgutschutz-deutschland.de.

45. **How has your country promoted this system and ensure the international community is aware of it?**

UNESCO national law database. German website: www.kulturgutschutz-deutschland.de and presentations at UNESCO meetings. Several consultations and conference in Germany on the topic.

Overall

46. **Yearly statistics**

Thefts

1st Year reporting	0	Number of objects
Additional information :		
2nd Year reporting	0	Number of objects
Additional information :		
3rd Year reporting	2	Number of objects
Additional information : Golden coin, Berlin and tiara, Karlsruhe		
4nd Year reporting	0	Number of objects
Additional information :		

Illegal Excavations

1st Year reporting	0	Number of objects
Additional information :		
2nd Year reporting	0	Number of objects
Additional information :		
3rd Year reporting	0	Number of objects
Additional information :		
4nd Year reporting	0	Number of objects
Additional information :		

Seizures (cultural objects originating from own country)

1st Year reporting	0	Number of objects
Additional information :		
2nd Year reporting	0	Number of objects
Additional information :		
3rd Year reporting	1	Number of objects
Additional information : Collection of antique books		
4nd Year reporting	0	Number of objects
Additional information :		

Seizures (cultural objects originating from another country)

1st Year reporting	0	Number of objects
Additional information :		
2nd Year reporting	0	Number of objects
Additional information :		
3rd Year reporting	39	Number of objects
Additional information : 39 cases stopped by customs, in 13 cases thereof seized.		
4nd Year reporting	37	Number of objects
Additional information : 37 cases stopped by customs, in 12 cases thereof seized.		

Restitutions

1st Year reporting	2	Number of objects
Additional information : cases, may include several objects		
2nd Year reporting	3	Number of objects
Additional information : cases, may include several objects		
3rd Year reporting	8	Number of objects
Additional information : cases, may include several objects		
4nd Year reporting	8	Number of objects
Additional information : cases, may include several objects		

47. Please rate the extent to which each of the following is a challenge your country faces in preventing theft and illicit exportation of its cultural property.

	Not a challenge	Somewhat of a challenge	A considerable challenge	A major challenge
Gaps in national legislation to protect cultural property	X			

Lack of police capacity related to cultural property		X		
Lack of customs capacity related to cultural property		X		
Lack of coordination between relevant stakeholders		X		
Lack of inventories and databases in museums	X			
Inadequate security systems in museums and places of worship		X		
Inadequate security of archaeological sites		X		
Lack of cooperation from the art market			X	
Lack of expertise/capacity in the legal field (lawyers, judges, prosecutors, etc.)			X	
Lack of regulation on the internet			X	
Lack of public awareness		X		
Other (please specify):				

48. **If applicable, please describe the three biggest barriers your country faces in securing the return/restitution of cultural property that has been stolen/illegally exported (e.g., cost of legal proceedings in other countries, lack of communication with counterparts in other countries, etc.).**

□

49. **If applicable, please describe the most common reasons why your country is not able to fulfill requests for return/restitution made by other countries (e.g., requests made outside parameters of existing legal framework, lack of evidence for claims, etc.).**

• Uncertainty about the origin of an object (e.g. coins and archeological objects might come from an entire region, not a single state). • Lack of detailed information on the export laws of foreign countries (UNESCO database on national laws needs improvement).

UNESCO Support for the Implementation of the 1970 Convention

General awareness raising and communication strategies

50. **UNESCO and its partners have developed a number of tools to help State Parties implement the 1970 Convention. Please rate how helpful these tools have been to your country :**

	Not	Somewhat	Very	Extremely
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	helpful	helpful	helpful	helpful
Object ID Standard (ICOM, the Getty, and UNESCO)		X		
UNESCO International Code of Ethics for Cultural Property Dealers			X	
ICOM Code of Ethics for Museums				X
UNESCO Database of National Cultural Heritage Laws				X
Basic Measures Concerning Cultural Items Offered for Sale on the Internet (INTERPOL, UNESCO, ICOM)			X	
Model Provisions Defining State Ownership of Undiscovered Cultural Property (UNESCO and UNIDROIT)		X		
Model Export Certificate for Cultural Objects (UNESCO and WCO)		X		

51. **Please provide additional details on how your country has used UNESCO's tools.**

UNESCO database on national laws is a very useful tool but needs improvement in order to be used by national authorities (translation of legal texts at least in English, summary of national laws, specifically on what cultural property can be exported and what cultural property cannot be exported, information on previous laws and export licenses).

52. **Please indicate whether your country has uploaded relevant national laws to the UNESCO Database of National Cultural Heritage Laws.**

Yes. The 2016 Act as well as the previous legislation of 2007 are both available in German and English. A French translation will be provided soon.

53. **What additional tools would be helpful for UNESCO to develop ?**

See answer to question 51: improvement of the UNESCO national law database.

54. **Have you or other stakeholders in your country participated in any of UNESCO's capacity building workshops or projects related to preventing illicit trafficking of cultural property in the past five years?**

X	Yes
	No

55. **How did these workshops or projects contribute to the implementation of the 1970 Convention in your country? Please provide specific examples where possible.**

2018 UNESCO-EU Workshop on the art market in Paris. Helpful exchange of information. 2018 UNESCO-EU Training workshop for European judiciary and law enforcement. Good presentation of the topic in its broader (international) context; useful exchange and network opportunity for investigating authorities.

56. **There are a number of ways the UNESCO Secretariat could support State Parties in the implementation of the 1970 Convention in the future, in addition to servicing the governing bodies of the Convention. Please indicate the extent to which the Secretariat should give priority to the following activities :**

	No priority	Low priority	Somewhat of a priority	High priority
Support in reforming national policies and legislation			X	
Promoting policy dialogues between countries				X
Support for inventorying projects		X		
Specialized trainings for police			X	
Specialized trainings for customs			X	
Specialized trainings for museum staff	X			
National workshops to bring together stakeholders across departments, ministries, etc.		X		
Regional workshops to bring together stakeholders from across the region across departments, ministries, etc.			X	
Awareness raising activities (press releases, video clips, etc.)				X
Development of more legal and practical tools such as the WCO model export certificate, the Database of National Cultural Heritage Laws, etc.				X
Facilitating the sharing of best practices between countries (e.g., online or through a newsletter)				X
Other (please specify):				Specialized trainings for prosecutors

57. **Please provide any additional suggestions for how UNESCO should focus its work on this topic going forward.**

58. **What difficulties did you State encounter while implementing the Convention during the last reporting cycle period ?**

59. **How has your country used the Operational Guidelines of the 1970 Convention adopted in UNESCO during the Third Meeting of States Parties (2015)?**

In addition to the UNESCO 1970 Convention the guidelines were used in order to draft the new 2016 Act. They were also used when negotiating the new EU Import Regulation on cultural goods (for example for underlining the high importance of export certificates issued by countries of origin as being an essential means for an effective import control.)

60. **Any other additional issues or comments you would like to share.**

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