

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

HUNGARY

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

1. Ratification of the Convention

Hungary ratified this Convention on 23 October, 1978.

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.

Decree-Law No. 2 of 1979 On the Promulgation of the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970 implements the Convention.

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

Paragraph 7, Point 4 of Act No.64 of 2011 On the Protection of Cultural Heritage defines “cultural property.”

(c) Specialized units

- Cultural sector: the National Office of Cultural Heritage – Inspectorate of Cultural Goods
- Police: National Office of Investigation – Art Treasure Unit

(d) Administrative coordination

Administration of cultural goods is based on the Multilateral Agreement signed in March 2006 between:

- National Police Headquarters (ORFK)
- Hungarian Customs and Finance Guard (VPOP), and
- National Office of Cultural Heritage (KÖH).

(e) Working meetings

Working meetings are sometimes organized. Contact points are defined by the Multilateral Agreement.

3. Inventories and identification

(a) Inventories

Since 2004, a special database of stolen and missing cultural goods has been maintained by the National Office of Cultural Heritage. This database is open to the public (accessible on the website of the Office, in Hungarian).

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

See 2(b)

To the “national treasures” belong the following items:

- items registered by museums
- items registered by archives
- items registered as ‘museum pieces’ and document by libraries
- items classified (‘protected’) by the National Office of Cultural Heritage (or its predecessor)

- items of archaeological heritage (located in archaeological sites)
- movable parts of monument buildings

(c) Reference to the Object ID standard

Experts in public collections have used professional standards since the establishment of the first public collections in the early 19th century.

(d) Systems to combat theft and to train staff

Members of security staffs of public collections receive special training on a regular basis.

4. Archaeological excavations

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

All archaeological finds on the ground, in the ground, in the beds of watercourses or hidden or recovered from elsewhere shall represent state property. Elements of archaeological heritage can only be moved from areas of archaeological interest or archaeological sites in the framework of an archaeological excavation. If the archaeological finds revealed during the excavation cannot be kept at the site, they shall be placed primarily in the competent museum responsible for the excavation or in a national specialized museum. Archaeological excavations can be performed on the basis of an excavation license issued by the National Office of Cultural Heritage.

(b) Illegal excavations

Illegal excavations represent a real problem. Unfortunately, in addition to destruction, whether committed as the result of ignorance or even intentionally, the looting of archaeological findings has seriously grown. According to certain estimates, there are more than a thousand fortune hunters nationwide that work with metal detectors and destroy sites through quick predatory excavations.

As a consequence of the strict legal regulations on archaeological objects and excavation, traffic in archaeological objects is practically in its entirety a part of the black market. In addition, the majority of cases of looting of sites are coupled with the illegal export of these goods out of the country.

The market for the Roman relics richly represented in domestic materials can be an example of Hungary's present situation. The solved cases unambiguously show that Hungary lies on the illegal transit route of Balkan, Ukrainian and Turkish materials; goods coming through our southern and eastern borders are headed straight for the European art trade centers. The smuggled goods intercepted in such a manner and confiscated by the courts are placed in domestic public collections.

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)

After May 2004 (date of the Hungarian's accession to EU) the number of legal export license applications has been halved. Based on this fact, the number of illegal exports could be between 500 and 1000 annually. According to police statistics, more than one thousand cases of theft of cultural items are registered annually, and the damage incurred totals 4 million Euros.

(b) Problem of the illicit export of cultural property

It is a serious problem. Many types of cultural goods can be sold at higher prices on the international art market. Owners of cultural goods often neglect national legislation on the protection of cultural heritage in order to get more money for their paintings, sculptures, etc. Since Hungary's accession to the EU in

2004, there has not been customs control at the national borders, and the risk of getting caught is extremely limited.

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

Rules:

- An export license or Certificate for Cultural Goods is needed for the movement of all cultural goods which are more than 50 years old (either to other Member States or outside the European Community).
- The permanent exportation of cultural goods belonging to the National Treasures is prohibited; they require a temporary export license with the conditions for return.
- There are no special rules for importation of cultural goods (beyond the general customs regulations of the European Community).

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

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

There are no rules providing for the restitution of illicitly imported cultural property. Only international conventions and the proper EU directive (93/7/EEC Directive) can be applied in certain cases.

According to the Hungarian's experience a successful restitution needs all possible means and first all money and responsible authorities (and persons) for this task. Such procedures often take several months or years or sometimes decades.

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

All possible means are used including:

- legal instruments (International Conventions and the 93/7/EEC Directive)
- channels of police cooperation (INTERPOL, EUROPOL)
- contacts (by emails and meetings) with concerned parties
- financial negotiation

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).

Art trade in Hungary can be characterized by the following figures:
15-20 major auction houses (including art & antiquarian book auctions)
120-150 major art galleries and antique shops
250-300 auctions per year
32-36 M € total turnover per year (60%-70% on auctions)
Nearly all of these are concentrated in Budapest.

(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)

There are no specific rules. Only general rules of trade activities must be applied. In case of selling of classified cultural goods certain limitations (defined by the national legislation) must be followed.

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

Before cultural property is acquired, the national and international databases of stolen and missing cultural goods may be consulted.

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

Items registered by museums, archives and what libraries designate as 'museum pieces' can only be alienated with a license from the minister responsible for cultural heritage.

All archaeological finds on the ground, in the ground, in the beds of watercourses or hidden or recovered from elsewhere shall represent state property and shall be placed primarily in the competent museum responsible for the excavation or in a national specialized museum.

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

Only in cases of transfer of ownership of classified cultural goods must a written document be signed by both parties. The document must be reported to the National Office of Cultural Heritage, which has issued the Certificate for Cultural Goods since 2009. It certifies that, at the moment of issuing, the described object is not registered in the official database as classified (part of Hungary's National Treasures) or stolen or missing. It is also highly advised that, in case of its transfer of ownership, the Certificate should be kept together with the object as proof of provenance. The Certificate is generally issued with a validity of 10 years.

7. Bilateral agreements

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

No such a bilateral agreement has been signed by Hungary. Normally, it is thought that other international legal instruments should be enough to solve problems.

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

The criteria are defined by international legal instruments (UNESCO 1970 Convention, UNIDROIT Convention and Directive 93/7/EEC). In some cases the proper national legislation (as Civil Code) must also be applied.

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

4 out of the 7 neighboring countries are Members of the EU. In these cases, channels of administrative cooperation of the EU are used to solve problems. In the case of customs, the day-to-day cooperation has persisted for decades. INTERPOL and EUROPOL are primarily used for issues of policy.

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 Ethics of Acquisition (issued by ICOM) and the International Code of Ethics for Dealers in Cultural Property (issued by UNESCO) were translated and published in 2005. They were printed in a leaflet and forward to major auction houses, galleries and antique shops. The texts in Hungarian are available on the website of the National Office of Cultural Heritage.

2. Awareness raising and education

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

The series and ICOM lists were made known to police and customs officers during their training in previous years. The attention of participants in the art trade was also drawn to the series when new parts were published.

(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?

Beyond printed leaflets and brochures on the website of the National Office of Cultural Heritage, nearly all relevant information can be accessed. Training sessions for law enforcement officers, members of museum security staff and clergy are regularly held. The National Office of Cultural Heritage has agreements with several universities to promote education (in different departments such as law, art history, museology, etc.) through seminars and lectures.

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

Data of stolen cultural goods (especially in cases of suspicion of smuggling out of the country) are forwarded by the competent police units to the National Central Bureau of INTERPOL. Such data are regularly forwarded to the INTERPOL headquarters in Lyon to enter them into the INTERPOL Works of Art Database. Within the Hungarian national police there is a special subunit responsible for coordination and other tasks concerning cultural heritage crimes: National Office of Investigation – Art Treasure Unit.

(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

Despite the efforts of the National Office of Cultural Heritage, few data are forwarded to the INTERPOL Centre in Lyon.

(c) Specific training program for members of police services

Only basic information on cultural heritage crimes is part of their training program in the Police College. In 2006, a single session was held for representatives of criminal departments of all county police.

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

There are special cases in:

- the Hungarian Criminal Code for cultural goods (e.g. 'Illegal Use of Cultural Goods' in case of movement of cultural goods without the necessary export license or certificate), and
- the Hungarian Criminal Code when the fact that the concerned objects belong to the category of cultural goods constitutes an aggravating circumstance (e.g. in case of theft).

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

No regular cooperation with 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

Since this is no longer a high priority for the Hungarian Customs, there is no central unit or persons dedicated to this problem. According to the customs statistics, only about 20 cases of smuggling of cultural goods are discovered annually. Instead, closer cooperation has been developed between the customs offices and the National Office of Cultural Heritage.

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

Around 2004 (year of accession to the EU), the Hungarian Customs participated in 2 major projects aimed at preparation for the EU regulation of this particular field. In 2005, a handbook "How to handle cases where cultural goods are concerned" was made for customs officers.

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

No. Hungary is a Member Country of the EU and consequently uses the model defined by the EU regulations (the 2 models are similar). The UNESCO-WCO model was not adapted to licenses and certificates issues on the basis of national legislation either. They contain all necessary information and are adjusted to local needs.

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

Hungary transposed the Council Directive 1993/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State into the national legislation by Act No. 80 of 2001 On the Return of Cultural Objects Unlawfully Removed. This Act entered into force the day of Hungary's accession to the EU (1 May 2004).

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

Hungary ratified this Convention on 8 May, 1998.

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

Hungary suffered a huge loss of cultural heritage during the last year of World War II. In recent decades, the country also suffered heavy losses due to the illegal exportation of cultural goods. Therefore, it is a priority for Hungary to use all channels of international restitution. Hungary was Member of the Intergovernmental Committee between 1999 and 2003 and again between 2006 and 2009.

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

In 2007, texts of the basic national legislation were uploaded to this database. At the same time, a short summary describing the situation of the protection of cultural goods in Hungary was uploaded in English and French. Unfortunately, there are only 'unofficial' English translations and, furthermore, the Acts and Decrees have been amended several times since then. Revisions and new translations are currently being prepared.