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## Act on the return of cultural objects to other countries

2011 No 57 1 June

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**Entry into force 1 January 2013.** EEA Agreement: Annex II, Directive 93/7/EEC. Amended by Act No 126/2011 (entry into force 30 September 2011) and Act No 172/2011 (entry into force 30 December 2011).

*Any reference in this Act to “the Minister” or “the Ministry” not accompanied by express mention of or reference to a specific field of responsibility shall be understood as being a reference to the **Prime Minister** or to the **Office of the Prime Minister** as responsible for the implementation of this Act.*

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### Article 1 Purpose

The purpose of this Act is to ensure the return of cultural objects to other countries in the case of their unlawful import into Iceland.

### Article 2 Definitions

For the purposes of this Act, the following shall qualify as ‘cultural objects’:

- a. Objects which are classified as national treasures in the State from the territory of which they were removed, on account of their artistic, historic or archaeological value pursuant to the laws or regulatory provisions of the State concerned, and which belong to one of the categories listed in Article 5;
- b. Objects which, while not belonging to any of the categories listed in Article 5, are parts of the public collections listed in the inventories of cultural history or art museums, libraries or archives;
- c. Objects which are the property of ecclesiastical institutions.

For the purposes of this Article, ‘public collections’ shall mean collections which are the property of the central government, of a municipality or of a non-profit institution publicly recognised as such in accordance with the legislation of the relevant country.

### Article 3 Implementation

The Cultural Heritage Agency of Iceland shall be responsible for the implementation of this Act on behalf of the Icelandic government. The Agency shall assess the financial value of cultural objects and ensure their return to other countries. When assessing the financial value of cultural objects or any other aspects relating to their conservation value, the Agency shall consult with the National Museum of Iceland, the National Gallery of Iceland, the Icelandic Museum of Natural History, the National Film Archive, the National and University Library of Iceland, the Árni Magnússon Institute for Icelandic Studies, or the National Archives of Iceland, as appropriate. Where necessary, the Agency shall also seek the opinions of experts who are not in the employment of the abovementioned institutions.

The Cultural Heritage Agency of Iceland shall handle requests for the return of cultural objects submitted by relevant authorities in other countries.

The Cultural Heritage Agency of Iceland shall operate in close collaboration and consultation with authorities in other countries responsible for the issuing of authorisations to export cultural objects and for the return thereof, as well as with international organisations

concerned with these matters. Moreover, the Agency shall endeavour to determine the location of cultural objects which have been unlawfully imported into Iceland. In this search, the assistance of the police shall be sought where necessary.

☒ Customs authorities shall immediately report to the Cultural Heritage Agency of Iceland all instances where an attempt has been made to unlawfully import a cultural object.

☒ **Article 4** *Rules regarding the movement of cultural objects*

☒ The import of cultural objects to Iceland shall be prohibited where the movement of such objects is in violation of:

a. the rules of the European Economic Area on the return of cultural objects unlawfully removed from the territory of a State within that area;

b. the legislation of the State from the territory of which cultural objects have been removed.

☒ The provisions of this Article shall also apply in the case of lawful temporary import of cultural objects insofar as the objects are not returned at the agreed time or other conditions pertaining to temporary removal have not been complied with.

☒ **Article 5** *National treasures*

☒ The following categories of cultural objects shall be classified as national treasures within the meaning of Article 2 and must be returned whenever a request to this effect is submitted by another State pursuant to Article 6:

1. Archaeological objects more than 100 years old discovered under the land surface, under water or in the ocean during archaeological excavations or in other ways.

2. Elements of artistic, historical or religious monuments which have been dismembered, more than 100 years old.

3. a. Paintings and pictures executed by hand, other than those referred to in item b below or in point 4, in any material, if more than 50 years old and not belonging to their originators.

b. Aquarelles, gouaches and pastels executed entirely by hand, on any medium, if more than 50 years old and not belonging to their originators.

4. Mosaics in any material and executed entirely by hand, other than those falling under points 1 or 2, and drawings in any material if executed entirely by hand, if more than 50 years old and not belonging to their originators.

5. Original engravings, prints, serigraphs and lithographs with their respective plates and original posters, if more than 50 years old and not belonging to their originators.

6. Original sculptures or statuary and copies produced by the same process as the original, if more than 50 years old and not belonging to their originators, unless falling under point 1.

7. Photographs and motion pictures and films and glass plates thereof, if more than 50 years old and not belonging to their originators.

8. Incunabula and manuscripts, including maps and musical scores, singly or in collections, if more than 50 years old and not belonging to their originators.

9. Other books more than 100 years old, singly or in collections.

10. Printed maps more than 200 years old.

11. Archives of any kind and elements thereof, on any medium, more than 50 years old.

12. a. Zoological, botanical, mineralogical and anatomical collections and specimens.

b. Collections of historical, palaeontological, ethnographic or numismatic interest.

13. Means of transport more than 75 years old.

14. Other cultural objects, more than 50 years old.

☒ Cultural objects referred to in the first paragraph are covered by this Act only where their financial value corresponds to the following:

a. Cultural objects covered by points 1, 2, 8 and 11 of the first paragraph, regardless of their financial value;

- b. Cultural objects covered by points 4, 5, 7 and 10 of the first paragraph, if their financial value equals or exceeds ISK 1 100 000;
- c. Cultural objects covered by points 6, 9, 12, 13 or 14 of the first paragraph, if their financial value equals or exceeds ISK 3 800 000;
- d. Cultural objects covered by point 3a of the first paragraph, if their financial value equals or exceeds ISK 11 500 000, as well as those covered by point 3b of the first paragraph, if their financial value equals or exceeds ISK 2 300 000.

All amounts referred to in the second paragraph are based on price levels at the time of entry into force of this Act and shall be updated in accordance with the Consumer Price Index. Any value assessment shall be based on the presumed market value of the cultural objects in question as of the date when the request by another State for the return of the objects is submitted.

#### **Article 6** *Return of cultural objects*

Cultural objects which have been unlawfully removed from the territory of a Member State of the European Economic Area shall be returned in accordance with rules applicable within the area on the return of cultural objects unlawfully removed from the territory of a Member State.

The Cultural Heritage Agency of Iceland shall endeavour to determine the whereabouts of a specified cultural object and identify its possessor or holder whenever a request to this effect is received from another Member State of the European Economic Area. Any such request must include all information liable to facilitate this search.

Where the Cultural Heritage Agency of Iceland considers, on reasonable grounds, that a cultural object which has been found in Iceland has been unlawfully imported, the Agency shall send a verifiable notification of this to the relevant Member States of the European Economic Area.

If the competent authorities of any of these States consider the object to have been unlawfully removed from their territory, they must submit a request for its return to the Cultural Heritage Agency of Iceland within two months of the notification. If no request has been received at the end of that period, the Agency's obligations regarding the preservation of the object under the fifth paragraph shall expire.

The Cultural Heritage Agency of Iceland shall take all necessary measures, in consultation with the authorities of the country concerned, to ensure the preservation of cultural objects the return of which has been requested. The Agency shall take appropriate measures to prevent any attempts to evade the return procedure.

The provisions of this Act regarding the return of cultural objects to other countries shall only apply to requests for the return of such objects submitted by relevant authorities of the Member States of the Agreement on the European Economic Area, see Act No 2/1993. However, the Icelandic authorities shall also endeavour to assist in the rightful return of cultural objects to countries which are not parties to the aforementioned agreement, insofar as the objects have been removed from their territories in contravention of their national legislation. The return of cultural objects according to this provision is deemed to have taken place when the objects have been handed over to the authorities of the requesting State.

#### **Article 7** *Implementation*

The Icelandic authorities must ensure that cultural objects as defined in Articles 2 and 5 that have been unlawfully imported into Iceland, regardless of present ownership or holding, are returned to their rightful foreign owners or custodians, subject to the fulfilment of the conditions of Article 5 relating to the financial value of the objects.

Requests to this effect must be submitted formally by the competent authority of the State concerned and shall be addressed to the Cultural Heritage Agency of Iceland, which shall

subsequently take appropriate measures, where applicable in cooperation with other relevant national authorities.

At the request of the Cultural Heritage Agency of Iceland, all executors of customs enforcement authority shall have the power to seize cultural objects as defined in the first paragraph until a decision on their return pursuant to Article 8 has been reached. However, the use of coercive measures must never exceed what is necessary in each case. The powers of customs authorities to employ force, effect arrests, carry out searches, seize objects and apply seals shall in other respects be governed by the provisions of Article 151 and Articles 154 to 164 of the Customs Act.

When assessing the financial value of cultural objects for the purposes of Article 5, the date of reference shall be that of the reception by the Icelandic authorities of a request for the return of the objects from the competent authorities of another State. The financial value shall be determined with reference to presumed market prices.

**Article 8** *Court action for the return of cultural objects*

Where a cultural object as discussed in Articles 2 and 4 belongs to, or is held by, a natural person residing in Iceland who refuses to relinquish it when requested to do so by the Cultural Heritage Agency of Iceland pursuant to Articles 3 and 6, the relevant authorities of another State submitting a legal request for the return of cultural objects may seek an Icelandic court order, whether in civil or criminal proceedings, requiring the possessor or holder of the object to relinquish it and ordering the return of the object to the requesting State in accordance with law. Where civil action is initiated, the case shall be brought against the possessor of the object, regardless of the manner in which it has been acquired, as well as against the holder, if different from the possessor. A judgment ordering the return of a cultural object provides sufficient grounds for enforcement action, where required, and the judgment may subsequently also be enforced through the intervention of sheriffs, the police or other competent authorities, as necessary, at the request of the Cultural Heritage Agency of Iceland.

A request for the return of a cultural object, as discussed here, which is addressed to Icelandic authorities and, where necessary, brought before an Icelandic court shall include a description, in the greatest possible detail, of the object itself and of its cultural and financial value. The request shall also be accompanied by an explicit declaration by the relevant authorities of the requesting State that the object has been unlawfully removed from its territory.

Proceedings for the return of a cultural object pursuant to the first paragraph may not be brought before a court more than one year after the relevant authorities of the requesting State became aware of the location of the object and the identity of its current possessor or holder in Iceland. Furthermore, such proceedings may not be brought more than 30 years after the object was unlawfully removed from the territory of the requesting State.

However, in the case of objects forming part of public collections in the requesting State or classified as ecclesiastical goods that are subject to special protection arrangements under the national legislation of that State, return proceedings shall be subject to a time limit of 75 years, unless the Icelandic government has entered into a contractual obligation *vis-à-vis* the State in question to respect a longer time limit.

The State requesting the return of cultural objects pursuant to this Article shall bear the expenses incurred in implementing a decision ordering the return of a cultural object, including procedural costs.

Those who have acquired cultural objects covered by this Article, without having imported them to Iceland in a manner punishable by law or obtained them unlawfully in other ways, shall be entitled to a fair compensation from the requesting State in those cases where they are required to return the objects. A claim for compensation on these grounds may, *inter alia*, be presented in the context of court proceedings for the return of the object in question or where

a request for the return of the object is brought in another way, although the possessor in good faith of an object may also, when faced with a request for the return of that object, negotiate a compensation with the relevant authorities of the requesting State. The Cultural Heritage Agency of Iceland shall act as an intermediary for such negotiations as necessary. Where a compensation claim of this nature is upheld in court, or where a formal agreement on compensation is entered into, including through a consent order, the Agency may make the return of the objects to the relevant foreign authorities conditional on the payment of a compensation.

**Article 9 Time limits**

As concerns requests for the return of cultural objects issued by the relevant authorities of the Member States of the Agreement on the European Economic Area, the provisions of this Act shall apply to the return of objects unlawfully removed from the territory of those States on or after 1 January 1995.

**Article 10 Disputes**

Disputes regarding issues relating to the implementation of this Act may be referred to the [Minister] for arbitration.<sup>(1)</sup>

<sup>(1)</sup>Act No 126/2011, Article 544.

**Article 11 Compensation for damages**

Any person suffering financial loss as a consequence of the implementation of this Act shall be entitled to a compensation for damages from the Treasury. Claims for damages shall be addressed to the Cultural Heritage Agency of Iceland. Where the amount of the compensation cannot be agreed upon, it shall be determined as laid down in the Expropriation Act.

**Article 12 Waiving of duties**

Stamp duties and registration fees shall be waived for all documents issued in the context of the implementation of the present Act.

**Article 13 Penalties**

Violations of the provisions of Article 4 shall be punishable by a fine to be paid to the Treasury, unless a more severe penalty is foreseen under Article 177 of the General Penal Code No 19/1940.

**Article 14 Regulatory powers**

The Minister may issue a regulation further providing for the implementation of this Act.

**Article 15 Incorporation**

The present Act is adopted in order to maintain in the domestic legal order the provisions of Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State, which was originally incorporated by Act No 60/1996.

**Article 16 Entry into force**

This Act shall enter into force on 1 January [2013].<sup>(1)</sup> ...

<sup>(1)</sup>Act No 172/2011, Article 1.

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*Disclaimer: This is an English translation. The original Icelandic text, as published in the Law Gazette (Stjórnartíðindi) is the authoritative text. Should there be discrepancy between this translation and the authoritative text, the latter prevails.*