

# 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

## MACEDONIA

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

#### 1. Ratification of the Convention

The Republic of Macedonia ratified the UNESCO Convention of 1970, and it has been in force in the country since 30 April 1997.

#### 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.

In the period 2007 to 2011, between the two national reports, Macedonia has adopted numerous bylaws following the adoption of the Law for Cultural Heritage Protection that is in power since 1 January 2005.

These laws have defined 57 specialized institutions in Macedonia that deal with heritage protection; among which are museums, libraries, archives, conservation centers etc.

(c) Specialized units

The Law on Cultural Heritage Protection provided for the establishment of a legal entity within the Ministry of Culture entitled *the Directorate for Cultural Heritage Protection* (hereinafter will be referred to as the Directorate). Within the Directorate there is a Cultural Heritage Inspectorate and a Special Expert Department for Cultural Heritage Protection from Illicit Activities (Department for Security Protection of Cultural Heritage).

Immovable culture is protected through the National Conservatory Centre in Skopje and other local conservation centers. Moveable culture is protected through museums, libraries, and the cinematheque.

In accordance with the Law, a National Council on Cultural Heritage has been established as a coordinative body for the Government in order to follow, manage and advance the protection and usage of cultural heritage. The National Council also coordinates the implementation of the UNESCO Convention of 1970 and other international agreements. A special coordination board for security of cultural heritage established within the National Council has been planned.

(d) Administrative coordination

The implementation of the Convention is also provided by interior affairs bodies and the customs services. In accordance with the Law, a National Council on Cultural Heritage has been established as a coordinative body for the Government in order to follow, manage and advance the protection and usage of cultural heritage. The National Council also coordinates the implementation of the UNESCO Convention of 1970 and other international agreements. A special coordination board for security of cultural heritage established within the National Council has been planned.

Non-governmental organizations also conduct some of the Convention's activities especially the national committees of ICOM, ICOMOS, and the Blue Shield.

### 3. Inventories and identification

#### (a) Inventories

There are central and municipal registers of immovable and moveable cultural heritage, and the new legal framework also stipulates the keeping a National Register of Cultural Heritage. Besides this there is a large number of registers kept such as the entry book, the exit book, library items, catalogue of film items etc. In 2008, a guideline was adopted for the content and the manner of keeping the protection records and goods that are assumed to qualify as cultural heritage as well as dispersed and foreign cultural heritage.

In accordance with Article 97 of the Law it is stipulated to establish a National Inventory of Protected Property Whose Export Would Constitute an Appreciable Impoverishment of the Cultural Heritage of the Republic of Macedonia. Its practical implementation though will need more time due to systematic issues and its implementation will last several years.

### 4. Archaeological excavations

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

Archaeological excavations and research in Macedonia are under a permit regime. These are issued by the Directorate to entities and individuals that meet certain conditions. There are about 50 permits issued per year. The carrier of the permit has to submit a report on the excavations, the protection measures within three months after the end of the excavations. Conducting excavations without a permit is an offence and can be punishable by a fine. If damage has been inflicted on monuments during these illicit excavations, this is considered a crime.

The Law for the first time defines the issues surrounding the participation of foreigners as well as independent international and other foreign archaeological missions. Accidental finds are also regulated in the Law. The conditions for conducting archaeological excavations are given by a special rulebook on archaeological excavations adopted by the Minister of Culture.

#### (b) Illegal excavations

Illegal excavations are a serious problem in the Republic of Macedonia. The most vulnerable are the numerous necropolis and tombs. The Law attempts to provide a more effective legal instrument for fighting illicit excavations. Within this context numerous plans have been adopted:

- Adoption of a National Action Plan for Prevention of Crime against Cultural Heritage;
- Prepare and adopt: a) Plan for Prevention Protection of Cultural Heritage from Illicit Activities; b) Plan for Urgent Action in Case of Illicit Activities;
- The Minister of Culture authorizes officials for security of cultural heritage organized as a separate department in the Directorate;
- Putting a ban on usage of metal detectors and other detection equipment to conduct, assist or encourage illicit excavations, as well as introducing a permit regime for usage of metal detectors during legal excavations;
- Issuing special directions by the Directorate to partially implement the security measures for cultural heritage;
- Determining reserved archaeological zones and putting them under a strict protection regime.

In order to prevent illicit excavations the following measures have already been undertaken:

- Intensifying the procedure for establishing protection;

- Directing budget funds to archaeological excavations of endangered sites and locations;
- Conducting coordinated actions by the organized crime department;
- Providing a bigger degree of expedience of the courts in the cases of illicit excavations.

So far court proceedings have already been concluded in about 50 cases of illegal excavation. In the same period, more than 2,500 archaeological artefacts have been seized in organized actions of the interior affairs bodies.

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

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

The Law on Cultural Heritage Protection defines the issue on export in the following ways:

- A general ban on the export of the cultural property of special significance;
- The moveable cultural heritage that is not under a general export ban can be exported only based on a permission issued by the Directorate;
- Items of heritage that do not have the status of protected property can be exported only with a certificate issued by the Directorate;
- The Directorate can issue a ban on export of unprotected property, if an act of temporary protection is adopted first;
- The Directorate can approve an export of protected property that is listed in the National Inventory if there are justified reasons;
- The Directorate has to inform the public on (a) moveable culture that is under a general ban regime, (b) protected goods listed in the National Inventory, (c) each existing export ban of specific object;
- Submitting a complete file with photo documentation to the bodies in charge of customs control for each piece of property whose export has been approved or banned.
- The law also defined the regulations surrounding temporary exports for protected goods.

In 2008 a bylaw was adopted: a rulebook of Forms for Permits and Certificates for Export and Transfer Abroad of Protected Property and Other Objects of Collections. In this respect it is planned to define a standard form of export certificate.

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

The Law on Cultural Heritage Protection addresses this in the following ways:

- General ban on export of cultural goods stolen from museums, religious and other similar public facilities at the territory of another State;
- Moveable cultural heritage that is not under the general import ban can be imported in accordance with the regulations of the foreign trade work;
- Obligatory producing of an import license when importing cultural property;
- Reporting the imported cultural property with the body in charge of protection in the given legal deadline.

Based on experience, the cultural property which is illegally imported into the Republic of Macedonia is mostly not intended for the local market. Macedonia is much more a source country than a destination for cultural property. Nevertheless, the transit of foreign cultural property over the territory of Macedonia is not an unknown occurrence.

## **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)
- (c) Existing Measures to control the acquisition of cultural property
- (d) Existing legal system concerning ownership of cultural property:

Museums and other related institutions in the Republic of Macedonia enrich their funds almost solely with cultural property of domestic origin. Protected property, in case it is sold by the owners, there is an obligatory procedure for fulfilling the legal right to priority buy-out by the Republic of Macedonia via the Directorate.

According to available data, there have been no cases of receiving or accepting offers for buy-out of foreign cultural property that was illegally brought into the country.

Nonetheless, the Law on Cultural Heritage Protection regulates procurement in the following ways:

- Obligatory check of origin when the property is obtained from a third party;
- Obligatory information to the bodies in charge of every suspicious buy-out offer;
- Ban on entering property whose origin has not been checked and for which there is a doubt that they originate from illicit or uncontrolled excavations, etc;
- Obligatory keeping of a registry on the origin of the objects, with the necessary data on the identification of the object and the persons involved in the buy out;
- Specifying the obligations of the traders with antiquities, art and other collection objects, based on cultural heritage protection.
- Adopting a special rulebook by the Minister of Culture regarding the control of the trade of moveable heritage.
- General ban on alienating national cultural heritage of special importance.
- Obligatory information for the new owner or user of the property.
- Focusing of the legal right to preempcija of a single entity.

In 2010 a new guidebook was adopted. It covers the content and the ways to run the register of origin of the moveable cultural heritage objects that are the subject of trade.

## **7. Bilateral agreements**

- (a) Bilateral agreements concluded with other countries on the import, export and return of cultural property
- (c) Administrative aid or any other type of cooperation with neighbouring countries, particularly in respect of police and customs services?

So far the Republic of Macedonia doesn't have a ratified bilateral agreement with any other States concerning the export, the import, and restitution of cultural goods. Despite this, there is good cooperation with the neighbouring States in the efforts to prevent the illicit transport of cultural goods, above all by coordination with the local police forces.

## **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 UNESCO and ICOM codes are well known among professionals although there are cases in which they are being ignored in the illegal attempt to achieve personal financial gain.

## **2. Awareness raising and education**

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

These are widely distributed among ICOM members but so far are out of the reach of the general public and experts.

(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?

The text of the Convention of 1970 was published with its ratification in Macedonian. The public awareness has mostly been worked on by the cultural heritage protection service. Since the ratification of the Convention there have been a number of scholarly and expert gatherings and many publications have been issued, covering and elaborating on various aspects related to the implementation of the Convention. It is common practice in the Republic of Macedonia to announce each case of illicit excavation, illegal export, theft or other types of legal activities related to cultural heritage in the media. It is considered that there should be additional efforts made to increase public awareness on the importance of the Convention, stress its values and goals, and provide its promotion as an instrument for protection of cultural heritage. Trying to provide better results in this domain, the Law on Cultural Heritage Protection has a special part with specific regulations pertaining to public awareness raising (Article 113).

## **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

Cooperation with INTERPOL is being conducted through the specialised services of the Ministry of the Interior. In that context, Macedonian authorities have participated in the symposiums organised by INTERPOL in Lyon. The Republic of Macedonia implements the acts and recommendations of INTERPOL that contribute to the efficiency in prevention and discovery of these crimes.

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

Numerous forums were organised in order to develop a unified classification of the criminal acts against cultural heritage. This was done with the cooperation of the Ministry of the Interior, the Cultural Heritage Protection Office, the Public Attorney’s Office and the judiciary.

### **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

The Customs Office of the Republic of Macedonia has a permanent cooperation with the WCO as well as with customs offices of neighbouring countries.

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

There has been a series of lectures held for the customs services on the character and types of cultural property and their security and protection, organised by the National Institute for Protection of Monuments of Culture. These activities are planned to be renewed in the coming period.

Officers at border crossings have concluded special training programmes for identification and prevention of the illicit trade in moveable cultural goods.

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

While producing the regulatory act for the content and means of running the register for the origin of the moveable cultural heritage that is subject of illicit trade and control of that register, the Republic of Macedonia has implemented the UNESCO-WCO Model.

**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

With the amending of the Law for Cultural Heritage Protection in 2007, Macedonia has implemented the Directive of the Council of Europe 93/7/EEZ from the 15<sup>th</sup> of March 1993.

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

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

The Ministry of Culture cooperates with the Intergovernmental Committee as an Observer State.

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

All legal acts of Macedonia concerning the protection of cultural heritage have been included in the database, although in Macedonian.