

Disclaimer

This is the English translation of the *Wet tot teruggave cultuurgoederen afkomstig uit bezet gebied* [Cultural Property Originating from Occupied Territory (Return) Act] as enacted on 8 March 2007. Please note that this English translation is not legally binding. It is the Dutch-language text of the Act that is legally binding. The most recent version of the text of the Act can be found, in Dutch, on the website: <http://www.wetten.nl>. At the end of this document there is a translation table for the titles of legislation etc. used in this Act.

Further information can be obtained from the Ministry of Education, Culture and Science ([www.minocw.nl](http://www.minocw.nl); e-mail address: [ocwinfo@postbus51.nl](mailto:ocwinfo@postbus51.nl)) or the Cultural Heritage Inspectorate ([www.erfgoedinspectie.nl](http://www.erfgoedinspectie.nl); e-mail address: [info@erfgoedinspectie.nl](mailto:info@erfgoedinspectie.nl)).

**Act of 8 March 2007 containing rules on the taking into custody of cultural property from an occupied territory during an armed conflict and for the initiation of proceedings for the return of such property (Cultural Property Originating from Occupied Territory (Return) Act)**

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We, Beatrix, by the grace of God Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.

Greetings to all who see or hear these presents! Be it known:

Whereas We have considered that it is necessary for cultural property coming from a territory occupied during an armed conflict to be returned to the competent authorities of the country of origin in order to comply with the Protocol of 14 May 1954 to the Convention for the Protection of Cultural Property in the Event of Armed Conflict and that it is desirable for this purpose to draw up rules that make it possible in appropriate cases to take such cultural property into custody and to bring proceedings for their return;

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

## **CHAPTER 1. GENERAL PROVISIONS**

### **Section 1**

In this Act the following terms have the following meanings:

- a) Our Minister: Our Minister of Education, Culture and Science;
- b) Protocol: the Protocol of 14 May 1954 to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, done at The Hague on that date (Dutch Treaty Series 1955, 47);
- c) cultural property: cultural property as referred to in article 1 (a) of the Convention referred to under b) above;
- d) occupied territory: a territory occupied on or after 14 January 1959 during an armed conflict, to which article 1 of the Protocol applies.

### **Section 2**

It is prohibited to import cultural property from an occupied territory into the Netherlands or to have such property in one's possession in the Netherlands.

## **CHAPTER 2. CUSTODY**

### **Section 3**

1. Where there is a reasonable suspicion that the prohibition in section 2 has been contravened Our Minister is to take into custody the cultural property concerned:

- a) of his own volition at the time of importation into the Netherlands; or
- b) at the request of the authorities of the relevant occupied territory or previously occupied territory.

2. Our Minister may also take into custody of his own volition cultural property discovered in the Netherlands in respect of which a suspicion as referred to in subsection 1 exists if there is also a reasonable expectation that a request as referred to in subsection 1 b) will be made.

#### **Section 4**

1. Our Minister records his decision in writing before taking property into custody. The written decision constitutes an administrative decision.
2. The decision is notified as quickly as possible to:
  - a) the authorities of the occupied territory concerned;
  - b) the owner of the cultural property taken into custody, if his identity is known;
  - c) persons with limited rights to the property, if their identity is known;
  - d) the person in possession of the property at the time it is taken into custody.
3. If the situation is so urgent that Our Minister is unable to record the decision to take the property into custody in writing in advance, he must arrange for it to be recorded in writing and published as quickly as possible thereafter.

#### **Section 5**

1. All or part of the costs of taking property into custody may, where appropriate, be charged by decision of Our Minister to the person contravening the prohibition in section 2.
2. No costs are in any event payable if:
  - a) the claim referred to in section 7 is dismissed or indemnification or fair compensation as referred to in section 7, subsection 3, is awarded by unappealable judgment, or
  - b) Our Minister definitively decides against returning the cultural property.
3. If a case as referred to in subsection 2 occurs after Our Minister has made a decision as referred to in subsection 1 he must revoke his decision.
4. The decision states the amount to be charged. The costs may include the costs of making preparations for the property to be taken into custody.
5. Our Minister may collect the costs owed pursuant to the above subsections from the offender, together with the costs incurred in the collection, by warrant of execution.
6. The warrant of execution is served at the expense of the offender by bailiff's notification and constitutes an enforceable order within the meaning of Book 2 of the Code of Civil Procedure. However, no enforcement will take place as long as the situation envisaged in subsection 2 a) can still occur.
7. An action to have the warrant of execution set aside may be brought within six weeks of the day of service by service of a writ of summons on Our Minister.

8. Enforcement of the warrant of execution is suspended pending the action. The court may lift the suspension at the request of Our Minister.

## **Section 6**

1. Custody ends:

- a) upon the return of the cultural property to the authorities of the relevant occupied territory or previously occupied territory following the granting of a claim under legal proceedings as referred to in section 7;
- b) upon the dismissal of the claim for return as referred to in section 7;
- c) by decision of Our Minister if the authorities of the relevant occupied territory or previously occupied territory withdraw a request submitted by them for cultural property to be taken into custody or if they declare, in the event of the property being taken into custody by Our Minister of his own volition, that they will not submit a request for the return of the cultural property, or
- d) by decision of Our Minister for reasons other than those referred to at a), b) or c).

2. If custody ends without the cultural property being returned to the authorities referred to in subsection 1 a), the property is then handed over to the person in possession of it at the start of custody or to the person who can reasonably be designated as legally entitled to it.

## **CHAPTER 3. LEGAL PROCEEDINGS FOR RETURN**

### **Section 7**

1. After taking cultural property into custody Our Minister must lodge a claim in proceedings for the return of the cultural property against the possessor, whom failing against the holder, before the court having jurisdiction in accordance with the rules of the Code of Civil Procedure.

2. Neither articles 86, 88, paragraph 1, and 99, paragraph 1 of Book 3 of the Civil Code nor agreements alienating or encumbering cultural property from occupied territory can be invoked against Our Minister where he is claiming cultural property under subsection 1.

3. A court which grants a claim as referred to in subsection 1 makes an order against the State awarding the possessor or holder:

- a) an indemnification if he shows that he owns or acquired ownership of the cultural property, or in other cases
- b) such compensation as is fair in the circumstances if the possessor or holder exercised due care and attention in acquiring the cultural property.

4. If the possessor or holder from whom the return of cultural property is claimed does not comply with the obligation imposed on him by article 87 of Book 3 of the Civil Code, the provisions of subsection 3 b) do not apply to him.

5. A claim under legal proceedings as referred to in subsection 1 is not subject to a time limit.

## **CHAPTER 4. ENFORCEMENT**

### **Section 8**

The following are responsible for supervising compliance with the provisions of this Act:

- a) the inspector referred to section 1 (f) of the Cultural Heritage Preservation Act and the officials referred to in section 15, subsection 1 of that Act, and
- b) customs officials of the Tax and Customs Administration.

### **Section 9**

The officials referred to in section 8 (a) are empowered to:

- a) enter a dwelling without the consent of the occupant and to take with them the necessary equipment;
- b) demand that the occupant show them the cultural property present in the dwelling;
- c) seal off areas and objects in so far as this is reasonably necessary for the exercise of the powers referred to in section 5:17 of the General Administrative Law Act;
- d) exercise the power referred to in section 5:17 of the General Administrative Law Act, if necessary with the help of the police.

## **Section 10**

Chapters 2 and 3 of the Customs Act, with the exception of section 10 of chapter 2 of that Act, apply *mutatis mutandis* to the officials referred to in section 8 (b).

## **CHAPTER 5. AMENDMENTS TO OTHER ACTS**

### **Section 11**

Book 3 of the Civil Code is amended as follows:

A.

In article 238, paragraph 4, the words ‘article 86a, paragraphs 1 and 2’ are replaced by ‘article 86a, paragraphs 1 and 2 or in accordance with section 7 of the Cultural Property Originating from Occupied Territory (Return) Act’.

B.

A third paragraph which reads as follows is added to article 291:

‘3. The creditor may not invoke the right of lien against the Minister of Education, Culture and Science where the Minister lodges a claim under legal proceedings for return of cultural property from an occupied territory.’

## **CHAPTER 6. CONCLUDING PROVISIONS**

### **Section 12**

This Act enters into force with effect from the day after the date of publication of the Bulletin of Acts and Decrees in which it appears.

### **Section 13**

This Act may be cited as the Cultural Property Originating from Occupied Territory (Return) Act.

We order and command that this Act be published in the Bulletin of Acts and Decrees and that all ministries, authorities, bodies and officials whom it may concern diligently implement it.

Done at The Hague, 8 March 2007

Beatrix

R.H.A. Plasterk  
Minister of Education, Culture and Science

E.M.H. Hirsch Ballin  
Minister of Justice

Published on the tenth of April 2007

E.M.H. Hirsch Ballin  
Minister of Justice

## Translation table

This table provides the Dutch names of all Codes, Protocols, Acts etc. that have been mentioned in this translation to enable the reader to find the original Dutch texts.

	<b>English</b>	<b>Dutch</b>
1	Protocol of 14 May 1954 to the Convention for the Protection of Cultural Property in the Event of Armed Conflict	<i>Protocol van 14 mei 1954 behorend bij het op die dag tot stand gekomen Verdrag inzake de bescherming van culturele goederen in geval van een gewapend conflict</i>
2	Book 2 of the Code of Civil Procedure	<i>Tweede Boek van het Wetboek van Burgerlijke Rechtsvordering</i>
3	Book 3 of the Civil Code	<i>Boek 3 van het Burgerlijk Wetboek</i>
4	Cultural Heritage Preservation Act	<i>Wet tot behoud van cultuurbezit</i>
5	General Administrative Law Act	<i>Algemene wet bestuursrecht</i>
6	Customs Act	<i>Douanewet</i>
7	Cultural Property Originating from Occupied Territory (Return) Act	<i>Wet tot teruggave cultuurgoederen afkomstig uit bezet gebied</i>
8	Bulletin of Acts and Decrees	<i>Staatsblad</i>