

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

ROMANIA

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

1. Ratification of the Convention

Romania accepted the Convention on 6 December, 1993.

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.

The 1970 Convention is implemented by: Law No. 182/2000 (with amendments) on the protection of movable national heritage, Law No. 311/2003 (with amendments) on museums and public collections, Government Decision No. 518/2004 on the norms of temporary or permanent exportation of movable cultural goods, Government Decision No. 1420/2003 on the approval of the norms regarding trade in movable cultural goods, and Ordinance No. 43/2000 on the protection of archaeological heritage.

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

"Cultural property" (movable national cultural heritage) is composed of goods of historical, archaeological, documentary, ethnological, artistic, scientific and technical, literary, cinematographic, numismatic, philatelic, heraldic, bibliographic, cartographic, and epigraphic value, representing material evidence for the evolution of the natural environment and for the relation of humans with it, the potential creativity of man and of the Romanian contribution, as well as that of the national minorities of universal civilization.

(c) Specialized units

The Directorate for Cultural Heritage works to prevent illicit trafficking through the establishment of the necessary normative and institutional framework and the supervision of procedures related to the circulation of cultural goods. De-concentrated services of the Ministry of Culture and National Heritage work to the same end at the regional level.

As of 2010, the protection of cultural heritage has pertained to the jurisdiction of the International Police and Judicial Assistance Service within the Directorate for Criminal Investigations. The International Police Cooperation Center, a division of the General Inspectorate of the Romanian Police, coordinates international police activity alongside the Ministry of Administration and Internal Affairs.

In 2007, the Department for Fighting against Illicit Trafficking of Endangered Flora and Fauna, Wild Species, and Movable Goods was established within the Directorate for Excise Duty Surveillance and Customs Operations. This central department coordinates activity within eight regional operations.

(d) Administrative coordination

(e) Working meetings

Romanian authorities have signed protocols of cooperation to aid in coordinating activity. Relevant information is shared: the Ministry of Culture and National Heritage communicates to the police the situation of all export approvals granted, while the latter reports to the former all theft of cultural objects. In 2008 and 2009, the Ministry, police, border control, and customs implemented the PHARE project intended to enhance inter-institutional coordination through working meetings and training programs.

3. Inventories and identification

(a) Inventories

All museums, public collections, memorial houses, cultural centers, and other related institutions must register digital and physical records with the *Inventory of the National Movable Cultural Heritage*, which makes use of meta, technical, scientific and cultural data, and images. The Institute for Cultural Memory maintains the *Register of Destroyed, Stolen, Missing, or Illegally Exported Cultural Goods* with information provided by the police.

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

The national definition of “cultural property” [See 2(b) above] is more comprehensive than that established by international conventions. Classified objects are listed in the Inventory of the National Cultural Heritage.

(c) Reference to the Object ID standard

The use of the Object ID standard was considered for the new SMI-BC database of stolen goods, developed as part of the Cultural Goods Management Information System within the PHARE project.

(d) Systems to combat theft and to train staff

All public institutions must implement anti-theft measures. Police-approved security plans are obligatory.

4. Archaeological excavations

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

Law No. 182 and Ordinance No. 43 [See 2(a) above] regulate archaeological excavations. Research may be conducted by public and private bodies, alike, performed by specialized personnel licensed by and included in the Archaeologists' Registry. Archaeological research can be performed only with the authorization of the Ministry of Culture and National Heritage.

(b) Illegal excavations

Albeit the problem has lessened in recent years, illegal excavations still occur on improperly monitored sites. To combat the issue, damaging sites classified as historical monuments and using metal detectors without prior authorization are sanctioned by the law and subject to imprisonment.

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)

An estimate cannot be provided. Such national statistics are not compiled.

(b) Problem of the illicit export of cultural property

Police-reported statistics do not account for illicit exportation as a recurring problem, as it is usually incriminated with other actions like forgery and neglect; however, the presence of cultural objects of Romanian origin seen in Western markets confirms that the illicit export of cultural property is a problem.

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

To remove any movable cultural object from the country, an export certificate (permanent or temporary) is compulsory. Certain categories of objects also require an export license issued through the European Regulation for their removal from the EU. Whether an object is classified or unclassified and publicly or privately owned allows or limits its candidacy for exportation.

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

The laws that provide for the acceptance of the 1970 Convention and the ratification of the 1995 UNIDROIT Convention regulate the restitution of illicitly imported cultural property, as does Law No. 182 through its implementation of the European Directive 93/7/EEC.

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

In cases where Romania applied for the restitution of cultural property, no obstacles were encountered.

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

Of the 13 objects recovered, 9 were returned through the implementation of the UNIDROIT Convention.

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).

Romania does not compile these statistics.

(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)

By law, the commercial exchange of cultural property can only take place in businesses authorized by the Ministry of Culture and National Heritage and endorsed by the National Commission of Museums and Collections. All authorized agents must maintain a register of information on the objects for sale. Failure to do so may be sanctioned by decentralized bodies of the Ministry of Culture and National Heritage.

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

The acquisition of cultural property by museums, libraries, and archives is governed by Emergency Government Ordinance No. 34/2006. There are no legal provisions obliging museums to follow a provenance verification procedure; rather, each museum acts on its own procedures and principles.

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

The principle of inalienability applies to publicly-owned cultural objects and those originating from heritage sites. Archaeological goods, objects found by chance, and artifacts found during legal and illegal excavations are property of the State.

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

Property pertaining to the public domain of the State or territorial administrative unit is inalienable and, thus, cannot be transferred. The cultural property pertaining to the private domain of the State or territorial administrative unit can be transferred but is subject to a classification procedure. In the case of privatization, classified objects are given to the administration of a specialized public institution.

The transfer of privately owned cultural property is subject to a right to title in favor of the State in cases involving objects classified as "treasures." Such goods cannot be permanently removed from the country, except in cases of an exchange of goods with similar value and significance. Cultural property that is administered by specialized entities (museums, galleries, etc.) is subject to a distinct inventory.

7. Bilateral agreements

- (a) Bilateral agreements concluded with other countries on the import, export and return of cultural property
- (b) Conditions settled by the importing country with regard to the admissibility of requests for restitution from a country of origin
- (c) Administrative aid or any other type of cooperation with neighbouring countries, particularly with respect to police and customs services?

Romania has concluded agreements with Italy, Senegal, Nigeria, Turkey, and Israel. Agreements with Palestine, Egypt, and Serbia are pending. The provisions are general, but there are references to combating theft and promoting restitution of cultural objects. The Romanian Police and the National Customs Authority cooperate with similar structures at the international level.

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 ICOM Code is known and observed by most museums, especially those that are members of ICOM. The extent to which dealers, merchants, and collectors observe the UNESCO Code is not monitored.

2. Awareness raising and education

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

- (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?

UNESCO could help by developing training methods and suggesting replicable projects to States Parties.

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

The Romanian Police – which merged with the International Police and Judicial Assistance Service within the Directorate for Criminal Investigation – cooperate with INTERPOL through the International Police Cooperation Center. Heritage officials work with specialized services at the central and territorial levels.

- (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

Data and images of stolen or illicitly exported cultural goods are sent to the INTERPOL database. Any facts related to the persons implicated in the theft are also communicated to INTERPOL.

- (c) Specific training program for members of police services

Police officers receive specific training prior to their employment within the Ministry of Internal Affairs, and subsequent training is encouraged. Officers attended courses offered through the PHARE project, and in

2010 a training session was offered as part of a Romania-France plan of bilateral cooperation to 17 officers working for the protection of cultural heritage.

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

Both the Penal Code and the legislation specific to the protection of national cultural heritage provide for the punishment of fraud and theft. Judges are not specialized in this field.

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

There were no situations until now of cooperation with the 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

The Romania Customs Authority cooperates with the CEN network of the WCO, composed of representatives of the Regional Intelligence Liaison Offices of Member States. Romania records illicit exportation of cultural objects with the network in accordance with EU Regulations. Romania also works with the Customs Cooperation Working Party and the Joint Customs Operations to combat illicit traffic.

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

General courses as well as continued training are offered. Within the framework of a 2007 bilateral cooperation program with France, 25 National Customs representatives took an instructional seminar. Some 270 individuals from the National Customs Authority took courses offered by the PHARE project, including a course on the use of the Integrated Management Information System.

In 2009, Dutch experts in the Technical Assistance Exchange Instrument organized a training course for customs officers on the exportation of cultural objects.

In 2010, the topic of intellectual property rights was added to the annual professional training plan.

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

Both the national export certificate and the EU-regulated export license/authorization comply with the UNESCO-WCO Model Export Certificate for Cultural Objects.

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

Directive 93/7/EEC was integrated into national legislation by Law No. 182/2000.

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

Romania ratified the 1995 UNIDROIT Convention on 21 January, 1998.

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

Romania has participated in the ICPRCP since the 35th Session of the UNESCO General Assembly in October of 2009. Romania was elected a Member of the Committee in the 16th Session.

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

Romania contributed relevant, up-to-date legislation to the database in 2007. The necessary translations have been done with financial support from UNESCO.