

ROMANIA

NATIONAL REPORT ON THE IMPLEMENTATION OF THE 1970 CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY

2011 – 2015

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 (with reference to its provisions)

1. Ratification of the Convention

Romania accepted the Convention on 6 December, 1993 and adhered to it by law (Law no.79 of 11 November 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 on the protection of movable national heritage, republished;
- Law No. 311/2003 on museums and public collections, republished;
- Government Decision No. 518/2004 on the approval of the norms of temporary or permanent exportation of movable cultural goods, modified;
- Government Decision No. 1420/2003 on the approval of the norms regarding trade in movable cultural goods, modified and completed;
- Ordinance No. 43/2000 on the protection of archaeological heritage.

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

The relevant legal notions used in the Romanian legislation are the cultural good, the classified cultural good and the moveable national cultural heritage. The 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 to the universal civilization.

The Romanian law provisions a mechanism of classification for the moveable cultural goods, based on their cultural and scientific value. Both categories of classified moveable cultural goods, the Treasure (cultural goods of exceptional value) and the Fund (cultural goods of special value), beneficiate of special legal protection.

(c) Specialized units

Ministry of Culture

The General Directorate for legal Affairs and Cultural Heritage is the special department of the Ministry of Culture having legal and administrative competence in the prevention of illicit trafficking as well as in initiating certain return procedures (under the E.U. legislation). The ministry' department coordinates relevant procedures and activities related to the protection of moveable cultural goods including the circulation of cultural goods and authorization of traders in cultural goods.

42 directorates for culture, de-concentrated services of the Ministry of Culture work to the same end at local level; the culture directorates have competences in issuing adequate export documents, monitoring the condition of classified goods and verifying the activity of traders in cultural goods.

A special department within the *Institute for National Heritage*, institution subordinated to the Ministry of Culture, is responsible with updating and making available online the Inventory of the National Cultural Heritage (all classified goods are listed there).

General Inspectorate of the Romanian Police

Starting with September 2013, the Office for the Protection of National Cultural Heritage part of the Criminal Investigation Directorate is the specialized structure for the protection of cultural heritage of the General Inspectorate of the Romanian Police. Ever since 2001, at local level, the County Inspectorates of Police are equipped with specialized personnel in cultural heritage.

This structure, together with its specialised personnel, are competent to investigate the following types of issues: theft (from religious institutions, museums , public and private collections), illegal national and international trade (illegal traffic with moveable cultural goods), forgeries of classified cultural goods, destruction of cultural goods and/or historic monuments (including archaeological sites), illegal detections and excavations in archaeological sites, economical or job crimes related to moveable and immoveable cultural heritage.

General Directorate of Customs

Following a process of re-organization, the former National Customs Authority became the General Directorate of Customs in June 2013.

The topic of cultural goods and their circulation from the customs' perspective falls in the responsibility of the Antidrug and Protection of Intellectual Property Rights Service, part of the Surveillance and Custom Control Directorate of the General Directorate of Customs.

This Service coordinates the activity of specific compartments (Compartments of surveillance and non fiscal customs control) organized within the relevant services of

each of the eight Regional Customs Directorates (The Services of Surveillance and Customs Control). These regional compartments coordinate the activity of border and internal customs offices. All customs offices are empowered to handle export formalities.

(d) Administrative coordination

The relevant Romanian authorities work together on the basis of cooperation protocols and according to their legal competences. The Ministry of Culture - central authority for culture, General Directorate of Customs, the Romanian Police, and the Romanian Border Police signed protocols of cooperation in order to prevent and fight illicit trafficking of cultural goods in a coordinated manner. Protocols of cooperation were concluded among relevant institutions at county level, as well, sometimes including the cooperation with religious cults and museums.

Apart from contemporary cultural goods, all cultural goods require either a national certificate or an export license which is to be issued by the de-concentrated services of the Ministry of Culture. All cultural goods captured by the customs workers are handed over to the Border Police or to the relevant County Police Inspectorate, which prepare the arrangements further on, in cooperation with the cultural authorities for the cultural goods to be examined by experts (most often they are put into custody in a museum). Following the examination they are either returned to their owners or confiscated. In case of noncompliant consignments in breach of legislation on movement of movable cultural goods, at the notification of customs, the Police compile a penal file of illicit export (or tentative of). The Police regularly inform the General Customs Directorate on stolen cultural goods (sending dates and descriptions of the cultural goods declared as stolen). This information serves as the basis for alerts at national level.

The enforcement of sanctions is the competence of the judicial police - the police for criminal investigations and the border police. The involved authorities consider the cooperation is, in general, efficient. There is a need for periodic revision of protocols as well as for organizing common trainings.

The specialized units of all relevant authorities cooperate, according to their competences, with international structures dealing with cultural heritage such as INTERPOL, WCO, etc)

(e) Working meetings

As previously stated, the cooperation is based on protocols (memoranda of understanding). Meetings take place whenever is necessary. Written communication is the channel regularly used by the relevant authorities.

3. Inventories and identification

(a) Inventories

Registration of cultural goods in specific inventories is compulsory for museums, public collections, memorial houses, cultural centres and other similar organisations (Methodology described in the Order of the ministry of culture and religious affairs no.2035/2000 on the registry, administration and inventory of the cultural objects owned by museums, public collections, memorial houses, cultural centres and other institutions in the field). Digital registers are compulsory but they must be doubled, still, by physical records.

The accuracy of the inventories of cultural heritage belonging to religious organisations remains a significant problem, although the religious organizations have taken measures, in order to enhance professional approach of the cultural heritage protection.

The classified cultural goods (see 2*(b)) are listed in the Inventory of the National Moveable Cultural Heritage, accessible on-line at: <http://clasate.cimec.ro/> (in Romanian)

The protected archaeological sites are listed together with all classified historical monuments in the Historical Monuments List , which is periodically updated.

<http://patrimoniul.gov.ro/ro/monumente-istorice/lista-monumentelor-istorice>

Important archaeological sites are also highlighted in an online database (National Archaeological Repertory) <http://ran.cimec.ro/> / (in Romanian)

The inventories insure widespread knowledge of protected cultural heritage.

(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. The equivalent of national treasures, in the Romanian legislation are the classified or classifiable cultural goods. Classified objects are listed in the Inventory of the National Cultural Heritage (exhaustive list).

(c) Reference to the Object ID standard

The inventory systems in place in the cultural network do not observe as such the Object ID standard. The object identification set of data commonly used comprises, among others, all the elements of the Object ID standard.

The police data base of stolen cultural goods observes, in turn, the Object ID standard.

(d) Systems to combat theft and to train staff

All public institutions must implement anti-theft measures. Police-approved security plans are compulsory. Museums have, also, special access procedures in critical areas (storage, restoration laboratories and others).

4. Archaeological excavations

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

Law No. 182/2000 on the protection of movable national heritage, republished 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 Ministry of Culture and included in the Archaeologists' Registry. Archaeological research can be performed only with the authorization of the Ministry of Culture.

(b) Illegal excavations

Illegal excavations still occur on improperly monitored sites damaging them by use of metal detectors. This affects both the sites classified as historical monuments and those that are yet unknown.

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)

The Romanian Police has reported 59 illicit exportation cases between 2010 – 2014 and over 29061 recovered cultural goods (for the same period) but a relevant evaluation of the scale of the illicit export or import of cultural goods cannot be provided.

(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 real problem for Romania.

(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 according to the provisions of the European Regulation, in case of their removal from the EU territory. The status of the cultural good, with respect to its classification (confirmed or potential), might limit the duration and terms of its transfer from the national territory.

The export is regulated by the national and European legislation and the international conventions that Romania is part of.

The Romanian law forbids and sanctions the import, ownership, acquisition, use in exhibition, or any kind of act related to the circulation of cultural property that has unlawfully left the territory of another state.

The regulations do not provide for special import documentation other than the custom declaration, therefore the import of cultural goods is not monitored as such.

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

The laws for the acceptance of the 1970 Convention and the ratification of the 1995 UNIDROIT Convention both regulate the restitution of illicitly imported cultural property, as does Law No. 182 /2000 on the protection of movable national heritage, republished (which incorporates the transposition of the E.U. Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State and will soon incorporate the transposition of the DIRECTIVE 2014/60/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012 (Recast)).

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

The main obstacles encountered in the restitution of cultural heritage are related to legal prescriptions and differences between the legal systems of the states.

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

The latest successful restitution of cultural objects involved the application of penal procedure.

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).

Romanian authorities do not compile these kinds of statistics. Independent statistics are realised by companies active in the art market. According to their data in 2013 the auction art market volume was of approximately 15,1 millions of Euro (including contemporary art) although the total estimated value of the market is indicated to be around 28 millions of Euro (Artmark, Institutul de Management al Artei, *Piata romaneasca de arta, Raport 2013*).

(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)

The commercial exchange of cultural property should only be carried on by economic agents authorized by the Ministry of Culture, with the endorsement of the National Commission of Museums and Collections. All authorized economic agents must keep a register of objects put in sale. Failure to do so is sanctioned by law.

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

There are no legal provisions obliging museums to follow a certain provenance verification procedure; rather, each museum acts on its own procedures and in respect of the principles of the ICOM Code of Ethics, while also observing the legal provisions that forbid the acquisition and use of cultural property illegally transferred from a foreign country.

(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 artefacts 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. The cultural property pertaining to the private domain of the State or to the territorial administrative unit can be transferred but is subject to a prior classification procedure. In the case of privatization of a state company, classified objects are transferred into the administration of a specialized public institution.

The public sale of privately owned cultural property is subject to a right of pre-emption in favour 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.

The transfer of property right regarding a classified cultural good must be notified to the de-concentrated services of the Ministry of Culture, who are responsible with permanently monitoring the condition of classified cultural goods.

7. Bilateral agreements

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

13 of the general bilateral cultural agreements concluded by the Romanian Government and another 13 bilateral agreements that are still in negotiation process contain references to the prevention of the theft of cultural goods, to the fighting against the illicit trafficking of cultural goods and their return and sometimes specifically to the UNESCO 1970 Convention. These agreements are not specifically oriented towards the topic of cultural goods protection; therefore, their provisions are rather general.

Currently, Romania is negotiating a bilateral protocol with the People's Republic of China having as object the protection of cultural heritage and the enhancement of cooperation in preventing and combating illicit traffic with cultural goods.

In 2013 Romania signed a bilateral protocol with the Government of the Republic of Turkey regarding the interdiction and prevention of illicit import, export, transit and transfer of property of cultural goods.

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

The conditions are those stipulated by the international conventions or the European regulations.

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

Romania is party to a tripartite protocol with Bulgaria and Serbia regarding organized crime.

The Romanian Police and the National Customs Authority cooperate, whenever is necessary, with similar structures at 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. There is no mechanism in place to observe their actual implementation. Many principles of the ICOM Code of Ethics for museums are incorporated, though, into the national legislation.

The extent to which dealers, merchants, and collectors observe the UNESCO International Code of Ethics for Dealers in Cultural Property is not known.

2. Awareness raising and education

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

No special dissemination measures regarding the “One hundred missing objects” series and the ICOM Red Lists have been taken yet.

(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 Ministry of Culture of Romania signed a cooperation protocol with the Ministry of National Education with the purpose of promoting cultural heritage education in school.

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 cooperates with INTERPOL through its International Police Cooperation Centre.

Heritage officials can address their enquiries to the specialized police officers from the Office for the Protection of National Cultural Heritage part of the Criminal Investigation Directorate and from the County Police Inspectorates.

(b) Check on the INTERPOL database on stolen objects when a cultural object is stolen.

The Interpol data base is regularly consulted by the Romanian Police. Data and images of stolen or illicitly exported cultural goods are sent in order to be recorded into 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

To a good extent, the resources needed to address cultural property crime are available to the Romanian Police. The relevant know-how is insured by the fact that 54,16 % of the human resources are externally recruited (specialised police officers, graduates of history, art, heritage studies).

Regularly, the specialised police officers enhance their training by taking part in national courses and seminars. Inviting experts and representatives of other authorities (Ministry of Culture, Public Ministry) at training events is common.

(d) Punishment of fraud and theft related to cultural property via criminal law provisions.

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)

The Romanian Police cooperates with UNODC, in line with the international conventions to which Romania is a party.

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 of cultural goods.

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

The General Directorate of Customs organizes general training programmes as well as continuous training courses for the customs personnel. The e-learning platform of the customs authority includes a distinct course module for the cultural goods.

To a good extent, the resources needed to address cultural property crime are available to the customs officers. The level of knowledge necessary to exercise authority in matters related to cultural property crime is insured through regular training.

(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 the national legislation (Law No. 182/2000 on the protection of movable national cultural heritage, republished). Currently, Romania is transposing the Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012 (Recast).

Emergency situations and heritage at risk

What is the strategy in place in your country to face emergency situations for heritage in case of natural disaster or conflict?

Special legislation regulates the applicable response in emergency situations as well as the appropriate preventive measures. All public institutions are obliged to have an emergency plan registered and approved by the inspectorates for emergency situations as well as by their tutelary organisations or authorities.

More particularly what are the measures undertaken to implement UNSC Resolution 2199 (paragraph 17, 12 February 2015) for the protection of Syrian and Iraqi cultural heritage?

The Romanian laws forbid the import of all cultural goods illicitly removed from the territory of another state. Moreover, as part of the European Union Romania observes the Council Regulation (EC) No 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96 as well as Council Regulation (EU) No 1332/2013 of 13 December 2013 amending Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria.

For a better implementation of all these regulations, the Ministry of Culture notified museums and art dealers' organisations regarding the obligation of applying a thorough origin check for the cultural goods offered for sale.

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 was part of the ICPRCP between 2009-2013 (it was elected a Member of the Committee in its 16th Session). Currently Romania takes part in the works of the Committee as an Observer state.

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.