

**REPUBLIC OF SERBIA**

**REPORT**

**APPLICATION OF THE 1970 CONVENTION ON THE MEANS OF  
PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT  
AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY**

**Belgrade, jun 2015**

I. **Information on the implementation of the UNESCO Convention of 1970 (with reference to its provisions)**

1. **Ratification of the Convention**

(a) Has this Convention already been ratified?

**Yes, the Convention was ratified on 24 May 1972 - DECREE ON RATIFICATION OF CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY (*Official Gazette of the SFRY – International agreements No. 50/73*)**

2. **Implementation in the national legal system and in the organization of services**

(a) Give the references of the principal national regulations adopted in order to implement the 1970 Convention?

**No regulation has been adopted that is related directly to the implementation of the Convention, rather the fundamental principles of the national legislation are in the spirit of the Convention.**

(b) A definition of “cultural property” agreeing with the definition proposed by the 1970 Convention is important in order to increase the effectiveness of international cooperation. State what definition is used by the national laws of the country concerned.

**According to the Law on Cultural Property («The Official Gazette of RS» Nr. 71/94, 52/11- other law and 99/11- other law):**

**«Cultural property shall mean things and artefacts of material and spiritual culture of general interest enjoying special protection as set out in the law.**

**Cultural property, depending on its physical, artistic, cultural and historical properties, shall include: monuments of culture, scenic cultural-historical entities, archaeological sites and places of significance – immovable cultural property; artistic-historical works, archive materials, film materials and old and rare books – immovable cultural property.**

**Cultural property, depending on its significance, shall be categorized as follows: cultural property, cultural property of great significance, and cultural property of exceptional significance.**

**The status of cultural property is assigned in accordance with the provisions of this law.**

**Cultural property can also mean a collection or a fund of movable cultural properties, if they represent a whole.**

**A work of art and a historical artefact (hereinafter called: artistic-historical work) shall mean an artefact, or a group of artefacts which, individually or jointly have special significance for the knowledge of historical, cultural, scientific or technological development, as well as for the knowledge of nature and its development irrespective of where and when they were created and irrespective of whether they are located in institutions for prevention or outside, and the documentary material accompanying such artefacts.**

**Archive materials shall mean original or reproduced written materials, drawings, computerized, printed, photographed, filmed, microfilmed, phonographed or otherwise recorded documentary material of special significance for science and culture which resulted from the work of state organs and organisations, organs of territorial autonomy and local government, political organisations and their bodies, institutions and other organisations, religious communities, or individuals, irrespective of whether they are located in institutions for prevention or outside.**

**Film materials shall include original film materials (original negatives and tone negatives) and film copies, video-tape originals and copies, and other record carriers recording motion pictures irrespective of the recording technology and irrespective of when and where they were created, including accompanying film materials (scripts, shooting scripts, dialogue lists, film posters, film photographs, scenography and costume sketches, note music lists, film music, advertising materials and other documents created prior to, during and after the film shooting).**

**Old and rare books shall include: manuscripts, hand written and printed books, periodicals and other library materials dating before the end of the year 1867, rare books, certain copies of periodicals and other rare library materials dating prior to and after the said year, certain library materials which based on this law is provided to the library as the mandatory copy and accompanying material, and special library collections which due to their contents, artistic or historical value are of significance for science and culture.»**

- (c) Have specialized units been established in order to prevent and combat trafficking and ensure international cooperation for the protection of cultural heritage? Within the Heritage Department? In other government departments (police, customs)?

**Within the Ministry of Culture and Information there is no separate organisational unit tasked with the prevention and fighting against smuggling and ensuring international cooperation in order to protect the cultural heritage. In the Ministry of Interior, within the Department fighting organized crime there is a Unit fighting theft and smuggling of cultural property consisting of three staff with whom the ministry cooperates sporadically.**

**Within the Section for the control of the implementation of customs regulations there is no specialised unit dealing exclusively with the prevention and fight against trafficking of cultural heritage. However, while performing tasks under the framework of their competence, the Anti-smuggling Department, Intelligence Department and Department for Customs Investigations also act in cases related to these types of goods. In this regard, the Customs Administration of the Republic of Serbia, as a member of the World Customs Organization, through the Intelligence Department, has access to and actively participates in the ARCHEO platform, which was initiated and launched in November 2012 by the RILO WE (the Regional Intelligence Liaison Office for Western Europe). Among other things, the underlying platform enables input and insight into the seizure of cultural goods, as well as information on missing cultural goods which are the subject of international search. Also, as part of the regular international exchange of information, the Intelligence Department receives a large number of notifications from the Ministry of Internal Affairs' Department of International Police Cooperation INTERPOL-EUROPOL-SELLEK, relating to international search for various items of cultural heritage. In addition to the submission of basic information about cases, related photos are also delivered for the purpose of their recognition. Such information is transmitted further to all customs offices, as well as to the Anti-Smuggling Department of the Customs Administration. The Anti-Smuggling Department implements operational control measures in order to detect serious forms of customs offences in the customs territory of the Republic of Serbia, and in that sense, monitors and encourages the suppression of smuggling, among other of cultural goods.**

**Furthermore, the Customs Administration of the Republic of Serbia, based on membership in international organisations, participates in the planning and implementation of international actions and operations relating to cultural goods.**

- (d) Describe briefly the administrative coordination of the activities of these specialized units, especially with the police and customs authorities.
- (e) Are working meetings held to enable police officers, customs officials and ministerial representatives to meet and coordinate their activities?

**When the Customs Administration participates in the planning and implementation of international actions and operations, this cooperation is carried out through the Intelligence Department by determining a national contact person through which the exchange of information is conducted. In this context, if necessary, working meetings with other participants in the operation are organised.**

**By performing tasks in the framework of its competence, Departments within the sector for control of customs legislation application at the national level cooperate with the Ministry of Culture and Information, the Republic Institute for Protection of Cultural Monuments, the Provincial Secretariat for Culture, the National Library, as well as with government agencies in the Ministry of the Interior, primarily the Service for Combating Organised Crime, Section for Combating Smuggling of Cultural Goods. Through the Ministry of Interior we realise cooperation with Europol and Interpol, as well as with the Public Prosecutor's Office and Special Prosecutor for Organised Crime.**

### **3. Inventories and identification**

- (a) State briefly the extent to which inventories provide for the risks of misappropriation and theft

**Institutions in charge of immovable cultural property are the institutes for the protection of monuments of culture, and institutions in charge of movable cultural property are the museums. On the basis of the Law on Cultural Property („The Official Gazette of RS“ Nr. 71/94, 52/11- other law and 99/11- other law) Articles 6, 60, 61, and 62, the said institutions are obliged to *keep and maintain registries containing all the relevant data on the cultural property*, as prescribed in more detail by the “Rule Book on data entered in registries, the manner of keeping registries and the central registry of immovable**

**cultural property and documents on such cultural property”** („The Official Gazette of RS“ Nr. 30/95 and 37/95) and by the “Rule Book on registries of cultural-historical works („The Official Gazette of RS“ Nr. 35/96). According to Article 6, paragraph 2, of the said law, *the registries of cultural property are public documents.*

- (b) Specify the degree of precision, at the national level, of the definition of “cultural property” covered by international conventions (see above I.2(b)). State whether “national treasures” are identified in an official, tentative or exhaustive list.

**The definition of cultural property in some of its parts is harmonized with the Article 4 of the Convention.**

- (c) To what extent is the Object ID standard used? Is the standard adapted to the State’s needs?

**The standard for identification of objects is not yet implemented in Low (UNESCO standards for ID of objects for the data base of stolen cultural property). But, Movable Cultural Heritage, Museum Fund of the Republic of Serbia, is entirely professional and scientific treatment, as defined in the Museum Information System of Serbia (MISS).The project is based on established international museological UNESCO standards - MDA, ICOM, CIDO, the Goethe Institute, for all types of cultural goods (of which there are 8) and the recommendations of the the Council.**

**And that, MISS project and the user application Eternitas, encompasses the entire record of the museum fund of Serbia, included the entire museum network of Serbia, and since the project is structured and based on international museological standards, primarily in the general inventory tab - Object ID, identification card cases, the basic document for standardization of data entry to museums and thus plays an important role in the context of cultural heritage and the creation of information networks different organizations (eg Interpol) that allow rapid exchange of information on cultural property in the context of the fight against illegal trade cultural heritage as well as when trying to find stolen items also Eternitas application form can be stolen and missing register cultural goods from all the museums of Serbia, which form the record is based on international standards and thus is ready to exchange data international level.**

- (d) Are there systems to combat theft and to train museum staff and have specific measures been adopted for libraries, archival and manuscript repositories, and any specialized units established to monitor them?

Museums, galleries, archives and libraries, apart from physical security, also have video surveillance and electronic systems for alarm in case of burglaries.

#### 4. Archaeological excavations

- (a) Summarize the basic principles of the regulations on archaeological excavations and on the monitoring of excavations in force in the country.

**The control of the archaeological excavations and research is performed by the Ministry of Culture and Information by issuing permits for excavations and supervision over the implementation of the law in the part relevant to submitting the Report and checking of the prescribed documentation regarding the works performed.**

- (b) Is there a recurrent problem of illegal excavations? If so, what are the reasons and when did it begin? What steps have been taken to combat this scourge?

**Illegal excavations pose a separate problem. It should be noted that there was for many years systematic looting of sites of exceptional significance such as Viminacium near Kostolac, the site of antiquity Lederat near Ram (resulting in the loss of the storage of silver decadrachmas of the Deroni tribe dating from end of 6<sup>th</sup> and beginning of 5<sup>th</sup> century BC, of which only 25 pieces have been preserved – the others were looted before the reporting of the site and sold on the illegal market). Some recent examples of this kind include brutal devastation of prehistoric sites by persons pursuing gold – in the archaeological site Židovar near Vršac, in the location where in 2001 a prehistoric storage of silver jewellery was discovered, and where in a significant surface the cultural layer was destroyed with archaeological contents, and the example of devastation of the cave Velika Balanica in Sićevo, an exceptionally rare palaeontological site and possibly one of the richest habitats of early hominids in Europe, and other similar examples. There are indications of organized illegal excavations, especially in Eastern and Southern Serbia – regions with the lowest standard of living, and at the same time regions with the most abundant archaeological heritage.**

**In order to fight illegal excavations and devastation of sites, supervision measures have been enhanced in archaeological sites (guards' service and physical security measures, introduction of video surveillances in archaeological sites of exceptional significance).**

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

- (a) Give an estimate of the scale of the illicit export or import of cultural property. Are up-to-date statistics compiled on the theft of cultural property?

**The scope of illicit export of cultural property varies from year to year and depends on several factors (internal and external), and raising of human and technical capacities and the adoption of new regulations harmonized with European standards would certainly have positive effects on reducing such trade.**

**In the absence of a comprehensive data base of stolen artistic property, there are no updated statistics regarding the looting of cultural property, rather these statistics are compiled at the end of each year, by collecting data from different police departments.**

- (b) Is the illicit export of cultural property a recurring problem? If so, for which reasons (lack of financial and human resources, shortcomings in the legal supervision framework, etc.)?
- (c) What are the main rules (administrative and legal) for monitoring the export and import of cultural property (existence of an export certificate, public information about the rules in force)? What categories of cultural property are covered by the rules?

**The export of cultural property and property enjoying preliminary protection, or property which is believed to have the characteristics of special significance for culture, art and history, is performed in accordance with the Law on Cultural Property, the Law Defining the Competences of the Autonomous Province of Vojvodina (30 November 2009, «The Official Gazette of RS», Nr. 99/09) and by-laws adopted on the basis of these laws.**

**Permits for permanent export or temporary export of *cultural property* are issued by the ministry in charge of culture (Article 118 of the Law on Cultural Property). Export permits for *artefacts enjoying preliminary protection*, according to Article 80, paragraph 2, of this law, are issued by the Serbian Institute for Protection of Monuments of Culture (except for publications) and the National Library of Serbia (for publications) on the basis of Article 83, paragraph 3. Export permits for artefacts enjoying preliminary protection for the region of the Autonomous Province of Vojvodina are issued by the Provincial Secretariat for Culture according to Article 42,**

paragraph 1, item 15) of the Law Defining the Competences of the Autonomous Province of Vojvodina.

Also, foreign trade turnover of goods (including objects of cultural, artistic and historical significance, namely, goods that enjoy prior protection, as well as cultural goods) shall be carried out in accordance with the provisions of the Law On Foreign Trade Transactions ("Official Gazette of RS", No. 36/09, 36/11- other law and 88/11) and by-laws, while customs procedure in connection with the turnover of above mentioned goods is carried out in accordance with the provisions of the Customs Law ("Official Gazette of the RS" 18/10, 111/12 and 29/15) and supporting regulations issued on its basis. In this connection, when sending abroad/exporting goods from the Republic of Serbia, which are assumed to have the properties of special importance for culture, art and history, it is necessary to obtain permission (license) for temporary or permanent export of these goods from our country, namely documents issued by the Republic Institute for Protection of Cultural Monuments in accordance with regulations. The competent authority for issuing the said documents on the territory of Vojvodina is the Provincial Secretariat for Culture. Permission to temporarily send abroad or permanently export cultural goods (not goods enjoying prior protection) from the entire territory of our country is issued by the ministry responsible for culture in accordance with regulations governing this matter. The customs procedure for goods that are sent abroad/exported is carried out with the competent customs office in accordance with regulations.

Any attempt of illegal importation or exportation of goods with cultural, artistic and historical significance (heritage enjoying prior protection), as well as of cultural goods, is considered as an act in the sense of Art. 291. of the Customs Law. The cited legal provision stipulates that acts or omissions, which are contrary to the provisions of the Customs Law and by-laws adopted on its basis, are considered customs infringements when that is determined by the Customs Law and as such are subject to punishment. Protective measures (including the seizure of goods, seizure of transportation means...) are regulated by Art. 298-306. of the Customs Law.

All basic information on the application of regulations and method of implementation of the relevant customs procedure relating to goods, including objects of cultural, artistic and historical significance, i.e. goods enjoying prior protection, as well as cultural goods, has been updated and published on the website of the the Customs Administration.

(d) Do the rules provide for the restitution of illicitly imported cultural property?

**Restitution is enabled by the signed international conventions, primarily the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and bilateral agreements.**

(e) What are the main obstacles encountered in securing the restitution of illicitly exported cultural property? What type of obstacles are they (administrative, legal or political) and why do they arise (legal loopholes, unwillingness by importing countries, lack of international cooperation, etc.)?

**There are no administrative, legal or political obstacles to restitution of illicitly imported cultural property.**

(f) If the country has succeeded in securing the restitution of a stolen cultural object, describe the circumstances and state whether that involved legal proceedings, arbitration or alternative dispute resolution.

**Pursuant to Article 7. (ii) of the Convention on the Means of Prohibiting and Preventing the illicit Import, Export and Transfer of Ownership of Cultural Property (Paris, 1970.) the requests for recovery and return of cultural goods shall be made to the state concerned through diplomatic offices:**

- **The Ministry of Foreign Affairs addresses to other in charge ministries requests to restitution illegal provided cultural goods to provides opinion there are no obstacles to the return of requested cultural property**
- **Ministry of Culture and Information gives the opinion there are no obstacles to the return of requested cultural property**
- **The Customs Administration of the Ministry of Finance gives the opinion there are no obstacles to the return of cultural goods and it is proposed that the Government to adopt the relevant document for the takeover of the said material**
- **Ministry of Foreign Affairs and proposed to the Government of the RS to adopt the relevant document for the takeover of the said material**
- **The Government adopts a decision on the return of cultural property in line with Convention (Paris, 1970.) and other positive laws of the RS**

## **6. System for trade-in, acquisition, ownership and transfer of cultural property**

(a) Give a brief description of the cultural goods market in the country (financial volume of the market, number and turnover of auction houses including via the Internet).

**The market of cultural property is not regulated by special regulations, and it is subject to the rules of financial transactions applicable to other types of goods, so there is no control performed by the Ministry of Culture, not is there insight into the scope of trading operations by physical entities or legal entities which are not part of the state system of protection of cultural property. Internet commerce is regulated in the same way.**

- (b) What are the main rules governing trade in cultural goods? Are control measures in place for such trade (maintenance of a police register), in particular through the Internet (for example, reference to the basic measures proposed by UNESCO, INTERPOL and ICOM)?
- (c) Do measures exist to control the acquisition of cultural property (for example, mechanisms to prevent museums and similar institutions from acquiring cultural property exported illegally from another State)? CL/4102 Annex I – page 3
- (d) Specify the existing legal system concerning ownership of cultural property:
- Is the principle of inalienability applied to cultural items in national collections and objects originating in heritage sites?
  - What is the status of yet unfound cultural objects, of cultural items found by chance and archaeological artefacts found during legal or illegal excavations?
  - Are there any due diligence requirements in place?
  - What are the rules governing the search of provenance?
- (e) Are there special rules on the transfer of title deeds in respect of cultural property? If so, please summarize their content.

## **7. Bilateral agreements**

- (a) List the bilateral agreements concluded with other countries on the import, export and return of cultural property and comment briefly on their results.

**Agreement between the Government of the Republic of Serbia and the Council of Ministers of Bosnia and Herzegovina; Programme of cooperation in the area of culture between the Ministry of Culture of the Republic of Serbia and the Ministry of Culture of the Republic of Macedonia; Programme of cooperation in the area of culture between the Ministry of Culture of the Republic of Serbia and the Ministry of Culture of the Republic of Slovakia; Programme of cooperation in the area of culture**

**between the Ministry of Culture of the Republic of Serbia and the Ministry of Culture of the Republic of Slovenia; Programme of cooperation in the area of culture, education, science, sports and youth policy between the Ministry of Culture of the Republic of Serbia and the Government of the Russian Federation for the period 2009 -2011; Programme of cooperation in the area of culture between the Ministry of Culture of the Republic of Serbia and the Ministry of Culture and Tourism of Ukraine for the years 2009, 2010, and 2011.**

- (b) What conditions are set by the importing country with regard to the admissibility of requests for restitution from a country of origin?
- (c) Apart from these agreements, is there administrative aid or any other type of cooperation with neighbouring countries, particularly in respect of police and customs services?

**The Department for Control over the Application of Customs Legislation, through the Department for Customs Investigations, realises international cooperation on the basis of bilateral and multilateral agreements on cooperation relating to customs matters. This cooperation includes exchange and delivery of data, information and documents, as well as verification of documents submitted to customs authorities, which, among other things, refer to goods that represent cultural property.**

## **II Code of ethics, awareness raising and education**

### **Ethical standards**

- (a) Are the UNESCO International Code of Ethics for Dealers in Cultural Property and that of ICOM for museums known to the professionals concerned (in particular, curators, antique dealers, merchants and collectors)? How is their observance checked?

**Membership of Serbia in the ICOM makes it possible through seminars, training workshops and relevant publications for the *staff of museum network* to learn of ethical and other standards.**

### **Awareness raising and education**

- (b) Are the “One hundred missing objects” series and the ICOM Red Lists disseminated and read?

**No**

- (c) Briefly describe 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?

**In this area, authorize UNESCO to reproduce the national legal regulations of the Republic of Serbia concerning the protection of cultural heritage and to publish the mentioned regulations on its internet site, as well as to establish an automatic link between the UNESCO data basis and the official web site of the Ministry of Culture of the Republic of Serbia.**

### **III. Cooperation with other international and regional agencies**

#### **Police**

- (a) What is the state of national cooperation with INTERPOL? What specialized police services can heritage officials call on for enquiries, legal proceedings and punitive measures?
- (b) If a cultural object is stolen, is the INTERPOL database on stolen objects checked? Is information on the persons implicated in the theft of cultural property transmitted to INTERPOL?
- (c) (Do members of police services follow a specific training programme?)
- (d) Do criminal law provisions allow for the punishment of fraud and theft related to cultural property? Are judges specialized in this field?
- (e) Does cooperation exist with the United Nations Office on Drugs and Crime (UNODC)?

#### **Customs**

- (f) What is the status of cooperation with the World Customs Organization and which specialized customs services can assist heritage officials in preventing the illicit export of cultural property?

**The Department for Control over the Application of Customs Legislation cooperates with the World Customs Organization, primarily through the Intelligence Department, as described in the answer to question c). Furthermore, the Anti-Smuggling Department may provide assistance in the control and detection of illegal export of cultural property.**

- (g) Do members of the customs administration follow a specific training programme?

**Officials of the Department for Control over the Application of Customs Legislation do not attend specific training courses, but in their work they apply Instructions that the Customs Administration adopted in 2006 for recognising and evaluating antiques (antiquities) and rarities (rare items), with detailed and rich content and photo material, in order to familiarise customs officials with the necessary facts related to determining the indicative value of old and rare items, as well as with ways of their illicit transfer across borders.**

(h) Is the UNESCO-WCO Model Export Certificate for Cultural Objects used?

#### **European Union**

Have particular measures been adopted to apply 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.

**Council Directive 93/7/EEC of 15 March 1993 and Directive 2001/38/EC of the European Parliament and of the Council of 5 June 2001 amending Council Directive 93/7/EEC will be applied until 2018.**

#### **IV. Emergency situations and heritage at risk**

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

**Government of the Republic of Serbia adopt the National Program of risk management against natural disasters**

(b) 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?

**For every official request that arrives from the Ministry of Foreign Affairs or the Ministry of Interior (Department of International Police Cooperation INTERPOL-EUROPOL-SELLEK) for the verification of the origin of art objects which are assumed to have been obtained as a result of theft, illegal trafficking or trafficking of cultural property, the Ministry of Culture and Information performs check-ups through institutions for protection of cultural property that are under the law responsible for a particular type of artistic and historical work and reports to the competent authorities and bodies that have sought such information.**

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

1. Accession to the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects

(a) Has this Convention been ratified, in addition to that of 1970?

**No, it has not been ratified.**

(b) If not, please indicate, where applicable:

- the stage of the ratification process reached by the State concerned (close to ratification, under way, actively under preparation, not considering ratification in the short, medium or long term);

**Under preparation**

- obstacles or difficulties encountered in completing the ratification process (whether legal, political or practical) and the means of overcoming them;

**Practical: absence of a comprehensive data base of stolen artistic property**

- the extent to which UNESCO can assist in completing the process.

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

Describe the extent to which the State concerned is following the work of the UNESCO Intergovernmental Committee (observer, member, State concerned by a case under discussion, etc.).

3. UNESCO Database of National Cultural Heritage Laws

Indicate action taken to organize the contribution to the UNESCO Database of National Cultural Heritage Laws and to check whether it contains all historical and existing laws and regulations, including successive amendments.

**Ministry of culture in 2007 authorized UNESCO to reproduce the national legal regulations of the Republic of Serbia concerning the protection of cultural heritage and to publish the mentioned regulations on its internet site, as well as to establish an automatic link between the UNESCO data basis and the official web site of the Ministry of Culture of the Republic of Serbia.**