

416/2002 Coll.

ACT

As of June 20, 2002

On the Return of Illegally Exported Cultural Objects

The National Council of the Slovak Republic has passed this Act:

Introductory Provisions

§ 1

Subject of Regulation

This Act regulates the procedures for the return of cultural objects illegally exported from the territory of the Slovak Republic to the territory of another European Union member state (the "member state") or from the territory of another member state to the territory of the Slovak Republic.

§ 2

Establishment of Basic Terminology

- (1) A cultural object is an object of artistic, historical or archeological value, which, pursuant to the legal regulations of the member state, comprised a part of the cultural heritage of the member state before or after its illegal export from the territory of the member state, and at the same time,
- a) belongs to one of the categories of cultural objects presented in the annex to this Act or does not belong to any of the categories but comprises an inseparable component thereof;
 - b) is an object of the public collection in a museum, gallery, library or archive;
 - c) is an object of the inventory of a church or religious community. 1)
- (2) Cultural objects of the Slovak Republic are parts of the cultural heritage of the Slovak Republic. Cultural objects consist of the following:
- a) national cultural monuments; 2)
 - b) objects of museum or gallery value; 3)
 - c) museum and gallery collection objects; 4)
 - d) historical library documents and historical library funds; 5)
 - e) archive documents. 6)
- (3) An illegally exported cultural object is an object that was exported 7) from the territory of the Slovak Republic to the territory of another member state or from the territory of another member state to the territory of the Slovak Republic after December 31, 1992 in violation of the legal regulations of the Slovak Republic or the legal regulations of another member state or that was not returned after the expiration of its deadline for legal temporary export, 8) or that failed to adhere to other terms for its temporary export.
- (4) The public collection of the Slovak Republic consists of national cultural monuments, objects of museum or gallery value, museum and gallery collection objects, historical library documents and historical library funds, archive documents in the ownership of the state, a higher territorial unit, municipality or legal person established by law or based on the law through a decision of a central body, 9) higher territorial unit or municipality.
- (5) The requested state is the member state within whose territory the cultural object illegally exported from the territory of another member state is located.

(6) The requesting state is the member state from whose territory the cultural object was illegally exported.

(7) The return is the physical return of the illegally exported cultural object to the territory of the requesting state.

§ 3

Competence

(1) The Ministry of Culture of the Slovak Republic 10) (the "Ministry") is the central body of the state administration of the Slovak Republic with the competency for the fulfillment of tasks connected with the return of illegally exported cultural objects.

(2) The Ministry cooperates with the relevant central bodies of the member states in searching for illegally exported cultural objects and immediately reports to them on the loss or theft of cultural objects after being acquainted with these facts.

The Slovak Republic as the Requested State

§ 4

Procedure of the Ministry in the Location and Inspection of Cultural objects

(1) In response to the written application of the central body of the requesting state, the Ministry shall start to investigate the illegal export of a cultural object within the territory of the Slovak Republic.

(2) The application contains

- a) a description of the illegally exported cultural object and its photographic documentation if it exists and information regarding its possible whereabouts;
- b) confirmation that it is a cultural object pursuant to the legal regulations of the requesting state;
- c) a statement of the requesting state describing the illegal character of the export of the cultural object;
- d) identification data regarding the person who could be in ownership or possession of the illegally exported cultural object.

(3) Upon the location of the illegally exported cultural object, the Ministry shall immediately take the necessary measures for its protection; at the same time it shall notify the requesting state and the owner or holder of the illegally exported cultural object (the "owner or holder").

(4) The Ministry shall immediately notify the central body of the requesting state to participate in the inspection of the illegally exported cultural object in the Slovak Republic within two months from the date of the notification; at the same time it shall point out that if the requesting state fails to participate in the inspection, the Ministry shall not take the necessary measures for safekeeping of the illegally exported cultural object and shall cancel all measures already taken.

(5) The conduction of the inspection is ordered by the decision of the Ministry. Appeals against such decisions do not have a suspensive effect.

(6) The inspection must be conducted according to the character of the cultural object in the presence of at least one expert appointed by the Ministry.

(7) The owner or holder of the cultural object is obliged to submit to the inspection of such object on the spot itself if it is not a residential space, 11) or to deliver the cultural object for inspection to a pre-determined location.

§ 5

Measures for the Safekeeping of the Illegally Exported Cultural Object

(1) Based on the decision of the Ministry and in the interest of the safekeeping of the illegally exported cultural object, the owner or holder is obliged to:

- a) hand over such object at the pre-determined location for the necessary time until the end of the proceedings regarding the return of the illegally exported cultural object;
- b) submit the required documents and other evidence regarding the manner of its acquisition of the cultural object.

(2) Appeals against decisions pursuant to Section 1 do not have a suspensive effect.

§ 6

Compensation for the Inspection and Safekeeping Measures of the Illegally Exported Cultural Object

(1) The Ministry shall reimburse the owner or holder for:

- a) costs incurred in connection with the inspection of the cultural object pursuant to § 4 Section 5;
- b) costs incurred in connection with the measures pursuant to § 5;
- c) lost profit or lost earnings in the amount of the owner/holder's average salary. 12)

(2) The Ministry shall decide on reimbursement pursuant to Section 1 upon the request of the owner or holder. The owner or holder may request reimbursement pursuant to Section 1 within 15 days from the initiation of the inspection or measures pursuant to § 5, otherwise this right shall expire.

(3) Any owner or holder of a cultural object who proves that the inspected cultural object was not identical to the illegally exported cultural object under investigation, is also entitled to reimbursement pursuant to Sections 1 and 2.

(4) The Ministry shall apply to the requesting state for the reimbursement of costs incurred by the Slovak Republic due to the provision of measures pursuant to Sections 1 and 3.

§ 7

Arbitration Proceedings

(1) If arbitration proceedings between the central body of the requesting state and the owner or holder with the goal of returning the illegally exported cultural object to the territory of the requesting state are deemed expedient, the Ministry has the status of mediator.

(2) If as a result of arbitration proceedings pursuant to Section 1, an agreement on the return of the illegally exported cultural object to the territory of the requesting state is concluded between the central organ of the requesting state and the owner or holder, the owner or holder of such object is entitled to adequate compensation if he/she has provided for the adequate protection to the cultural object.

(3) Costs incurred due to procedures pursuant to Section 2 will be charged to the requesting state. The Slovak Republic shall return the illegally exported cultural object to the requesting state only after settlement of the paid costs necessary for its location.

§ 8

Proposal for Initiation of Judicial Proceedings

The court shall decide upon the proposal from a requesting state regarding the return of an illegally exported cultural object pursuant to special regulations. 13)

§ 9

Costs Connected with the Return of the Illegally Exported Cultural Object

Costs connected with the return of the illegally exported cultural object shall be charged to the requesting state. **The Slovak Republic as the requesting state**????

§ 10

Procedures of the Ministry in the Location and Inspection of Cultural Objects

(1) The Ministry shall immediately request the pertinent central body of the requested state to conduct an investigation of the illegally exported cultural object from the territory of the Slovak Republic if it finds that such object was located within the territory of the requested state. The application contains particulars pursuant to § 4 Section 2.

(2) The Ministry shall conduct the inspection of the illegally exported cultural object from the territory of the Slovak Republic that was recovered within the territory of the requested state; the inspection shall be conducted within two months of the notification of the requested state regarding the fact that such object was recovered within its territory.

§ 11

Proposal for the Initiation of Court Proceedings

(1) If the arbitration proceedings with the goal of returning an illegally exported cultural object to the territory of the Slovak Republic fails, the Ministry may file for the initiation of court proceedings with the court of the requested state against the owner or holder of such object in order to return the illegally exported cultural object.

(2) In addition to the general particulars, a request for the initiation of court proceedings in order to return an illegally exported cultural object contains filings stipulated by special regulations of the requested state.

- a) a detailed description of the illegally exported cultural object;
- b) photographic documentation of the illegally exported cultural object, if it exists;
- c) information regarding the possible whereabouts of the illegally exported cultural object within the territory of the requested state,
- d) confirmation that it is a cultural object pursuant to the valid legal regulations of the Slovak Republic,
- e) identification data of the person who may own or hold the illegally exported cultural object within the territory of the requested state.

(3) The Ministry shall inform the central body of the requested state and the pertinent central bodies of the member states about the filing for the initiation of court proceedings.

§ 12

Costs Connected with the Return of Illegally Exported Cultural Objects

Costs connected with the return of illegally exported cultural objects are paid by the Ministry. This does not affect any claims for their reimbursement against a physical or legal person that illegally exported such

cultural object or participated in its illegal export from the territory of the Slovak Republic to the territory of another member state. The Ministry shall immediately exercise its claims for reimbursement of costs against the person pursuant to this Section.

§ 13

Ownership Rights

(1) The ownership rights of the owner or holder are not affected by the conclusion of an agreement based on arbitration proceedings pursuant to § 7 or by the court decision of the requested state as a result of which it was ordered to return the illegally exported cultural object to the territory of the Slovak Republic.

(2) After the return of the illegally exported cultural object to the territory of the Slovak Republic the Ministry shall place such object in a suitable location until the owner or holder is determined.

§ 14

Deadlines

The Ministry shall initiate proceedings for the return of the illegally exported cultural object from the territory of the Slovak Republic within one year from the day of the determination of its whereabouts on the territory of another member state or the identification of the owner or holder of such object but not later than 30 years from the day when the Ministry determined that the cultural object had been illegally exported from the territory of the Slovak Republic. If it is a cultural object that is a part of a public collection pursuant to § 2 Section 4 or a cultural object that is an object of the inventory of a church or religious community, the Ministry may initiate proceedings for the return of the cultural object not later than 75 years from the day of its illegal export if the international agreement binding for the Slovak Republic does not stipulate a longer period.

§ 15

Cooperation

(1) Everyone is obliged 14) to cooperate with the Ministry in the location and return of illegally exported cultural objects.

(2) The Ministry shall reimburse the physical or legal person that provides cooperation in the location and return of the illegally exported cultural object for lost profits or earnings in the amount of its average salary. 12)

(3) The Ministry shall decide on the reimbursement pursuant to Section 2 upon the request of the legal or physical person pursuant to Section 2. Reimbursement claims must be filed within 15 days from the day of the provision of cooperation, otherwise this right shall expire.

§ 16

Fines

(1) The Ministry may impose the owner or holder with a fine of up to SKK 500,000 if it:

- a) willfully obstructs the inspection of the illegally exported cultural object in question,
- b) fails to deliver the illegally exported cultural object in question to the pre-determined location,
- c) fails to hand over the illegally exported cultural object in question to the pre-determined location,

d) fails to submit the required written documents or other evidence regarding the manner of its acquisition of the cultural object in question.

(2) The fine is payable within 30 days from the day on which the decision related to its imposition entered into validity.

(3) A fine may be imposed within one year from the day when the Ministry learned of the illegal act, but not later than three years from the day when the owner or holder committed the illegal act.

(4) When determining the fine, the relevance and the duration of the illegal act and the significance of the illegally exported cultural object are taken into consideration.

(5) Yields from fines comprise income of the state budget.

§ 17

Common Provisions

(1) Proceedings for the return of illegally exported cultural objects may not be initiated if at the time of the intended initiation of the proceedings the export of the cultural object from the territory of the requesting state is no longer illegal.

(2) Pursuant to § 4 Section 5, § 5, § 6 Section 2, § 15 Section 3 and § 16, the proceedings are subject to the general regulations on administrative proceedings. 15)

(3) This Act does not effect the proceedings regarding the return of illegally exported cultural archive documents. 6)

§ 18

Effect

This Act enters into effect on the day of the entering into validity of the Agreement on the Accession of the Slovak Republic to the European Communities.

Rudolf Schuster, manu propria
Jozef Migaš, manu propria
Mikuláš Dzurinda, manu propria

/1/ Act No. 308/1991 Coll. on freedom of religion and the status of churches and religious communities in the wording of Act No. 394/2000 Coll.
/2/ § 22 Section 3 of Act No. 49/2002 Coll. on protection of the historical monuments fund.
/3/ § 2 Section 1 of Act No. 115/1998 Coll. on museums, galleries and on protection of objects of museum and gallery value.
/4/ § 2 Section 2 of Act No. 115/1998 Coll. in the wording of Act No. 387/2001 Coll.
/5/ § 19 of Act No. 183/2000 Coll. on libraries, an amendment of National Council of the Slovak Republic Act No. 27/1987 Coll. on the state preservation of monuments and on changes and amendments to Act No. 68/1997 Coll. on Matica slovenska.
/6/ Act No. 395/2002 Coll. on archives and registries and on the amendment to some acts.
7) Decree of the Minister of Foreign Affairs No. 15/1980 Coll. on conventions regarding measures for the ban and prevention of illegal import, export and transfer of ownership of cultural estates.
/8/ For example § 25 Section 2 of Act No. 49/2002 Coll.
9) § 21 Section 4 of National Council of Slovak Republic Act No. 303/1995 Coll. on budget rules as amended.
10) § 18 Section 1 b) of Act No. 575/2001 Coll. on the organization of the operation of the government and organizations of the central state administration.
11) Article 21 Section 1 of the Constitution of the Slovak Republic.
12) § 134 and 135 of the Labor Code.
13) Code of Civil Procedure.

14) Article 44 Section 2 of the Constitution of the Slovak Republic.
15) Act No. 71/1967 Coll. on administrative proceedings (administrative code) in the wording of Act No. 215/2002 Coll.

Annex to Act No. 416/2002 Coll.

**Categories in which objects such as cultural objects are included
pursuant to § 2 Section 1 a) of this Act**

Category	Market Price in the Requested State
a1. Archeological objects more than 100 years old, which are results of: - excavations conducted on dry land or underwater and findings from these sites, - archeological sites, - archeological collections	Financial Limit: EUR 0
2. Elements establishing an integral component of artistic, historical and religious monuments that were taken apart and which are more than 100 years old	Financial Limit: EUR 0
3. Pictures and paintings created exclusively by hand on any medium and from any material	Financial Limit: EUR 150,000
4. Mosaics except for those that are not included in categories 1 or 2 and drawings created exclusively by hand on any medium and from any material	Financial Limit: EUR 15,000
5. Original engravings, prints, serigraphs and lithographs with their pertinent boards and original posters	Financial Limit: EUR 15,000
6. Original sculptures and statues and copies created by the same process, by which the original was created (1) except for those included in category 1	Financial Limit: EUR 50,000

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| 7. | Photographs, film a negatives | Financial Limit: EUR 15,000 |
| 8. | Incunabula and manuscripts including maps and musical scores, individually or in collections. | Financial Limit: EUR 0 |
| 9. | Books at least 100 years old, individually or in collections. | Financial Limit: EUR 50,000 |
| 10. | Printed maps more than 200 years old | Financial Limit: EUR 15,000 |
| 11. | Archives and any of their parts of any kind, on any medium and from any material containing parts more than 50 years old | Financial Limit: EUR 0 |
| 12. | (a) collections (2) and items from zoological, botanical, mineralogical and anatomical collections,
(b) collections (2) of historical, paleontological, ethnographic or numismatic objects of interest | Financial Limit: EUR 50,000 |
| 13. | Means of transportation more than 75 years old | Financial Limit: EUR 50,000 |
| 14. | Any other antique objects that are more than 50 years old and not included in categories a1 to 13. | Financial Limit: EUR 50,000 |