

5393. The Law on the Return of Unlawfully Removed Objects of Cultural Heritage (LRUROCH)

Pursuant to the second indent of the first paragraph of Article 107 and the first paragraph of Article 91 of the Constitution of the Republic of Slovenia, I hereby issue the

ORDER

on the promulgation of the Law on the Return of Unlawfully Removed Objects of Cultural Heritage (LRUROCH)

I hereby promulgate the Law on the Return of Unlawfully Removed Objects of Cultural Heritage (LRUROCH), adopted by the National Assembly of the Republic of Slovenia at its session of 28 November 2003.

No.: 001-22-109/03
Ljubljana, 9 December 2003

Signed by:
President of
the Republic of Slovenia
dr. Janez Drnovšek

THE LAW ON THE RETURN OF UNLAWFULLY REMOVED OBJECTS OF CULTURAL HERITAGE

**CHAPTER I
GENERAL PROVISIONS**

Article 1
(Scope of the Law)

This Law regulates the return of movable objects of cultural heritage that have been unlawfully removed from the territory of the Republic of Slovenia and brought to the territory of any State that is a member of the European Communities that work within the European Union (hereinafter: the Member State), or brought from the territory of a Member State to the territory of the Republic of Slovenia.

Article 2
(Central Authorities)

(1) The Ministry, responsible for the cultural heritage (hereinafter: Ministry of Culture), is the central authority in the Republic of Slovenia, responsible for co-ordination, organisation and supervision of tasks related to the return of unlawfully removed objects of cultural heritage. The Ministry of Culture must co-operate with those authorities of Member States, which are responsible for co-ordination of tasks in relation to the return of unlawfully removed objects of cultural heritage in Member States (hereinafter: central authorities of the Member States).

(2) The Ministry of Culture shall notify other authorities and organisations in the Republic of Slovenia, responsible for the protection or search of the objects of cultural heritage, about the activities related to the return of objects of cultural heritage.

CHAPTER II:

RETURN OF SLOVENIAN OBJECTS OF CULTURAL HERITAGE FROM MEMBER STATES

Article 3

(Objects whose Return may be Requested)

The Republic of Slovenia may request from a Member State the return of an unlawfully removed object of cultural heritage, if this object:

(a) belongs to one or both of the following categories of objects of cultural heritage:

- is listed in the public collections of museums, archives, and libraries, or belongs to the inventories of ecclesiastical institutions,
- belongs to one of the categories of objects of cultural heritage that are prescribed by the minister, responsible for cultural heritage (hereinafter: Minister for Culture);

b) and has been classified, before or after the unlawful removal, among the national treasures of artistic, historic or archaeological value (hereinafter: national treasure).

(2) An object of cultural heritage is unlawfully removed when it has been removed from the territory of the Republic of Slovenia in breach of the rules regulating the export of objects of cultural heritage or in breach of The Council Regulation (EEC) No 3911/92 from 9/12/1992 on the export of cultural goods (hereinafter: The Council Regulation 3911/92). An object of cultural heritage shall also be considered as unlawfully removed when it has not been returned at the end of a period of lawful temporary removal, or where other conditions governing such temporary removal have been breached.

Article 4

(National Treasure)

(1) An object shall be considered a national treasure if it complies to one or more of the following conditions:

1. it has a status of a State cultural monument or a local cultural monument,
2. it belongs to archaeological objects more than 100 years old which are the products of land or underwater excavations and finds, archaeological sites or archaeological collections,
3. it is an integral part of an artistic, historical or religious monument which has been dismembered, and is more than 100 years old,
4. is listed as part of a collection or equipment of ecclesiastical institutions,
5. or it has a cultural value for the Republic of Slovenia because of its historic, artistic, scientific, or general human meaning.

(2) The Minister for Culture shall decide whether an object of cultural heritage has a cultural value according to the paragraph 1 point 5. The Minister for Culture shall find that the object has a cultural value for the Republic of Slovenia if it complies with one or more of the following criteria:

1. the object is a work of an artist, designer, or another creator which is important for a specific cultural sphere in Slovenia,
2. the object is a product of home manufacture or expertise,
3. the object is characteristic for the cultural heritage of the Republic of Slovenia or its regions,
4. the object is connected to a person, event, or occurrence that is important for the Slovenian history and/or for history on the territory of the Republic of Slovenia,
5. the object is linked to a cultural monument or to other important cultural environment,
6. the object is rare, endangered, or will become rare on the territory of the Republic of Slovenia.

Article 5 (Competent Authorities)

(1) The decision to instigate procedures for the return of an object of cultural heritage that has been unlawfully removed from the territory of the Republic of Slovenia shall be made by the Minister for Culture. The decision shall be forwarded to the Public Defender's Office.

(2) The Ministry of Culture shall forthwith inform the central authority of the Member State that a court procedure has been initiated for the return of an object of cultural heritage from that Member State.

(3) The other authorities in the Republic of Slovenia, responsible for the protection or search of cultural heritage, shall in accordance with their competencies do everything that is necessary for the return of the objects of cultural heritage that have been unlawfully removed from the territory of the Republic of Slovenia.

Chapter III

RETURN OF THE OBJECTS OF CULTURAL HERITAGE FROM THE TERRITORY OF THE REPUBLIC OF SLOVENIA TO MEMBER STATES

Article 6 (Duty to Return Objects of Cultural Heritage)

(1) An object of cultural heritage that is situated in the territory of the Republic of Slovenia shall be returned to the Member state, if it has been unlawfully removed from the territory of this Member State and has been before or after the unlawful removal classified among the national treasures of artistic, historic or archaeological value under legislation of that Member State legislation, and if it either:

- belongs to any of the public collections of museums, archives or libraries' conservation collections in the Member State. A public collection is a collection that it a property of the Member State, its regional or local authorities. A public collection shall also mean the

collections that are owned by an institution, situated in the territory of the Member State, which is defined as a public institution according to the legislation of this Member State, and is the property of, or significantly financed by, this Member State or its regional or local authority;

- belongs to the inventories of ecclesiastical institutions in the Member State,
- or belongs to one of the categories of cultural heritage, defined by the Annex to the Council Directive 93/7/EEC of March 1993 on the Return of Cultural Objects Unlawfully Removed from the Territory of the Member State.

(2) "Unlawfully removed" shall mean that an object of cultural heritage has been removed from the territory of a Member State in breach of its rules on the protection of cultural heritage or in breach of the Council Regulation 3911/92, or that an object of cultural heritage has not been returned at the end of a period of lawful temporary removal, or any other breach of rules governing such temporary removal.

(3) About the return of an object of cultural heritage shall be decided by the Court upon the motion of a Member State.

Article 7

(Searching and Checking the Objects of Cultural Heritage)

(1) The Member State has a right to address to the Ministry of Culture an application for the search of a specific object of cultural heritage which has been unlawfully removed from its territory, and for an identification of the person physically holding this object of cultural heritage. The application must include all information needed to facilitate the search, with particular reference to the actual or presumed location of the object.

(2) The Ministry of Culture must upon receiving the application from the paragraph 1 inform about it all those authorities and organisations that could provide assistance with the search for an object or with the identification of a person physically holding the object. The Ministry of Culture shall also engage in other activities within its competence that are necessary for the return of the object of cultural heritage and for the identification of the person physically holding the object.

(3) The Ministry of Culture shall notify a Member State, if an object of cultural heritage has been found in the territory of the Republic of Slovenia and there are reasonable grounds for believing that it has been unlawfully removed from the territory of this Member State.

(4) The Ministry of Culture shall within its competency enable the competent authorities of the Member State that received a notification from the paragraph 3, to check on the territory of the Republic of Slovenia that the object in question is an object of cultural heritage, provided that the check is made within two months of the notification.

(5) An inspector who is responsible for supervision of the implementation of cultural heritage legislation, shall have the competence to search for the objects of cultural heritage, to identify persons that are physically holding these objects, and to assist the competent authorities of Member States to check that the object in question is an object of cultural heritage.

(6) The Ministry of Culture shall engage in facilitating the consensual agreement over the return of the object between the person physically holding the object of cultural heritage and

the Member State that has requested its return. Upon the formal approval of a Member State and the person physically holding the object, the Ministry of Culture shall act as an intermediary between them during the negotiations.

Article 8 (Responsibilities of Other Authorities)

(1) The authorities and organisations in the Republic of Slovenia, responsible for the search or protection of objects of cultural heritage, shall in accordance to their respective competencies co-operate with the Ministry of Culture, especially:

1. to inform the Ministry of Culture about the searches and finds of actually or presumably unlawfully removed objects of cultural heritage, and about other matters linked with the unlawful removals of the objects of cultural heritage;

2. upon the notice of the Ministry of Culture according to article 7, paragraph 2 seek a specified object of cultural heritage that has been unlawfully removed from the territory of a member State, and identify the person physically holding the object.

(2) If an Authority from the paragraph 1 receives an application from the article 7, paragraph 1 directly from the Member State, it must forward it to the Ministry of Culture.

Article 9 (Motion for the Return of a Cultural Object)

(1) A Member State may file a motion before the competent Court for the return of an object of cultural heritage, which has been unlawfully removed from its territory.

(2) The Court will decide on the matter in the non-litigious civil procedure.

(3) The motion must be accompanied by the following:

1. a document describing the object of cultural heritage whose return is requested in the motion;
2. a statement of the Member State that the object in question is an object of cultural heritage according to this Law;
3. a document, which has been issued by the competent authority of the Member State, that declares that the object of cultural heritage has been unlawfully removed from its territory;
4. the identification of the person that must return the requested object of cultural heritage (hereinafter: the opposing party). The opposing party is a person who in his or her own name exercises the physical control over the object, or - if such person does not exist, is not known or is unreachable - a person who exercises the physical control over that object in someone else's name;
5. the evidence showing that time-limits from article 11 are observed.

(4) When the object, whose return is requested by the Member State, belongs to one of the categories from article 6, paragraph 1, point 3, its financial value shall be assessed upon the value of this object in the Republic of Slovenia at the time when the motion has been filed.

(5) The Ministry of Culture has a right to participate in the proceedings.

Article 10
(Jurisdiction)

(1) The jurisdiction over cases concerning the return of the objects of cultural heritage shall have the circuit court, onto whose judicial circuit the permanent residence, the temporary residence or the registered office of the opposing party is located.

(2) If a territorial jurisdiction cannot be decided according to paragraph 1, the territorial jurisdiction shall have the circuit court onto whose judicial circuit the object of cultural heritage is located.

Article 11
(Time Limits)

(1) The motion for the return of an object of cultural heritage shall be filed no later than in one year after the Member State became aware of the location of the object and of the identity of the person responsible for the return of the object.

(2) The motion shall be filed no later than 30 years after the object of cultural heritage was unlawfully removed from the territory of the Member State. An exception to this rule are objects forming part of collections, referred to in article 6, paragraph 1, point 1, and ecclesiastical objects referred to in article 6, paragraph 1 point 2, if these object are subject to special protection arrangements under the law of the Member State. In such cases the motion shall be filed no later than in 75 years, except if bilateral agreement with the Member State provides for a longer time limit for filing a motion.

Article 12
(Notification on the Procedure)

The Member State shall forthwith inform the Ministry of Culture that the motion for the return of the object of cultural heritage has been filed. The Ministry of Culture shall upon receiving this information inform all Central Authorities of other Member States about the commenced procedure.

Article 13
(Court Decision)

(1) (1) A hearing must be organised by the Court during the procedure about the return of an object of cultural heritage.

(2) The Court shall order the opposing party to return the object of cultural heritage to the party that filed a motion, if the following conditions are fulfilled:

- 1.the object is an object of cultural heritage according to article 6, paragraph 1;
- 2.the object has been unlawfully removed from the territory of the requesting Member State;
3. the motion has been filed inside the time limits set in article 11;

4. the object has been removed from the requesting Member State after the date, specified in article 19;
5. the opposing party has had a physical control over the object of cultural heritage at the time when the motion has been filed.

Article 14 (Monetary Compensation)

- (1) The opposing party that has a physical control over the object in his or her own name, shall have until the end of the first hearing a right to propose to the Court that a monetary compensation should be awarded to him by the Member State upon the return of the object.
- (2) Court shall decide about an appropriate monetary compensation in the order that grants the motion for the return.
- (3) The Court shall award the compensation if the opposing party from the paragraph 1 has exercised due care and attention in acquiring the object. The Court shall decide about the appropriate amount of compensation by taking into account all circumstances of the case.
- (4) If the opposing party from paragraph 1 has acquired the object of cultural heritage as a donation or due to succession, he or she shall have the right to monetary compensation only if a person from whom he or she has acquired it would also have such right.

Article 15 (Expenses and Handing Over)

- (1) The Member State that has requested the return of an object of cultural heritage, shall cover the expenses incurred by the Court procedure, the expenses that will presumably arise during the return of the object, and the expenses of those interim measures that are necessary for the physical preservation of the object of cultural heritage.
- (2) When granting the return of an object of cultural heritage and awarding the monetary compensation, the Court shall order the Member State to deposit the compensation at the Court. The Court will deliver the compensation to the opposing party upon receiving the notification from the Ministry of Culture that the object of cultural heritage has been handed over to the Member State.
- (3) The opposing party must hand over the object of cultural heritage to the Member State in three days after the compensation was deposited at the Court. The handing over procedure shall take place at the Ministry of Culture. The Ministry shall make a protocol about the handing over and shall notify the Court about it.

Article 16 (Relation to Other Procedures)

- (1) The Court shall award an appropriate compensation according to article 14 and decide about the procedure expenses and the implementation costs according to Article 15 without prejudice to the Member State's right to take action to recover these expenses and costs from those responsible for the unlawful removal of the object of cultural heritage from its territory.

(2) The fact that the Member State filed a motion for the return of an object of cultural heritage shall not preclude civil lawsuits for the return of the same object on the ownership grounds. In the case of an ongoing civil procedure for the return of an object of cultural heritage on the ownership grounds the Court may suspend the non-litigious civil procedure until the decision in the civil procedure is final.

(3) The decision in the non-litigious civil procedure according to this Law shall be without prejudice to other relationships under private law and to criminal responsibility and does not preclude a criminal procedure related to the unlawful removal of an object of cultural heritage.

(4) Ownership of the object of cultural heritage after return shall be governed by the law of the Member State that requested the return.

CHAPTER IV OTHER PROVISIONS

Article 17 (Other Legal Procedures)

The return procedures governed by this Law do not encroach on or interfere with the procedures aimed at investigating and prosecuting criminal acts committed in connection to unlawfully removed objects of cultural heritage.

Article 18 (Report on the Implementation of the Law)

The Government shall at least once in every three years adopt a report on the implementation of this Law. The draft of this report shall be prepared by the Ministry of Culture.

Article 19 (Application of the Law)

This Law shall apply only to objects of cultural heritage unlawfully removed from the territory of Slovenia and/or Member States on or after 1 January 1993.

Article 20 (Executive Rule)

The Minister, responsible for cultural heritage, shall adopt a Rule about the categories of objects from the article 3, paragraph 1, point (a)2.

Article 21 (Termination of Validity)

(1) On the effective date of this Law, the Articles 34 and 35 of the Cultural Heritage Protection Act (Uradni list RS, št. 7/1999) shall cease to apply in those parts that regulate the

return of objects of cultural heritage from the Member States to the Republic of Slovenia and from the Republic of Slovenia to the Member States after 31.12.2003.

(2) The already commenced procedures for the return of the objects of cultural heritage, initiated by the Member States, shall be completed according to the law that applied before the effective date of this Law.

Article 22
(Effective Date)

This Law shall come into effect on the day when the Republic of Slovenia becomes the member of the European Communities that work within the European Union.

No.: 612-04/03-7/1
Ljubljana, 28 November 2003
EPA 923-III

Signed by:
President of the National Assembly
of the Republic of Slovenia
Borut Pahor