



Ref: CL/4102

Report by Sweden on the implementation of 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

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. Sweden ratified the Convention in 2003.

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?

Sweden has not adopted any specific measures in order to implement the 1970 Convention. The existing national legislation is considered as being both adequate and consistent with the 1970 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.

Sweden's national law, in accordance with the Governmental Bill called the Historic Environment Act (1988:950) and its amendments, contains no particular definition of the term "cultural property". This term is defined indirectly through the various categories of cultural property that are covered by the requirements for export licenses.

(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)?

The Swedish Police is currently working to establish a national unit to investigate and deal with cultural heritage crime.

(d) Describe briefly the administrative coordination of the activities of these specialized units, especially with the police and customs authorities?

Today there are no specialized units in place in Sweden and no administrative coordination.

(e) Are working meetings held to enable police officers, customs officials and ministerial representatives to meet and coordinate their activities?

Swedish National Heritage Board regularly organizes meetings with the purpose of spreading information among its various participants, including both museums, government agencies, the Swedish Church, Police and Customs, etc.

3. Inventories and identification

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

According to the Historic Environment Act, the Swedish Church is responsible for keeping an inventory of all of its cultural objects. This legislation does not include requirements for museums. However, nearly all museums in Sweden keep running inventories of their cultural objects, in both text and image, according to the recommendations of the Swedish Art Council regarding inventories of museum collections. It has been our experience that these inventories in themselves are not sufficient, but that they may be used together with other particular information to identify specific objects in cases of theft.

(b) Specify the degree of precision, at the national level, of the definition of "cultural property" covered by international conventions (see above 1.2(b)). State whether "national treasures" are identified in an official, tentative or exhaustive list.

Although the term "cultural property" is not specifically defined in the Historic Environment Act, there is good congruence between the categories of cultural property covered by the requirements for export licenses and the definition set out in the 1970 Convention.

There is no national list of cultural properties as identified as "national treasures".

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

The Object ID standard is not used in Sweden.

- (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?

Training of museum staff in security issues only takes place at a general level. More comprehensive security systems have evolved over the last 20 years. Security issues are the responsibility of individual institutions, but some initiatives have been taken towards cooperation between the Nordic countries in this matter.

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 majority of the archaeological excavations in Sweden are preventive archaeology - excavations conducted because of land development projects. The Valletta Convention and the Polluter Pays Principle are implemented in the Swedish preventive archaeology.

Preventive archaeology is conducted on behalf of the society. The state, by dint of the County Administrative Board in the 21 Counties in Sweden, determines the need of archaeological excavations; grants permits and commissions excavations according to the Historic Environment Act. The County Board makes an evaluation of how the development project benefits society in relation to the value of the archaeological site. The County Board can only give such a permit to remove the archaeological remain if the interest in the development is substantially higher than the preservation value of the archaeological site. The developer has payment liability for the archaeological excavations.

When the County Board states the need for an archaeological excavation the Board sets up a specification describing the demands on the excavation and the excavator. The specification is sent to either the National Historical Museum, a County Museum or a private archaeological excavator. The archaeological excavator sets up a project plan describing how the excavation is going to be carried through, including the reporting, budget and time schedule. The County Board grants the permit to the developer with the condition that an archaeological excavation is carried out. The permit states

the cost of the excavation and the designated excavator. The County Board shall ensure that the excavation meets good scientific standards and is executed at a cost that is not higher than is advocated by the circumstances. Good scientific quality in archaeological excavations means: using scientific methods to acquire knowledge of relevance to authorities, research, and the general public.

The preventive archaeological process has three steps. The first two aims at giving the County Boards a basis for decision making. An Archaeological Survey is the first step which aims to identify if there are archaeological sites within the area of the planned development. The next step, Field Evaluation, aims at defining the archaeological remain and to give data about the remains, as basis to be used for commissioning an Archaeological Excavation. During the archaeological excavation, documentation of the remains is being created and archaeological finds are collected. Besides the site recording report, the reporting from archaeological excavations can also comprise a scientific research report and dissemination of the results for the general public such as a popular summarize or guided field walks. All of the steps in the excavation process are covered by the payment liability of the developer, including conservation of finds, scientific research reports and dissemination for the general public.

Large archaeological excavations with a cost over 20 basic amounts (approximately 100.000 EUR) are commissioned by the County Boards using procurement with a tender process. The procurement of archaeology is regulated in the Regulations on Preventive Archaeology (not in the Public Procurement Act).

All results from archaeological excavations belong to the state regardless if the excavator is public or private or if there is a private landowner or not. The reports, finds and archaeological documentation are made assessable for authorities, researchers and the general public in public archive storages, libraries and on the website of Swedish National Heritage Board. After the excavation the excavator is responsible for delivering the finds to a museum as well as the documentation and reports to a public archive storage.

During the field work as well as during the report writing the County Board monitors the excavation. Swedish National Heritage Board has the supervision over the management of the Culture Heritage, and issues regulations and guidelines.

Besides the preventive archaeology, there is a smaller amount of excavations carried out in the frame of education or for research purposes.

- (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?

In Sweden there is evidence that looting occurs at archaeological sites, often due to the use of metal detectors. There has also been some looting of ship wrecks.

In order to prevent looting the Culture Heritage Authorities have regularly been giving information to relevant parties about the Historic Environment Act and the importance of protecting archaeological sites.

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?

There are currently no public statistics regarding thefts of cultural property or the extent of illicit export/import of cultural property. However, it is reasonable to assume that the volume of illegal exports/imports is rather comprehensive. It may be noted that very few applications are submitted to the authorities for the export of cultural objects in relation to the relatively large amount of cultural objects for which permission for export is obligatory.

- (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.)?

Yes, it is a recurring problem. The number of applications for export licenses has remained on a low level since 2000. But because Sweden is a member of the EU, no export controls are carried out at internal borders.

- (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 Historic Environment Act states that older Swedish and foreign cultural properties of major importance to the national cultural heritage may not be taken out of Sweden without an export license. For the majority of categories of cultural property covered by this regulation, this means objects that predate a 100 year limit from today. And for the majority of categories there is also the requirement of a minimum economic value.

Information about Swedish export legislation is available to the public both in the form of a particular booklet and at the Swedish National Heritage Board's website.

(d) Do rules provide for the restitution of illicitly imported property?
As the result of the EU Directive 93/7/EEC (after revision 2014/60/EU), a particular chapter has been included in the Historic Environment Act: "Return of cultural objects unlawfully removed from a state that is part of the EES".

Two particular chapters were also introduced as a result of Sweden's ratification of the 1995 UNIDROIT Convention in 2011. These chapters include legislation regarding the return of cultural objects unlawfully removed or stolen from a State that has acceded the Convention.

(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.)?

Sweden lacks well-established procedures for dealing with restitution issues. This is largely due to limited experience resulting from few restitution cases.

(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.
See answer above (5 (d)).

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).

Sweden refrains from commenting this question.

(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)?

There are no particular rules governing trade in cultural goods in Sweden. However, the control of goods concerned by the CITES-convention is very active.

(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)?

It is the general policy of Swedish museums to not purchase archaeological objects.

More extensive checks of other categories of cultural properties acquired abroad are rarely made. Museums and similar institutions always apply for export licenses for cultural properties purchased abroad.

(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?

No, not invariably, but in the most cases.

- What is the status of yet unfound cultural objects, of cultural items found by chance and archaeological artefacts found during legal or illegal excavations?

The existing Swedish legal system protecting ancient remains and archaeological finds is the Historic Environment Act, the most recent amendments of which came into force on 1 January 2014.

The right of ownership of archaeological artefacts is regulated in Chapter 2 of this Act. Yet unfound archaeological artefacts and chance finds from archaeological remains and sites are property of the Swedish Government. Yet unfound archaeological artefacts and chance finds from other places accrue to the person who discovers them.

Archaeological finds which are unearthed during legal excavations are property of the Swedish Government. The right of accrument is automatically forfeited by persons engaged in illegal excavations or in the looting of archaeological remains and sites. Archaeological finds from illegal excavations or procured through looting are the property of the Swedish Government.

- Are there any due diligence requirements in place?

No, there are no such requirements in the existing Swedish legal system.

- What are the rules governing the search of provenance?

There are no such rules in the existing Swedish legal system.

- (e) Are there special rules on the transfer of title deeds in respect of cultural property? If so, please summarize their content.

No, there are no special rules for the transfer of title deeds for cultural property in the existing Swedish legal system.

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.

Sweden has no such bilateral agreements concluded with other countries.

- (b) What conditions are set by importing country with regard to the admissibility of requests for restitution from a country of origin?

There are no bilateral agreements between Sweden and other countries.

- (c) Apart from these agreements, is there administrative aid or any other type of cooperation with neighboring countries, particularly in respect of police and customs service?

The Swedish Customs cooperate with other Customs authorities. EU is a Customs Union and cooperation between the different Customs authorities is extensive. Norway is not a EU member state, but there is extensive collaboration between Swedish and Norwegian Customs.

Regarding the police there is no such administrative aid with neighbouring countries.

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?

Knowledge of the UNESCO International Code of Ethics for Dealers in Cultural Property is very limited.

As members of ICOM, Swedish museums and museum professionals undertake to follow ICOM's Code of Ethics. Swedish ICOM provides training in order to enhance understanding of ethical rules and to support museums in their daily work. For this, Swedish ICOM appoints people with experience in staff training, ethics and museum activities.

Awareness raising and education

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

No, they are disseminated and read to a very limited extent.

- (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?

There are no such activities.

III. Cooperation with other international and regional agencies

Police

- (a) What is the state of national cooperation with INTERPOL? What specialized police service can heritage officials call on for enquiries, legal proceedings and punitive measures?

Currently, no special units within the Swedish police are investigating this type of case. There are no specific contacts with INTERPOL regarding this kind of issues. Hopefully, such a unit will be in place in Sweden, but not before 2016. Individual officers may have contacts in specific cases or attended international conferences on cultural heritage crime.

- (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?

The Swedish Police check the INTERPOL database in the instances of thefts of cultural property of international interest. However, there are no specific guidelines for this. This usually occurs at the initiative of the individual investigator.

- (c) Do members of police services follow a specific training programme?

No, there is no special training programme for police officers in these matters in Sweden.

- (d) Do criminal law provisions allow for the punishment of fraud and theft related to cultural property? Are judges specialized in this field?

There is no specific legislation concerning theft or fraud related to cultural property.

There are no specialized judges in this field.

- (e) Does cooperation exist with the United Nations Office on Drugs and Crime (UNODC)?

No.

Customs

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

Customs authorities cooperate internationally with the WCO, for example, by sharing information and by cooperation in international operations. WCO is a large organization which includes 179 Customs administrations throughout the world that collectively process approximately 98% of world trade (www.wcoomd.org).

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

Members are trained when they are hired by the Customs which offers different training courses. It is important to bear in mind that Customs officers work with a wide range of different topics.

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

The Swedish National Heritage Board has used UNESCO's model for Export Certificates for Cultural Objects in developing a new national application form for the Export of Cultural Objects. The new application form will be introduced during 2016.

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.

As a result of the EU Directive, the Historic Environment Act now includes a particular chapter entitled "Return of cultural objects unlawfully removed from a state that is part of the EES".

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?

Natural Disasters

In Sweden, property owners or those who have the legal right to use a property or properties bear the main responsibility for its protection. This is also the case for the administration of cultural properties. Emergency

situations or immediate danger from disasters within a municipality are the responsibility of the Municipal administration.

Since 2010, the Swedish National Heritage Board has participated in the national platform concerning natural emergencies, according to the UN Hyogo Framework for Action (from 2015, the Sendai framework for disaster risk reduction 2015-2030). This program works to strengthen societies' competence in preventing and handling negative consequences resulting from natural disasters.

Conflict

Sweden has ratified both the 1985 Convention and the First Minutes of the 1954 Hague Convention. Sweden has also undersigned the Second Minutes from 1999 and is now considering its ratification.

In Sweden, the 1954 Hague Convention is practiced through the Civil and Military defense according to International law. In peacetime, the Swedish National Heritage Board is responsible for designating cultural properties which are to be particularly protected according to the 1954 Hague Convention. The County Administrative Boards are responsible for designating cultural properties which are to be generally protected. The Swedish National Heritage Board in joint consultation with the Swedish Armed Forces is responsible for communicating these regulations. They are published in the Swedish Arts Council Code of Statutes 1997.

There is both a statute and regulations for removal and handling of specially protected cultural property. These state that properties of historical or cultural importance may be moved in the case of acts of war or other risks of destruction. The regulations describe who is responsible for planning the removal of archives, books, art works and objects of natural and cultural historical importance.

- (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?

Sanctions towards trade in Iraqi and Syrian cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from Iraq after the 6th of August 1990 and from Syria after the 15th March 2011 has been implemented. These sanctions correspond to the UNSC Resolution 2199 and the European Council decision 2013/760/GUDP.

The Nordic culture ministers met on May 12 and adopted a declaration calling for action to be taken to clamp down on the illegal trade in cultural objects from Iraq and Syria. In their public statement they underlined that the looting and smuggling of objects of historical and cultural significance from Iraq and Syria is a very serious problem and they strongly urged the Nordic academic and professional communities – e.g. collectors, traders, art dealers, antique shops and museums – to exercise extreme caution. To alert actors and to share information and knowledge the ministers agreed on convening a Nordic conference to be held this autumn.

On a national level the Swedish National Heritage Board and The Swedish National Commission for UNESCO invited heads of national agencies (Police, Customs etc.) to a meeting held at The Ministry of Culture on June 15 on how to prevent illegal trafficking of cultural property. The Minister for Culture and Democracy began the meeting with a speech emphasizing the grave view the Government takes on these issues.

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?
Yes. Sweden ratified the Convention in 2011.

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.

The work of the Committee is followed by the permanent delegation of Sweden to UNESCO which reports to relevant authorities in Sweden.

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.

The Swedish National Heritage Board has recently updated its database in connection with a specific request made by UNESCO in 2013.