

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

UKRAINE

I. Information on the implementation of the UNESCO Convention of 1970

1. Ratification of the Convention

Ukraine ratified the Convention on 28 April, 1988.

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

(a) References of the principal national regulations adopted in order to implement the 1970 Convention.

The adoption of the 1999 law *On the Export, Import, and Return of Cultural Heritage* and the creation of the State Control Service for Moving Cultural Valuables through the State Borders of Ukraine (henceforth referred to as State Control Service) strengthen control of the traffic of cultural property. Two other cultural laws, *On Museums* (1995) and *On the Protection of Cultural Heritage* (2000), are also aimed at regulating and protecting cultural heritage and promoting international cooperation to this end.

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

"Cultural property" is defined as those "objects of material and spiritual culture that have artistic, historical, ethnographic, and scientific significance and are subject to preservation, restoration, and protection under the legislation of Ukraine." The law does not apply to souvenirs and mass-produced cultural items.

(c) Specialized units

The protection of national cultural heritage involves the Ministry of Internal Affairs, the Foreign Intelligence Security Service, the State Customs Service, and the National Heritage Service of the Ministry of Culture and Tourism. In addition, the State Oversight created a network of regional offices to oversee the export, import, and return of cultural property.

(d) Administrative coordination

The Interdepartmental Council for the Export, Import, and Return of Cultural Heritage, regulated by a 2001 statute created by the Cabinet of Ministers, coordinates action and administration.

(e) Working meetings

The State Control Service and the Ministry of Internal Affairs have conferences, roundtables, intergovernmental meetings, and presentations aimed at the prevention of illicit trafficking. Ukraine hosted the International Conference on Interagency Prevention of Smuggling and Cultural Property in 2008, in which eleven countries were represented. In addition, Ukraine holds annual roundtable discussions between the State Border Guard Service, Customs and Police of the State Control Service, art historians, and scientists to strengthen the fight against smuggling cultural property.

3. Inventories and identification

(a) Inventories

The International Atomic Energy Agency uses nuclear techniques to help characterize and preserve artifacts. Marking objects with low radioactive isotopes will facilitate identification and counter trafficking. The Museum Fund of Ukraine keeps records of museum collections and objects. The special Stock Exchange also maintains records of the location, state of preservation, and other details of collections.

(b) Definition of “cultural property” and “national treasures”

The “Catalogue of Cultural Property Stolen from State Museums, Parks, Institutions, and Private Collections” is a compendium of works stolen between 1999 and 2009. Compiled from the Ministry of Internal Affairs database, its publication in English is in progress.

(c) Reference to the Object ID standard

(d) Systems to combat theft and to train staff

4. Archaeological excavations

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

By law, all archaeological surveys, excavations, and other works involving sites concerning health, history, population, and remnants of human existence underwater must have prior authorization from the relevant cultural heritage authority. Without permission, such work is prohibited. Issuing and recording permits is a function of the Ministry of Culture and Tourism. From 2007 to 2010, an average of 37 excavations was conducted monthly.

(b) Illegal excavations

The absence of or imperfections in real mechanisms to protect cultural heritage contribute to illegal activity. The situation is aggravated by imperfections in legislation, such as the difficulty encountered in attempting to prove that an archaeological object found unlawfully belongs to the State. Another problem is that of the so-called “black archaeologists”, whose unskilled excavation of buried objects leads to the destruction of layers of historical heritage.

To combat the problem, the European Convention for the Protection of Archaeological Heritage (ratified by Ukraine legislation in 2003) assigns State bodies and academic institutions the tasks of informing the relevant authorities about illicit excavations, providing necessary information, and ensuring that museums and similar institutions have not acquired the illicitly excavated property. In addition, heritage protection and police services have set up on site interagency groups to prevent criminal attacks on and illegal transportation of archaeological property.

5. Monitoring of the export and import of cultural property

(a) Estimate of the scale of the illicit export or import of cultural property (statistics)

(b) Problem of the illicit export of cultural property

(c) Main rules for monitoring the export and import of cultural property

The State Control Service and the customs authorities control and regulate the exportation of cultural property. Authorization for exportation is marked by the possession of a certificate drafted by the Cabinet of Ministers in 2000. As per a protocol agreement signed with the Ministry of Culture and Tourism, issuance of an export certificate is vested in the State Control Service. Without this certificate, exportation of cultural property is prohibited.

The State Control Service has also begun implementing a classification system consisting of nine registers of cultural properties. The electronic document management system established by this classification allows for the consolidated use of a single permit system operated by the State Control and Customs Services.

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

The return of national cultural heritage is extremely important for Ukraine, evidenced by the conclusion of numerous international agreements with other countries.

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

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

Taken from the Odessa Museum of Western and Eastern Art in 2008, the Caravaggio painting, "The Taking of Christ (Kiss of Judas)", was found in Berlin and returned to Ukraine in August of 2010. Specialists at the National Research and Restoration Center have begun restoring the work, which suffered heavy damage during its abduction.

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

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

There are approximately 450 shops in operation that sell a large number of antiques and rarities, including archaeological objects.

(b) Rules governing trade in cultural goods, measures in place for such trade (maintenance of a police register), in particular through the Internet (reference to the basic measures proposed by UNESCO, INTERPOL and ICOM)

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

Registered with the Ministry of Justice and approved by the Ministry of Economy and European Integration and the Ministry of Culture and Arts, the regulations of trade in antiques forbid accepting or selling commissions in specialty shops; however, the growing number of sales of archaeological objects through auctions, antique shops, and exhibitions has increased the number of private collections in Ukraine.

(d) Existing legal system concerning ownership of cultural property:

Because the provenance of the archaeological objects sold in markets may be proven illegal, and likely the result of illicit research, individuals distributing them may be in violation of the Criminal Code. To prevent such crime, law enforcement authorities control and inspect salons, antique stores, the *Expoplaza* National Exhibition Center and illegal distribution centers.

(e) Special rules on the transfer of title deeds with respect to cultural property

7. Bilateral agreements

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

Ukraine concluded a bilateral agreement with Germany on cultural cooperation (1993) and one with Poland on the protection and restitution of objects lost and illicitly removed during WWII (1996).

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

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

The intergovernmental Ukrainian-Polish and Ukrainian-German Commissions met twice in recent history (2008, 2010) to ensure the implementation of the respective bilateral agreements concluded. Through the discussion of joint projects on cataloging, digitalizing, and conducting research, it was decided to utilize expert groups to better implement government policy on the restitution of cultural property.

II. Code of ethics, awareness raising and education

1. Ethical standards

(a) Application of the UNESCO International Code of Ethics for Dealers in Cultural Property and the ICOM for museums

2. Awareness raising and education

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

(c) Description of activities carried out to raise the awareness of the authorities and educate the public, children in particular, regarding the serious damage that can be caused by illegal excavations, theft of cultural property and illegal export.
How far can UNESCO contribute to these activities?

Ukraine will continue to support and implement all measures stipulated by UNESCO concerning the dissemination of knowledge concerning the preservation and protection of cultural heritage.

III. Cooperation with other international and regional agencies

Police

(a) State of national cooperation with INTERPOL. Specialized police services to whom the heritage officials can call on for enquiries, legal proceedings and punitive measures

Ukraine cooperates with INTERPOL with regard to preventing the sale of items of cultural and historical value. Heads of structural units within the Ministry of Internal Affairs communicate information on stolen objects to the Ukraine INTERPOL Bureau, which is then transmitted to the INTERPOL General Secretariat.

(b) Check on the INTERPOL database on stolen objects when a cultural object is stolen. Transmission of information on the persons implicated in the theft of cultural property

To implement the seizure of missing cultural objects, the State Control Service issues letters that reference said objects in accordance with the INTERPOL database.

(c) Specific training program for members of police services

(d) Punishment of fraud and theft related to cultural property via criminal law provisions. Specialized judges in this field

(e) Cooperation with the United Nations Office on Drugs and Crime (UNODC)

Customs

(f) Status of cooperation with the World Customs Organization. Specialized customs services which could assist heritage officials in preventing the illicit export of cultural property

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

(h) Reference to the UNESCO-WCO Model Export Certificate for Cultural Objects

European Union - Application of the Council of the European Communities Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State

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

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

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

3. UNESCO Database of National Cultural Heritage Laws – contribution and update