

Please note that this English translation is not legally binding.

Legally binding are the original law texts in an official Swiss Language such as German, French and Italian.

Ordinance on the International Transfer of Cultural Property (Cultural Property Transfer Ordinance, CPTO)

dated April 13, 2005

The Swiss Federal Council,

Having regard to Article 31 of the Federal Act dated June 20, 2003¹ on the international transfer of cultural property (Cultural Property Transfer Act, CPTA),
decrees:

Section 1: General Provisions

Art. 1 Terms

The following terms mean:

- a. *Description of cultural property:*
 1. Object type, material, measurements or weight, motive, inscription, marking or other special characteristic (namely damage and repairs) of cultural property,
 2. Era or creation date, creator, title of the cultural property to the extent known or that can be established at justifiable expense.
- b. *Origin or provenance of the cultural property:* Origin of the cultural property as well as place of manufacture, or if the result of archaeological or palaeontological excavations, the place where the cultural property was found;
- c. *Federal institutions:*
 1. The Swiss National Museum, its branches and field offices,
 2. The Swiss National Library as well as the Swiss Literary Archive and the Dürrenmatt Center,

3. The Oskar Reinhart collection "Am Römerholz" in Winterthur,
 4. The Museo Vela in Ligornetto,
 5. The Graphics Collection from the Federal Institute of Technology, Zurich,
 6. The Art and Cultural Property Collection of the Federal Gottfried Keller Foundation,
 7. The Art Collection of the Confederation (Art and Design),
 8. The funds of the federal archives for historical monuments.
- d. *Loaning institution*: Both public and private institutions that loan cultural property as well as private persons who loan cultural property;
- e. *Persons active in the art trade and auctioning business*:
1. Persons domiciled in Switzerland and companies headquartered in Switzerland that are required to register in the trade registry and either acquire cultural property for the purpose of selling it for their own account, or trade in cultural property for third-party accounts,
 2. Persons domiciled abroad and companies headquartered abroad that are active in more than ten transactions with cultural property and sales in excess of Swiss Francs 100,000 in one calendar year and that either acquire cultural property for the purpose of selling it for their own account, or trade in cultural property for third-party accounts;
- f. *Transfer of cultural property*: A legal transaction against payment in the art trade or auctioning business that transfers ownership of the cultural property to a person;
- g. *Appraised value*: The appraised value corresponds to the market value. The practice of establishing the appraised value within the auctioning business remains reserved;
- h. *Supplier*: Person, who authorizes another person active in the art trade and auctioning business with the transfer of cultural property;
- i. *Exceptional events*:
1. Armed conflicts pursuant to Article 3 Federal Act dated October 6, 1966, on the protection of cultural property during armed conflicts²,
 2. Natural disasters,
 3. Other exceptional events that endanger the cultural heritage of a country.

Section 2: Cantonal Cultural Property Registries

(Art. 4 CPTA)

Art. 2

¹ The contents of cantonal registries are not integrated in the federal registry. A link connects to the federal registry. The Federal Office of Culture (FOC) resolves the modalities of connections in consultation with the cantons.

² The Federal Government ensures that authorities and the public can query the cantonal registries electronically (Internet) unabated and at no charge.

³ The cantons are responsible for the content of the registries.

Section 3: Import and Export

Art. 3 Application for Export Permit (Art. 5 CPTA)

¹ The application for an export permit for cultural property registered in the federal registry must be submitted to the specialized body, at the latest, 30 days prior to the intended export from Switzerland.

² The application must include the following:

- a. the purpose of the temporary export;
- b. the export date of the cultural property;
- c. the repatriation date of the cultural property.

³ The following must be appended to the application:

- a. a description of the cultural property;
- b. the inventory number of the cultural property in the federal registry.

Art. 4 Notification of Repatriation to Switzerland (Art. 5 CPTA)

Repatriation to Switzerland must be reported to the specialized body within 30 days.

Art. 5 Swiss Repatriation Claims (Art. 6 CPTA)

¹ The specialized body is responsible for asserting repatriation claims pursuant to Article 6 CPTA.

² It initiates repatriation claims for cultural property protected against export by cantonal law, with the consent of the competent cantonal authorities.

Art. 6 Limited Measures
(Art. 8 CPTA)

Limited measures may also include mandatory permits and notification requirements.

Section 4: Return Guarantee

Art. 7

¹ The institution borrowing one or more cultural properties must submit a request for issuance of a return guarantee to the specialized body, at the latest three months prior to the intended import of the cultural property into Switzerland.

² The application must include the following information:

- a. name and address of the loaning institution;
- b. a description of the cultural property;
- c. as precise a description as possible of the cultural property's origin;
- d. intended timeframe for the temporary import of cultural property into Switzerland;
- e. intended timeframe for the export of the cultural property from Switzerland;
- f. exhibition dates;
- g. application dates for the return guarantee.

³ The application must be submitted in an official language. Information under paragraph 2, letter b and c may also be submitted in English.

⁴ A copy of the loan agreement with the loaning institution must be appended to the application. The copy must indicate that the cultural property will return to the contracting state from which it was borrowed at the completion of the exhibition in Switzerland or at the completion of a traveling exhibition through multiple countries.

⁵ The specialized body will provide the borrowing institution a deadline of 10 days to improve incomplete applications or applications without a copy of the loan agreement. It issues the deadline with the threat of rejecting the application without publication (Art. 11, para. 2 CPTA), to the extent the application is not completed within the deadline or a copy of the loan agreement is not submitted.

Section 5: Financial Assistance to the Benefit of Maintaining Cultural Heritage

Art. 8 Application for Financial Assistance (Art. 14 CPTA)

An application for financial assistance to the benefit of maintaining the cultural heritage of another country must be submitted to the specialized body prior to executing the intended action.

Art. 9 Authority to Grant Financial Assistance (Art. 14 CPTA)

¹ The FOC decides on applications on financial assistance for temporary fiduciary custody and conservatory care of cultural property pursuant to Article 1, para. 1, letter a CPTA.

² The FOC decides in consultation with the Swiss Agency for Development and Cooperation and the Political Office of the Federal Department of Foreign Affairs on applications for financial assistance for projects pursuant to Article 14, para. 1, letter b CPTA, and projects easing the restitution of cultural heritage under Article 14, para. 1, letter c CPTA.

Art. 10 Top Rate for Financial Assistance (Art. 14 CPTA)

¹ Financial assistance may amount to a maximum of 50 percent of asserted costs.

² It can only be granted as part of the approved credit.

Art. 11 Financial Assistance for Fiduciary Care (Art. 14, para. 1, letter a CPTA)

¹ Financial assistance for fiduciary custody and custody care may amount to a maximum of CHF 100,000 annually.

² Financial assistance will only be granted to museums or similar institutions that:

- a. are active in a significant and recognized manner in the corresponding specialty, and
- b. orient their activity according to deontological rules of the museum profession, for example, the ICOM³ Code of Ethics for Museums, dated November 4, 1986 (amended on July 6, 2001 and revised in October 2004)⁴, in particular with regard to its procurement and exhibition policies.

³ International Council of Museums

⁴ Available at the FOC, Specialized Body for Cultural Property Transfer, Hallwylstrasse 15, 3003 Berne, Switzerland.

Art. 12 Financial Assistance for Projects to Maintain Cultural Heritage
(Art. 14, para. 1, letter b CPTA)

¹ Projects to maintain the cultural heritage of another contracting state will be supported with a one-time flat-rate contribution of maximum CHF 100,000 per project. The amount can be paid in installments.

² The Federal Council may grant a payment of maximum CHF 1 million at the request of the Federal Department of Home Affairs under exceptional circumstances.

Art. 13 Financial Assistance for Projects to Ease Restitution of Cultural Heritage
(Art. 14, para. 1, letter b CPTA)

¹ Financial assistance to ease restitution of the cultural heritage of a contracting state is granted exclusively to state authorities and international organizations.

² It amounts to a maximum of CHF 50,000.

³ It will only be granted when the contracting state provides its own funds commensurate with its financial strength.

⁴ It serves to cover:

- a. court, legal, insurance, restoration and transportation costs to the extent necessary for restitution and that are actually incurred;
- b. compensation to third parties under exceptional circumstances.

Art. 14 Obligations

The grant of financial assistance can be bound by obligations to:

- a. protect cultural heritage pursuant to all rules of the profession;
- b. provide accounting on the part of the grant recipient of the application for the financial assistance to the specialized body;
- c. announce the support by the Confederation in a suitable and reasonable manner;
- d. not sell cultural property retained, restored or restituted with the aid of financial assistance pursuant to Articles 12 and 13.

Art. 15 Priorities

The Federal Department of Home Affairs will establish priorities together with the Federal Department of Foreign Affairs if the requested financial assistance exceeds available resources.

Section 6: Transfer of Cultural Property

Art. 16 Scope of Articles 15-17 CPTA

¹ Articles 15-17 CPTA apply to:

- a. federal institutions;
- b. persons active in the art trade and auctioning business to the extent they transfer cultural property within Switzerland.

² Obligations pursuant to Articles 15 through 17 CPTA, do not apply to cultural property with a sale price or appraised value on transactions for third-party accounts of less than CHF 5,000.

³ The exception under paragraph 2 also does not apply to the trade in cultural property for the following categories:

- a. products of archaeological or palaeontological excavations or discoveries;
- b. elements of dismembered artistic or historical monuments or archaeological sites;
- c. ethnological objects, specifically those items used for sacral or profane rituals.

Art. 17 Establishing Identity (Art. 15, para. 1 and Art. 16, para. 2, letter c CPTA)

¹ Federal institutions as well as persons active in the art trade or auctioning business must establish the identification to the seller or supplier based on the following information:

- a. for persons and sole proprietors: Last name, first name, birth date, domicile address, citizenship;
- b. for legal entities and partnerships: Company name and domicile address.

² The information is reviewed based on probative documents to the extent questions exist requiring a challenge to the correctness of the information or warranted by the confidential relationship established through prior transactions.

³ Establishing identity is no longer required when previously established.

Art. 18 Right to Dispose (Art. 15, para. 1 and Art. 16, para. 2, letter a CPTA)

The seller or supplier as applicable must sign a declaration confirming the right to dispose of the cultural property.

Art. 19 Accounting
 (Art. 15, para. 1 and Art. 16, para. 2, letter c CPTA)

¹ Federal institutions as well as persons active in the art trade and auctioning business must record the following information and maintain the corresponding documents:

- a. a description of the cultural property;
- b. the origin of the cultural property to the extent known;
- c. information as to identity pursuant to Article 17;
- d. declaration of right to dispose pursuant to Article 18;
- e. actual transfer date of cultural property;
- f. cultural property purchase price or appraised value on transactions for third-party accounts.

² The documents must be maintained in such a manner as to be presented to the authorities within a reasonable deadline for any requests for information or seizure.

Art. 20 On-Site Inspection
 (Art. 17 CPTA)

¹ The specialized body announces on-site inspections in advance, unless a risk exists that the cultural property or associated documents will be removed from inspection.

² The specialized body has access to documents under Article 19 during on-site inspections.

³ In all other cases, on-site inspections are subject to the December 20, 1968⁵ Federal Law on Administrative Procedure.

Art. 21 Data Protection
 (Art. 30, para. 2 CPTA)

¹ The specialized body may process data on federal institutions and persons active in the art trade and auctioning business necessary to fulfill its duties pursuant to Article 18, letter i CPTA. The Federal Act on Data Protection applies to processing data.

² The specialized body does not provide data under paragraph 1 to third parties. Reserved is the right to forward the data within the framework of official and legal assistance under Articles 21 and 22 CPTA, as part of a criminal complaint.

Section 7: Specialized Body

Art. 22

¹ The FOC operates the specialized body.

² The specialized body also assumes the functions for the Contact Bureau on Looted Art.

Section 8: Customs

Art. 23 Customs (Art. 19 CPTA)

Customs processing occurs pursuant to provisions of customs legislation.

Art. 24 Mandatory Permits (Art. 5 and Art. 7 CPTA)

¹ Whoever desires to export cultural property registered in the federal registry under Article 3, para. 1 CPTA, from Switzerland requires authorization of the specialized body.

² Whoever desires to export cultural property registered in cantonal registries under Article 4, para. 1 CPTA, from Switzerland, requires a permit from the competent cantonal authorities to the extent required under applicable cantonal provisions.

³ Whoever imports or transits cultural property subject to an agreement under Article 7 CPTA, into or through Switzerland must document to the customs authorities that export provisions of the foreign contracting state are fulfilled. If the foreign contracting state requires a permit to export such cultural property, the permit must be presented to the customs authorities.

Art. 25 Customs Declaration (Art. 19 CPTA)

¹ Whoever imports, transits or exports cultural property must provide the following at the customs declaration:

- a. the cultural property object type;
- b. as detailed a description as possible on the place of manufacture, or if the result of archaeological or palaeontological excavations, the place where the cultural property was found.

² Whoever imports or transits cultural property must declare at the customs declaration that the export of cultural property from a contracting state is not subject to a permit under the laws of that state.

³ A permit must be presented to the customs authorities when a permit under Article 24 is required for import, transit or export of cultural property.

Art. 26 Customs Storage Facilities (Art. 19, para. 3 CPTA)

¹ Persons, required to notify customs, inform the customs office in writing on the storage of cultural property.

² The notification must contain the required documents and information pursuant to Article 25.

Section 9: Seizure of Cultural Property and Assets (Art. 28 CPTA)

Art. 27

¹ Seized cultural property is returned to its state of origin.

² The FOC makes the determination on repatriation. It can suspend the execution of repatriation until such time as the cultural property is no longer in jeopardy during repatriation.

³ Seized cultural property is stored at the Swiss National Museum or other suitable institution until repatriation. The FOC determines the storage location.

⁴ The FOC employs seized assets for:

- a. granting financial assistance under Article 14 CPTA;
- b. the costs of storage and repatriation of cultural property.

Section 10: Final Provisions

Art. 28 Amendments to Applicable Law

The Organization Ordinance for the Federal Department of Home Affairs dated June 28, 2000⁶ is amended as follows:

Art. 6, para. 3, letter d

³ The FOC assumes the following functions in pursuit of these goals:

- d. It regulates the transfer of cultural property and operates the specialized body.

Art. 29 Entry into Force

This Ordinance enters into force on June 1, 2005.

⁶ SR 172.212.1