



Federal Government Commissioner
for Culture and the Media

The new Act on the Protection of Cultural Property in Germany: implementing the UNESCO 1970 Convention and new EU law

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Why a legal reform in Germany?

- Germany ratified the UNESCO 1970 Convention in 2007 (implementation law of 2007).
- Evaluation report (2013).
- New EU law (Directive 2014/60/EU).
- Operational Guidelines for the implementation of the UNESCO 1970 Convention, adopted July 2014.
- protection of national cultural property and the protection of foreign cultural property: two sides of the same coin.
- New Act on the Protection of Cultural Property, entered into force on 6 August 2016.



The four pillars of the 2016 reform of German cultural property law

1. Import and export provisions
2. Provisions for the return of cultural property
3. Due diligence provisions in dealing with cultural property
4. Penal sanctions



1. Import and export provisions

- Import: the new law relies on the simple equation that cultural property illegally exported from one State Party of the UNESCO 1970 Convention is considered as illegally imported into Germany.
- Export: the new law requires an export license not only for the export outside the Single European Market (EU law) but also – in line with EU law (Article 36 TFEU) – for an export outside of Germany but inside the Single European Market.



2. Provisions for the return of cultural property

- 2016 law grants a right to return for all cultural objects that were illegally exported from another State Party to the UNESCO 1970 Convention after the date of both the requesting State's and Germany's ratification of the UNESCO 1970 Convention (Germany ratified on 26 April 2007).
- Bilateral agreements with Germany for the return of cultural property are not required.



3. Due diligence provisions in dealing with cultural property

- Due diligence provisions not only for the professional art market, but also for private individuals selling cultural property (e.g. online on an auction platform).
- Due diligence provisions do not require the impossible, but require the seller to make sure that the object has not been stolen, illegally exported, or illegally excavated.
- In line with modern standards of consumer protection: a buyer should be assured of his financial investment.
- New law gives reference to the ICOM Red Lists of cultural objects at risk.



4. Penal sanctions

- stronger penal sanctions (up to five years of imprisonment) and administrative offences in case of violation of the import and export as well as the due diligence requirements.



Conclusions and future prospects

- The new law will not solve all problems.
- What is needed:
 - Ratification and implementation of the UNESCO 1970 Convention.
 - Clear and simple import and export provisions.
 - Export certificates (problem of fake certificates).
 - Inventories and photographs (Object ID): INTERPOL.
 - Information on national export laws (questionnaire to all 131 States Parties of the UNESCO 1970 Convention): Germany establishes an online database on foreign export laws for authorities (police, customs etc.), the art market and the general public (tourists).
 - Cooperation and exchange of best practice.



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Further information:

www.kulturstaatsministerin.de

www.kulturgutschutz-deutschland.de

Thank you!