THE 1995 UNIDROIT CONVENTION ON STOLEN OR ILLEGALLY EXPORTED CULTURAL OBJECTS

Current status and activities

Sixth Session of the Subsidiary Committee to the Meeting of States Parties to the 1970 UNESCO Convention

Paris, 28 - 29 May 1918
“REMEDYING WEAKNESSES, BUILDING ON STRENGTHS”

Restitution of stolen cultural objects

Return of illegally exported cultural objects

CONVENTION ON STOLEN OR ILLEGALLY EXPORTED CULTURAL OBJECTS

20 YEARS LATER

Rome, 8 May 2015
Musei Capitolini, Sala Pietro da Cortona
DEFINITION OF CULTURAL PROPERTY

Specifically designated by the State

Not specifically designated by the State

CLAIMANT

State

Thieves: State + Private Person

Illegal Exportation: State

TIME LIMITATION

No rule

Theft: Art. 3(3) to 3(6)

Illegal Exportation: Art. 5(5)

COMPENSATION

GOOD FAITH

Art. 7 (b) (ii)

No definition

DUE DILIGENCE

Criteria for “due diligence”

Art. 4(4) and Art. 6(2)
PRODUCTS OF CLANDESTINE ARCHEOLOGICAL EXCAVATION

Art. 7 (b) (ii): ONLY cultural property stolen from a museum or a religious or secular public monument or similar institution (...) documented as appertaining to the inventory of that institution + Art. 9 calls on States Parties if patrimony is in jeopardy from pillage of archaeological materials.

Special Protection of Archaeological objects:
- Illicit excavation = theft (Art. 3(2))
- No time limitation to action
- Art. 5(3) (a) (b) (c)

UNESCO-UNIDROIT Model Provisions on State Ownership of Undiscovered Cultural Objects

NON RETROACTIVITY

National implementation law needed

IMPLEMENTATION

Self-executing treaty

@Marina Schneider
STATUS MAP OF THE 1995 UNIDROIT CONVENTION – as of 28 May 2018

- States Parties
- Signatory States
STATES PARTIES

Adoption: Place: Rome
Date: 24.06.1995

Entry into force: 01.07.1998 (Art. 12)

Contracting States: 43

Several States have finalised the internal procedure of accession ... deposit expected

+ Morocco
+ Myanmar
+ Togo
+ Ghana
+ Madagascar

Others are in the process of acceding to the Convention

Afghanistan, Algeria, Angola, Argentina, Azerbaijan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Cambodia, China, Colombia, Croatia, Cyprus, Denmark, Ecuador, El Salvador, Finland, Gabon, Greece, Guatemala, Honduras, Hungary, Iran, Italy, Lao People’s Democratic Republic, Lithuania, New Zealand, Nigeria, Norway, Panama, Paraguay, Peru, Portugal, Romania, Slovenia, Slovakia, South Africa, Spain, Sweden, Syrian Arab Republic, The former Yugoslav Republic of Macedonia, Tunisia
SIGNATORY STATES

Burkina Faso, Côte d’Ivoire, France, Georgia, Guinea, Netherlands, Pakistan, Russian Federation, Senegal, Switzerland, Zambia

To enter into force, the Convention is subject to → Ratification or Acceptance or Approval

**Burkina Faso and Côte d’Ivoire** are about to «perfect» their instrument of ratification (add the compulsory declarations under Art. 16(1) and Art. 17)

**Zambia** is actively working at ratification
INFLUENCE OF THE CONVENTION

- on European law

- on national legislations also of States non party to the Convention
These results were possible mainly because of TRAININGS organised and focussing on

- international legal framework and national implementation (including UNSC and UNGA resolutions)
- synergies between conventions

“... join forces with the Director-General of UNESCO in order to strengthen synergies among UNESCO’s Culture Conventions and to ensure that these conventions reinforce each other and act as a unified corpus for the fulfilment of their complementary goals, reflecting a holistic vision”

“urgent need to enhance the integrated interpretation and implementation of the ...conventions”
(UNESCO, Bonn 2015)
- **partnerships** (UNESCO HQ and Field Offices – importance of the follow-up, INTERPOL, WCO, UNODC, ICCROM-ATHAR, European Union, Organization of American States, UN Permanent Missions in NY, ICOM, Italian Carabinieri and Training Schools for the Armed Forces……)
1995 UNIDROIT CONVENTION – Visibility

New UNIDROIT Website specific portal and presence on social media

UNIDROIT WORK AND INSTRUMENTS IN THE AREA OF CULTURAL PROPERTY

Illicit traffic in works of art is by no means a new phenomenon, nor is it confined to any particular part of the world. As a form of crime it is, however, expanding rapidly world-wide, and the emergence of new factors such as

The 1995 UNIDROIT Convention

UNIDROIT-UNESCO Model Provisions

Private Art Collections

The Academic Project UCAP

https://www.unidroit.org/cultural-property
###MATRIX OF DECLARATIONS

<table>
<thead>
<tr>
<th>Country</th>
<th>Date of Accession or precisely date of entry into force</th>
<th>Last Notice</th>
<th>Arising</th>
<th>Total</th>
<th>Compliant</th>
<th>Information</th>
<th>Acknowledgment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brazil</td>
<td>1996</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Canada</td>
<td>1996</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>China</td>
<td>1996</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Egypt</td>
<td>1996</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>France</td>
<td>1996</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Germany</td>
<td>1996</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>India</td>
<td>1996</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Japan</td>
<td>1996</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mexico</td>
<td>1996</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Korea</td>
<td>1996</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Spain</td>
<td>1996</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Switzerland</td>
<td>1996</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>UK</td>
<td>1996</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

@Marina Schneider
New York Meeting - On 28 February 2017, a special event on “Promoting and Strengthening the International Legal Framework for The Protection of Cultural Heritage – The 1995 Convention” co-organized by UNIDROIT and the Missions of Cyprus and Italy to the UN, took place in New York, UN Headquarters.

RESULT

Establishment of an INFORMAL RATIFICATION TASK FORCE

Open to all States wishing to participate Meeting on an annual basis in New York

Sharing information, best practices / national implementation, synergies with other conventions...

Coordinated by UNIDROIT

Assisted by the 1995 UNIDROIT Academic Project
1995 UNIDROIT CONVENTION – Need to gather information on its implementation
The Convention

- Convention Text
- Status
- National Implementation
- Explanatory Report and Commentaries
- Preparatory Work
- Follow-up
- Informal Ratification Task Force
- Related Instruments

Library

The Library is an accessible electronic storage of materials relating to the 1995 Convention on Stolen or Illegally Exported Cultural Objects.

The Library includes documents provided by UNIDROIT, consisting of case law, case comments, as well as articles prepared by scholars, and valuable papers submitted by students or affiliated Universities and UNIDROIT's interns.

This section also contains self-instructional material and material useful for professionals and law enforcement authorities.

The Library is organized by categories of material. The list to the right of the page contains additional information about the documents and links to access them.

Reporting of Judicial/Extrajudicial Activity
Containing documents associated with judicial actions related to the Convention (case-law).

Scholarly Articles
Containing scholarly articles on the 1995 UNIDROIT Convention.

Students’ Papers
Containing papers and notes prepared by UNIDROIT’s interns and students.

Self-instructional materials
Comprehensive educational materials for individuals needing information about the Convention.

Materials for Professionals
Containing materials intended for art lawyers, judicial authorities, customs agents and police units.
Individual Partners

- Dr Katalin Andreides, Independent Researcher (Károli Gáspár University of the Reformed Church, Hungary)
- Professor Cristiano Carletti (Roma Tre University, Rome, Italy)
- Professor Maria-Luz Endere (Researcher at CONICET, Argentina)
- Professor Derek Fincham (South Texas College of Law Houston, Texas, USA)
- Professor Manlio Frigo (Università degli Studi di Milano, Italy)
- Professor Patty Gerstenblith (DePaul University, Chicago, Illinois, USA)
- Professor Zhengxin Huo (China University of Political Science and the Law, Beijing, China)
- Ms Susana Monteiro, Lawyer and Legal Assistant (Coimbra, Portugal)
- Honorary Professor Patrick O’Keefe (University of Queensland, Australia)
- Honorary Professor Lyndel Prott (University of Queensland, Australia)
- Professor Arthur Salomons (Centre for the Study of European Contract Law, University of Amsterdam, Netherlands)
- Professor Dr Tamás Szabados (ELTE Eötvös Loránd University, Budapest, Hungary)
- Professor Ana Filipa Vrdoljak (University of Technology Sydney, Australia)
- Professor Dr Matthias Wellner (FBS University of Economics and Law, Wiesbaden, Germany)
- Professor Kamil Zeidler (University of Gdańsk, Poland)

Project Partners

Contributions from Partners (either individual person(s) or organisations) may, for example, be in

- information on academic courses, expert meetings, workshops, training sessions to strengthen
in this field and/or on initiatives of legislative and regulatory domestic reform, or the preparation
contribution to the Academic Project Information Platform by sharing knowledge products (e.g.,: specific areas of national relevant legislation.

Institutional Partners

Argentina
- Universidad Nacional del Centro de la Provincia de Buenos Aires (UNICEN), Argentina

Australia
- University of Technology Sydney, Australia

China
- China University of Political Science and Law, Beijing, China

Hungary
- Károli Gáspár University of the Reformed Church, Hungary

Italy
- Roma Tre University, Rome, Italy
- Università degli Studi di Milano, Italy

Poland
- Institute of Law Studies of the Polish Academy of Sciences
- University of Gdańsk, Poland
- University of Opole, Poland

GET INVOLVED and SUPPORT UCAP !
Contact
Ms Marina SCHNEIDER
UNIDROIT Senior Legal Officer and Treaty Depositary
m.schneider@unidroit.org