

BOSNIA AND HERZEGOVINA

NATIONAL REPORT ON THE IMPLEMENTATION OF THE 1970 CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY

2011 – 2015

1. Ratification of the Convention

(a) Has this Convention already been ratified?

Yes, by notification of succession (12/07/1993)

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

At the beginning is important to give a short introduction into institutional framework of Bosnia and Herzegovina in the field of culture, which is highly decentralized with different tiers of government: state-level, entity level, cantons and municipalities. Below is given short description of the Institutions mentioned in this report, in accordance with the Constitution of Bosnia and Herzegovina.

State-level

a) Ministry of Civil Affairs of Bosnia and Herzegovina: Article 15, paragraph 2 of the Law on Ministries and Other State Administration Bodies of BiH stipulates that the Ministry, inter alia, shall be responsible for carrying out tasks and discharging duties related to defining basic principles of co-ordinating activities and harmonizing plans of the Entity authorities and defining a strategy at the international level in the fields of culture.

b) The Commission to Preserve National Monuments (hereinafter CPNM) was established, following Annex 8 of Dayton Peace Agreement. Article IV of the Annex 8: „The Commission shall receive and decide on petitions for the designation of property having cultural, historic, religious or ethnic importance as National Monuments”.. Article V of the Annex 8: „In any case in which the Commission issues a decision designating property as a National Monument, the Entity in whose territory the property is situated (a) shall make every effort to take appropriate legal, scientific, technical, administrative and financial measures necessary for the protection, conservation, presentation and rehabilitation of the property, and (b) shall refrain from taking any deliberate measures that might damage the property.“ The Law on the protection of properties designated as National Monuments of Bosnia and Herzegovina by decision of CPNM is identical for entities Federation of Bosnia and Herzegovina and Republic of Srpska, as well as for Brcko District, and relates to all national monuments placed on their territory.

c) Ministry of Foreign Trade and Economic Relations is responsible for, inter alia, foreign trade policy and customs tariff policy of Bosnia and Herzegovina, and control of turnover with goods and services under a special regime in the field of export and import.

e) Sector For International Operative Police Collaboration-Section NCB Interpol Sarajevo of the Directorate for Coordination of Police Bodies of Bosnia and Herzegovina within Ministry of Security of Bosnia and Herzegovina, represents a single point of exchange of information on the strategic and operational level in international investigations.

Entity-level

Entity level dealing with culture concerns the two ministries: the Ministry of Culture and Sport of the Federation of BiH (hereinafter FBiH MCS) and the Ministry of Education and Culture of Republic of Srpska (hereinafter RS MEC), as well as the Department for Economic Development, Sport and Culture of Brčko District. The Federation is further divided into cantons that have their own responsibilities in the field of culture, which are then subdivided into municipalities. Republic of Srpska is divided directly into municipalities.

Entity Federation of BiH (hereinafter FBiH)

According to Article 16 of the Law on Federal Ministries and other Bodies of Federal Administration of the FBiH, the FBiH MCS shall inter alia perform the following activities:

- Administrative, professional and other tasks in the areas of
 - Heritage protection, museums, archives, libraries,
 - Publishing, theatre, music, fine arts, film and show business activities,
- Activity of organizations and associations of citizens in the field of arts and culture.

Furthermore, it establishes development strategies in the area of culture, as well as other tasks laid down by the legislation governing this field. The cultural section of the FBiH MCS has the responsibility over a non-departmental body, the Institute for the Protection of Monuments, responsible for ensuring and providing the legal, scientific, technical, administrative and financial measures necessary to protect, conserve, display and rehabilitate the National Monuments on the territory of FBiH, as well as for restoration and protection of the other objects of cultural heritage.

○ Cantons

There are 10 cantons in the FBiH, each with its own ministry responsible for culture: in 9 out of 10 ministries, culture has been merged with science, education and sport. The cantons bear the core responsibility for culture in the FBiH.

Entity Republic of Srpska

According to the Dayton Agreement and the European principle of subsidiarity the Ministry of Education and Culture (hereinafter RS MEC) is responsible for culture in the Republic of Srpska, e.g., the Department for Culture within the Ministry of Education and Culture of the Republic of Srpska, with its two expert Republic Administrative Organisations: the Institute for the Protection and Preservation of Cultural, Historical and Natural Heritage of the Republic of Srpska and the Archive of the Republic of Srpska.

Therefore the general mandate of the Department for Culture of the Republic of Srpska is the preparation of the laws and by-laws on culture, i.e. cultural policy and strategic development documents of the Republic of Srpska (multi-sectoral and inter-sectoral approach and cooperation within the RS Government) which are enacted by the National Assembly of the Republic of Srpska and subsequently the implementation of the cultural and related enacted legislation on the territory of the Republic of Srpska . Special attention is paid to the revision and harmonisation of the RS legislation in respect to the International legal instruments and Legislation of the European Union (Acquis Communautaire).

In addition to creating policy and strategic documents contributing to public interest in the field of culture in the Republic of Srpska and Bosnia and Herzegovina the RS Department for Culture also carries out other administrative, technical and professional activities in the fields of: HERITAGE through its museums, libraries, archive(s), supporting the events and programmes, research and scientific projects, conferences and programmes; ARTS: fine arts, visual and audiovisual arts, music and performing arts, publishing and translation and writers' events.

The Brcko District of Bosnia and Herzegovina

Statute of the Brcko District of Bosnia and Herzegovina (hereinafter the "District") stipulates that the District is a single administrative unit of local self-government existing under the sovereignty of Bosnia and Herzegovina. The District derives its powers of local self-government by virtue of each Entity having delegated all of its powers of governance as previously exercised by the two Entities and the three municipal governments within the pre-war Opstina. The territory of the District encompasses the complete territory of the Brcko Municipality. The Constitution of Bosnia and Herzegovina, as well as relevant laws and decisions of the institutions of Bosnia and Herzegovina, are directly applicable throughout the territory of the District. The Brčko District itself has virtually almost the same competencies as entities in the field of culture. The institution responsible for culture is Department for Economic Development, Sport and Culture.

This report is prepared mainly on the basis of information provided by the entity Ministries of Culture, within their competences for culture.

There is no applicable legal act at the State level that regulates the cultural heritage protection in a comprehensive manner. However, there are existing bylaws governing the work of the Commission to Preserve National Monuments in this field, as well as entity level laws and bylaws.

In Republic of Srpska, there is Law on Cultural Property, adopted in 1995 („The Official Gazette of Republic of Srpska“ no. 1/95). Federation of Bosnia and Herzegovina uses The Law on Protection and Utilization of Cultural-Historical and Natural Heritage of Bosnia and Herzegovina from 1985 („Official Gazette of the Socialist Republic of Bosnia and Herzegovina“, no. 20/85).

The Criteria to Designate the Properties as National Monuments adopted by the Commission to Preserve National Monuments in 2002 (hereinafter “the CPNM’s Criteria”) enumerates the cultural objects that are eligible to be proclaimed to national monuments in case they meet the artistic and/or historic value thresholds as well as other conditions set forth in the given Criteria. The CPNM’s Criteria provides for the open-ended definition of cultural property that is eligible to be designated as a national monument.

More precisely, it enlists the eligible cultural property as follows:

- 1) Movable cultural property (individual or in collections)
- 2) Immovable cultural property:
 - Historic buildings and monuments
 - Groups of buildings
 - Sites

All CPNM’s decisions designating the movable national monuments of BiH, contain prohibition on exports of movable national monuments in question. Exceptionally, the CPNM is allowed to give permission for temporary export of movable national monument for the purpose of exhibition or conservation provided that conservation activities can be accomplished only out of BiH.

The Law on Cultural Property of the Republic of Srpska („Official Gazzette of the Republic of Srpska“ no. 11/95, 103/08), The Law on Museum Activity of Republic of Srpska („Official Gazette of the Republic of Srpska“ no. 89/08) and The Law on Archival Activity of Republic of Srpska („Official Gazette of the Republic of Srpska“ no. 119/08) are applicable on the territory of Republic of Srpska. Furthermore, a kind of protection of cultural property is sought to be ensured through the Criminal Code of the Republic of Srpska ("Official Gazette of the Republic of Srpska" no. 49/03, 108/04, 37/06, 70/06 and 73/10), which contains, within crimes against property, prescribed punishments for the crime of "removal of objects abroad which are of special cultural or historical significance or of natural curiosities."

The Republic Institute for Protection of Cultural, Historical and Natural Heritage of RS only partly addresses the issue of movable cultural heritage - issues authorizations for the temporary export of cultural property. Therefore, we can give information only for some of the guidelines for preparing reports on the implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

This primarily refers to some provisions of the Law on Cultural Property (Official Gazette of the Republic of Srpska, 11/95, 103/08), which would refer to the guideline I 2 a:

Article 15 of the Law on Cultural Property of RS states: Cultural property and property that enjoys previous protection must not be removed or exported abroad, unless otherwise provided by this Law.

Article 30 of the same Law provides that the owner of a legally protected property is a legal or natural person that possesses cultural property on any basis, or the property that enjoys the previous protection.

Articles 31 through 37 regulate the rights and obligations of the owners.

In article 67, the Republic Institute for Protection of Cultural, Historical and Natural Heritage is authorized to give approval for movable property enjoying the previous protection so that they can be temporarily removed or permanently exported abroad.

Article 93 of the Law clearly defines the conditions under which the approval from Article 67 can be given: Movable cultural property can only be permanently removed abroad if there are reasonable grounds for that. The approval for a permanent export or temporary removal of movable cultural property is given by the Institute, or the competent regional unit of the Institute.

The Institute, the RS Archives and protection institutions have the right of active legitimization in terms of implementation of protection measures and the use of cultural property, and initiating the criminal and misdemeanor proceedings, as set forth in the provisions of Article 65 of the Law on Cultural Property.

In Federation of BiH, the Federal Government is responsible for cultural property that has the status of national monument and is located in the territory of the Federation of BiH.

Annex 8 of the General Framework Agreement for Peace in Bosnia and Herzegovina established the Commission to Preserve National Monuments. In accordance with the Article IV of Annex 8 the Commission is authorized: "... to receive and decide on petitions for the designation of property as a national monument based on its cultural, historic, religious or ethnic importance".

By the means of Decision on declaring a cultural property a national monument, the Commission to Preserve National Monuments provides protection measures and conditions under which a cultural property may be removed from the country.

The cultural property which has not been proclaimed a national monument is protected by cantonal laws. The Law on the Protection and Use of Cultural, Historical and Natural Heritage 1985 (Official Gazette of SR of BiH No. 20/85 dated 16 July 1985) applies to the property which has not been proclaimed a national monument and is located in the canton that has not adopted the relevant law.

The mentioned law establishes which property enjoys previous protection.

(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?

The Law on Cultural Property of RS (Official Gazette of RS, No. 11/95, 103/08) in Chapter I - GENERAL PROVISIONS states a definition of cultural property in the following articles:

Article 1. - This law shall regulate the system of protection and use of cultural property and determine the requirements for conducting activities to protect that property.

Article 2 - Cultural property shall be an item and creation of material and spiritual culture of interest to RS which enjoys special protection under this Law.

Article 3 - Cultural property can be movable and immovable.

According to the physical, artistic, cultural, scientific and historical properties, immovable cultural property shall be:

1. Monuments,
2. Spatial cultural-historical entities,
3. Archaeological sites,
4. Landmark places.

Protected environment of immovable cultural property shall enjoy the protection as cultural property.

According to paragraph 2 of this Article, the movable cultural property is:

1. Works of art and historical objects,
2. Archive materials,
3. Film materials,
4. Old and rare books.

A collection or fund may be determined as movable cultural property if they are represented as a whole.

Article 4 - Cultural property shall be classified into the following categories:

1. Cultural property of exceptional importance,
2. Cultural property of great importance,
3. Other cultural property.

Article 5 - Cultural property shall be valued as property of exceptional importance if it meets one of the criteria:

1. has special significance for historical, spiritual and cultural development of the Serbian people,
2. is a unique (rare) example of creative work of its time,
3. testifies to the crucial events and personalities and their influence on the nation's history,
4. has an outstanding artistic or aesthetic value,
5. has an impact on the development of society, culture, science and technology.

Cultural property shall be valued as property of great importance if it meets one of the criteria:

1. is significant for certain area or period,
2. testifies to the social phenomena and conditions of socio-economic and cultural and historical development of the Serbian people in certain periods,
3. testifies to the significant events and prominent personalities from the history of the Serbian people.

Other cultural property shall be the property that is not included in the previous categories, but is the value of special importance.

The definition of "cultural property", in accordance with the definition proposed by the Convention 1970 in Article 1, paragraph (h) "rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.), singly or in collections" is supplemented by the Law on Library Activity of the Republic of Srpska (Official Gazette of the Republic of Srpska, No. 52/01, 39.03, 112/08), Article 7:

An old and rare book as cultural property is protected and used in accordance with the regulation on the protection of cultural property.

The old and rare book consists of manuscripts, hand-written and printed books, periodicals and other library materials created by the end of the 19th century, rare books of library

materials created in the 20th century, as well as special library units that are significant for science and culture because of their content, artistic, cultural and historical value.

The definition of "cultural property" pursuant to the definition proposed by the Convention in 1970 is also amended by the regulations of the Law on Archives of RS (Official Gazette of RS, No. 119/08), or the following Articles in Chapter I - GENERAL PROVISIONS, stating:

Article 1 - This law shall regulate the archive activity, including: collection, abstraction, arranging, professional treatment, research, preservation and protection of the public documentary and archive materials and the control of documentary and archive materials.

Article 2 - Archive activity shall be an activity of general interest for the Republic of Srpska (hereinafter: the Republic) and shall be organized and practiced throughout the Republic.

Article 3 - (1) The documentary material shall be original or reproduced material (written, drawn, printed, photographed, filmed, taped, magnetic, optical or otherwise recorded), formed by the action or work or taken from the Republic, legislative, executive and judiciary authorities, authorities of local self-government, public institutions, business organizations, civic associations and other legal and natural persons. (2) Documentary materials shall be considered to be emerging archive materials, and the regulations relating to archive materials shall apply to its protection. (3) Documentary materials shall be preserved from damage, misuse, and destruction and can not be disposed of until the archive materials are selected from it.

Article 5 - (1) The archive materials shall be of interest for the Republic and shall enjoy its protection. (2) Archive materials as cultural property shall enjoy the protection in accordance with the regulations on the protection of cultural property.

In FBiH, the Law on Protection and Utilization of Cultural-Historical and Natural Heritage of Bosnia and Herzegovina from 1985 uses the term "social ownership". Annex 8 uses the term "national monument of Bosnia and Herzegovina".

In the Federation of Bosnia and Herzegovina some cantons have their own laws on the protection of cultural and natural heritage, in which the definition of cultural property is the same.

As an example - The Law on Protection of Cultural and Natural Heritage in Canton Sarajevo (.,Official Gazete., of Sarajevo Canton, no. 2/00, 37/08):

Article 1 - This law regulates the cultural heritage, its protection, use and restoration, the rights and obligations of the owner, protection entities, financing activities, control the affairs of local self-government and the penalties for violations of the provisions of this Law in Sarajevo Canton (hereinafter: the Canton)

Article 2 - Cultural heritage is the sum of cultural goods (hereinafter: heritage) regardless of where these things are located and where the form of ownership is.

Article 5 - Cultural heritage, in terms of this Law, is consisting of sites, other immovable heritage (hereinafter: the heritage) and movable heritage, as well as their parts, groups and ensembles:

- that in its present form, shape, content, essence and the type of properties have a characteristics considered as historical, architectural, style, ambient, scientific, artistic, spiritual, or religious, documentary, aesthetic, or ethnographic value;
- which are a source of knowledge, evidence of historical events, civilizational trends and impact;
- which are the expression of folk life and custom or witnesses of significant events, people, ideas, legends and beliefs;
- that may be of importance for the understanding and celebration of historical and cultural-historical events or for which there is a public interest to be preserved.

The heritage, in terms of this Law, is also:

- through a method of reconstruction restored property that was destroyed intentionally or due to natural disasters, and that before the demolition had the status of a protected heritage site or heritage under preliminary protection,
- heritage site destroyed in the war of 92 to 95 for the purpose of its protection until the completion of the reconstruction,
- the building or space in which the heritage is permanently stored in or original documentation about it.

Article 6 - The heritage, in terms of this Law, is also native landscape and image of the place, or townscape, park and other part of natural heritage, which together with the immovable heritage defined in Article 5, paragraph 1 of this Law forms a whole, or integral heritage.

Integral Heritage enjoys protection in accordance with the regulations on the protection of cultural heritage and nature conservation legislation.

Article 7 - The term "site", "immovable " and "movable" in the sense of this law, shall mean:

The site is an area on land, underground or underwater, on which a certain objects or their remains are being or had been found;
Immovable heritage is a construction, building structure or architectural object or a whole, the remains of this object or a whole as well as the townscape or part of it;
Movable object is a work of visual and applied arts, crafts, art, museum material, furniture, as well as all other individual items and collections.

(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 International Operational Police Cooperation Department – Division of NCB Interpol Sarajevo of the Directorate for Coordination of the Police Bodies of Bosnia and Herzegovina deals with and submits requests to the relevant agencies of Bosnia and Herzegovina (BiH State and Investigation Police Agency, Border Police, Federal Ministry of Interior, RS Ministry of Interior and Brcko District Police), as part of their regular activities and in accordance with the obligations of the State Parties to the 1970 Convention, and in particular with the provisions of Article 9, for further processing, i.e. entering works of art into the database of stolen/lost arts with notice to immediately notify the NCB Interpol Sarajevo if they are found.

The BiH Border Police also works on the prohibition and prevention of the illicit import, export and transfer of ownership of cultural property as part of its regular activities.

The Ministry of Interior of RS has not established special units to prevent and combat illicit trafficking and ensure international cooperation for the protection of cultural heritage, because, given the intensity of crimes in connection with these issues, they can, for now, be suppressed and addressed as part of regular activities of the Criminal Police.

ANNEX II (Evaluation Report on the Convention of 1970 /ISO/eEVS/PI/133rev.4)

With regard to the Recommendation 8 of Annex II to institutionalize training on crime against cultural property in the police and customs authorities, we hereby inform you that, within the Directorate for Police Education of the RS Ministry of Interior, the training about crime against cultural property will be included in the curriculum of basic police training.

In FBiH, there is the Commission to make proposals for the Approval of import/export of works of art and antiques, that operates within the Ministry of Culture of FBiH, and which coordinates, depending on the type of art being exported, the institutions protecting the works of importance to the cultural heritage of Bosnia and Herzegovina. It also cooperates with the police and customs authorities.

The Ministry of Education, Science, Culture and Sport of Tuzla Canton has supported the establishment of association devoted to the fight against the illegal trafficking of works of art and cultural property in the territory of BiH - Centre Against Trafficking in Works of Art (CPKU). The initiative was instituted due to a lack of adequate specialist departments in the Ministries of Interior (both at cantonal and higher levels of government), and the situation on the ground required the existence of such specialized institution.

ICOM Paris, as a major actor and the only NGO in the expert network of six organisations recognised by the United Nations in the fight against illicit traffic in cultural goods, along with UNESCO, UNIDROIT, INTERPOL, WCO (World Customs Organisation) and UNODC (UN Office on Drugs and Crime), has its National Committee in Bosnia and Herzegovina (ICOM Bosnia and Herzegovina), a museum association in Bosnia and Herzegovina based in Sarajevo.

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

Bearing in mind that the General Police Directorate in RS carries out the above activities, it cooperates with all relevant institutions dealing with this issue.

In FBiH, the export approval is submitted to the Ministry of Foreign Trade and Economic Relations of BiH, which issues the export license, and the Ministry of Interior.

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

In RS, the cooperation with relevant institutions dealing with this issue is intensified in specific cases, which includes holding joint meetings and coordination of further activities. The Institute for Protection of Cultural, Historical and Natural Heritage of RS believes that it is necessary to establish administrative work coordination between protection authorities, police, customs and inspection authorities and the practice of regular meetings between them, and implement adequate training of personnel.

3. Inventories and identification

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

In accordance with the Law on Cultural Property of RS (Official Gazette of RS, No. 95/11 103/08), Chapter V, which refers to the REGISTRATION OF CULTURAL PROPERTY, lays down provisions governing the determination of cultural property and its registration in the Register of Cultural Property:

Article 53. Cultural property shall be entered in the register of cultural property on the basis of a regulation of identification.

Documents on cultural property shall be kept with the act on the basis of which the registration of cultural property is carried out.

Article 54. The Register of Cultural Property shall be managed by the Institute, Archives of the Republic of Srpska and protection institutions by type of cultural

The Government of RS shall regulate the appearance, content and method of labeling cultural property by their types.

Article 55. ... central registries of protected movable property shall be managed by the Archives of RS and central museum institutions.

Article 56. Minister shall issue rules on the content and method of managing the registry and the central register of cultural property.

Article 57. Cultural property that was destroyed or lost the status of cultural property, or is permanently removed or exported abroad, shall be deleted from the registry and the central register of cultural property. The regulation of deletion is made in the same way as the regulation of establishing a cultural property.

Two Regulations were adopted in regards to the Chapter V concerning the REGISTRATION OF CULTURAL HERITAGE:

The Regulations on the Content and Method of Keeping the Register of Cultural Property under the previous protection (Official Gazette of RS, No. 98/14), which prescribes the form, content and method of keeping the register of cultural property under the previous protection, by their type, and the implementation of procedures to keep the register of cultural property. Cultural property includes movable, immovable and intangible property.

The Regulations on the Content and Method of Keeping the Register and the Central Register of Cultural Property (Official Gazette of RS, No. 25/15), which prescribes the form, content and method of keeping the register of cultural property (hereinafter: the Register) and the Central Register of Cultural Property of RS (hereinafter: the Central Register). The Register and Central Register are maintained by administrative organizations and public institutions responsible for the protection of immovable, movable and intangible property.

Since movable cultural property is under the jurisdiction of the museums and archives, the consistent application of the Law on Museum Activities of RS is of essential importance (Official Gazette of RS No. 89/08 and 57/12), or Article 11 which states the following:

- (1) Museum institutions and their belonging collections shall keep the documentation on museum materials.
- (2) The museum materials and museum documentation shall be protected as cultural property and the Regulations on the Protection of Cultural Property shall apply to them.
- (3) Museum documentation shall contain information about museum exhibits that are necessary for their professional processing, identification, determination of origin and the state in which they were obtained, value assessment for the inspection of the state of museum materials.
- (4) Museum institutions and their belonging collections shall be responsible to provide access to the museum collections and museum documentation for all interested companies and individuals for its scientific and technical processing and publication.
- (5) The Minister of Education and Culture (hereinafter the Minister), on the proposal of the Museum Council of the Republic of Srpska (hereinafter referred to as the Museum Council) shall adopt the regulations on establishing the condition and method of executing inspection of museum materials and museum documentation.

Furthermore, Article 14 also states:

- (1) Museum institutions and their belonging collections shall be required to make an inventory of museum materials every five years.

(2) The number and condition of museum objects, their degree of damage, documentation support of each item and protection measures shall be established in the process of inventory of museum materials.

(3) The Minister shall adopt the regulations on the method of inventory of museum materials on the proposal of the Museum Council.

In FBiH, the list of protected property, protection measures and the method of removal from the country shall be published in the Decisions of the Commission to Preserve National Monuments. The Government of FBiH shall be responsible for implementing the established protection measures.

Movable cultural property which has not been proclaimed a national monument shall be protected by applying The Law on Protection and Utilization of Cultural-Historical and Natural Heritage of Bosnia and Herzegovina from 1985 and cantonal laws.

(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.

"National Treasures" are identified through individual Decisions of the Commission to Preserve National Monuments in the official, detailed list. The information on the cultural property are kept in the Institutes for Protection of Monuments, BiH Archives, Archives of the Federation of BiH, museums, museum collections, libraries, book collections, galleries, picture collections and film archives. The Institutions are required to keep the registers.

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

Unfortunately, Object ID standard as an international standard for describing art, antiques and antiquities is not in use in Bosnia and Herzegovina. This standard is developed through the collaboration of museums, cultural heritage organisations, police and custom agencies, the art and antiques trade, appraisers, and the insurance industry. As a standard that is promoted by major law enforcement agencies, including the FBI, Scotland Yard and Interpol, UNESCO, museums, cultural heritage organisations, art trade and art appraisal organisations, and insurance companies, it would be necessary to, in cooperation with ICOM and ICOM Bosnia and Herzegovina, urgently adopt it in the near future, and also to organize a workshops on its implementation in Bosnia and Herzegovina.

(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?

Protection, anti-theft systems and staff training at the Museum of Republic of Srpska

The Museum of Republic of Srpska, as the central protection institution and the museum of complex character, as an owner, right holder and guardian of movable cultural property, which is in the possession of its collections, has the responsibility and jurisdiction of performing complete protection, in accordance with the established provisions of the existing Law on Cultural Property. The system of protection of movable cultural property of the Museum's fund includes physical protection, which is done by the protection service every day without the use of appropriate modern technical equipment (video cameras), but with the help of organized watches within the responsibility of curators and conservation and restoration studio. Curators, whose jurisdiction is divided according to reports, are responsible for the preservation of documentary and cultural and historical values of movable cultural property, as well as qualitative and quantitative growth through research and field work and purchases. Specific museum anti-theft systems (collection repositories, exhibit space, archaeological sites) are not established, nor the training of museum personnel is specifically organized for it, nor adequate video surveillance is provided due to the lack of funds. Aside from those mentioned above, other common measures of protection of museum materials are in place, such as making proper and timely documentation, in written, graphic, photographic, video and digital form, publication, exposure, etc.

Special protection and control measures for repositories, exhibition space, documentation, conservation and restoration workshops and library at the Museum of Republic of Srpska

The protection of museum materials in repository collections, as well as within the permanent exhibition or thematic exhibition, is under the responsibility of the respective curators, conservators, restorers and security service. The regular control of the permitted level of humidity, as well as the occasional switching on of the ventilation system in the repository, where most of the museum material is kept, neatly packed in boxes and bags, labeled and placed on racks, is performed by the curators on duty. Daily control of displayed museum exhibits on a permanent exhibition and thematic exhibition is carried out by the curators on duty with the security service, and the periodic check of their physical-chemical state is entrusted with the conservation and restoration service. These security policies are common in other museums and some differences occur due to specificity of museum collections and depending on funds. One part of the museum archive materials is kept at the Documentation Center, which has not yet been digitalized and staffed, and the other part in the collective repository. The museum's library, although closed, is available to public under certain conditions and possesses old and rare books, which, due to the lack of adequate financial resources, are not sufficiently protected from the daily devastation.

4. Archeological excavations

(a) Summarize the basic principles of the regulations on archaeological excavations and on the monitoring of excavations in force in the country.

The basic principles of the regulations on archaeological excavations in RS are specified in the above Law on Cultural Property of RS and the Regulations on the Forms, Content and Method of Maintaining Documentation of Archaeological Excavations and Research (Official Gazette of RS, No. 76/14), which prescribes the forms for the documentation maintained on archeological excavations and research.

The Institute for Protection of Cultural, Historical and Natural Heritage of RS issues Approval for archeological excavations and research, in accordance with the provisions of Articles 87 – 92 of the Law on Cultural Property (Official Gazette of RS, No. 11/95 and 103/08), which lays down the conditions of providing expert staff, equipment and research resources and implementation of measures to protect findings and sites, the method of maintaining the documentation, reporting on research and so on. The Institute will, depending on the circumstances, suspend, order the return to a previous state, order the implementation of measures to remove defects if the works are carried out without authorization, or not carried out in accordance with the authorization granted, and it will, if necessary, inform the other competent authorities, construction inspection, the Ministry of Interior, the prosecution...

The RS Law on Cultural Property should also be cited here: Articles of the RS Law on Cultural Property 87 through 92 regulate a legal aspect of archaeological research. They state:

- Excavation and research of archaeological sites shall be carried out by a scientific institution or protection institution. The department, or the regional units of the Institute, shall approve archaeological excavations and research of archaeological sites. Approval may be granted to a scientific institution or institution of protection if it has got a drafted project on research of archaeological sites, appropriate professional staff, equipment, and provided funds for research and implementation of protective measures of sites and findings.

- The approval for excavation and research of archaeological sites identifies the area where works may be carried out, the type and volume of work, time in which the works will be performed and obligations of the contractor in terms of taking measures of technical protection of sites and findings.

- The institution that performs archaeological excavations and research shall be responsible for implementing protection measures and security of archaeological sites and findings. If the archaeological excavations and research are not carried out in accordance with the approval, then the competent authority may order the temporary suspension of the works and set the deadline to meet the conditions for continuing the works, or prohibit carrying out works if the conditions to continue the works are not met in a certain time limit.

- The institution that performs archaeological excavations and research shall keep a daily work log and other documentation on these works. The RS Government shall

prescribe forms, content and method of keeping the documentation from the previous paragraph.

- The institution that carried out the archaeological excavations and research shall be required to submit a report on conducted excavation and research to the Institute, or the relevant regional unit of the Institute, within three months upon the completion of the works. The report on archaeological excavations and research shall contain basic information on the works, especially the site plan with the necessary number of technical and photographic images, inventory of excavated and found objects, time in which the works are completed, a list of experts who have performed the works, funds spent and the measures taken for the technical protection of sites and findings.

-The institution that conducted archaeological excavations and research may retain movable archaeological findings for processing no longer than a year unless otherwise agreed with the scientific institution entrusted with the safeguarding of these findings. Upon completion of archaeological excavations and research, the institution that carried out these works shall be required, within a year, to handover the documentation kept on specified forms to the Institute or competent regional unit of the Institute.

Concerning the implementation of the provisions of the mentioned Law, the Institute can be satisfied with regard to the fact that there is a good coordination of work in the field at the level of expert institutions. It is almost impossible to have an insight in the implementation of Article 82 of the same Law which reads: If archaeological sites and archaeological objects are encountered during the execution of works, the contractor shall immediately, without delay, suspend the works and notify the Institute or the regional unit of the Institute and take measures so that a finding is not destroyed and damaged and that it is preserved in the place and position in which it is discovered.

If there is an imminent risk of damage to archaeological site or object, the Institute, or its regional unit will temporarily suspend works until it is determined, on the basis of this legislation, whether respective immovable property or thing is a cultural property or not.

Considering the frequency of archaeological localities in the area of the Republic of Srpska, regardless of the period they belong to, it can be assumed that almost all earthworks may lead to new discoveries. The real problem is the lack of education of construction workers in terms of recognition of archaeological layers and artefacts, as well as the insufficient number of archaeologists in the protection service which is unable to ensure the presence of experts in all massive earthworks.

Furthermore, the Laws regulating the construction of transport and other infrastructure, as well as the urban planning in general, have not sufficiently emphasised the obligations of investors to take account of archaeological findings, and the presence of archaeologists during the works is nowhere provided as it is resolved in the countries of the Western Europe. This is precisely the reason why there is no big interest in archaeology in Bosnia and Herzegovina and there are only about twenty graduated experts in this field.

In FBiH, Provisions of Annex 8, cantonal legislation and the Law on Protection and Use of Cultural, Historical and Natural Heritage from 1985 (Official Gazette of Socialist Republic of BiH, No. 20/85, dated 16 July 1985) are in force in the cantons which have not adopted their own legislation.

Archaeological excavations may be conducted only with the appropriate approval of the heritage protection authorities depending on the status of the site and the level of protection. The leader of the archaeological research is required to submit a research report to the competent heritage protection authority within the prescribed time limit. After the expiration of the time limit prescribed by law, during which the processing of archaeological artifacts may be done, the research leader is required to hand over found artifacts to the relevant institution for safekeeping and presentation.

(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 RS, apart from the problems related to illicit excavations through which archaeological localities are robbed, the attention should be paid to their destruction by carrying out construction and infrastructure works due to the noncompliance with the appropriate legislation and non-involvement of archaeologists in the urban planning commission, ministries and government. The law provided conditions to obtain the construction authorization to carry out the works at the location that represents a potential archaeological site are not consistently applied in practice. The situation is similar with authorized works, in the framework of urban planning and building communications, which are carried out on the surface or below the surface, in water, when archaeological material is found by chance, and Law provided work suspension is absent due to economy reasons. A particular problem are accidental discoveries that mostly go unreported, because their reporting is not specified by the Law, nor obligatory, and it is left to conscience of a finder, his feeling of civil duty, or desire to gain material satisfaction, which is often unrealistic and not possible to comply with and the discovery itself is lost forever. The illegal excavation of archaeological localities, with the purpose of trade in accident discoveries, import and export, is made possible by imprecise provisions of the Law, non-application of provided sanctions, uncoordinated work of the protection institutions with the existing security system and relevant ministries (culture and education, interior and foreign affairs). Impoverishment of museum collections is just in reciprocal relation to the enrichment of private collections, increase in number of collectors, due to more frequent unauthorized excavations by unprofessional experts and thieves supplied mostly with more contemporary equipment than archaeologists. These issues have been partly taken into account when drafting the Law on Cultural Property, and consequently, taking appropriate measures to prevent and sanction such actions fails in practice.

In FBiH, each construction permit contains the warning for the investor of the obligation to suspend the works in case of detection of the item or the object presumed to be a monument. Penalties are provided for in the applicable legislation in the field of construction. Bosnia and Herzegovina still does not have adequate institutional and financial capacities. We believe

that the Law on Cultural Property of Bosnia and Herzegovina should be adopted as soon as possible, or amend the existing Law on the Protection and Use of Cultural and Natural Heritage of 1985 (Official Gazette of the Socialist Republic of BiH, No.: 20/85 of 16 July 1985).

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?

We do not possess figures which would enable us to give this kind of estimation. However, the BiH Border Police have reported that there have been 2 cases of finding larger quantities of antiquities at border crossings in the last 10 years (2005, 2008). A report was filed with the BiH Prosecutor's Office on the criminal offence "trafficking" under Article 214 (2) of the Criminal Code of Bosnia and Herzegovina against the person (the same person in both cases) who was in possession of the antiquities.

Also, the International Operational Cooperation Department, NCB Interpol Sarajevo and EUROPOL, the relevant police authorities, customs agencies, regulatory bodies and competent ministries took part in the AUREUS operation within the EMPACT project on 17-23 November 2014, under the coordination of the Directorate for Coordination of Police Bodies. This operation was initiated by the police of Spain and Cyprus, in cooperation with EUROPOL, with a view to prevent, detect and investigate crimes in connection with cultural property. In addition to Bosnia and Herzegovina, 13 other European countries participated in this operation that resulted in the arrest of 35 traffickers and the seizure of 2,289 stolen artifacts.

(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, as a combination of the all above listed reasons. Registering this kind of crime is the problem, given that there is no specialized institution or service for the prevention and detection of illegal trade in art and archaeological findings at any level of government and that there is no relevant data on the extent of this type of crime. The cooperation of the existing customs and police services with those involved in cultural heritage would have to be improved, given that this type of crime is international by its nature and registered in the region.

(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 rules are set by the Decision on Classification of Goods for Export and Import Regimes. In this Decision, cultural property is classified in Annex 3 (under the individual regimes of

import or export based on "D" license), and approval for their import/export is issued by the competent entity ministries. Furthermore, the Instruction on Issuing the Certificates for Import and Export of Art Works and Antiquities provides for the method and procedure for submission of requests to obtain the certificates for export and import of art works and antiquities, which are specified in the corresponding Annex 3 to the Decision on Classification of Goods for Export and Import Regimes. This Instruction determines the State-level Ministry of Foreign Trade and Economic Relations of BiH (hereinafter "MoFTER") as the body competent to issue the export and import certificates. This Instruction was issued by the MoFTER, in 2001, on the basis of Article 8, Paragraph 3 of the Law on Foreign Trade Policy of BiH, and it regulates procedure for obtaining the certificates for both permanent and temporary export of the designated cultural goods.

At the entity level, the Republic Institute for the Protection of Cultural, Historic and Natural Heritage of RS issues authorizations for the temporary export of cultural property. However, the Institute never receives the feedback from the authorities responsible for the control of border crossings, so when the authorizations for temporary export are issued the process is considered complete.

Also, as indicated above, the Institute is of the opinion that it is necessary to establish administrative work coordination between protection authorities, police, customs and inspection authorities, the practice of regular meetings between them, and to implement adequate training of personnel.

Article 35 of the Law on Archival Activity (Official Gazette of RS, No. 119/08)

2) Public archival materials may be temporarily removed abroad subject to the approval of the RS Archives.

3) Public archival materials of great importance may be temporarily removed abroad with the approval of the Minister, on the proposal of the RS Archives.

(4) Prior to the removal from the country, public archival materials must be recorded for protection purpose.

(5) The approvals referred to in paragraphs 2 and 3 of this Article must include:

a) the deadline by which the public archival materials must be returned,

b) the method and terms of protection of public archival materials and

c) other conditions under which the public archival materials are removed and returned.

In FBiH, the approval for temporary removal is granted by the Ministry of Culture and Sport of the Federation of Bosnia and Herzegovina in accordance with the established rules. The protection measures for the national monuments of BiH are established by individual decisions of the Commission to Preserve National Monuments of BiH. Cultural property may be temporarily removed from the country under two conditions only: for restoration and conservation, provided that there is no possibility to restore or conserve work of art in BiH,

and for presentation and promotion of Bosnia and Herzegovina. Protection measures, contract on temporary loan, insurance policy, escort and security of work of art during transport are provided for the period it is exported until its return to BiH, i.e. in museum, gallery, library, etc. After the return, the Ministry inspects the work of art and takes the minutes. The Institute for the Protection of Monuments, in its archives and the register of movable heritage, documents conservation and restoration works carried out on the property, if the purpose of the export was to conserve cultural property.

(d) Do the rules provide for the restitution of illicitly imported cultural property?

Article 3 of the The Law on Museum Activity of RS („Official Gazette of Republic of Srpska“ no. 89/08) addresses the restitution-related issues, by making reference to the relevant provisions of the ICOM’s Code of Ethics.

According to the Article 3 of the The Law on Museum Activity of RS, subjects of museum activities in terms of this law are obliged to respect internationally accepted documents of museum activities and professions, such as Statute of the International Council of Museums and ICOM Code of professional ethics for museums.

(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)?

In a nutshell, it might be concluded that reference made to the ICOM’s acts in Article 3 of the Law on Museum Activity of RS brought this act in closer compliance with the international obligations laid down in 1970 UNESCO Convention.

Act on Museum Activity applicable in the FBiH and the Law on Museum Activity of Sarajevo Canton only stipulate that the museums are inter alia mandated to participate in the international cooperation in the field of museum activity. Therefore, you can say that the main obstacle is in legal loopholes.

(f) If the country has succeeded in securing the restitution of a stolen cultural object, describe the circumstances and state whether that involved legale proceedings, arbitration or alternative dispute resolution.

N/A

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 Internet)

N/A

(b) What are the main rules governing trade in cultural goods? Are control measures in place for such trade (maintainance of a police register), in particular through the Internet (for example, reference to the basic measures proposed by UNESCO, INTERPOL and ICOM)?

The Ministry of Culture and Sports of the Federation of Bosnia and Herzegovina, in accordance with international rules and regulations, notes if the object of export is work of art of importance to the cultural heritage of Bosnia and Herzegovina and keeps records of temporarily and permanently exported artifacts when issuing approvals for the import of works of art and antiques. The Ministry submits the document of export approval to the owner, the Ministry of Foreign Trade and Economic Relations of BiH and the Ministry of Interior in FBiH. The Ministry of Foreign Trade and Economic Relations of BiH grants the export license.

(v) 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)?

The Law on Cultural Property of RS, Chapter IX GUARANTEES FOR FOREIGN EXHIBITIONS, Article 97, may also be applied in this part, which states that RS can give guarantees for certain foreign exhibitions on its territory which have special cultural and artistic value, while the RS government defines which exhibitions should get guarantees.

The same Article, paragraph 6 states: The guarantee shall be given for the time from the takeover until the return of exhibits to a foreign country, or the owner or other authorized person.

(g) 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 the heritage sites?

The Law on Archival Activity in RS (Official Gazette of RS, No. 119/08),
Article 31

(1) Public archival materials are property of RS.

(2) Public archival materials, which are under the responsibility of local administration units, are property of local administration units.

Article 34

(1) Public archival materials are delivered to the competent archives for preservation.

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

RS: As mentioned above, a special problem is accidental discoveries that mostly go unreported, because their reporting is not specified by the Law, nor obligatory.

FBiH: Accidentally found archaeological artifacts, as well as those which are still not unearthed (underground and underwater), are public property.

- Are there any due diligence requirements in place?

-What are the rules governing the search of provenance?

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

Article 35 of the Law on Archival Activity provides that

(1) Public archival materials cannot be alienated.

7. Bilateral agreements

(a) Are there bilateral agreements concluded with other countries on the import, export and return of cultural property and comment briefly on their results.

There is a number of bilateral agreements on cultural cooperation, which are signed between Bosnia and Herzegovina and other countries. Signed international agreements are in general form and can be considered as the ground for international cooperation in the field of culture, including this issue. However, complete validation of these agreements is expected in a long-term period.

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

IX GUARANTEES FOR FOREIGN EXHIBITIONS - the Law on Cultural Property (the response from the guidelines 6v)

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

NO

II Code of ethics, awareness raising and education

Ethical standards

(a) Are there 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?

ICOM Paris works for society and its development, is committed to ensuring the conservation, and protection of cultural goods, and is the only organisation that presents museums and museum professionals on international level.

ICOM Paris has its National Committee in Bosnia and Herzegovina (ICOM Bosnia and Herzegovina). The largest number of museum professionals in Bosnia and Herzegovina are members of National Committee of ICOM BiH and are familiar with the ICOM Code of Ethics. By joining ICOM, each member agrees to respect this Code.

ICOM Code of Ethics establishes the values and principles shared by ICOM and the international museum community. It is a reference tool and it sets minimum standards of professional practice and performance for museums and their staff. In 2007 ICOM Bosnia and Herzegovina in joint project with National Committees of ICOM Serbia and Croatia, translated ICOM Code of Ethics for museums into 3 official languages in Bosnia and Herzegovina (Bosnian, Serbian, and Croatian). The ICOM Code of Ethic was disseminated to all institutions in the country.

Awerness raising and education

(b) Are there „one hundred missing objects“ series and the ICOM Red Lists disseminated and read?

All members of ICOM from Bosnia and Herzegovina are familiar with and know about „one hundred missing objects“ series and ICOM Red Lists.

Since 2000, ICOM has published Red Lists that detail categories of endangered cultural goods from all over the world: Syria, Latin America, Egypt, Iraq, Afghanistan, Cambodia, Haiti, China, etc.

The next ICOM Red List will be devoted to the Southeast Europe. The creation of the Red List of Southeast European Cultural Objects at Risk was decided following a series of expert workshops on the protection of cultural goods in the Southeast Europe region between 2012 and 2015. These seminars concluded that ICOM's Red Lists would benefit the countries of this region, highlighting the urgent need for regional-level tools and actions to combat illegal tra

fficking in cultural goods concerned by this List are: Albania, Bosnia-Herzegovina, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Romania, Serbia, Slovenia. This Red List of Southeast European Cultural Objects at Risk should be finished and printed by the end of 2016.

ICOM BiH regularly disseminates other Red Lists to its members.

- (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 were few seminars in the past period regarding the raising of awareness of the authorities and education of the public, especially of professionals from museums, archives, libraries from Bosnia and Herzegovina etc. regarding the serious damage that can be caused by illegal excavations, theft of cultural property and illegal export.

ICOM Bosnia and Herzegovina together with Regional alliance ICOM SEE, other National Committees in the Balkan region, ICCROM, UNESCO-BRESCE and other significant institutions of conservation and museums from France and other countries participate in long-term project started in 2006.

Among the first initiatives was the organisation of the Regional Conference- Condition of the Cultural and Natural Heritage in the Balkan Region – South East Europe in Kladovo (Serbia) in 2006. The conference covered different fields of heritage protection: protection policy, organisation of institutions, education, inadequate legislation, illicit trade and illegalities committed over the cultural and natural heritage, illegal constructing and irresponsible behaviour of new investors, poor coordination between urban planning and protection of architectural heritage, utter disregard of the urban conditions, absence of the integrated protection concept in the case of architectural heritage, lack of protection services with well-defined and common strategy and activities, lack of management plans and preventive conservation on archaeological sites, etc. This conference helped to develop number of subprojects, working groups, workshops, courses, etc. which fit into its basic strategy.

ICOM Bosnia and Herzegovina together with other National Committees and Regional Alliance of ICOM for South East Europe has organized the second Regional Scientific Conference with the topic *Proposals for recovery and revitalization of heritage in the region of South East Europe - „Risk assessment of cultural and natural heritage in the region of South East Europe”*. The Conference was held in the period between 22nd to 26th May 2012, at the University of Niš, Serbia. Heritage professionals from Bosnia and Herzegovina participated in both conferences.

Another seminar under the title Regional Seminar on the valorization and protection of cultural goods was organized in Sarajevo, 15-16 April 2013. This Seminar was set up in collaboration between the Cooperation and Cultural Action Service, the Institut française and the Internal Security Service of Sarajevo, as well as the Belgrade Regional Unit Against Organized Crime in Southeast Europe. It aimed to bring together cultural heritage professionals in order to discuss the issue of managing and valorising heritage sites from a sustainable development perspective. The idea was also to prepare the ground for cooperation aimed at "securing" cultural goods in an area that is considered of concern by experts in illegal trafficking.

One of the conclusions of this seminar is the establishment of a Southeast Europe “Red List” with the support of the International Council of Museums (ICOM) to better identify the specificity and nature of the cultural goods of the Balkans. This initiative implies co-financing from the different regional States and work on identifying missing artefacts through pre-existing inventories and counts.

Also, The National Commission of BiH for UNESCO will organize in Sarajevo a Roundtable session on UNESCO 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property in the fall of 2015.

III Cooperation with other international and regional agencies

Police

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

Sector For International Operative Police Collaboration-Section NCB Interpol Sarajevo of the Directorate for Coordination of Police Bodies of Bosnia and Herzegovina within Ministry of Security of Bosnia and Herzegovina, represents a single point of exchange of information on the strategic and operational level in international investigations. It achieves international police cooperation, with securing, implementing and developing the coordination of home police, judicial and other bodies in international cooperation with other countries in the world, with respect to the best practices. Cooperation is achieved with Interpol, Europol and SECI center, as well with other bodies in accordance with signed agreements.

The jurisdiction of the Ministry of Interior of RS regarding the prevention of import, export and transfer of ownership of cultural property is regulated by the RS Criminal Code (Official Gazette of RS, No. 49/03, 108/04, 37/06, 70/06 and 73/10) where Article 254, in the context of crimes against property, provides for the punishment for the crime of "exporting abroad objects of particular cultural or historical significance or natural rarities".

There are police officers who are specially trained and authorized to access the INTERPOL work of art database within the Ministry of Interior of RS, who have the capability to carry out search of claimed work of arts and entry of found works of art.

(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?

Cooperation of the Ministry of Interior of RS with INTERPOL exists and takes place in order to exchange data, as well as the announcement of information on stolen objects. In the case of cultural property, INTERPOL's database is checked on a regular basis.

In case of theft of works of art, the INTERPOL is informed of the stolen work of art and the information on missing work of art is entered into the database.

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

The BiH Border Police's Training and Development Office did not report any trainings relating to the illegal trafficking of cultural property.

Members of the Ministry of Interior of RS, who work on these activities, took part in occasional trainings in this field. However, the Police Training Directorate does not implement the special training in the field of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property. As part of the curriculum of the College of Internal Affairs, the issues concerning the prohibition and prevention of the illicit import, export and transfer of ownership of cultural property are taught within the courses on criminal law, international criminal law, international law, referring to the respective Convention and definition of crimes. In addition, the College of Internal Affairs students study to detect and prove crimes of illegal trade in cultural property within the framework of the courses on organized crime and corruption and special investigation management.

As indicated above in accordance with Annex II (Evaluation Report on the Convention of 1970 /ISO/eEVS/PI/133rev.4), and with regard to the Recommendation 8 to institutionalize training in crime against cultural property for the police and customs authorities, we hereby inform you that, within the Directorate for Police Education of the RS Ministry of Interior, the training in crime against cultural property will be included in the curriculum of basic police training.

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

Cultural monuments, protected natural objects or other objects of particular cultural or historical significance are governed by the relevant regulations (such as the Law on Protection of Cultural Monuments, the Law on Protection of Natural Rarities, the Nature Protection Law, the Law on the Protection and Use of Cultural and Historical and Natural Heritage et al), but as it is about particularly important social values, their criminal and legal protection is provided for in the RS Criminal Code (Article 253 and 254) , the FBiH Criminal Code (Articles 321 and 322) and the Criminal Code of Brcko District of BiH (Articles 315 and 316). A complete and effective system of protection in this very important area is established in this way.

Multiple object of protection in these works of art is the historical and cultural heritage, or social interest in the protection and preservation of cultural and historical heritage and the values that are of great importance for every society. These values and certain natural rarities are not protected for their material importance, but for their importance for the national culture or to preserve certain geographical wealth and values and protect certain geographical

areas and/or ecological environments. These are universal values whose significance sometimes go beyond the frameworks and boundaries of national culture, the values that become civilizational, universal human values.

Some forms of these criminal offenses are similar to criminal offenses against property, such as theft, damage to property of others, evasion etc., but they are different from these criminal offenses as they do not constitute an attack on it as a possession, but as the property having special historical, cultural and civilizational significance.

Below is an overview of two criminal provisions in this area for clarification and better understanding:

Appropriation, destruction or damage to cultural monuments, protected natural objects or other objects of special cultural or historical significance

Article 253

(1) Whoever, while conducting archaeological, geological, paleontological or mineralogical research or excavation, archive researches or in some other way, appropriates excavations, excavated material or objects of cultural and historical significance, archive materials or natural rarities, shall be punished by imprisonment for a term between six months and five years.

(2) The punishment referred to in Paragraph 1 of this Article shall be also applied to anyone who unlawfully destroys or damages cultural monument, protected natural object or other object that is of great cultural and historical significance or an object that represents public property.

(3) Whoever, without authorization, conducts conservation, restoration or research work on a cultural monument or carries out archaeological excavation or research, as a result of which the monument is destroyed or seriously damaged, shall be punished by a fine or imprisonment for a term not exceeding three years.

(4) If the criminal offences referred to in Paragraphs 1, 2 and 3 of this Article have been committed on a cultural or historical monument of special significance, or if substantial damage has occurred, the perpetrator shall be punished by imprisonment for a term between one and eight years.

Exporting Objects of Special Cultural and Historical Significance or Natural Rarities

Article 254

(1) Whoever, without authorization, exports an object of special cultural and historical significance or a natural rarity from the country, or aids and abets another person to do so, shall be punished by imprisonment for a term not exceeding three years.

(2) If the criminal offence referred to in Paragraph 1 of this Article is committed on property that is of great cultural, historical or natural significance, the perpetrator shall be punished by imprisonment for a term between six months and five years.

As the legal descriptions of these criminal offences often use concepts whose content is determined by the special legal regulations in the relevant fields, it is necessary to be familiar with these regulations for their understanding and application of these incriminations. This is carried out through the judicial training. The Centers for Education of Judges and Prosecutors in the Federation of Bosnia and Herzegovina, the Republic of Srpska and the Judicial Commission of Brcko District, in accordance with the training programs, conducts education and training of judges and prosecutors for efficient proceeding in all criminal cases, including those relating to the protection of cultural property of Bosnia and Herzegovina.

Representatives of the judiciary in Tuzla Canton have not undergone specialized training on the issue of the illicit import, export and transfer of ownership of cultural property, but the above mentioned Center Against Trafficking in Works of Art, in collaboration with the Centre for Education of Judges and Prosecutors of the Federation of Bosnia and Herzegovina, will hold a specialized seminar where the judges and prosecutors (at cantonal and federal levels) will be familiarised with the experiences of the regional countries concerning this issue.

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

In RS, the police officers of the Narcotic Drug Department, Criminal Police, and the Team to monitor the implementation of the Narcotics Control Strategy collaborate on a regular basis with the UN Office on Drugs and Crime (UNODC). The cooperation is implemented through regular reporting and information exchange, and the participation in training sessions and seminars organized by UNODC.

Customs

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

On December 29, 2003 the Parliament of Bosnia and Herzegovina adopted the Law on Indirect Taxation and thus ensured the legal basis for establishing the Indirect Taxation Authority. The Indirect Taxation Authority (ITA) is an autonomous administrative organization responsible for its activities, through its Governing Board, to the Council of

Ministers of Bosnia and Herzegovina. The Indirect Taxation Authority functions as an integral entity over the entire territory of Bosnia and Herzegovina. The Customs Sector of the Indirect Taxation Authority provides the customs service of Bosnia and Herzegovina. This sector is responsible for the implementation of the provisions related to customs, foreign trade, currency and other provisions referring to the customs policy of the state. Since July 2008 ITA is a member of the WCO.

The Law Enforcement Sector within Indirect Taxation Authority is a sector with specific responsibility: to detect, investigate, document and process all types of smuggling, customs and tax frauds or any other violations of provisions being in effect in Bosnia and Herzegovina that refer to duties, excise duties and value added tax.

This Sector plans, organizes and coordinates the activities on collection, classification, assessment, analysis and provision of all data and information relevant to detection and prevention of smuggling or any other type of illegal activities related to movement of goods or collection of duties and taxes for the purpose of intensifying controls conducted by control departments in Taxes and Customs. This Sector closely cooperates with police and judicial bodies in Bosnia and Herzegovina.

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

N/A

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

N/A

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?

Since RS *lex specialis* in the field of protection and utilization of cultural property is the above mentioned Law on Cultural Property of RS ("Official Gazette of RS", 11/95, 103/08), the transposition of the mentioned Directive into the RS legal system is not carried out through this law according to the official records kept in the Ministry of Economic Affairs and Regional Cooperation of RS.

However, the Ministry of Civil Affairs of Bosnia and Herzegovina requested translation of this Directive, which is done and sent to the entity ministries responsible for culture. Alingment with the European Standards in all fields is a long-term process and is expected to be finished in the future, within process of European integration.

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?

Based on the Law on Protection and Rescue in Emergency Situations (Official Gazette of the Republic of Srpska" No 121/12), the Plan of Protection Against Natural Disasters and Other Accidents in the Archives of the Republic of Srpska was adopted.

In FBiH, the Institute for Protection of Monuments is in the process of preparation of a brochure entitled Guide for Response and Rescue of Movable and Immovable Heritage in Emergency Situations.

In 2014 National Committee ICOM Bosnia and Herzegovina, held a workshop under the title Protection of cultural Heritage in emergency situations. From 12 to 14 November 2014, Central Institute for Conservation (CIK), Regional Alliance of ICOM for South East Europe (SEE ICOM), National Committee of ICOM Bosnia and Herzegovina and the Museum of Contemporary Art of Republika Srpska (MSURS) in Banja Luka, implemented a workshop Protection of Cultural Heritage in emergency situations. The goal of the program was to contribute to a better understanding of catastrophic risk and provide structure for the efficient risk management model for cultural heritage, as well as plan for emergencies. The workshop involved over 30 professionals from heritage institutions in Bosnia and Herzegovina, Slovenia, Croatia, Macedonia and Serbia. During the workshop a different materials on protection of cultural heritage in emergency situations were disseminated to museum and museum professionals in Bosnia and Herzegovina.

(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?

Ministry of Security of Bosnia and Herzegovina – Directorate for Coordination of Police Bodies of Bosnia and Herzegovina informed us that the Section NCB Interpol Sarajevo submitted a list of Iraqi artefacts stolen from the Iraqi National Museum, after the fall of the former regime, to the relevant agencies of Bosnia and Herzegovina (State Investigation and Protection Agency of Bosnia and Herzegovina, Border Police of Bosnia and Herzegovina, Federal Ministry of Interior of Bosnia and Herzegovina, Ministry of Interior of the Republic of Srpska, Police and Brcko District) for further processing, respectively in order to update their databases of stolen/lost art with the caveat that if these artefacts were found, they should immediately notify NCB Interpol Sarajevo.

The Ministry of Interior of Republic of Srpska has not had any information yet that could be linked to the illicit trade of cultural properties from these countries, but they informed competent institutions in the Republic of Srpska on this issue. The Ministry has forwarded information related to the Resolution 2199 of UN Security Council to the Republic

Administration for Inspection Activities of the Republic of Srpska that will, in accordance with its responsibilities, conduct appropriate measures and activities that will contribute to the prevention of illicit trafficking in antiquities and cultural properties from the above mentioned countries. In addition to these institutions, other cultural institutions and the competent authorities of the Republic of Srpska also devote special attention and cooperate in prevention of illicit trafficking of antiquities and cultural goods of Iraq and Syria, with full respect of competencies as defined by the Constitution and Laws of the Republic of Srpska.

Ministry of Culture and Sports of the Federation of Bosnia and Herzegovina in accordance with Paragraph 29 of Resolution 2199 of UN Security Council has undertaken the activities that involve Amendment of the Rules of Procedure on approval for the issuance of licenses for the export and import of works of art and antiques. Rules will specifically treat the obligation to systematically check the origin of works of art, and in case of detection of illicit trafficking, take all actions in accordance with Regulations, Conventions and Resolutions, and cooperate with relevant institutions.

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?

Bosnia and Herzegovina has ratified 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, however, we are yet to complete the procedure of submitting declarations in accordance with Article 16 of the Convention. The preparation of the said declarations is in its final stages.

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 (observer, member, State concerned by a case under discussion etc.)

Bosnia and Herzegovina is currently observer at the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation. Bosnia and Herzegovina at this moment is not concerned by a case under discussion.

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.

Basic legislation of Bosnia and Herzegovina in the field of cultural heritage is available in the UNESCO Database of National Cultural Heritage Laws.