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

I. Information on the implementation of the UNESCO Convention of 1970 (with reference to its provisions)

1. Ratification of the Convention

(a) Has this Convention already been ratified?

Yes. Hungary has signed and ratified all major International Conventions on the protection of cultural heritage (the 1954 Hague Convention [applicable since 1956], the 1970 UNESCO Convention [applicable since 1979] as well as the UNIDROIT Convention on stolen or illegally exported cultural objects [applicable since 1998]).

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?


(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 definition in the national legislation (as defined by the Act No.64 of 2001 on the protection of cultural heritage Paragraph 7 Point 4): outstanding and typical objects, images, sound recordings and written memories and other proof of the origin and development of lifeless and live nature, mankind, the Hungarian nation and the history of Hungary (except items of immovable heritage), as well as pieces of arts.

(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)?

Yes.
Cultural sector:
Police:

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

In terms of cultural goods, cooperation is based on the Multilateral Agreement between the National Police Headquarters (ORFK), the Hungarian Customs and Finance Guard (VPOP) and the National Office of Cultural Heritage (KÖH, the predecessor of Forster Centre), signed in Budapest, 22 March 2006. This was renewed on 4 September 2012.

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

Yes, occasionally. Contact points are defined in the Multilateral Agreement of 22 March 2006.

3. Inventories and identification

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

A special database of stolen and missing cultural goods is maintained by Gyula Forster National Centre for Cultural Heritage Management – Inspectorate of Cultural Goods (and its predecessors, since 2004). The database is open to the public (accessible in Hungarian on the website of the Centre).

(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.

For the national definition of cultural goods, see above Point 2 (b). The following items are classified as National Treasures:

- items inventoried by museums;
- items inventoried by archives;
- items inventoried as "museum piece" document by libraries;
- items inventoried by picture and sound archives functioning as museums;
- items classified (protected) by the Forster Centre – Inspectorate of Cultural Goods (or its predecessors);
- items of archeological heritage (located in archeological sites);
- movable parts of monument buildings.

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

Yes. Experts in public collections have used professional standards since the establishing of the first public collections in the early 19th century. (However, before the age of digital cameras, making photos was a major problem and many items were not documented in this way.)
(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?

Yes. Especially members of security staffs in public collections are regularly trained.

4. Archaeological excavations

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

All archaeological finds on the ground, in the ground, in the beds of watercourses or hidden or recovered from elsewhere are state property. Elements of archaeological heritage can only be moved from areas of archaeological interest or archaeological sites in the framework of an archaeological excavation. If the archaeological finds revealed during the excavation cannot be kept at the site, they shall be placed primarily in the competent museum responsible for the excavation or in a specialised national museum. Archaeological excavations can be performed on the basis of an excavation licence issued by the Forster Centre. As a result of recent legislation, the use of metal detector devices are – with the exception of professionals who need those devices for their basic work – is subject to licensing. Another novelty is that archaeological objects must be registered at the Inspectorate of Cultural Goods at least 30 days before they are sold, otherwise the transaction is invalid.

(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?

This is a real problem. Unfortunately (in addition to destruction, whether resulting from ignorance or intentional) “amateur archaeology” – the looting of archaeological findings – has grown into a serious “business”. According to certain estimates, there are more than a thousand “fortune hunters” across the country who use metal detectors and are responsible for quick predatory excavations that destroy sites, except for objects that can be sold. As a consequence of the strict legal regulations regarding archaeological objects and excavations (state ownership, mandatory placement in public collections, exclusive excavation rights for museums and state institutions, etc.), practically the entire trade in archaeological objects is a part of the black market. In addition, in most cases the looting of sites is coupled with the illegal export of these goods. The wealthiest buyers’ markets for Roman objects – of which Hungary is relatively rich – are the Western countries. In fact, the solved cases unambiguously show that Hungary lies on the illegal transit route of objects from the Balkans, the Ukraine, and Turkey; goods crossing our southern and eastern borders are headed straight for the affluent Western European centres of art trade. Smuggled goods detected by Hungarian law enforcement agencies and confiscated by courts are placed in domestic public collections. It is seriously hoped that recent legislation (see above, point (a)) can improve the situation.

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?

After the date of Hungary’s accession to the EU (1 May 2004), the number of legal export licence applications decreased by half. Based on this statistics, the number of illegal export cases can be between 500 and 1,000 per year, causing a loss of several thousand objects per year.

As for theft of cultural property, police registered more than one thousand cases involving items of cultural value. The damage caused by these thefts can be estimated around EUR 4 million per year.

(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.)?

The illicit export of cultural property is a serious problem. Many types of cultural goods can be sold at higher prices in Western Europe and North America. Owners of cultural goods often neglect national legislation on the protection of cultural heritage in order to receive higher prices for works of art they wish to sell. Since Hungary’s accession to the EU (1st May 2004), there is no customs control at the national borders and the risk of getting caught is extremely low.

(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?

An export licence (Certificate for Cultural Goods) is needed for the movement of all cultural goods with an age and market value exceeding the legal thresholds (in most categories, this is 50 years and HUF 100,000 or about EUR 330), either to other Member States or outside the European Community. Permanent export of cultural goods belonging to the National Treasures is prohibited; they are only allowed to leave Hungary with an obligation to return, on the basis of a temporary export licence. There are no special rules for the import of cultural goods (beyond the general customs regulations of the European Community.)

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

No. International conventions and the relevant EU regulation (Directive 93/7/EEC) can only be applied in certain cases. According to our experience, a successful restitution needs all possible means and first of all money and responsible authorities (and persons) for this task. (Such procedures often take several months or years or sometimes decades.)

(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.)?

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

We had to use all possible means including:
- legal instruments (International Conventions and Directive 93/7/EEC);
- channels of police cooperation (INTERPOL, EUROPOL, bilateral);
- contacting by email and face to face meetings with concerned parties;
- paying compensation (in one case, we had to make an agreement with the holder of the object in order to get back the object at a lower price).

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 the Internet).

Art trade in Hungary can be characterized by the following figures:
- 15-20 major auction houses (incl. art & antiquarian book auctions);
- 120-150 major art galleries and antique shops;
- 250-300 auctions per year;
- a combined turnover of EUR 32-36 million per year (60-70% of this on auctions);
- nearly all auction houses and major galleries are concentrated in the capital, Budapest.

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

In case of selling classified cultural goods, certain limitations (defined by national legislation) must be applied. For art trade in general, no specific rules apply currently, so only general rules of trade activities must be applied. However, new legislation – providing for a special registration of art dealers and an up-to-date inventory of objects with a value of over HUF 300,000 (about EUR 1,000) – is expected to be adopted in the near future.

(c) 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)?

Before an acquisition, national and international databases of stolen and missing cultural goods can be consulted.

(d) Specify the existing legal system concerning ownership of cultural property:

Items inventorised by museums, archives and "museum piece" documents kept by libraries can only be alienated if a licence is issued by the minister responsible for culture. All archaeological finds on the ground, in the ground, in the beds of watercourses or hidden or recovered from elsewhere represent state property and
shall be placed primarily in the competent museum responsible for the excavation or in a national specialised museum.

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

No. A written agreement, signed by both parties, is required only for the transfer of ownership of classified cultural goods. (This must be reported to the Inspectorate of Cultural Goods.) Since November 2009, a new type of document (Certificate for Cultural Goods) is issued by the Inspectorate of Cultural Goods. This document certifies that at the moment of issuing, the described object is not registered in the official database of the Inspectorate of Cultural Goods as classified (part of Hungary’s National Treasures), or stolen or missing. It is highly advisable that the Certificate is kept together with the object by subsequent owners in order to prove the object’s legal provenance. (Certificates are generally issued with a validity of 10 years.)

7. Bilateral agreements

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

No such bilateral agreement has been signed by Hungary. Other international legal instruments are considered adequate to solve problems.

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

Criteria defined by international legal instruments (e.g. 1970 UNESCO Convention, 1995 UNIDROIT Convention and Directive 93/7/EEC). In certain cases, relevant national legislation (e.g., Civil Code) is also applicable.

(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?

Five out of Hungary’s seven neighbouring countries are Member States of the EU. In these cases, channels of administrative cooperation within the EU are used to solve problems. In case of customs, there is a daily routine of cooperation (since decades). In case of police, mostly channels of INTERPOL (and EUROPOL) are used.

II. Code of ethics, awareness raising and education

Ethical standards

(a) Are the 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? Awareness raising and education
The Ethics of Acquisition (issued by ICOM in 1970) and the International Code of Ethics for Dealers in Cultural Property (issued by UNESCO in 1999) were translated into Hungarian and published in 2005. (They were printed in a leaflet and forwarded to major auction houses, galleries and antique shops. The texts in Hungarian are available on the website of Forster Centre.) A regular monitoring of their application is not provided, due to the lack of budgetary resources and responsible authorities.

(b) Are the “One hundred missing objects” series and the ICOM Red Lists disseminated and read?

Police and customs officers were acquainted with the publications and "Red Lists" issued by ICOM during their training in previous years. Attention of art market players was drawn to the publications whenever new ones were published. (e.g., in 2001, when the European part of the “One hundred missing Objects” series was published, or in 2006, when the “Red List of Afghanistan Antiquities at Risk” came out).

(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?

The Inspectorate of Cultural Goods has issued various printed leaflets and brochures for art market players, owners of cultural goods and other interested parties. The latest series, consisting of a comprehensive booklet in Hungarian entitled “Műkincsem van – mit tegyek, mit tehetek?”, i.e., “I Own Artworks – What to do?” as well as a Hungarian-English bilingual leaflet entitled “Hogyan vihetek ki műtárgyat Magyarországról? / How to Export Artworks from Hungary?”, was published in early 2015. Beside these publications, almost all relevant information can be accessed through the website of Forster Centre. Training sessions for law enforcement officers, members of museum security staff and clergy are regularly held. Forster Centre has agreements with several universities in order to contribute to education (in departments such as law, art history, museology, etc.) through seminars and lectures.

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?

Data of stolen cultural goods (especially if the objects can be suspected to have been smuggled out of the country) are forwarded by the competent police units to the National Central Bureau of INTERPOL. Such data are regularly forwarded to INTERPOL Centre in Lyon, France to enter them into the INTERPOL Works of Art Database. Within the Hungarian national police, there is a special subunit responsible for coordination and other tasks in the field of cultural heritage crime (National Office of Investigation – Art Treasure Unit (in Hungarian: Nemzetí Nyomozó Iroda – Műkincsvédelmi Alosztály)).
(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?

Unfortunately not in every case. (In spite of all efforts of the Inspectorate of Cultural Goods, data is forwarded to the INTERPOL Centre in Lyon, France in few cases only.)

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

Unfortunately no. Only basic information on cultural heritage crime is part of their training program in the Police College. In 2006, a single training session was held for representatives of criminal departments of all county police.

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

There are special cases in the new Penal Code (Act No. 100 of 2012) for cultural goods (e.g., in case cultural goods are removed from Hungary without the necessary export licence, or the regulations applying to objects classified as National Treasures are violated, a prison sentence of up to three years may apply). Owners who cause irreparable damages to the monuments or classified objects owned by them face a prison sentence of one to five years. There are special cases when the fact that the concerned objects are cultural goods is considered an aggravating circumstance (e.g., in case of theft).

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

Unfortunately, there is no regular cooperation with UNODC.

(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?

Since Hungary is a member of the EU, this is no longer a high priority for the National Tax and Customs Administration (Nemzeti Adó és Vámhivatal) and there is no central unit or personnel dedicated to this problem. (According to customs statistics, only about 20 cases per year involving the smuggling of cultural goods are discovered.) Instead, a closer cooperation has been developed between customs offices and the Inspectorate of Cultural Goods. This involves regular exchanges of information about cultural goods detected at inspections, with the Inspectorate of Cultural Goods giving statements as to whether an export permit is necessary or not.

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

Around the year of Hungary’s EU accession (1 May 2004), the Hungarian Customs participated in two major projects aimed at the preparation for EU regulations in this particular field. In 2005, a handbook about how to handle cases when cultural goods are concerned was issued for customs officers.
(h) Is the UNESCO-WCO Model Export Certificate for Cultural Objects used? 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.

No, because Hungary, as a Member State of the EU, has to use the model defined by EU regulations. (However, the two models are very similar.) The UNESCO-WCO Model Export Certificate for Cultural Objects was not adopted when designing licences and certificates issued on the basis of national legislation, either. However, the certificates and licences issued by the Inspectorate of Cultural Goods contain all necessary information and are adjusted to local needs.

Hungary has transposed Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State into the national legislation by the following legal text: Act No.80 of 2001 on the return of cultural objects unlawfully removed. This Act entered into force on the day of the accession of Hungary to the European Union (1 May 2004).

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?

There is no special strategy to face such situations. However, current legal and administrative structures can be considered adequate to handle emergency situations.

(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?

Concerning the measures imposed by the UN Security Council Resolution 2199 in connection with cultural heritage, two related legal regulations of the European Union are in force in Hungary. First of all, according to Article 3 of Council Regulation (EC) No. 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96, the import and export of and the dealing in Iraqi cultural property is prohibited, if they have been illegally removed from locations in Iraq, in particular, if the items form an integral part of either Iraqi public collections or the inventories of Iraqi religious institutions, or there exists reasonable suspicion that the goods have been removed from Iraq without the consent of their legitimate owner or have been removed in breach of Iraq's laws and regulations. The second relevant EU legal regulation is Council Regulation (EU) No 1332/2013 of 13 December 2013 amending Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria. Here, paragraph (4) of Article 1 prohibits to import, export, transfer, or provide related brokering services of Syrian cultural property where there are reasonable grounds to suspect that the goods have been removed from Syria without the consent of their legitimate owner or have been removed in breach of Syrian law or
international law, in particular if the goods form an integral part of either Syrian public collections or the inventories of Syrian religious institutions. With regard to these two legal regulations being in force, no further legislative steps are necessary in Hungary. In practice, Hungary does not belong to the significant target or transit countries regarding cultural goods from the Middle East. Therefore, cultural goods of Iraqi or Syrian origin surface very rarely on the Hungarian art market. The Inspectorate of Cultural Goods at the Gyula Forster National Centre for Cultural Heritage Management, as Hungary’s national authority responsible for the oversight of illegal art trade, has so far taken action in one case only: as of 30 September 2013, a Near Eastern inscribed terracotta cone, with 2004 provenance documentation from Belgium, was offered for sale through online trading site vatera.hu. On 25 October 2013, the Inspectorate of Cultural Goods asked the Iraqi Embassy in Budapest for information concerning the possible illegal origin of the object but received no substantial response so no further proceedings could be initiated. On Summer 2014, four lists of objects lost by Iraq were handed over to the Hungarian Government (the Ministry of Foreign Affairs and Trade) by the Iraqi Embassy in Budapest. The lists, containing a total of 11,136 objects, were forwarded by the National Police to the Inspectorate of Cultural Goods at the Forster Centre. However, the Inspectorate of Cultural Goods was not able to register the objects in the national database of stolen and missing cultural goods, because most of the information contained in the four lists was in Arabic language (a minor part was in English) and the lists did not include enough information and photographs to differentiate the individual objects. The Inspectorate of Cultural Goods at the Forster Centre constantly follows the objects surfacing on the Hungarian art market and will do all necessary steps if objects of Iraqi or Syrian origin are detected.

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?

Yes. See above, Section I., Point 1. (a).

(b) If not, please indicate, where applicable: -

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.).

Hungary had a huge loss of cultural heritage during the last year of World War II. Especially private collections and castles were looted by German and Russian military units. In addition, the country suffered heavy losses due to the illegal export of cultural goods in recent decades. Therefore, it is a priority for Hungary to use all channels of international restitution. Hungary was a member of the Intergovernmental Committee between 1999 and 2003 and then again between 2006 and 2009.
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.

In 2007, texts of the basic national legislation were uploaded into the UNESCO Database of National Cultural Heritage Laws. At the same time, a short summary describing the situation of the protection of cultural goods in Hungary was uploaded in English and French. Efforts are constantly made to update the list that currently contains 41 pieces of legislation from Hungary. Unfortunately, there are only “unofficial” English translations, and in some cases there is none at all. The Acts and Decrees have been amended several times since their publications, making it difficult to have up-to-date translations. The preparation of revisions and new translations are continuous.