

TURKEY

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

REPORT ON THE APPLICATION OF THE 1970 CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY¹

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

1. Ratification of the Convention:

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

Pursuant to Article 90 of the Constitution of the Republic of Turkey, the ratification of each treaty by the Republic of Turkey with foreign states or international organizations depends on an approval of the Grand National Assembly of Turkey by means of enacting a law. Within the framework of the Law 2256 dated 25.12.1979, the title of which is "the Law for Approval of the Accession to UNESCO 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property",² the Council of Ministers has decided to ratify the 1970 UNESCO Convention on 13.10.1980³. Within the framework of this decision, the Republic of Turkey has ratified the 1970 UNESCO Convention as of 21.04.1981 (ratification). Pursuant to Article 90 of the Constitution of the Republic of Turkey, any international treaty put into effect duly has the force of law. No dedicated law for implementation of the 1970 UNESCO Convention was enacted. This is a convention directly executed by the Republic of Turkey (self-executing). The fact remains that Law No. 2863 on Conservation of Cultural and Natural Property⁴ as well as the regulations adopted under this law are the most basic legislative arrangements for conserving cultural and natural property.

(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 relevant parts of the definitions included in Article 23 in the section of "Movable cultural and natural property required to be conserved" of the Law No. 2863 on Conservation of Cultural and Natural Property and Article 6 in the section of "Immovable cultural and natural property required to be conserved" thereof⁵ as well as the definitions in the 1970 UNESCO Convention are listed comparatively in the following table. As can be seen in the table, the cultural property required to be conserved in our country are identified in detail.

¹ This report was prepared by the Turkish Ministry of Culture and Tourism, General Directorate for Cultural Heritage and Museums, Anti-Smuggling Department in accordance with the views given by the Ministry of Interior and the Ministry of Customs and Trade.

² See Official Gazette 16861 of 06.01.1980.

³ See Official Gazette 17232 of 26.01.1981.

⁴ See Official Gazette 18113 of 23.07.1983.

⁵ See Law No. 2863 on Conservation of Cultural and Natural Property for the entire texts of Articles 23 and 6.

UNESCO 1970 Convention,	Law 2863 on the Conservation of Cultural and Natural Property,
<p>Article:1 For the purposes of this Convention, the term cultural property' means property which, on religious or secular grounds, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science and which belongs to the following categories:</p> <p>a) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of paleontological interest;</p> <p>(b) property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artist and to events of national importance;</p> <p>(c) products of archaeological excavations (including regular and clandestine) or of archaeological discoveries ;</p> <p>(d) elements of artistic or historical monuments or archaeological sites which have been dismembered;</p> <p>(e) antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;</p> <p>(f) objects of ethnological interest;</p> <p>(g) property of artistic interest, such as:</p> <p>(i) pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);</p> <p>(ii) original works of statuary art and sculpture in any material;</p> <p>(iii) original engravings, prints and lithographs ;</p> <p>(iv) original artistic assemblages and montages in any material;</p> <p>(h) rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections ;</p> <p>(i) postage, revenue and similar stamps, singly or in collections;</p> <p>(j) archives, including sound, photographic and cinematographic archives;</p> <p>(k) articles of furniture more than one hundred years old and old musical instruments.</p>	<p>Article 23 (a): All kind of cultural and natural property from geological periods, prehistory and recorded history, having documentary value in terms of geology, anthropology, prehistory, archaeology and art history reflecting the social, cultural, technical and scientific characteristics and level of the period they belong to.</p> <p>All kind of animal and plant fossils, human skeletons, firestones (sleks), volcanic glass (obsidian), all kind of tools made of bones or metal, tiles, ceramics, similar pots and pans, statues, figurines, tablets, weapons to cut, for defence and assault, icons, glassware, ornaments (hülliyat), ring stones, earrings, needles, pegs, stamps, bracelets a.s., masks, crowns (diadems), leather, cloth, papyrus, parchment or documents inscribed or described on metal, balances, coins, stamped or inscribed tablets, handwritten manuscripts or books with tezhip (gilding), miniatures, embossing of artistic value, oil or water colour paintings, reliques (muhallefat), arms (nişan), medals, portable goods and their parts made of tiles, soil, glass, wood, textiles a.s.</p> <p>Cultural property of ethnographic quality relating to science, religion and mechanical (mihaniki) arts including artefact tools and equipment reflecting the social mission of peoples.</p> <p>b) Due to their importance for national history, documents and goods of historic value relating to the National Independence War period and the Foundation of the Republic of Turkey, personal belongings, documents, books, correspondences and similar movables of Mustafa Kemal ATATÜRK.</p> <p>Article 6(d): Rock-cut tombs, stones with inscription, painting, and relief, cave paintings, mounds (höyük), tumuli, archaeological sites, acropolis and necropolis, castle, fortress, tower, wall, historic barrack, bastion and fortification with their fixed weaponry, ruins, caravanserai, khan, public bath and madrasah, cupola, tomb and tablets, bridges, aqueducts, waterways, cisterns and wells, ancient road ruins, stones indicating distance, stones with holes delineating ancient borders, obelisks, altars, shipyards, quays, ancient palaces, pavilions, dwellings, waterside residences and mansions, mosques, maşjids, musallahs, namazgahs, fountains and sebils, imarethane (communal kitchen), mint, şifahane (hospital), muvakkithane (room for the mosque timekeeper), simkeşhane (silver shop), tekke (dervish lodge) and zaviyahs, cemeteries, hazire (graveyard), arasta, bedesten, bazaar, sarcophagi, stelae, synagogue, basilica, church, monasteries, külliye (complex of buildings adjacent to a mosque), ancient monuments and mural ruins, frescoes, reliefs, mosaics, chimney rocks a.s. immovable are examples of immovable cultural property.</p>

(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)?

Although not being dedicated operational units for fighting against smuggling cultural and natural property, like the Carabinieri organization of Italy, the Department of Anti-Smuggling and Organized Crime (KOM) within the Turkish National Police of the Ministry of Interior and the provincial directorates of Anti-Smuggling and Fighting Against Smuggling and Organized Crime functioning under this department as well as the Gendarmerie units in service within the provinces under the Gendarmerie General Command of the Ministry of Interior fulfill this duty of fighting such crimes in Turkey. The General Directorate of Customs Enforcement of the Ministry of Customs and Trade is another institution responsible for preventing illicit traffic of cultural property through customs. The Anti-Smuggling Branch functioning under the General Directorate of Cultural Heritage and Museums of the Ministry of Culture and Tourism ensures the necessary coordination between the other relevant Ministries dealing with anti-smuggling activities.

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

The most important institutions with which the Ministry of Culture and Tourism works in coordination are the units of police, gendarmerie and customs. All information and documentation regarding any cultural property stolen from a museum, ruin or collector in the country are delivered without delay to Department of Anti-Smuggling and Organized Crime of the Ministry of Interior, the Interpol-Europol Department, the Ministry of Customs and Trade, the Gendarmerie General Command, Turkish Coast Guard Command, all Governorates, the museum directorates under the Ministry of Culture and Tourism, and the collectors, while such property are looked for all over the country and the customs stations as well as the police and gendarmerie units within the provinces are alerted. All kinds of denunciations regarding cultural property smuggling and illegal excavations received by the Ministry of Culture and Tourism are investigated coordinately by these stakeholder institutions, while necessary legal process are initiated for any captured person.

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

Some regular training programs are conducted periodically every year by the experts of the Ministry of Culture and Tourism for "Customs Inspection Officer Candidates" of the Ministry of Customs and Trade on topics such as Prevention of Cultural Property Smuggling, Law No. 2863 on Conservation of Cultural and Natural Property, 1970 UNESCO Convention and the obligations to be fulfilled by our country under this convention, the activities of other international organizations and organizations, such as ICOM Red List and WCO-Model export certificate, our bilateral cooperation agreements for preventing cultural property smuggling and our obligations under such agreements. In order to ensure that the trainees pay attention to the probability of removal from another country of cultural property brought to our country illegally, attention is drawn to the importance of the WCO- Model Export Certificate, the customs officers are instructed on ICOM- Red Lists. Furthermore, some consultation meetings are organized with the expert staff of the headquarters of the Ministry of Interior, Turkish National Police, and Gendarmerie General Command.

3. Inventories and identification

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

(b) Specify the degree of precision, at the national level, of the definition of "cultural property" covered by international conventions (see above I.2(b)). State whether "national treasures" are identified in an official, tentative or exhaustive list.

See above answer of. 1.2 (b).

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

The Object ID standard is not one of the documents fully adapted to our inventory system. However, there is an inventory system which includes all information stressed in the Object ID, such as

photograph, sizes, materials used, technique, period of piece, and identification of piece. Moreover, the work on the project of the National Inventory System of Museums (MUES), which will be a qualified national database for detailed information of the pieces in all our museums, is carried out by the Ministry of Culture and Tourism. This project will serve the users as an e-state application, while all detailed information regarding the pieces recorded in the inventories of all museums will be accessible through internet.

(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?

Various seminars and workshops are organized from time to time so as to train museum personnel to ensure museum security. For instance, during the “24th Museum Recovery Excavations Symposium and International Museology Workshop” organized in Şanlıurfa in 2015 with the attendance of personnel from all museum directorates of the Ministry of Culture and Tourism, some experts from the United States have conducted a seminar on Global Common Problems and Conservation Plans within the scope of Conserving Museums, Ruins, and Historical Sites. Similar training programs were organized for museum staff in the past, especially on risk management in museums and museum security.

In order to minimize the risk of deterioration and destruction of manuscript pieces in the museums and to provide opportunity to researchers for working on manuscript pieces in detail without any time limitation, the Ministry of Culture and Tourism is carrying out a collaborative work with the Turkish Manuscripts Authority. By means of this work, primarily the manuscripts, foils, and rolled manuscripts located in the Topkapı Palace Museum, Hagia Sophia Museum, Turkish and Islamic Arts Museum, Mausoleums Museum, and the Archeological Museums Directorates in Istanbul, which are subordinated to the Ministry of Culture and Tourism, are planned to be scanned digitally. So, deterioration of pieces through physical contact would be prevented and they would be conserved better. Almost all of the Museum Directorates of the Ministry of Culture and Tourism are monitored by camera systems. In addition, 10 Regional Restoration and Conservation Laboratories (Ankara, Antalya, Bursa, Diyarbakır, Erzurum, Gaziantep, İstanbul, İzmir, Nevşehir, and Trabzon) subordinated to the General Directorate of Cultural Heritage and Museums are in service for searching acclimatization, storage and exhibition environments for the conservation of pieces in museums and transfer the pieces to next generations in good condition. Some experts from these laboratories are assigned periodically to examine the physical conditions of museums, including but not limited to storage areas, in order to ensure the pieces conserved in healthy environments. Any deficiencies are identified within the frame of reports drafted as a result of examinations, whereas the precautions for eliminating such deficiencies and creating suitable environments are taken.

Furthermore, the security precautions to be taken for the exhibition halls and storage areas of museums have been specified in Article 7 under the "Security Precautions" section of the Museums Internal Services Regulation, whereas the precautions required to be taken have been specified under the "Security of Exhibition Halls and Storage Areas" in Museology Guide.

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.

Exploration and excavation applications for exploring and uncovering Turkey's rich cultural heritage through scientific excavations have been regulated in Article 35 of Law No. 2863 on Conservation of Cultural and Natural Property. According to this article, applications to the Ministry by scientists willing to conduct scientific excavations and surface explorations in the country are evaluated, and domestic and foreign researchers are authorized to conduct excavations and explorations according to this article. Article 35 of the aforementioned law is as follows:

“The Ministry of Culture and Tourism shall have the exclusive right to survey, sound and excavate with the view of recovering movable and immovable cultural and natural property subject to the provisions of this law. Permit to survey shall be given by the Ministry of Culture and Tourism to Turkish and foreign teams and organisations whose scientific and financial capacity has been appraised and approved by the Ministry. Permit to survey and excavate shall be given by the Council of Ministers upon proposal of the Ministry of Culture and Tourism. Survey, sounding and excavation undertaken by Ministry of Culture and Tourism officials or Turkish scientists assigned by the Ministry shall be bound to a permit by the Ministry of Culture and Tourism. A license for survey, sounding and excavation in restricted military zones shall be issued in the name of the experts that have been notified by the above mentioned teams and organisations upon permission of the General Staff. Unless a justification is provided to the Ministry of Culture and Tourism, the teams and organisations cannot change the names on this license”

The excavation head is required to be an "Archeologist" or an "Art Historian", provided that he/she is pertaining to the relevant subject, and he/she must be at least an Associate Professor having an actual excavation experience of five (5) years minimum. The excavation head must also have publications in his/her field of science. A long-term program for the excavation, a financial resource having a term suitable for the program, and work calendar is required. Moreover, there is a requirement for having the excavation site expropriated. A representative of the Ministry of Culture and Tourism is assigned to each excavation. This representative monitors the compliance of the excavation to the pre-conditioned conditions and program, and provides information to the Ministry about architectural ruins. Whereas the excavation head is obliged to deliver to the Ministry all information, documentation, photographs, drawings, daily reports and other documents related to the excavation as well as the studies regarding the excavation published within the year.

(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?

Illegal excavations are one of the biggest problems threatening the cultural heritage. One of the causes of this problem is that some of the locals living close to ruins and archeological sites, which cover a large part of the country, still consider these properties as a source of income. The lack of awareness on conserving the cultural heritage is another cause. Although it is hardly possible when the illegal excavations was started, we know that such activities were carried out by foreign researchers, in addition to locals, during last period of the Ottoman Empire, and many of our pieces were taken out of the country.

The gendarmerie and police takes the necessary operational precautions to prevent illegal excavations. For instance, the Gendarmerie units operating in the provinces under supervision of the Gendarmerie General Command of the Ministry of Interior conduct frequent patrols as well as planned and unplanned checks around and within archeological sites, ruins, ancient cities, mounds, Tumulus, necropolises, and areas where treasures are sought unlawfully within their areas of responsibility. Denunciations to 156 Gendarmerie denunciation line and information obtained by the Gendarmerie intelligence units are evaluated. The Gendarmerie units also monitor and evaluate the denunciation lines in the internet in cooperation with the relevant non-governmental organizations, whereas the information obtained from these sources are processed in coordination with the judicial authorities. The provincial police forces of the Department of Anti-Smuggling and Organized Crime within the Turkish National Police of the Ministry of Interior conducts operations against illegal excavation incidents within their area of responsibility and legal investigations are launched for any person or persons caught. Moreover, the provincial museum directorates of the Ministry of Culture and Tourism having training programs intended for raising awareness about conservation of the cultural heritage. The Ministry also supports all kinds of training activities. Furthermore, situation assessments are made by each Museum within its area of responsibility through site surveys and determinations so as to fight with this crime in coordination with the stakeholder institutions.

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

According to statistical data given by the Ministry of Custom and Trade; over the last four years, there took place 34 successful seizure incidents of historical artifacts, in which 2265 items were captured. Of these 34 attempts, 68% took place during arrival into the country while only 20% of them were detected when the smugglers were trying to leave the country.

In 2014 alone, 13 attempts to smuggle cultural property into or from Turkey were successfully averted by the Custom Enforcement Teams, preventing otherwise theft of 1042 historical 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.)?

Illicit export of cultural property emerges as an important issue even today. One of the reasons of this is that some segments of society considers cultural property as a source of high income and try to sell such pieces to overseas markets. In addition, the checks and inspections on coasts as well as in airports and customs stations are insufficient due to the geographical position of Turkey, which is surrounded by sea on three sides, and its high tourism potential.

(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?

Pursuant to Article 32 of Law No. 2863 on Conservation of Cultural and Natural Property; *“Movable cultural and natural property to be protected in the country cannot be taken abroad. However, on the condition that, foreign officials provide guarantee and insurance against the possibility of all kinds of damage, loss, threat or violations, and in respect of national interests, the Council of Ministers shall make decision on a temporary exhibition abroad and the return of the property following the decision of the scientific council composed of the heads of archaeology and art history departments of higher education institutions and the proposal of the Ministry of Culture and Tourism”*. According to the provisions of the "Regulation on Ethnographic Qualified Movable Cultural Property"; those who bring cultural and natural property are obliged to declare a photographed inventory list specifying the qualifications (name, type, size, etc.) of each piece while entering into country, whereas a copy of this list must also be submitted to museums.

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

Any cultural property stolen from a museum or a religious building of a foreign country or from a collection of a relevant organization or institution of a foreign country and detected by the national units or upon the request of the relevant country that it has been somehow entered into our country to be returned to the relevant country after the necessary procedures are completed in coordination with the Ministry of Culture and Tourism, Ministry of Foreign Affairs, Ministry of Interior, and Ministry of Customs and Trade, provided that such cultural heritage list has been included in the Stolen Arts Database of Interpol.

Regarding cultural property extracted either by illegal excavations or in defiance of export restrictions of the relevant countries and detected in our country, the cultural property which have been identified as belonging to relevant countries as a result of legal investigations and judicial procedures can be returned.

(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.)?

Some major problems are encountered in returning the pieces, not taken inventory yet, since they were underground and taken out of the country through illegal excavations. Relevant information about the demands for the return of pieces detected abroad and apparently taken out of the country through illegal excavations are conveyed by the Ministry of Culture and Tourism to the Ministry of Justice, which submits such demands to the authorities of the relevant countries within the scope of the European Convention on Mutual Assistance in Criminal Matters and our national regulations. However, there are discrepancies between the relevant national legislations, and the burden of proof introduced by submitting record of stealing and the like documentation to the country requesting return, where such documents cannot be obtained for pieces not taken inventory and taken out of the country through illegal excavations; thus, it is unlikely that this process produces actual results.

(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.

Since any cultural property, which was stolen from a museum, ruin, or collector in Turkey and was taken inventory, is published in the Stolen Arts Database of Interpol, when such an art piece are detected abroad, a request for return, which includes but not limited to information and documentation regarding the theft incident and the stolen piece, is submitted to the competent authorities of the relevant country, pursuant to 1970 UNESCO Convention. As a matter of fact, some of the pieces which was stolen from Turkey and published in the Stolen Arts Database of Interpol were detected abroad in the past and returned to Turkey by means of attempts made. Some of these pieces are the head of the emperor statue stolen from the Saraylar Outdoor Museum in Balıkesir (2008-Germany), the head of statue stolen from the fairground of Kocaeli Museum (2008-Germany), and the winged seahorse brooch stolen from Uşak Museum (2013-Germany).

The return of some of the pieces taken out of the country through illegal excavations has been accomplished through negotiations held within the frame of mutual cultural cooperation with the representatives of the museums and institutions where such pieces were retained. Some examples of such pieces which were returned by this way are the upper half of the "Hercules Statue" returned from Boston Museum of Fine Arts (USA-2011) and the "Orpheus Mosaic" returned from Dallas Museum of Art (USA-2012).

The activities carried out by our country for having the cultural property taken out of our country illegally have had a broad international repercussion as well. As a matter of fact, some people abroad have helped the authorities by appealing to return the pieces they possessed in good faith. For instance, 1 marble inscription and 1 statue head belonging to the Roman period were returned to the country voluntarily by 2 American citizens in 2012, 4 marble pieces were returned by a German citizen in 2012, 23 coins belonging to various periods were returned by an Australian citizen in 2013, 2 amphoras were returned by an American and finally a bronze horse harness piece belonging to the Roman period was returned in 2014.

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).

(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)?

Necessary legal investigations are initiated in Turkey when it is detected that any cultural property required to be conserved is being sold in contravention of the provisions of the Law No. 2863 on Conservation of Cultural and Natural Property. But, domestic purchase, sale and transfer of cultural property which have ethnographic natures in terms of Article 23 of the aforementioned law are free.

Those willing to sell a cultural property which has an ethnographic nature within the scope of Law No. 2863 are required to appeal the relevant Museum Directorate and obtain a certificate proofing that it is free to sell or purchase that property within the country. Such cultural properties are free to be sold within the country by means of this certificate.

The Anti-Smuggling Branch functioning under the General Directorate of Cultural Heritage and Museums of the Ministry of Culture and Tourism makes an effort to monitor the internet sites and auction companies dealing with selling cultural property. In order to prevent the illegal circulation of cultural property through the leading internet shopping sites of Turkey, some efforts are made to add legal warning phrases to inform the users of such web sites. Some examples in this context are as follows: Legal warning phrases have been added to all headings under the "Shopping" category so as to control the sale of cultural property through the leading web site of Turkey which gets approximately 29 million hits every month. Furthermore, some sections have been added to the said web site to demand, from those who are willing to sell cultural property, the details of the certificates issued by Museum Directorates.

(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)?

See the answers below II (a), above 2(e), 5(c) and 6(b).

(d) 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 heritage sites?

Pursuant to Article 24 of Law No. 2863, *“The State shall have the responsibility to ensure that movable cultural and natural property to be protected owned by the state (state property) is preserved by the state or in museums, is conserved and evaluated”*. Pursuant to Article 13, the heading of which is "Prohibition of Transfer", of the aforementioned law; *“No immovable cultural and natural property to be protected owned by the Treasury and other public institutions and organisations registered and declared duly and immovable property belonging to these that are within the designated conservation site can be sold and donated to real and legal persons without the permission of the Ministry of Culture and Tourism”*.

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

In the country, the underground, above ground, and underwater cultural property which have not been explored yet are considered as "state property" according to Article 5 of Law No. 2863. According to this article; *“Immovable property belonging to the state, public institutions and organisations and movable and immovable cultural and natural property to be protected that is known to exist or will be discovered on an immovable property owned by real and legal persons subject to civil law shall have the quality of state property”*.

• Are there any due diligence requirements in place?

Pursuant to Article 4 of Law No. 2863; *“Persons that discover movable and immovable cultural and natural property, owners, proprietors or occupants that know or have recently found out about the existence of cultural and natural property on the land they own or use shall be obliged to notify the*

nearest museum directorship or the village headman or the local administrators of other places within at the latest three days”.

• **What are the rules governing the search of provenance?**

Although there is no planned and specific system for origin searching, the origins of cultural property captured within the boundaries of the Republic of Turkey by the police or gendarmerie units or found and delivered to Museum Directorates by the citizens or cultural property detected abroad and having some serious evidence indicating that they have been taken out from our country illegally are searched by the academicians of the relevant universities through some scientific studies or by the experts of the relevant Museum Directorates through some studies and researches within the scope of legal investigations opened separately.

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

Regarding the immovable cultural property, pursuant to Article 13 of the Law; *“no movable cultural and natural property to be protected owned by the Treasury and other public institutions and organizations registered and declared duly and immovable property belonging to these that are within the designated conservation site can be sold and donated to real and legal persons without the permission of the Ministry of Culture and Tourism”.*

As for the movable cultural property; pursuant to Article 26 of the Law; *“public institutions and organizations, real and legal persons and foundations can create collections of all kind of cultural property to develop their service or fulfill their purpose and establish museums, if they obtain permission from the Ministry of Culture and Tourism.* Private museums are allowed to sell or interchange all kinds of movable cultural and natural property included in their collections, provided that they obtain permission from the Ministry and preserve the integrity of the collection. The museums subordinated to the Ministry has the purchasing priority, where the museum directorate to which the museum subordinated in terms of audit shall be informed about the relevant cultural and natural property by delivering a copy of the sale or transfer contract.

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.

The bilateral agreements and protocols signed by the Republic of Turkey with the relevant countries have been listed in the following.

- 1- Agreement Between the Republic of Turkey and the Republic of Uzbekistan on Mutual Assistance in Preventing the Smuggling of Cultural Values and Securing Their Return⁶
- 2- Customs Cooperation Agreement between the Republic of Turkey and the Republic of Turkmenistan for Capturing and Returning Cultural Property taken in or out of the Country Illicitly⁷
- 3- Agreement between the Government of the Republic of Turkey and the Government of the People's Republic of China on Preventing the Theft, Clandestine Excavation, and Illicit Import and Export of Cultural Property⁸

⁶ See Official Gazette 23410 of 22.07.1998.

⁷ See Official Gazette 23751 of 10.07.1999. P. 10-27

⁸ See Official Gazette 27344 of 09.09.2009.

- 4- Agreement for the Protection, Preservation, Recovery and Restitution of Cultural, Archeological, Artistic and Historical Cultural Property Traded, Exported or Transferred Illicitly Between the Republic of Turkey and Republic of Peru⁹
- 5- Agreement between the Government of the Republic of Turkey and the Government of the Republic of Bulgaria on the Prohibition and Prevention of the Illicit Import, Export, and Transfer of Ownership of Cultural Property¹⁰
- 6- Protocol between the Government of the Republic of Turkey and the Government of the Hellenic Republic on the Prohibition and Prevention of the Illicit Import, Export, Transit, and Transfer of Ownership of Cultural Property¹¹
- 7- Protocol between the Republic of Turkey and the Republic of Romania for Prohibiting and Preventing Illicit Import, Export, Transit, and Transfer of Ownership of Cultural Property¹²

With the objective of preventing illegal international circulation of cultural property and enhancing the transnational cooperation, the abovementioned bilateral agreements and protocols are supposed to provide some positive outcomes in terms of returning pieces in near future.

The return of some cultural property taken out of the country in the past and captured and confiscated in Bulgaria which has become a current issue in reference to the agreement signed with the said country can be considered as an example of the functionality of such agreements.

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

See the above answer of 5(d).

(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?

Mutual exchange of information is being conducted by the Contact Persons of the Police and Customs of the relevant countries.

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?

As mentioned in 5 (c) above, those who brings cultural and natural property are obliged to declare a photographed inventory list specifying the qualifications (name, type, size, etc.) of each piece while entering into country, whereas a copy of this list must also be submitted to museums. In order to have a piece, which was brought from another country, put on auction, first of all, the museum directorate located where the auction will take place should be appealed to 1 month in advance. The certificate regarding the pieces being sold within the country is delivered to the museum. In addition, pursuant to the provisions of the "Regulation on Collecting and Control of Movable Cultural and Natural Property

⁹ See Official Gazette 27481 of 02.02.2010.

¹⁰ See Official Gazette 28593 of 03.20.2013. P. 6-19

¹¹ See Official Gazette 28690 of 06.27.2013.

¹² The protocol has been signed in Ankara on September 19th, 2013. Refer to letter no 31853594-101-932-1874 dated 17.04.2014 of the General Directorate of Laws and Decisions of the Prime Ministry.

Required to be Conserved", any movable cultural or natural property to be included in a collection must be recorded by the collector under the supervision of museum experts on two inventory registers to be provided by the museum directorate. The acquisition ways, periods, and physical identifications of movable cultural and natural property is specified when recording. One of the inventory registers, which also contains the photographs of movable cultural and natural assets duly taken by their owners, are kept in the museum. Since the museum directorates and collectors are notified with any information or denunciation about pieces stolen both within and out of the country, it is believed that a control mechanism has been provided. In this way, it has been tried to achieve action in compliance with the criteria related to acquiring collections, among the Codes of Conduct constituted by UNESCO and ICOM for museologists, persons dealing with antiques trade, and collectors.

Awareness raising and education

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

The Emergency Red List of Syrian Cultural Objects at Risk published by ICOM has been translated into Turkish, and this list will be announced to museums and collectors across the country after the necessary approvals of ICOM are taken. Such lists conveyed to the Ministry of Culture and Tourism by both ICOM and INTERPOL are being published; as an example, the “Most Wanted Art Works” reported by Interpol have been announced in the past, whereas the pieces published under the name “one hundred missing object” could not be announced since no relevant documentation has been delivered to our Ministry.

(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.

The Ministry of Culture and Tourism supports all kinds of projects prepared for conserving the cultural and natural property. Some projects implemented in the Provinces are included in such projects as well. The project of "Conservation of Cultural and Natural Property" supported by the General Directorate of Cultural Heritage and Museums and implemented in the Province of Burdur can be given as an example. This project has aimed at effectively improving the awareness of conserving the historical environment and cultural property, knowing our own culture as well as the other one by means of a versatile and tolerant approach, developing an intercultural understanding and empathy, achieving coordination among the relevant institutions so as to promote the historical and touristic values of the province, and preventing smuggling cultural and natural property within the governing boundaries of the province of Burdur. Various educative activities were organized within the scope of this project by the administrative provincial bodies, Provincial Museum Directorate, and Gendarmerie teams intended for local people and children. The visuals prepared within the context of a project implemented by Burdur Governorate are given in the following.



Tarihi Eserlerimizi Korursak GÖRMEYE GELECEKLER

TURİST ZENGİNLİK DEMEKTİR. TARİHİ ESERLERİMİZE SAHİP ÇIKALIM.

TARİHİ ESER KAÇAKÇILARINI 156 JANDARMA İMDAT HATTINA BİLDİRİNİZ.



BURDUR VALİLİĞİ İL KÜLTÜR VE TURİZM MÜDÜRLÜĞÜ



BURDUR İL JANDARMA KOMUTANLIĞI



GEÇMİŞİNİ YİTİREN



GELECEĞİNİ BİTİRİR.

TARİHİ ESERLERİMİZİ

BİRLİKTE KORUYALIM

KAÇAK KAZI YAPANLARI 156 JANDARMA İMDAT HATTINA BİLDİRİNİZ.

Various activities intended to children are organized frequently by the museum directorates subordinated to the Ministry of Culture and Tourism in order to create awareness and consciousness about the cultural heritage, whereas awareness of conserving the cultural heritage by means of these activities are aimed at as well. The Children/Museum/Drama Training Project named "Hittite through the eyes of children - Exploring Hattusa" implemented by Çorum Museum Directorate can be given as an example to this. Furthermore, the "Children-Friendly Museum" project initiated by the Ministry of Culture and Tourism aims at making museum environments more attractive for children and creating a participatory and permanent learning environment.

Some seminars/conferences about the relevant legislation are also organized by the Museum Directorates, Provincial Culture and Tourism Directorates, and expert staff at universities. The non-governmental organizations in Turkey carry out numerous activities for conserving the cultural heritage and preventing smuggling, too.

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?

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?

The activities being carried out in the country by the Interpol-Europol Department operating under the Turkish National Police of the Ministry of Interior are listed in the following:

- Publishing information regarding stolen cultural property reported by the Ministry of Culture and Tourism and the Directorate General of Foundations subordinated to the Prime Ministry in the Stolen Arts Database of Interpol,
 - Checking whether a piece captured in the country is one of the pieces published in the Stolen Arts Database of Interpol,
 - Checking and determining through Stolen Arts Database of Interpol whether a cultural property captured in the country and the origin of which is considered out of the country is internationally wanted,
 - Determining whether the origin of a piece captured abroad and suspected to have an origin of our country is stolen.
- These checks are also made by the General Directorate of Cultural Heritage and Museums of the Ministry of Culture and the Anti-Smuggling Branch and information is exchanged with the Interpol-Europol Department,
- The access authorization to the stolen arts database of Interpol is being transferred to national units,
 - International information exchange for police cooperation about the suspects involved in antiquities smuggling and crime is being achieved.

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

Although there is no specific training program intended for the Police force to prevent cultural property smuggling, the police and gendarmerie personnel in particular carry out joint seminars and training activities for their relevant units along with the participation of the experts of the Ministry of Culture and Tourism. Moreover, some meetings are organized among these institutions with the participation of the experts of the relevant Ministries so as to make situation assessments and exchange information.

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

The penalties to be applied to actions against the provisions of the Law No. 2863 regarding cultural and natural property has been specified in the Law No. 2863 on Cultural and Natural Property.

Pursuant to Article 67 of this Law; *“Persons who contradict with the obligation to report about the cultural and natural properties intentionally and without excuse shall be punished with a prison sentence of six months to three years. Persons who tender, sell, offer, buy, accept the cultural and natural properties which haven’t been reported shall be punished with a prison sentence of two to five years and judicial fine up to five thousand days”*.

Pursuant to Article 74; *“Persons who sound and excavate in order to find cultural properties without a license shall be punished with a prison sentence of two to five years. However, if the excavation or sounding location is not a preservation site or any other area to be protected according to this Law, one third of the penalty will be reduced. Persons who hunt for treasures without permission shall be punished with a prison sentence of three months to two years. However, if these acts are committed with the aim of smuggling cultural properties out of the country or by the persons who have the duty to protect the cultural properties, the penalty will be increased up to two fold”*.

There is no definition of a crime of "Fraud or Theft of Cultural Heritage" in the Turkish Criminal Code. However, in cases of using fake /imitation pieces for the purpose of fraud, the provisions of the article "Fraud" (Turkish Criminal Code: 157) is applied, since such an act constitutes the simple form of this crime.

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

Turkey is one of the state parties of the United Nations Convention against Transnational Organized Crime¹³. However, no police cooperation have been managed to achieve for protection against trafficking in cultural property. In fact, the work, included but not limited to the participation of some experts in the meetings organized by UNODC since 2009 for the purpose of applying the Organized Crime Convention to the protection of cultural property, especially the work for development of specific guidelines for crime prevention and criminal justice responses with respect to trafficking of cultural property have been followed closely and these meetings have been contributed.

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?

Ministry of Customs and Trade is the key public institution in maintaining active relationship with the WCO. The ministry carries out numerous activities with the WCO, among which, the CEN (Customs Enforcement Network) and ARCHEO have utmost importance in the fight against illicit trade of cultural property. CEN is a system developed by the WCO to assist Customs administrations with the collection and storage of law-enforcement information on the national level, with the additional capability to exchange this information at the regional and international levels. ARCHEO on the other hand is a real-time communication tool for information exchange and cooperation in the area of cultural heritage border protection. Information transmitted through it is encrypted and secured and access in both systems is limited only authorized to personnel.

Directorate General of Customs Enforcement currently has four experts who are specialist in cultural property smuggling and active users of the CEN and ARCHEO. They are responsible for monitoring the traffic of cultural property trade and, in coordination with heritage experts, devising strategies to cripple illicit trade of cultural object and historical artifacts, as well as for proposing necessary amendments in relevant legislation if need be¹⁴.

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

Ministry of Customs and Trade well aware of the fact that, highly-qualified staff is the most valuable asset in the fight against smugglers and that sophisticated training programs are the key to this end. In the area of combating smuggling, there are two groups of professionals. One is Enforcement Officers, one of four official law enforcement agencies of the country, whose duty is to protect the borders and to carry out active fighting against smugglers all around the country. The other is Customs and Trade Specialists working in the Directorate General of Customs Enforcement and are stationed in the Ministry's main building in the national capital. They are tasked with overseeing proper implementation of the relevant legislation and devising and proposing strategies to cripple smuggling. Both of these groups are required to complete a training program before being qualified as the Ministry's personnel. This program, normally takes between 4 and 7 months, is designed to provide would-be personnel with necessary knowledge and skills to effectively fight against illicit trade of

¹³See Law No 4800 dated 30.01.2003 on Approval of our Accession of the United Nations Convention against Transnational Organized Crime.

¹⁴ This information was given by the Ministry of Customs and Tradei Directorate General of Customs Enforcement.

goods. Among these goods, cultural property has an important place, since Turkey in the past lost invaluable cultural objects some of which are now exhibited in museums around the world. For this reason, the curriculum has a course named “Combating Cultural Object Smuggling” which is taught by both experts from Ministry of Culture and Tourism and academicians from universities.

Secondly, enforcement officers working in “Anti-Smuggling and Intelligence“ offices across the country, are trained on the WCO’s CEN and ARCHEO systems so that they can actively use and tap into these systems.

Thirdly, customs and trade experts take part in training programs on cultural property smuggling regularly held at Ministry of Culture and Tourism

Last but not least, staffs working in Regional Directorates are regularly trained on effective use of the CEN and ARCHEO to ensure that they can actively use these systems¹⁵.

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

Since it is prohibited in Turkey to export cultural property required to be conserved pursuant to Article 32 of Law No. 2863 on Conservation of Cultural and Natural Property, the “Model Export Certificate for Cultural Objects” of UNESCO-WCO is not used.

However, considering national interests, it can be decided to temporarily exhibit these items abroad and bring back upon the proposal of the Ministry of Culture and Tourism and resolution of a scientific board constituted by the Ministry of Culture and Tourism among the chairmen of archeology and art history departments of higher education institutions, provided that necessary guarantees of the destination country are taken and the relevant items are insured against the probability of all kinds of damage, loss, threat, or offense.

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.

Although not being a member state of the European Union, Turkey is a country continuing the work and process of full membership to the EU.

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?**
- (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?**

The Republic of Turkey is taking all necessary measures in collaboration with all of the relevant Ministries, institutions, and organizations in order to prevent international trafficking of cultural property, the origins of which are Iraq and Syria, which are the border countries of us that we share common history and cultural background. All Museum Directorates subordinated to the Ministry of Culture and Tourism as well as the security forces and customs authorities are advised by means of circulars published periodically, whereas all necessary precautions are being taken in order to capture

¹⁵ This information was given by the Ministry of Customs and Trade Directorate General of Customs Enforcement

cultural property taken illegally out of Iraq, Syria, and the surrounding region and put these under protection. The Iraq- and Syria-origin pieces captured as a result of operations carried out by the Police, Gendarmerie, and customs units are being kept in Museum Directorates to be returned where they belong when the situation within the region become normal.

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?

Turkey is not a party to 1995 UNIDROIT Convention

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

- **the stage of the ratification process reached by the State concerned (close to ratification, under way, actively under preparation, not considering ratification in the short, medium or long term)** ;

Turkey is a country planning to become a party to 1995 UNIDROIT Convention. Consultations with the relevant Ministries for this purpose are still continuing.

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.).

Turkey is a country participating in ICPRCP meetings on a regular basis and following the work of the Committee closely. The membership¹⁶ of Turkey to ICPRCP listed in below.

6th session – April 1989, Paris.

7th session-April 1991, Athens.

8th session- May 1994, Paris.

11th session- March 2001, Phnom Penh

12th session , March 2003, Paris.

18th session, June 2012, Paris.

19th session, October 2014, Paris

Turkey also participated to the meetings of ICPRCP actively as an observer State in the past. As a matter of fact Turkey had brought up the return of Boğazköy sphinx of the Hittite civilization, which was located in Germany's Berlin Museum, to the agenda of the ICPRCP in 1987. In line with the recommendations as a result of the Committee meetings held since that date, German and Turkish delegations have reached a settlement, and hence the piece have been returned. And consequently, the Boğazköy sphinx has been returned to Turkey in 2011.

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.

¹⁶ Turkey has been elected a member state of the ICPRCP Committee during the 36th Session of the General Conference of UNESCO (November-2011), whereas the membership of Turkey will be ended at the end of the 38th Session of the General Conference of UNESCO (2015).

Law No. 2863 on Conservation of Cultural and Natural Property, which is the basic regulation related to the cultural heritage in UNESCO National Cultural Heritage Laws Database, and regulations issued depending on this Law are being published, this database shall be tried to be updated insofar as personnel and working conditions permit.