

## CULTURAL GOODS

### **COUNCIL DIRECTIVE 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State** (OJ L 74, 27.3.1993, p. 74)

Amended by:

- Directive 96/100/EC of the European Parliament and of the Council of 17 February 1997 (L 60 59 1.3.1997) and
- Directive 2001/38/EC of the European Parliament and of the Council of 5 June 2001 (L 187 43 10.7.2001)

#### **Background**

Directive 93/7/EEC on the return of cultural goods unlawfully removed from the territory of a Member State (MS) is a measure which was enacted to accompany the elimination of internal frontiers in the Community after the 1<sup>st</sup> January 1993.

#### **Aim of the Directive on cultural goods**

Together with Regulation (EEC) N°3911/92 on the export of cultural goods, the Directive introduces a Community system to protect MS' cultural goods.

The Directive enables MS **to secure the return** to their territory of cultural goods that have been removed from their territory in breach of national or Community law.

However, is important to emphasise that the Directive **does not apply** to the import, export or transfer of cultural goods between Member States.

#### **Scope of application:**

For the purposes of the Directive, 'Cultural object' means an object which is classified among the 'national treasures possessing artistic, historic or archaeological value' under national legislation. Additionally, the object must either

- belong to one of the categories listed in the Annex to the Directive (the Annex has been modified twice since 1993); or
- form an integral part of public collections or the inventories of ecclesiastical institution.

The Directive applies only to cultural objects unlawfully removed from the territory of a Member state on or after 1 January 1993.

However, Member States may apply the Directive to requests for the return of cultural objects unlawfully removed from the territory of other Member States prior to 1 January 1993.

### **Administration tasks**

Each Member State shall, in the national legislation implementing the Directive, appoint one or more central authorities to carry out the tasks provided for in the Directive. In general, this authority is the Ministry of Culture.

In order to facilitate cooperation between the Member states, the Commission publishes periodically a list of these central authorities.

### **Mechanisms provided for by the Directive**

The Directive obliges MS to establish, in their implementing legislation, a system of administrative cooperation between the MS as regards national treasures which have been unlawfully removed and the basis for judicial proceedings before the Court in the MS in whose territory the unlawfully removed cultural object is located.

#### **1 Administrative Cooperation**

The implementing legislation must also require the national competent authorities of the MS, in particular, to:

- seek, upon application by the "requesting Member State", a specified cultural object which has been unlawfully removed from its territory, identifying the possessor and/or holder. The application must include all information needed to facilitate this search, with particular reference to the actual or presumed location of the object;
- notify the Member States concerned, where a cultural object is found in their own territory and there are reasonable grounds for believing that it has been unlawfully removed from the territory of another Member State;
- enable the competent authorities of the requesting Member State to check that the object in question is a cultural object, provided that the check is made within 2 months of the notification referred to above;
- take any necessary measures, in cooperation with the Member State concerned, for the physical preservation of the cultural object;
- prevent, by the necessary interim measures, any action to evade the return procedure;
- act as intermediary between the possessor and the requesting Member State with regard to return.

## 2 **Judicial Proceedings**

The implementing legislation must provide that the requesting Member State may initiate, before the competent court in the Member State in which a cultural object unlawfully removed from the requesting MS is located, proceedings against the possessor with the aim of securing the return of the object.

However, these proceedings may be brought only where the document initiating them is accompanied by:

- a document describing the object covered by the request and stating that it is a cultural object,
- a declaration by the competent authorities of the requesting Member State that the cultural object has been unlawfully removed from its territory.

The national legislation must lay down that the return proceedings provided for in the Directive may not be brought more than one year after the requesting Member State became aware of the location of the cultural object and of the identity of its possessor.

However, such proceedings may, at all events, not be brought more than 30 years after the object was unlawfully removed from the territory of the requesting Member State, except in case of objects forming part of public collections and ecclesiastical goods which are subject to special protection arrangements under national law.

### **Categories of cultural goods listed in the Annex**

This list was modified in 1996 and 2001 to add new categories or objects and to alter the financial value. This list has to be implemented in the national legislation. Member States may extend the obligation to return cultural objects to cover categories of objects other than those listed in the Annex.

<b>Objects</b>	<b>Financial value</b>
1. Archaeological objects more than 100 years old which are the products of: <ul style="list-style-type: none"> <li>– land or underwater excavations and finds,</li> <li>– archaeological sites,</li> <li>– archaeological collections.</li> </ul>	Whatever the value is
2. Elements forming an integral part of artistic, historical or religious monuments which have been dismembered, more than 100 years old.	Whatever the value is
3. Pictures and paintings, other than those included in Category 3A or 4, executed entirely by hand on any material and in any medium	150.000 €

<b>Objects</b>	<b>Financial value</b>
3A. Water-colours, gouaches and pastels executed entirely by hand on any material	30.000 €
4. Mosaics in any material executed entirely by hand, other than those falling in Categories 1 or 2, and drawings in any medium executed entirely by hand on any material	15.000 €
5. Original engravings, prints, serigraphs and lithographs with their respective plates and original posters.	15.000 €
6. Original sculptures or statuary and copies produced by the same process as the original other than those in category 1.	50.000 €
7. Photographs, films and negatives thereof.	15.000 €
8. Incunabula and manuscripts, including maps and musical scores, singly or in collections.	Whatever the value is
9. Books more than 100 years old, singly or in collections.	50.000 €
10. Printed maps more than 200 years old.	15.000 €
11. Archives and any elements thereof, of any kind, on any medium, comprising elements more than 50 years old.	Whatever the value is
12. (a) Collections and specimens from zoological, botanical, mineralogical or anatomical collections;  (b) Collections of historical, palaeontological, ethnographic or numismatic interest	50.000 €
13. Means of transport more than 75 years old.	50.000 €
14. Any other antique item not included in categories A 1 to A 13, more than 50 years old.	50.000 €