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برنامج ممول من الإتحاد الأوروبي

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التراث الأوروبي المتوسطي



strengthening of institutional and legal frameworks/
renforcement du cadre institutionnel et juridique/
تعزيز الأطر المؤسسية والقانونية

BACKGROUND PAPER

Introduction

In order to maximise the outcome of the Beirut workshop, each participant is asked to present a state of the art in his/her country concerning illicit traffic of cultural properties.

This contribution will be presented in a synthetic note (some 5 pages), written in such way that it can be circulated to the other participants before the workshop.

This synthetic note should help the participants to collect the national data, to identify strengths and weaknesses and to be prepared for the debate during the workshop.

These national contributions should allow a comparative analysis and the identification of common issues in order to suggest solutions applicable to the different countries..

As far as possible, just to make possible comparisons between countries, it is recommended to follow the schema in 14 points proposed hereunder. Of course some flexibility is allowed in the preparation of this contribution and some points can be ignored if the data are not available. Even if some points are raised in the form of questions, the document should be considered as a guide rather than as a questionnaire.

It is highly recommended the contribution to report on good practices. On the other hand, you should not hesitate to identify the main difficulties you have to face, in order to allow suggestions of solution to be presented jointly during the workshop.

The workshop has an operational objective. One shall examine how to adapt the national legislations to the main international conventions and guidelines and how to elaborate jointly practical and concrete recommendations for the organisation of the services, for the management of museums, of (public and private) collections and of heritage sites.

The contribution should be written in English or in French.

The contribution will be circulated by email among the other participants in the first few days of November.

Therefore, the participants are strongly invited to send their contribution as soon as possible and before October 30 at the latest.

Thank you very much for your kind cooperation.



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BACKGROUND PAPER

Proposed Schema:

1. Adhesion to the main international conventions.

Thank you for indicating whether there is signature and ratification by your country of the three main international conventions:

The Hague Convention of 1954 and its two additional protocols (1954 & 1999) "*for the protection of Cultural Property in the Event of Armed Conflict*".

The UNESCO Convention of 1970 "*on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*".

The UNIDROIT Convention of 1995 "*on Stolen or Illegally Exported Cultural Objects*"

If your country has not signed or ratified one of these international documents, could you indicate the legal or political reasons justifying this position?

Thank you for describing how your country is involved in the work of the UNESCO International Committee "*for the return of cultural properties in their country of origin or their restitution in case of illegal appropriation*".

2. Implementation of the international conventions and recommendations in the internal legal system and in the organisation of the services.

Thank you for indicating the reference, date and object of the principal existing legislation and regulations adopted in the view of implementing the conventions.

The definition of "cultural properties", in concordance with the definition of the Conventions is important to have a more effective international co-operation. Is it the case in your country? If not, which is the definition used in your national legislation?

In your national legislation is there a definition of national cultural property opposed to the foreign cultural heritage? If so, which is this definition?

3. Regime of ownership and of transfer of ownership of cultural properties.

Thank you for indicating the legal regime of ownership of cultural properties in your country: to which extent is the principle of inalienability of application for cultural properties in the national collections and for objects originating from heritage sites; the status of cultural properties not yet discovered, of cultural properties discovered by chance, of archaeological objects from legal or illegal excavations.

Are there in your country particular norms concerning the transfer of ownership of cultural properties? If so, thank you for indicating shortly their content.



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4. Institutional aspects.

Are there specialised services organised in order to prevent or to fight illicit traffic and to operate international cooperation in the protection of cultural heritage? Is it within the Heritage Department? Or in other governmental services?

Could you shortly describe the administrative coordination of these specialised services, namely with the police and customs authorities (see points 12 and 13).

Do working meetings allow the police and customs representatives to meet with members of the Ministry to meet and coordinate their actions?

5. Bilateral agreements.

Thank you for mentioning the bilateral agreements with other countries in the field of export, of import and of return of cultural properties and for indicating shortly the degree of satisfaction of these agreements.

Apart from the existence of bilateral agreements, is there an administrative assistance of another type of particular cooperation, namely with the police and the customs services of the neighbouring countries?

6. UNESCO legal database

Thank you for indicating how is the UNESCO database fed and for verifying whether it contains all the legislative texts and regulations of your country, including the successive amendments.

To which extent do you refer to the database in the case of theft or of suspicion or illicit export?

7. Codes of Ethics

Are the Codes of Ethics known by the concerned professionals? The Code of Ethics of ICOM and the UNESCO International Code of Ethics for the merchant of cultural properties.

Thank you for describing the type of control of these norms, in particular with antique dealers, merchants and collectors.

Are the "Red Lists" circulated? Are they consulted? And the collection "100 disappeared objects"?

Are there in your country deontological regulations or even a simple current and standard practice in the field of alienation and acquisition of cultural properties by the museums and other public cultural institutions? If so, could you shortly describe them?

8. Inventories – Identification

Thank you for indicating shortly to which extent do the inventories take into consideration the risks of theft or misappropriation.



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Thank you for describing the degree of precision, at the national level, in the definition of "cultural properties" of the international conventions, as mentioned in point 2. Is there an official list, tentative or exhaustive, identifying the "National Treasures"?

To which extent is the norm "Object ID" used? It is probably according to the value of the objects and of the risks of misuse. Is the norm appropriate to meet your needs?

If there are anti-theft systems in the museums, please do indicate them.

Thank you for describing the particular measures taken in the libraries, in the reserves of archives and of manuscripts, as well as the specialised services in charge of their supervision.

9. Archaeological excavations.

Please, describe shortly the basis principles of the regulations concerning the archaeological excavations in your country and the control of the excavations.

Do you have to face regular problems of illegal excavations? If so, which are, in your opinion, the reasons and the origin of these excavations? Which measures are taken in order to fight this plague?

10. Market of cultural properties

Please describe shortly the market of cultural properties in your country. Which are the main regulations of this market? Is it subject to a particular control? If so, which one?

11. Control of export and of import of cultural properties.

Which are the main regulations for the control of export of cultural properties from your country? Which categories of cultural properties are submitted to this control?

Is the import of cultural properties submitted to a control in your country? If so, which are the main regulations and do they foresee the restitution of cultural properties illegally imported?

Is the export of cultural properties a recurrent issue in your country? If so, which are the reasons of this situation (lack of financial and human resources, gap in the legal system of control, etc.)?

Which measures, namely administrative and legal measures, taken in the view of preventing the national cultural heritage from being looted?

Do you have statistics concerning the theft of cultural properties? Are they up-dated?

Which are the principal obstacles in your country for the restitution of cultural properties that have been illegally exported? Which is their nature (administrative, legal or political) and their origin (gap in the legislation, reticence of the importing countries, lack of international cooperation, etc.)?



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If your country has been successful in obtaining the restitution of a looted cultural property, thank you for describing in which circumstances. Did you go to court or did you proceed through arbitration?

12. Interpol and police services.

How does your country cooperate with Interpol? Which specialised police services the managers of cultural heritage can ask to intervene for investigations or prosecution and repressive measures?

In case of disappearance of a cultural property, do you consult the Interpol database on stolen objects? Do you communicate to Interpol information concerning the people involved in theft of cultural properties?

Are there particular training programmes for the members of the specialised police services?

Please, describe the penal provisions that foresee repression of abuses and thefts. Indicate also whether there are magistrates specialised in this field.

13. World Customs Organisation, customs services.

How does your country cooperate with the World Customs Organisation? Which specialised customs services can help the curators in order to prevent illicit export of cultural properties?

Are there particular training programmes for the personnel of the customs services?

Please, indicate to which extent the UNESCO-WCO model of certificate for the export of cultural properties is being used.

Are there special measures in order to control the transactions of cultural properties on the web?

14. General information and public awareness.

Please, give a short description of the actions undertaken in order to raise public awareness on the severe damages caused by illicit excavations, theft of cultural properties and illegal export.