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# Act on the Return of Cultural Objects Unlawfully Removed from the Territory of a Member State of the European Union<sup>1</sup>

Passed 11.06.2003  
RT I 2003, 51, 351  
Entry into force 01.05.2004

Amended by the following acts

Passed	Published	Entry into force
17.12.2003	RT I 2003, 88, 591	01.05.2004
14.04.2004	RT I 2004, 30, 208	01.05.2004
20.05.2004	RT I 2004, 46, 330	14.06.2004
15.06.2005	RT I 2005, 39, 308	01.01.2006
26.11.2009	RT I 2009, 62, 405	01.01.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, p. 24 - 26).
08.12.2011	RT I, 29.12.2011, 1	01.01.2012
19.02.2014	RT I, 13.03.2014, 4	01.07.2014
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, official titles of ministers replaced on the basis of subsection 107 <sup>3</sup> (4) of the Government of the Republic Act.
16.12.2015	RT I, 06.01.2016, 4	16.01.2016

## § 1. Scope of application of Act

(1) This Act regulates the return to a Member State of the European Union of cultural objects which have been unlawfully removed from the territory of that Member State of the European Union (hereinafter Member State) and brought to Estonia.

(2) The Administrative Procedure Act applies to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

## § 2. Definitions used in this Act

In this Act, the following definitions are used:

1) **cultural object** means an object which is classified or defined by a Member State under national legislation, before or after its unlawful removal from the territory of a Member State, as being among the national treasures possessing artistic, historic or archaeological value within the meaning of Article 36 of the Treaty on the Functioning of the European Union;

[RT I, 06.01.2016, 4 – entry into force 16.01.2016]

2) **unlawful removal of a cultural object from the territory of a Member State** means the removal of a cultural object from the territory of a Member State of the European Union in breach of the rules on the removal of cultural objects established under the legislation of the Member State or in breach of Regulation 116/2009/EC (OJ L 39, 10.02.2009, p. 1–7), or failure to return a cultural object at the end of a period of temporary removal or any breach of another condition governing such temporary removal;

[RT I, 06.01.2016, 4 – entry into force 16.01.2016]

3) **requesting Member State** means the Member State from whose territory a cultural object has been unlawfully removed and who requests the return thereof;

4) **return of a cultural object** means the return of the cultural object to the territory of the requesting Member State.

### § 3. Categories of cultural objects

[Repealed - RT I, 06.01.2016, 4 – entry into force 16.01.2016]

### § 4. Submission of request

(1) A request for the return of a cultural object unlawfully removed from a Member State shall be submitted to the National Heritage Board.

(2) The following information shall be set out in a request:

- 1) a description of the cultural object and a document stating that it is deemed to be a cultural object in the Member State;
- 2) a declaration by the competent authorities of the requesting Member State that the cultural object has been unlawfully removed from its territory;
- 3) information concerning the actual or presumed location of the cultural object and its owner or possessor;
- 4) other information deemed necessary by the requesting Member State for initiating the return of the cultural object.

### § 4<sup>1</sup>. Central authority

(1) The central authority organising the performance of functions prescribed for the return of cultural objects unlawfully removed from a Member State of the European Union shall be the National Heritage Board.

(2) The central authority shall:

- 1) notify the relevant Member States of cultural objects found in the territory of Estonia if there is reason to believe that the cultural object has been unlawfully removed from the territory of another Member State;
- 2) 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 six months of the notification;
- 3) take any necessary measures for the preservation and return of the cultural object to the Member State, unless the requesting Member State has failed to check that the object in question is a cultural object within the term provided for in clause 2) of this section;
- 4) ensure the exchange of information between the requesting Member State and the owner or possessor of the cultural object;
- 5) act as an intermediary between the Member State which submitted a request for the return of a cultural object and the owner thereof with regard to reaching an extra-judicial agreement.

(3) In order to perform the functions provided for in this Act, to cooperate and exchange information with other Member States, the central authority shall use a module of the Internal Market Information System established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (the IMI Regulation) (OJ L 316, 14.11.2012, p. 1–11).

(4) Cultural objects taken into safe-keeping during the return proceedings shall be kept by the central authority. If it is not possible or expedient for the central authority to keep the cultural objects, the Ministry of Culture shall appoint a national museum into which the cultural object is deposited for safe-keeping or shall grant an approval to the central authority for depositing the cultural object for safe-keeping into another museum with the necessary conditions for safe-keeping.

[RT I, 06.01.2016, 4 – entry into force 16.01.2016]

### § 5. State supervision

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(1) State supervision upon the return of unlawfully removed cultural objects shall be exercised by the National Heritage Board.

(2) For the execution of state supervision provided for in this Act, the National Heritage Board may apply the special state supervision measures provided for in §§ 30, 31, 49, 50, 51 and 52 of the Law Enforcement Act on the basis of and pursuant to the procedure provided for in the Law Enforcement Act.

(3) [Repealed - RT I, 06.01.2016, 4 – entry into force 16.01.2016]

#### **§ 5<sup>1</sup>. Specifications of state supervision**

[Repealed - RT I, 06.01.2016, 4 – entry into force 16.01.2016]

#### **§ 5<sup>2</sup>. Limit of non-compliance levy**

In the event of failure to comply with a precept, the upper limit of non-compliance levy imposed pursuant to the procedure provided for in the Substitutional Performance and Non-Compliance Levies Act shall be 640 euros.  
[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

#### **§ 6. Co-operation of central authority with other authorities**

(1) The Police and Border Guard Board and the Tax and Customs Board shall assist, within the limits of their competence, in locating within the territory of Estonia cultural objects unlawfully removed from the territory of a Member State. These authorities shall communicate any information pertaining to the location and the owner or possessor of a cultural object unlawfully removed from the territory of a Member State to the National Heritage Board in writing within five working days as of obtaining such information.  
[RT I, 29.12.2011, 1 – entry into force 01.01.2012]

(2) At the request of the Police and Border Guard Board and the Tax and Customs Board, an expert of the National Heritage Board shall conduct an assessment in order to determine the cultural value of an object.  
[RT I, 29.12.2011, 1 – entry into force 01.01.2012]

(3) The authorities specified in subsection (1) of this section shall above all use the information system specified in subsection 4<sup>1</sup>(3) of this Act for cooperation and exchange of information.  
[RT I, 06.01.2016, 4 – entry into force 16.01.2016]

#### **§ 7. Obligations of owner and possessor of cultural object**

[Repealed - RT I, 13.03.2014, 4 – entry into force 01.07.2014]

#### **§ 8. Precept**

[Repealed - RT I, 13.03.2014, 4 – entry into force 01.07.2014]

#### **§ 9. Initiation of judicial proceedings for return of cultural object**

(1) The requesting Member State may file an action with the county court of the location of the cultural object in order to initiate proceedings against the owner or possessor of the cultural object with the aim of expropriation of the cultural object or its reclamation and return from illegal possession and the award of fair compensation to the owner within three years after the competent central authority of the requesting Member State became aware of the location of the cultural object and of the identity of its owner or possessor.  
[RT I, 06.01.2016, 4 – entry into force 16.01.2016]

(2) The documents specified in clauses 4 (2) 1) and 2) of this Act shall be annexed to a statement of claim.

(3) The requesting Member State shall immediately notify the National Heritage Board that proceedings have been initiated and the National Heritage Board shall inform the central authorities of the other Member States.

(4) Return proceedings may not be brought more than thirty years after the cultural object was unlawfully removed from the territory of the requesting Member State or if removal of the object from the territory of the requesting Member State is no longer unlawful at the time when proceedings are to be initiated. In the case of cultural objects forming part of a collection defined as public in accordance with the legislation of a Member State, a collection of a local or regional museum, archives or library of a Member State, a collection significantly financed by a Member State, or a collection of a religious association, return proceedings shall be subject to a time-limit of seventy-five years as of the unlawful removal of the object, unless the requesting Member State applies a limitation period or in the case of a bilateral agreement between the Republic of Estonia and the requesting Member State laying down a period exceeding seventy-five years.

#### **§ 10. Judicial proceedings**

(1) Matters of expropriation of cultural objects or their reclamation and return from illegal possession and the award of compensation shall be heard pursuant to the procedure provided in the Code of Civil Procedure.  
[RT I 2005, 39, 308 – entry into force 01.01.2006]

(2) The owner of a cultural object does not have the right to file any objections not arising from this Act to an action filed with the aim of securing the return of a cultural object.

(3) In the proceedings specified in this section, the requesting Member State may be represented by the Republic of Estonia if so authorised by said Member State.

(3<sup>1</sup>) Expropriation of a cultural object shall also be applied with regard to a person who has received the cultural object by way of succession or as a gift and in this case the owner shall not be in a more favourable position than the person from whom he or she acquired the cultural object.  
[RT I, 06.01.2016, 4 – entry into force 16.01.2016]

(4) In the case specified in subsection (3) of this section, the Republic of Estonia shall be represented by the National Heritage Board.

## **§ 11. Return of cultural object and award of compensation**

(1) A court shall order the expropriation of a cultural object from the owner or the reclamation of a cultural object from the illegal possession of its possessor and the return of the cultural object in question to the requesting Member State where it is found to be a cultural object within the meaning of clause 2 1) of this Act and to have been removed unlawfully from the territory of the requesting Member State.

(2) Where a court orders the expropriation and return of a cultural object unlawfully removed from the territory of a Member State, the court shall award the owner of the cultural object such compensation as it deems fair, provided that the owner demonstrates that he exercised due care and attention in acquiring the cultural object.  
[RT I, 06.01.2016, 4 – entry into force 16.01.2016]

(2<sup>1</sup>) In determining whether the owner exercised due care and attention for the purposes of this Act, consideration shall be given to all the circumstances of the acquisition, in particular the documentation on the object's provenance, the export licences required under the law of the requesting Member State, the character of the parties' activity, the price paid, whether the owner consulted any accessible register of stolen cultural objects and any relevant information which he or she could reasonably have obtained, or took any other step which any reasonable person would have taken in the circumstances.  
[RT I, 06.01.2016, 4 – entry into force 16.01.2016]

(2<sup>2</sup>) In the award of compensation, the court shall consider the opinion of the National Heritage Board and whether the owner acquired the cultural object in good faith, whether the owner exercised due care and attention in the safe-keeping of the object, and the size of the expenses incurred by the owner in preserving the cultural object.  
[RT I, 06.01.2016, 4 – entry into force 16.01.2016]

(3) The amount awarded as compensation shall be paid by the requesting Member State.

(4) After a court judgment provided for in this section is made or if an extra-judicial agreement is reached for the return of a cultural object, the National Heritage Board shall carry out the tasks prescribed for the return of the cultural object to the territory of the requesting Member State in agreement with the requesting Member State.

(5) The National Heritage Board shall cover any expenses incurred in the course of returning a cultural object for the preservation of the cultural object or for the return procedure. The requesting Member State shall reimburse the expenses on the basis of a request from the National Heritage Board.

(6) Payment of the amount of compensation specified in subsection (3) of this section or covering the expenses specified in subsection (5) of this section by the requesting Member State shall not exclude the recovery of respective amounts by the Member State from persons liable for unlawful removal of the cultural object from the territory of the requesting Member State.  
[RT I 2004, 46, 330 – entry into force 14.06.2004]

(7) The legislation of the requesting Member State shall be applied to the right of ownership of the cultural object after return of the cultural object on the basis of a court judgment or extra-judicial agreement.  
[RT I 2004, 46, 330 – entry into force 14.06.2004]

## **§ 11<sup>1</sup>. Submission of claims in requesting Member State**

In connection with a cultural object unlawfully removed from a Member State, the requesting Member State or the owner of a stolen cultural object shall be able to initiate civil or criminal proceedings in the given Member State also if the cultural object has been returned on the basis of this Act or proceedings for the return of the cultural object have been initiated.  
[RT I 2004, 46, 330 – entry into force 14.06.2004]

## **§ 12. Application of Act**

This Act applies retroactively to cultural objects unlawfully removed from the territory of a Member State after 1 January 1993.

## **§ 13. Entry into force of Act**

This Act enters into force by a separate Act upon the accession of the Republic of Estonia to the European Union.

<sup>1</sup>Directive 2014/60/EU of the European Parliament and of the Council on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012 (Recast) (text applicable in the EEA) (OJ L 159, 28.05.2014, p. 1–10; OJ L 147, 12.06.2015, p. 24). [RT I, 06.01.2016, 4 – entry into force 16.01.2016]