

CYPRUS

LEGAL BASIS

1. Is your State a party to international legal instruments guaranteeing the immunity of State owned cultural property on loan (including bilateral agreements) such as the *United Nations Convention on Jurisdictional Immunity of States and Their Property* (2004)?

The Republic of Cyprus is not a Party to the United Nations Convention on Jurisdictional Immunity of States and Their Property (2004). However, Cyprus is a Party to the European Convention on State Immunity (signature 15/12/1975, ratification 10/3/1976, entry into force 11/6/1976).

2. Does your State recognise the customary international law nature of Part IV of the *United Nations Convention on Jurisdictional Immunity of States and Their Property* (2004)? More specifically, does your State consider that, pursuant to a rule of customary international law, cultural property owned by a foreign State while on temporary loan is not considered as property specifically in use or intended for use by the State for other than government non-commercial purposes?

Cyprus considers it premature to express a position as to the customary international law nature of Part IV of the United Nations Convention on Jurisdictional Immunity of States and Their Property (2004).

3. Has your State adopted a national legislation on immunity concerning:

- a. **Specifically cultural objects of foreign States; or**
- b. **more generally, property of foreign States intended for official/public use; or**
- c. **more generally, cultural objects either owned by foreign States or by private individuals?**

If so, please provide information concerning national legislations (in particular title, source and content; if possible, please provide official translations in French or in English and/or references to online sources).

The Republic of Cyprus has not adopted such national legislation.

4. Does your State consider that there are limitations to the rule of immunity of State owned cultural property on loan, in particular in the event of an armed conflict or when there are return obligations deriving from international or European law?

The Republic of Cyprus considers that there are limitations to the rule of immunity of State owned cultural property on loan, in particular in the event of an armed conflict or when there are return obligations deriving from international or European law. The Republic of Cyprus considers that the application of the body of international law rules laid down, inter alia in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, the 1995 UNIDROIT Convention on Stolen and Illegally Exported Objects, the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention along with its two Protocols (1954, 1999), Council Regulation (EEC) No 3911/92 of 1992 on the export of cultural goods, Council Directive 93/7/EEC of 1993 on the return of cultural objects unlawfully removed from the territory of a Member State, Council Directive 2014/60/EU on the return of cultural objects unlawfully removed from the territory of a member state, Council Regulation (EU) no. 1215/2012 of the European Parliament and the Council of 12th December 2012 on jurisdiction and enforcement of judgments in civil and commercial matters (recast), regarding the return of cultural property belonging to a State which has been illegally removed from part of its territory under military occupation, apply independently of and should in no way be prejudiced nor affected by claims of “cultural immunity”. This is particularly relevant with regard to cultural objects that have been

illegally removed from the territory of States under military occupation, such as the Republic of Cyprus. The continued occupation by Türkiye of 36.2% of the territory of the Republic of Cyprus since 1974 prevents the competent State authorities of the Republic of Cyprus from effectively dealing with the looting, illicit trafficking and illicit export of cultural objects that are considered to be, according to national legislation, State property. Thus, the fate of thousands of invaluable historical and archaeological artifacts remains unknown and illicit excavations in the areas not under the effective control of the Republic of Cyprus are continuing to yield an unknown number of archaeological objects to this day. It is, therefore, of the utmost importance to ensure that the practice of due diligence is always exercised before a cultural object is granted immunity. For example, a cultural object illicitly exported from the areas not under the effective control of the Republic of Cyprus may be lent to a third State for purposes of temporary exhibition. This object should not be granted immunity from seizure and the Republic of Cyprus should be able to repatriate it.

In this regard, the Republic of Cyprus rejects Türkiye's allegations contained in its respective reply to question 4 of this questionnaire, as unfounded and contrary to international law, including the relevant UN Security Council Resolutions 541/1983 and 550/1984.

5. Does your State consider that the rule of immunity of cultural property extends to other categories of property other than those owned by a State, i.e. property in possession or control of a State (such as property belonging to a State museum)?

Extending the rule of immunity of cultural property to property "in possession" or "control" of a State (as opposed to property owned by a State) raises serious issues under international law. Cyprus considers that the rule under consideration cannot be invoked by a State which is unlawfully in possession or control of cultural property owned by another State.

NATIONAL PRACTICE AND PROCEDURE

6. Is there national case-law in the field of immunity of State owned cultural property on loan? If so, please provide information on these decisions (date of the judgment, authority that issued the judgment, name of the parties, main points of law, French or English translation of the judgment or summary of the judgment in English or in French).

There is no national case-law in this field.

7. Does your State resort to "letters of comfort" or other practice guaranteeing the recognition of the immunity from seizure of State owned cultural property on loan?

The Department of Antiquities of the Ministry of Communications and Works of the Republic of Cyprus follows the stipulations of the International Council of Museums (ICOM) code of Ethics. The Director of the Department of Antiquities issues letters of comfort in the framework of agreements between the Department of Antiquities and foreign institutions/ museums, in the case of loans of cultural objects from foreign museums. In such cases the Department of Antiquities takes measures to ensure that the objects will safely be returned to the lender.

8. Is the immunity granted automatically to State owned cultural property on loan or is it subject to approval by a State authority?

See answer for question no. 7.