

ESTONIA

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 Immunities of States and Their Property (2004)?**

On 30 March 2006 Estonia signed the United Nations Convention on Jurisdictional Immunity of States and Their Property (2004), but has not yet ratified it. On 17 March 2015 Estonia signed the Declaration on Jurisdictional Immunities of State Owned Cultural Property. [Bilateral Agreement between the Government of the Republic of Estonia and the Government of the United States of America on the Protection and Preservation of Certain Cultural Properties](#) is in force since 22 July 2003.

- 2. Does your State recognise the customary international law nature of Part IV of the United Nations Convention on Jurisdictional Immunities 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?**

In this context, Estonia refers to ICJ judgment of 3 February 2012 in the case concerning Jurisdictional Immunities of the State (Germany v Italy). The ICJ, in summary, found that cultural property of a foreign State abroad was intended for governmental non-commercial purposes and thus remained immune from execution. Estonia is of the view, that certain provisions of Part IV of the UN Convention on Jurisdictional Immunities of States and Their Property have a customary international law nature.

As a signatory of the Declaration on Jurisdictional Immunities of State Owned Cultural Property and the UN 2004 Convention, Estonia supports the position according to which cultural property owned by a foreign State while on temporary loan is not considered as a property specifically in use or intended for use by the State for other than government non-commercial purposes. With that, Estonia supports the rule of customary international law in that regard.

- 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).

No.

- 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?**

There is no Estonian practice regarding limitations to the rule of immunity of state-owned cultural property on loan.

Estonia is party to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict since 1995, its 1st and 2nd Protocol as of 2005 and to the Convention on the Means of Prohibiting and Preventing Illicit Import, Export and Transfer of Ownership of Cultural Property since 1996. Considering the limitations to immunity as posed in the question, Estonia therefore abides by the principles and exceptions deriving from its international obligations enshrined therein.

On the European Union level, directive 2014/60/EU on the return of cultural objects unlawfully removed from the territory of a Member State applies. The said directive does not refer however to immunity of State owned cultural property on loan.

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)?

Estonia is of the opinion that immunity in this context extends to property in possession or in control of a State (such as property belonging to a State museum).

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).

No.

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?

Estonia issues a guarantee of immunity. In the letter, Estonia refers to the Declaration on Jurisdictional Immunities of State Owned Cultural Property.

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

The immunity is granted automatically.