

## FINLAND

### 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)?**

Yes, Finland has ratified the UN Convention on Jurisdictional Immunity of States and their Property (2004) on 23 April 2014.

- 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?**

The government proposal on the United Nations Convention on Jurisdictional Immunity of States and Their Property (HE 26/2013 vp) expresses that the aim of the Convention is to codify customary international law on jurisdictional immunities of States and their property but the government proposal does not specify whether Part IV of the Convention is a reflection of customary international law.

- 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).**

Finland has adopted an Act prohibiting the seizure of certain exhibition items on loan in Finland (697/2011)([http://www.minedu.fi/export/sites/default/OPM/Kulttuuri/Museot\\_ja\\_kulttuuriperintoe/takavarikointikielto/liitteet/Act\\_prohibiting\\_seizure\\_eng.pdf](http://www.minedu.fi/export/sites/default/OPM/Kulttuuri/Museot_ja_kulttuuriperintoe/takavarikointikielto/liitteet/Act_prohibiting_seizure_eng.pdf)). The Act does not specify that the object should be owned by a foreign State so it can be applied to objects owned by private individuals as well.

According to the Act 697/2011, the Ministry of Education and Culture may on application prohibit the seizure of an exhibition item where the item is lent for an exhibition which is of artistic or cultural historical significance or the staging of which is considered important in terms of international cultural exchanges and where the exhibition is organized by a corporation under public law or a not-for-profit legal person under private law.

- 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?**

According to the Act 697/2011, a prohibition against seizure may not be issued where (1) there is reason to believe that the exhibition item has been criminally obtained or the ownership of, or a corresponding right to, the item is in dispute;

(2) the prohibition would manifestly be in breach of an international treaty binding Finland or in breach of European Community law; or  
(3) there is reason to believe that the exhibition item would be placed on sale in the exhibition or would otherwise be exploited commercially.

- 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)?**

n/a

## **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).**

We have no record of such proceedings.

- 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?**

Such letters were issued before the enactment of the Act prohibiting the seizure of certain exhibition items on loan in Finland. Since the said Act entered into force, the Ministry of Education and Culture, may on application, issue prohibitions against seizure.

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

According to the Act 697/2011 the Ministry of Education and Culture may, on application prohibit the seizure of an exhibition item (prohibition against seizure) where the item is lent for an exhibition which is of artistic or cultural historical significance or the staging of which is considered important in terms of international cultural exchanges and where the exhibition is organised by a corporation under public law or a not-for-profit legal person under private law.