

HUNGARY

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)?**

Hungary is not a party to any international legal instruments guaranteeing the immunity of State owned cultural property on loan and has not signed the *United Nations Convention on Jurisdictional Immunity of States and Their Property* (2004).

- 2. Does your State recognize 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 noncommercial purposes?**

Yes, the Hungarian Act No 95 of 2012 on the special protection of cultural goods on loans grants immunity for cultural goods coming from abroad with the purpose of displaying them within a temporary exhibition in the territory of Hungary. Special protection (immunity from seizure) is not automatic. It is granted by the Certificate of the relevant state authority (Gyula Forster National Centre for Cultural Heritage Management – Inspectorate of Cultural Goods) on the basis of an exhibitor’s application.

- 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).

Hungary adopted Act No 95 of 2012 on the special protection of cultural goods concerning cultural objects either owned by foreign States or by foreign private individuals.

The national office of cultural heritage shall determine the existence and the duration of the special protection in a Certificate. The application for the issuance of the Certificate shall be submitted by the office. During the period of special protection of cultural goods on loan the enforcement of any such measures or coercive measures ordered by a court, authority or in any other official procedure that restrict or terminate the right of disposal or possession of cultural goods on loan shall be prohibited. The special protection shall not prevent the enforcement of any measures or coercive measures ordered with the purpose of recovering cultural goods that unlawfully left the possession of the exhibitor during the period of protection. The special protection shall not apply to such cultural goods that are registered in the records kept under Article 71(f) of Act No 95 (the central database of stolen and lost cultural goods maintained by the relevant state authority) or such that have a pending restitution procedure against them, for their illegal acquisition or transfer or unlawful import or export, under law or international treaty.

According to Article 1 of the above mentioned Act regarding the scope of the Act:

The provisions of this Act shall apply to the special protection and the procedures on the protection of cultural goods coming from abroad and specified in the loan agreement (hereinafter "loan agreement"), entered into by and between the exhibitor and the entitled person, with the purpose of display within a temporary exhibition in the territory of Hungary.

According to Article 2 (6) of Act No 95 of 2012 on entitled persons:

Entitled person: owner or holder of cultural goods on loan, outside of the jurisdiction of Hungary, who disposes of the cultural goods including lending for the purposes of the temporary exhibition.

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?

Hungary ratified all the relevant international conventions regarding the protection of cultural property, such as:

- Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention – The Hague, 14 May 1954 and its Ist and IInd Protocols,
- Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property – Paris, 14 November 1970, Unidroit Convention on stolen or illegally exported cultural objects – Rome, 24 June 1995.

Hungarian legislation corresponds with the above mentioned international conventions concerning the protection of cultural property.

As an EU Member State, Hungary transposed Council Directive 1993/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State into national legislation.

According to Article 5 of Act No 95 of 2012 regarding the scope of the Act:

The special protection shall not apply to such cultural goods that are registered in the records kept under Article 71(f) of the Act No 95 or such that have a pending restitution procedure against them, for their illegal acquisition or transfer or unlawful import or export, under law or international treaty.

'Registration under Article 71(f) of the Act No 95' is the central database of stolen and lost cultural goods maintained by the relevant state authority (Gyula Forster National Centre for Cultural Heritage Management - Inspectorate of Cultural Goods).

(Note: Act No 95 stands for Act No 64 of 2001 on the protection of cultural heritage.)

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)?

Yes, according to the above mentioned Article 2 (6) of Act No 95 of 2012 on entitled persons:

Entitled person: owner or holder of cultural goods on loan, outside of the jurisdiction of Hungary, who disposes of the cultural goods including lending for the purposes of the temporary exhibition.

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 such national case law yet.

- 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 Act No 95 of 2012 regulates the application for the issuance of the Certificate on the cultural property’s special protection.

(For further information see question 4.)

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

The application for the issuance of the Certificate shall be submitted by the exhibitor via filling the form provided by the relevant state authority (Gyula Forster National Centre for Cultural Heritage Management – Inspectorate of Cultural Goods) in accordance with Act No 95 of 2012.