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Fight against
the illicit trafficking
of cultural property



Declaration of MONDIACULT 2022 UNESCO World Conference on Cultural Policies and Sustainable Development :

- Strengthening advocacy
- Improving national legislation
- Strengthening national and local capacities
- Promoting cooperation with the art market
- Raising awareness among the general public



1970 Convention

The 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

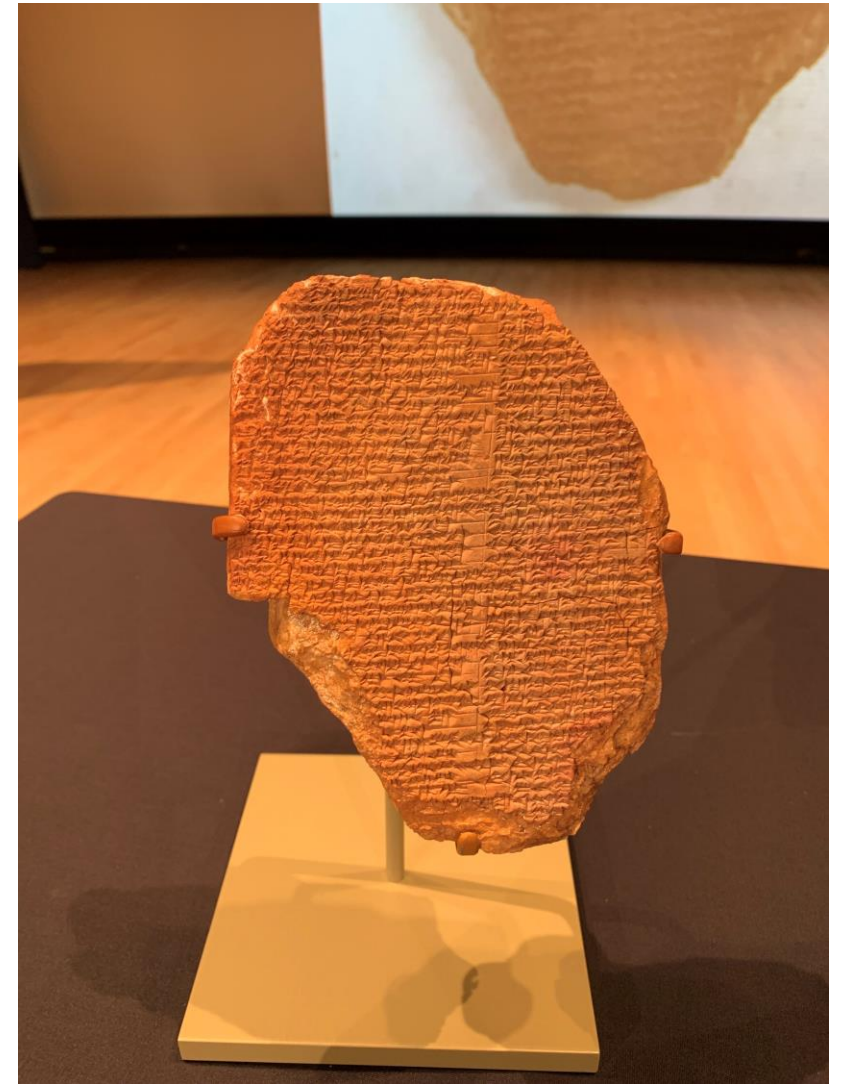
➤ 143 States Parties

- Comoros joined the States Parties in March 2021, Malawi in July 2022 and Turkmenistan in September 2022

➤ First **legal instrument** on the fight against illicit trafficking of cultural property

➤ **Three main pillars:**

- Prevention
- Return and restitution
- International cooperation



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Presentation of the 1970 Convention

March 2023

The UNESCO Database of National Cultural Heritage Laws



"Building peace in the minds of men and women"

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List of National Cultural Heritage Laws

Year

Document's title
Is equal to

One or several themes

One or several normative instruments

One or several keywords

One or several categories

Document type

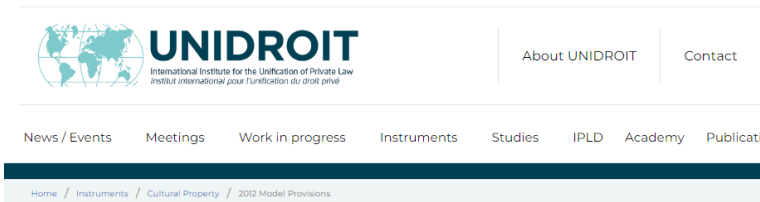
Language

One or several countries



Model Provisions and Operational Guidelines

UNESCO – UNIDROIT 2011 Model Legislative Provisions on State Ownership of Undiscovered Cultural Objects



The screenshot shows the UNIDROIT website header with the logo and navigation links. Below the header is a dark navigation bar with links for News / Events, Meetings, Work in progress, Instruments, Studies, IPLD, Academy, and Publications. Below that is a breadcrumb trail: Home / Instruments / Cultural Property / 2012 Model Provisions.

2012 MODEL PROVISIONS

TEXTS - UNESCO - UNIDROIT MODEL LEGISLATIVE PROVISIONS ON STATE OWNERSHIP OF UNDISCOVERED CULTURAL OBJECTS (2011)

United Nations Educational, Scientific and Cultural Organization (UNESCO)

International Institute for the Unification of Private Law (UNIDROIT)

Expert Committee

on State Ownership of Cultural Heritage

Model Provisions on State Ownership of

Undiscovered Cultural Objects

Explanatory Report

with model provisions and explanatory guidelines

INTRODUCTION

This document contains model legislative provisions (the "Model Provisions") established by a group of experts convened by the UNESCO and UNIDROIT Secretariats which are intended to assist domestic

UNESCO Operational Guidelines for the Implementation of the 1970 Convention



The screenshot shows the UNESCO Operational Guidelines website header with a blue navigation bar containing links for Trafficking, How we work, What we do, International Cooperation, and Resources. Below the navigation bar is a large white box with the text "Operational Guidelines" in blue.

It is necessary to learn from the best practices of the States Parties to guide the implementation of the 1970 Convention. Operational Guidelines best reinforce the 1970 Convention by identifying the best means of achieving the objectives of the Convention. The third Meeting of States Parties (18-20 May 2015) adopted Operational Guidelines by Resolution 3.MSP 11.

[Operational Guidelines](#) (External link)

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[Link between heritage and State \(Article 4\)](#)

[National services for the protection of cultural heritage \(Articles 5; 13 \(a, b\); 14\)](#)

- [Legislation \(Article 5\(a\)\)](#)
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Model Provisions on the Prevention and Fight against Illicit Trafficking of Cultural Property

Preliminary Chapter

Provision 1
(General duty)

The State shall ensure the protection of cultural property in order to preserve cultural property for the present and future generations. It shall cooperate with other States and international organisations to prevent looting and illicit trafficking of cultural property and to promote the restitution of stolen cultural property and the return of illicitly exported cultural property.

Commentary:

1. This first model provision defines, in a generic way, the responsibility of the State, by laying down a dual obligation regarding the protection of cultural property and the cooperation with other States and international organisations (including NGOs, eg. ICOM), in areas covered by the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereafter, the "1970 UNESCO Convention").
2. The use of the terms "restitution" and "return" reflects the desire to retain international qualifications in use, which are those of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (hereafter, the "1995 UNIDROIT Convention"): restitution refers to the hypothesis of their return, return refers to illicit export.
3. This model provision thus takes the form of a general clause, mirroring the clause set forth in Provision 1 of the UNESCO-UNIDROIT Model Provisions on State Ownership of Undiscovered Cultural Objects adopted in 2011.
4. This model provision can reinforce the national legislation or be enacted at the constitutional level. To perform the implementation of this general duty, an alternative drafting of the first sentence can specifically refer to the State's legal responsibility: The State is responsible for the protection of cultural property in order to preserve cultural property for the present and future generations.
5. The protection of cultural heritage and the fight against illicit trafficking constitute obligations of the State, which must, within the limits of its capabilities, make available the financial and human resources to meet these obligations. However, the State is not always in a position to assume on its own such vast and complex tasks as the preservation of cultural heritage and the fight against illicit trafficking. At the domestic level, inter-ministerial coordination and the involvement of civil society must be strengthened. At the international level, bilateral, regional and multilateral collaboration and support from non-governmental organisations reinforce State measures.
6. All responsibilities, on both national and international levels, are here to strengthen the principles of solidarity and collective responsibility to protect the heritage of peoples instilled by the 1970 UNESCO Convention, and echoes the words of its Preamble, in particular the premise of understanding between nations, as well as the increased knowledge of human civilisation, the enrichment of the cultural life of all peoples and the feeling of mutual respect and appreciation. Concerning this issue, the 1970 UNESCO Convention lays the groundwork for recognising cultural diversity. In this regard, the content of this model provision must not be interpreted as conferring the State an exclusive responsibility to preserve the cultural heritage; in addition to the obligations incumbent on the State, every person has a right to engage, in a personal capacity or on behalf of civil society organisations, with the cultural heritage of their choice, while respecting the rights and freedoms of others, as an aspect of the right to freely participate in cultural life enshrined in the United Nations Universal Declaration of Human Rights (1948) and guaranteed by the International Covenant on Economic, Social and Cultural Rights (1966) and by the International Covenant on Civil and Political Rights (1966).



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Presentation of the 1970 Convention

The International Code of Ethics for Dealers in Cultural Property



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Presentation of the 1970 Convention

March 2023

Restitution provisions

Articles 7 and 13 of the 1970 Convention provide restitution provisions.

Creation in 1978 of the **Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation (ICPRCP)**: forum of discussion to discuss requests not covered by international conventions.

UNESCO offers its good offices and technical advice to its Member States in their demands for restitution of their cultural heritage.



An emblematic Mayan stela returns to Guatemala thanks to a voluntary handover and a joint mobilization of Guatemala, France and UNESCO

International cooperation

A network of international partners



What's next

- Achieving **universal ratification** of the 1970 Convention
- **Strengthen the implementation** of the 1970 Convention: update tools and build capacity for key actors
- Continue to support States in the **return and restitution of cultural property**
- **Increase awareness** raising activities



Thank you

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