

ITALY

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)?**

Italy has decided to ratify in 2013 the 2004 United Nations Convention on Jurisdictional Immunity of States and Their Property, making a specific reservation/declaration that the Convention is to be interpreted consistently to international customary law in the case of serious breaches of IHL during international armed conflicts. The general principle of “functional immunity” from eviction of Foreign States assets is applied by Italian jurisprudence, in the meaning that only assets and bank accounts devoted to public functions are covered by immunity; which is not the case for foreign State assets detained in Italy for commercial or promotion purposes.

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 non-commercial purposes?**

It is arguable which parts of the Convention actually reflect effective international customary law. The general principle of “functional immunity” however, as referred supra, is applicable also to foreign State properties on loan.

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).**

*Yes. **Law no. 134/2026, passed on 16th July 2026**, provides an organic discipline for this situation.*

This law is available in Italian on the official website of the “Gazzetta Ufficiale” under the daily issue “Serie Generale” no. 173, dated 28.07.2026. The provisions of this Statute apply to the residual cases where no international convention or EU Law is applicable. In such residual cases, on the request of the sending institution, validated by the Italian receiving institution, the Minister of Justice can issue, conditioned to reciprocity, a Letter of Guarantee from seizure in Italian civil proceedings for the restricted period that property is exhibited in Italy.

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?**

National provisions in Law no. 134/2026 are without prejudice of obligations and rights deriving from EU Law or international treaties. From an EU perspective, Directive

2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State should be applied accordingly. From an international humanitarian law perspective, the 1954 Hague Convention on the protection of cultural heritage in the event of armed conflicts could be also applied, especially in the case of illegal deportation of State-owned cultural properties.

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)?

*According to Law no. 134/2026, its provisions apply to any **art craft or cultural asset belonging to, or in the possession of, public entities or well-known private foundations** acting in the preservation of the cultural heritage.*

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).

*The most relevant case law is the **Getty Judgment** concerning the seizure and confiscation of the Statue of the “Atleta vittorioso di Fano”, of which the American Getty Trust claimed the property and the return to the USA. After years of legal disputes, the ECtHR in Strasbourg in 2024 hold as legitimate the confiscation by the Italian judiciary, arguing, inter alia, that the Trust was negligent in not verifying the origin of the art craft before buying it. The Judgement is available in English and French on the Court’s website.*

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?

*According to Law no. 134/2026 the Minister of justice can issue a “**Letter of Guarantee**” on the request of the sending institution, stating the property object of the immunity and the time limits of the immunity (i.e. the period of exhibition in Italy).*

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 Law no. 134/2026 granting the immunity from seizure is to the discretion of the Minister of Justice. The Minister is called to take a decision balancing two conflicting interests: on one side, the interest to the legitimacy of the acquisition of the cultural properties, on the other side, the interest to make those properties accessible to the Italian public in Italian museums.