

NORWAY

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)*?**

Romania has signed the UN Convention on Jurisdictional Immunities of States and Their Property on 15 September 2005 and has ratified it by Law no. 438/2006.

- 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?**

Having in mind in particular the ICJ Judgment of 3 February 2012 in the case concerning Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening) Romania considers that certain provisions of Part IV of the UN Convention on Jurisdictional Immunities of States and Their Property have a customary international law nature. In particular, with respect to cultural property owned by a foreign State while on temporary loan, Romania considers that, unless such property is placed or intended to be placed on sale, it cannot be subject to any measure of constraint, such as attachment, arrest or execution, in another State, except when immunity is expressly waived. Romania is also a signatory of the Declaration on Jurisdictional Immunities of State Owned Cultural Property.

- 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 such domestic legislation has been adopted in Romania.

- 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?**

As a general approach, Romania considers that international law obligations should be interpreted in conjunction with each other, on a case by case basis. In the particular case of cultural property, depending on the specifics of each situation, due consideration should be given also to the provisions of 1970 UNESCO Convention, 1995 UNIDROIT Convention or 1954 Hague Convention and its two Additional Protocols.

- 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 Romanian legislation in the field of the cultural heritage and concerning the regime of State property, in principle, museums are custodians of cultural goods, while ownership belongs either to the State or to private persons. As a consequence, Romania considers that, except for the cases where ownership belongs to a private (legal or natural) person, the rule of immunity of cultural property applies in all cases. In the case of cultural property that is owned by private persons but is in the custody of the State (including State museums), Romania considers that, given the lack of practice in the field, a definite answer cannot be given as to the scope of the rule of immunity of cultural property.

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 relevant national case-law has been identified.

- 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?**

Depending on the specific request of the “lender”, guarantee letters with respect to immunity can be issued as long as they do not conflict with the provisions of the 1970 UNESCO Convention, 1995 UNIDROIT Convention or 1954 Hague Convention and its two Additional Protocols, as well as with national legislation concerning the protection of the national heritage, incorporating the provisions of Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State.

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

Romanian legislation does not provide for a formal approval or determination by a State authority as a prerequisite of granting immunity to State owned cultural property on loan.