

TÜRKIYE

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)*?

The Republic of Türkiye is not a Party to the United Nations Convention on Jurisdictional Immunity of States and Their Property nor the European Convention on State Immunity.

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?

Considering Türkiye is neither a party nor a signatory to the Convention, it is not possible to make a statement as to whether Part IV of the 2004 Convention reflects 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).

In Türkiye, the legal framework on the subject is regulated by Article 32 of the Law No. 2863 on the Protection of Cultural and Natural Assets and the "Regulation on the Export and Entry into the Country of Cultural and Natural Assets in Need of Protection" (Regulation).

As foreseen the conditions stipulated in Article 6 of the Regulation, a State Guarantee Certificate is obtained from the authorities of the country in which, cultural assets temporarily sent abroad, stating that the loaned artefacts will be secured against any kind of expropriation and expropriation as well as against the possibility of damage, harm, encroachment, alteration and disappearance.

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?

With regard to the questionnaire information provided by the Greek Cypriot Administration, which falsely styles itself as the "Republic of Cyprus", Türkiye deems it necessary to emphasize the following: The Republic of Cyprus was established in 1960 on the basis of a partnership between the two peoples of the Island, through international treaties concluded between the Turkish Cypriots and Greek Cypriots as well as the guarantor powers Türkiye, Greece and the United Kingdom.

This state of affairs and its legitimacy has ceased to exist as such after the constitution of the 1960 partnership state was unilaterally violated in 1963 by the Greek Cypriot side, through the

use of force and the ousting of Turkish Cypriots from state mechanisms, not through the voluntary withdrawal of the Turkish Cypriots. Since December 1963, there has not been a joint authority or administration which is in law or in fact entitled to represent jointly the two peoples of Cyprus, namely the Turkish Cypriots and the Greek Cypriots, and consequently Cyprus as a whole.

In this regard, the Cyprus problem is not an issue of "invasion" or "occupation". The division of the Island began in 1963 (much earlier than 1974) when, as stated above, the Greek Cypriots expelled the Turkish Cypriots from the partnership state organs and institutions as well as from their homes, in violation of the Treaties of 1960 and all human rights norms. Therefore, the allegation of occupation is not compatible with the facts on the ground in Cyprus, the 1960 Treaties and the nature and contents of the UN comprehensive settlement process. The only occupation on the Island is the ongoing occupation of the partnership state established in 1960 by the Greek Cypriots, which in turn is the cause of the collapse of that State itself. The Greek Cypriots, who have organized themselves under their own constitutional order and within their own boundaries, cannot legitimately represent the entire Island. Türkiye will continue to regard the Greek Cypriot Administration as exercising authority, control and jurisdiction only in the territory south of the buffer zone, as is currently the case, and as not representing the Turkish Cypriot people.

The Turkish Cypriots are represented by the Government of the Turkish Republic of Northern Cyprus (TRNC). This state, democratically formed by the free will of the Turkish Cypriot people, is recognized by Türkiye as having full jurisdiction over its territory and therefore, as the sole authority which can assume international obligations in that respect. The only authority qualified to provide information on any kind of matter concerning the TRNC, including "cultural property" is their relevant institutions.

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).

None, as far as can be ascertained.

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 Ministry of Foreign Affairs may issue a State Guarantee certificate for cultural assets temporarily loaned to our country by other countries for exhibition, upon the request of the person, institution or country that owns the artefacts, after the necessary examination and evaluation has been carried out and approval given by the Ministry of Culture and Tourism.

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

n/A