

## UNITED KINGDOM

The UK is grateful to the delegation of the Czech Republic, supported by the delegations of Austria and the Netherlands, for initiating discussions on the immunity of state owned cultural property on loan. The UK is keen to encourage the mobility of collections between states and is pleased to be able to exchange views on this subject.

There are two pieces of legislation in the UK that give protection to cultural property of another State when that property is in the UK. The first is the State Immunity Act 1978 and the second is the Tribunals, Courts and Enforcement Act 2007 (Part VI). The UK will give further detail of its domestic legal framework below. Some of the questions ask for a view as to the current position in customary international law. Given that in the UK the said legislation tends to govern these matters for the purposes of domestic proceedings, we have limited practice which addresses the detailed questions on customary international law. Consequently, it has not been possible for the UK to reach a settled view on some of those questions.

### 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 UK has signed the UN Convention on Jurisdictional Immunity of States and Their Property but has not yet become a party. The UK is not party to any other bilateral or multilateral agreements on the issue.

- 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?**

The UK considers that Part IV of the Convention is broadly reflective of customary international law. However, because there is insufficient State practice, the UK cannot make a definitive statement about how our Courts would approach specific cases that fall outside of our domestic legal framework.

- 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).**

The UK does have legislation on immunity concerning cultural objects of foreign States and State property which are included in temporary exhibitions in public museums and galleries.

Regarding property of foreign States, Section 13(2)(b) of the State Immunity Act 1978 (SIA) provides that:- *“the property of a state shall not be subject to any process for the enforcement of a judgment or arbitration award, or, in an action in rem, for its arrest, detention or sale.”* However, there are limitations to the protection this section provides. It only applies in civil proceedings (section 16) and it does not provide immunity in respect of commercial transactions (section 3).

Further legislation (Part 6 of the [Tribunals, Courts and Enforcement Act 2007](#) ([legislation.gov.uk](#)) as amended by the Cultural Objects (Protection from Seizure) Act 2022) provides additional protection for cultural property when loaned from abroad for temporary public exhibitions in the UK at approved institutions, provided that the conditions set out in section 134 of the Act are met when the object is brought into the UK. In summary these conditions are:-

- (i) the object is usually kept outside the UK;
- (ii) it is not owned by a person resident in the UK;
- (iii) its import does not contravene a prohibition or restriction on import;
- (iv) it is brought into the UK for temporary public display by a museum or gallery that is approved under section 136;
- (v) the museum or gallery has complied with any requirements about the publication of information specified in the Regulations.

The scope of this legislation is wide enough to cover property owned by private individuals as well as the State.

The State Immunity Act 1978 and Part 6 of the Tribunals, Courts and Enforcement Act 2007 are attached.

**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?**

The UK does not have sufficient State practice to come to a settled view on this question.

**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)?**

The UK does not have evidence of sufficient State practice to come to a settled view on whether the immunity of cultural property under international law 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).

However as a matter of UK law, Part VI of the Tribunals, Courts and Enforcement Act 2007 does provide protection to cultural property loaned from abroad for temporary public exhibitions at approved institutions. That protection applies irrespective of ownership.

## **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).**

We are not aware of any case law.

**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?**

We do not routinely offer letters of comfort but may do so on request where this assists museums in securing loans. The letter of comfort confirms that the borrowing museum has been approved for immunity from seizure under UK legislation and that, providing the conditions of the legislation and associated Regulations are met, then the objects on loan will be protected.

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

There is no requirement for property to be approved by a State authority. If the property meets the conditions for protection within the UK’s domestic legislation, that is sufficient.