

GOVERNMENT OF THE REPUBLIC OF LITHUANIA

RESOLUTION No 1107

of 31 August 2004
Vilnius

ON THE PROCEDURE OF RETURN OF CULTURAL OBJECTS UNLAWFULLY REMOVED FROM THE TERRITORY OF A MEMBER STATE OF THE EUROPEAN UNION

Acting pursuant to Article 24(1) of the Law on protection of movable cultural properties of the Republic of Lithuania (*Valstybės žinios* (Official Gazette) No 14-252, 1996; No 73-2513, 2004) and implementing the Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State, the Government of the Republic of Lithuania has resolved:

1. To approve the Procedure of Return of Cultural Objects Unlawfully Removed from the Territory of a Member State of The European Union (appended);
2. To charge the Ministry of Culture with the task of accepting and submitting applications for the return of cultural objects unlawfully removed from the territory of a Member State to court;
3. To charge the Ministry of Culture with the task of informing the European Commission that the Ministry of Culture has been appointed as the competent authority of the Republic of Lithuania accepting and submitting applications for the return of cultural objects unlawfully removed from the territory of a Member State to court.
4. To charge the Ministry of Culture with the task of sending the Commission a report on the application of the Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State every three years.

Prime Minister

Algirdas Brazauskas

Minister of Culture

RomaŽakaitienė

**ON THE PROCEDURE OF RETURN OF CULTURAL OBJECTS UNLAWFULLY
REMOVED FROM THE TERRITORY OF A MEMBER STATE OF THE EUROPEAN
UNION**

I. GENERAL PROVISIONS

1. The procedure of the return of cultural objects unlawfully removed from the territory of a Member State of the European Union (hereinafter – the “Procedure”) shall be established for the purpose of implementation of the Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State and shall be applied to the cultural objects unlawfully removed from the territory of a Member State of the European Union after 1 January 1993. The Procedure shall regulate the procedures and conditions for the return of cultural objects unlawfully removed from the territory of a Member State from the Republic of Lithuania.

2. For the purpose of this Procedure:

“**Public collections**” shall mean collections which are the property of a Member State, local or regional authority within a Member State or an institution situated in the territory of a Member State and defined as public in accordance with the legislation of that Member State, such institution being the property of, or significantly financed by, that Member State or a local or regional authority.

“**Unlawfully removed from the territory of a Member State**” (hereinafter – “unlawfully removed cultural objects”) shall mean removed or sent from the territory of a Member State in breach of its rules on the protection of national treasures or in breach of Regulation (EEC) No 3911/92 of 9 December, 1992 on removal of cultural treasures, or not returned at the end of a period of lawful temporary removal or any breach of another condition governing such temporary removal.

“**Requesting Member State**” shall mean the Member State from whose territory the cultural object has been unlawfully removed.

“**Requested Member State**” shall mean the Member State in whose territory a cultural object unlawfully removed from the territory of another Member State is located.

“**Return**” shall mean the physical return of the cultural object to the territory of the requesting Member State.

“**Possessor**” shall mean the person physically holding the cultural object.

“**Holder**” shall mean the person physically holding the cultural object for third parties.

3. Any other terms used in this Procedure shall bear the meaning defined in the Law on protection of movable cultural properties of the Republic of Lithuania.

4. For the purpose of this Procedure, cultural object shall mean an object which is classified, before or after its unlawful removal from the territory of a Member State, among the national treasures possessing artistic, historic or archaeological value under national legislation or administrative procedures, and belongs to one of the categories listed below:

4.1. Archaeological objects more than 100 years old which are the products of:

4.1.1. land or underwater excavations and finds,

4.1.2. archaeological sites,

4.1.3. archaeological collections.

4.2. Elements forming an integral part of artistic, historical or religious monuments which have been dismembered, more than 100 years old.

4.3. Mosaics other than those attributed to paragraph 4.1 and 4.2 of this Procedure executed in any material and entirely by hand and drawings executed entirely by hand, on any medium and in any material.*

4.4. Pictures and paintings other than those attributed to paragraphs 4.3 and 4.4.1 of this Procedure executed entirely by hand, on any medium and in any material:*

4.5. Paintings executed entirely by hand on any medium in watercolours, gouache and crayon.*

4.6. Original engravings, prints, serigraphs and lithographs with their respective plates and original posters*.

4.7. Original sculptures or statuary and copies produced by the same process as the original (1) other than those referred to in paragraph 4.1 of this Procedure.*

4.8. Photographs, films and negatives thereof.

4.9. Incunabula and manuscripts, including maps and musical scores, singly or in collections.*

4.10. Books more than 100 years old, singly or in collections.

4.11. Printed maps more than 200 years old.

4.12. Archives on any medium, comprising elements more than 50 years old.

4.13. Collections** and specimens from zoological, botanical, mineralogical or anatomical collections and collections** of historical, palaeontological, ethnographic or numismatic interest.

4.14. Means of transport more than 75 years old.

4.15. Any other antique item not included in points 4.1 to 4.14 of this Procedure, more than 50 years old.

4.16. The cultural objects other than those listed in points 4.1-4.15 forming an integral part of public collections, included in the inventory lists of repositories of museums, archives or libraries, or are part of inventories of ecclesiastical institutions.

5. The cultural objects listed in points 4.1 to 4.15 of this Procedure are subject to the following financial thresholds (in LTL):

5.1 any value:

Archaeological objects (point 4.1);

Dismembered monuments (point 4.2);

Incunabula and manuscripts (point 4.9);

Archives, comprising elements more than 50 years old (point 4.12);

5.2. LTL 51 792:

Mosaics and drawings (point 4.3);

Engravings (point 4.6);

Photographs (point 4.8);

Printed maps(point 4.11);

5.3. LTL 103 584 - Paintings executed in watercolours, gouache and crayon (point 4.5);

- 5.4. LTL 172 640:
 - Statuary (point 4.6);
 - Books (point 4.10);
 - Collections (point 4.12);
 - Means of transport (point 4.14);
 - Any other item (point 4.15);
- 5.5. LTL 517 920 – Pictures (point 4.4)

5. This Procedure has been drawn in accordance with Council Directive 93/7/EEB of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State and shall be applicable to cultural objects which were unlawfully removed from the territory of a Member State after 1 January 1993 (inclusive).

II. FUNCTIONS OF THE MINISTRY OF CULTURE OF THE REPUBLIC OF LITHUANIA AND APPLICATIONS FOR RETURN OF CULTURAL OBJECTS

6. Upon application by the requesting Member State, the Ministry of Culture, in cooperation with the Customs Department under the Ministry of Finance, the Interpol Lithuanian National Bureau at the International Liaison Office of the Lithuanian Criminal Police, the Lithuanian Archives Department under the Government of the Republic of Lithuania, Ministry of Foreign Affairs and Ministry of the Interior, shall seek a specified cultural object, identifying the possessor and/or holder. The application for the return of a cultural object (hereinafter – the “application”) must include all information needed to facilitate the search, with particular reference to the actual or presumed location of the object.

7. The Ministry of Culture in cooperation with the State concerned shall take any necessary measures to ensure the physical preservation of the cultural object removed unlawfully.

8. The Ministry of Culture shall take any necessary provisional measures to prevent any actions to evade the return procedure.

9. The Ministry of Culture shall enable the competent authorities of the requesting Member State to check if the object in question is a cultural object, provided that the check is carried out within 2 months of the date of the notification referred to in point 14 of the Procedure. If the check is not carried out within the stipulated period, point 7 and 8 of this Procedure shall cease to apply.

10. The Ministry of Culture shall act as intermediary between the possessor and/or holder and the requesting Member State with regard to return of cultural objects.

11. The Ministry of Culture having determined that the competent authorities of the requesting Member States have failed to submit all the relevant documents needed to initiate the proceedings may request additional documentation.

12. The requesting Member State may initiate, before the competent court of the Republic of Lithuania, proceedings against the possessor or, failing him, the holder, with the aim of securing the return of a cultural object, which has been unlawfully removed from its territory. Proceedings may be brought where the document initiating them is accompanied by:

- 12.1. a document describing the object covered by the request and stating that it is a cultural object;
- 12.2. a declaration by the competent authorities of the requesting Member State that the cultural object has been unlawfully removed from its territory

13. The central authority of the requesting Member State shall forthwith inform the Ministry of Culture that proceedings have been initiated with the aim of securing the return of the object in

question, and the Ministry of Culture shall forthwith inform the central authorities of the other Member States.

14. The Ministry of Culture shall notify the Member States concerned, where a cultural object is found in its own territory and there are reasonable grounds for believing that it has been unlawfully removed from the territory of another Member State.

15. The Department of Cultural Properties Protection under the Ministry of Culture shall determine the financial value of an unlawfully removed cultural object and the compliance with the financial thresholds referred to in point 5 of the Procedure, and by ways of a written notification shall inform the Ministry of Culture thereof.

III. PAYMENT OF COMPENSATIONS AND COSTS

16. The court shall order the return of the cultural object in question where it is found to be a cultural object that has been removed unlawfully from the territory of a Member State. The burden of proof shall be governed by the legislation of the requested Member State.

17. Where return of the object is ordered, the competent court in the requested States shall award the possessor such compensation as it deems fair according to the circumstances of the case, provided that it is satisfied that the possessor exercised due care and attention in acquiring the object. The requesting Member State shall pay such compensation upon return of the object.

18. In the case of a donation or succession, the possessor shall not be in a more favourable position than the person from whom he acquired the object by that means.

19. Expenses incurred in implementing a decision ordering the return of a cultural object as well as the costs of the measures referred to point 7 of the Procedure shall be borne by the requesting Member State.

20. Payment of the fair compensation and of the expenses referred to in point 19 of the Procedure respectively shall be without prejudice to the requesting Member State's right to take action with a view to recovering those amounts from the persons responsible for the unlawful removal of the cultural object from its territory.

21. Ownership of the cultural object after return shall be governed by that law of the requesting Member State.

22. The Procedure shall be without prejudice to any civil or criminal proceedings that may be brought, under the national laws of the Member States, by the requesting Member State and/or the owner of a cultural object that has been stolen.

V. FINAL PROVISIONS

23. Transfer-acceptance acts of the cultural objects to be returned shall be signed by authorised representatives of the Ministry of Culture and the competent authorities of the requesting Member States.

* Which are more than fifty years old and do not belong to their originators.

** Articles which are relatively rare, are not normally used for their original purpose, are the subject of special transactions outside the normal trade in similar utility articles and are of high value for the requesting State.