

A LAW TO PROVIDE FOR THE RETURN OF CULTURAL OBJECTS OF 2002
IS HEREBY PUBLISHED IN ACCORDANCE WITH SECTION 52 OF THE
CONSTITUTION No.183(1) OF 2002 IN THE OFFICIAL GAZETTE OF THE
REPUBLIC

For the purposes of harmonisation with the European Union directives with the title "Directive" No. 93/7 (E.E.C.) of the Council of the 15th March 1993 relating to the return of cultural objects unlawfully removed from the territory of a member state (E.U No. L074 of the 27.3.1993 p. 74).

Directive (E.U.) No. 96/00 of the European Parliament and of the Council of the 17th February 1997 that amends the appendix of Directive 93/7 E.E.C. "relating to the return of cultural objects that have unlawfully been removed from the territory of a member state" (E.U No. L060 of the 1.3.1997 p. 59).

Directive (E.U.) No. 2001/38 of the European Parliament and of the Council of the 5th June 2001 for the amendment of Directive 93/7 E.E.C. of the Council relating to the return of cultural objects unlawfully removed from the territory of a member state (E.U. No. L. 187 of the 10.7. 2001 p. 43)

The House of Representatives enacts as follows:

PART 1 - PRELIMINARY

1. The present Law shall be cited as the return of Cultural Objects Law of 2002.

2. In the present Law :

Requesting member state shall mean the member state from whose territory the cultural object has been unlawfully removed.

"Appropriate Authority" means the authority established under section 4 of the Export of Cultural Goods Law of 2002.

"Appropriate Central Authority" means the Antiquities Department of the Ministry of Communications and Works as set – out in Section 3.

"Court" means the District Court within the jurisdiction of which the cultural object is to be found or the Appropriate Central Authority believes that it is to be found.

"Public Collection" shall mean a collection which is the property of a member state local or regional authority established in the territory of a member state or an institution established in the territory of a member state and defined as public in accordance with the legislation of that member state such an institution being the property of or significantly financed by that member state or a local or regional authority.

"Return" shall mean the physical return of the cultural object to the territory of the requesting member state.

"Holder" shall mean the person physically holding the cultural object for third parties.

"Member state" shall mean a member state of the European Union.
"Member state to which the request is directed" shall mean the member state in whose territory a cultural object unlawfully removed from the territory

of another member state is located.

"Unlawfully removed from the territory of a member state" shall mean, the cultural object.

(a) Removed from the territory of a member state in breach of the rules for the protection of national treasures or in breach of Regulation (E.E.C) No. 3911/92 of the Council of the 9 December 1992 relating to the export of Cultural Goods (E.E.L. 395 of the 31 12.1992 p. 1) or

(b) Not returned at the end of a period of lawful temporary removal or any breach of another condition governing such temporary removal.

"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 national administrative procedures within the meaning of Article 36 of the Treaty and

(a) belongs to one of the categories listed in the Annex, or

(b) forms an integral part of a public collection listed in the inventories of museums, archives, in libraries conservation funds, of members states, or

(c) belongs to the catalogues of Church establishments.

"Possessor" shall mean the person physically holding the cultural object on his own account.

"Treaty" shall mean the Treaty of the European Union.

3. The provisions of the present Law shall be read and interpreted together with the provisions of the Export of Cultural Goods Law of 2002, they are particular and have superior force to any provisions in the Antiquities Law or of any other relevant Law regulating matters that are been regulated by the present Law.

PART II – ESTABLISHMENT OF APPROPRIATE AUTHORITIES, AND THE COMMITTEE COMPOSITION, OPERATION, COMPETENCE.

4. (a) For the purposes of the present Law, the Appropriate Central Authority of the Republic of Cyprus, the Antiquities Department of the Ministry of Communications and Works is appointed,
- (b) The Appropriate Central Authority in the exercise of its powers vested in it under the present Law shall deliberate with the appropriate authorities of the Republic within the jurisdiction of which the cultural object is subject,
- (c) The Appropriate Central Authority in the exercise of the duties vested in it in accordance with the present law may request of every public officer or organisation of public or private law as well as of any other individuals the views or specialised knowledge on a certain matter that may appear to it

useful or necessary.

5. The Appropriate Central Authority has power to
 - (a) Seek upon application by a member state, a specific cultural object that was removed unlawfully from the territory of the member state, and verify the identity of the possessor and/or holder.
 - (b) Notify to the member states concerned of any finding of a cultural object in the Republic, which it reasonably believes to have been unlawfully removed from the territory of another member state
 - (c) To provide the competent authorities of requesting state every possible assistance to check that the object found in the Republic is a cultural object on the condition that the said check is carried out within two months from the notification as provided in paragraph (b) of this section.
 - (d) Takes in co-operation with the member state any necessary measures for the physical preservation of the cultural object, which after examination is proved to be a cultural object.
 - (e) File in the competent district Court applications under section 6 to prevent any act of evasion of the return procedure of the cultural object.
 - (f) Addressess a request to the member states. ———
 - (g) For the search of a specific cultural object removed unlawfully form the Republic.
 - (h) Verification of the identity of the holder or possessor.
 - (i) Provides every useful information that might facilitate the investigation.
 - (j) Certifies to the member state that notified the Appropriate Central Authority, the existence in its territory, of the object believed to have been removed unlawfully from the territory of the Republic whether the said object is a cultural object, and whether it has been removed unlawfully from the Republic.
 - (k) Takes the necessary steps for the initiation of the appropriate judicial proceedings against the possessor, and if there is no possessor, against the holder demanding the return of the cultural object before the competent Court in a member state, in the territory of which the cultural object is to be found, and which has been unlawfully removed from the Republic.
 - (l) Without prejudice of the provisions of section 5 intermediates between the holder and / or possessor and of the requesting state for the return of the cultural object through arbitration procedure, if the requesting state and the possessor and/or holder give their express formal approval.
Provided that the arbitration is implemented in accordance with the provisions of the Arbitration Law in force from time to time.

6.
 - (1) Save as otherwise provided in section 2 in case of an application by a member state the Appropriate Central Authority:
 - (a) Seeks a specific cultural object which was unlawfully removed from the territory of a member state and
 - (b) takes the appropriate measures for finding the possessor or holder.

 - (2) The Appropriate Central Authority is not bound to act in accordance

with the provisions of section (1) above, unless where the application contains all the information that would facilitate the investigation and especially information with reference to the real or supposed area that the object is to be found.

3. The Appropriate Central Authority notifies the requesting member state in which part of the Republic the cultural object was found and whether this was the result of an investigation made in accordance with the provisions of section (1) or not, and whether there are reasonable grounds to believe that it has been unlawfully removed from the territory of the member state to which it is addressed.
4. The expenses incurred by the Appropriate Central Authority for the application of the necessary measures for the physical preservation of the cultural object, shall be born by the member state that submitted the application in regard to the object, in accordance with the provisions of section (1) or in case that no application was submitted, the member state which when notified in accordance with the provisions of section (3) in regard to the object, sought the return thereof under the procedure envisaged in section 6 or otherwise.

PART III - JURISDICTION OF THE COURT ORDERS OF ENTRY AND SEARCH

7. (1) Notwithstanding anything to the contrary in any other Law, the Court has jurisdiction to issue orders for the implementation of the provisions of section 5.
 - (2) Without prejudice of the generality of section (1) the Court may, after application by the Appropriate Central Authority, issue orders
 - (a) to authorise search as in paragraph (c) of section 5 is provided.
 - (b) To authorise the physical maintenance of an object which after search is verified to be a cultural object.
 - (c) to prohibit an act of evasion as provided in paragraph (e) of section 5.
 - (3) The application for the issue of an order is made ex-parte and is supported by an affidavit.
 - (4) Without prejudice to the generality of section (1) in issuing the order the court may authorise an officer of the Appropriate Central Authority. —
 - (a) to place under his possession the cultural object and/or
 - (b) to deliver the cultural object for safe keeping to a person or institution mentioned in the order.
8. (1) In an application for the issue of an order for the possession or delivery for safe keeping of a cultural object the Court may issue orders of entry and search.
 - (2) The Court issues an order of entry and search only if it is satisfied that
 - (a) the cultural object was unlawfully removed from the territory of a

- (a) the cultural object was unlawfully removed from the territory of a member state.
 - (b) the Appropriate Central Authority has reasonable grounds for believing that the object is to be found in the area referred to in the application, and
 - (c) The entry in the area was not permitted.
- (3) The application for the issue of an order of entry and search is filed
 - (a) ex-parte
 - (b) is supported by an Affidavit
 - (c) describes the cultural object sought for.
 - (4) The order issued in accordance with section (1) includes:
 - (a) the name of the authorised officer and of any other authorised person accompanying him.
 - (b) the date on which it was issued.
 - (c) the section under which it was issued.
 - (d) the area to be searched.
 - (e) description of the cultural object sought for..
 - (f) authorising entry in the area on one occasion only.
 - (5) (a) The order must be executed within a month from the date of issue between the hour of five o'clock in the morning and of eight o'clock in the evening.
 Provided that if the authorised for the execution officer has reasons to believe that the object for which entry was authorised, would suffer damage, then entry may be attempted on a different hour.
 - (b) The authorised officer, who has the responsibility for the execution of the order, shall disclose his identity and serve the order on the possessor or any other person he believes to be responsible for the area.
 - (c) The search authorised by the order, within the provision of this section shall be allowed only for an area as is required for the achievement of the purpose authorised by the order.

PART IV - RETURN OF CULTURAL GOODS

- 9. (1) Without prejudice to the provisions of the present Law every member state has the individual right to apply against the possessor and/or holder for the return of the cultural object, unlawfully exported from its territory.
- (2) Application in accordance with section (1) shall not be filed if the removal of the cultural object from the territory of a member state, is no longer unlawful, on the date of the initiation of proceedings.
- (3) An application in accordance with the present section is filed before a court.
- (4) The application is accompanied by
 - (a) a document describing the object for which the application was submitted

- (b) declaration that is a cultural object.
 - (c) declaration from the appropriate authorities of the member state that the object has been unlawfully removed from its territory.
10. (1) Subject to the provisions of section (2) the court may issue an order for the return of the cultural object if satisfied that
- (a) it is the same as described in the application and
 - (b) has been unlawfully removed from the territory of the member state that filed the application.
- (2) The court does not issue an order for the return of the object if satisfied
- (a) that the application was filed a year after the date that the member state was notified of the area on which the cultural object is to be found.
 - (b) that the application was filed after the expiration of the period of prescription mentioned in Section 11.
- The right to file an application is prescribed after thirty years have elapsed from the date on which the cultural object was removed unlawfully from the territory of a member state.
- Provided that if the object forms part of a public collection, in accordance with section 2 and the Appendix, or church object, the application for the return is not subject to prescription.
12. The owner of the returned cultural object, shall reimburse the Republic of the expenses and/or costs, to which the Republic was subjected, including compensation paid to a holder in good faith.
13. Cultural objects removed unlawfully from the territory of other member states between the 1st January 1960 fall within the provisions of the present Law.
14. The council of Ministers may publish in the Official Gazette of the Republic regulations for the better application of the provisions of the present Law.
15. The Supreme Court may issue court rules published in the official gazette of the Republic on any matter, or procedure, that is raised, or applied before any court under the provisions of the present Law.
16. The present law shall come into force on the date the Republic enters the European Union.