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Organización  
de las Naciones Unidas  
para la Educación,  
la Ciencia y la Cultura

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منظمة الأمم المتحدة  
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**INTERGOVERNMENTAL COMMITTEE  
FOR PROMOTING THE RETURN OF CULTURAL PROPERTY  
TO ITS COUNTRIES OF ORIGIN OR ITS RESTITUTION  
IN CASE OF ILLICIT APPROPRIATION**

**Eighteenth session  
Paris, UNESCO Headquarters, Room II  
22 June 2012**

**Item 3 of the provisional agenda:** Adoption of the Report of the Secretariat

Decision required: paragraph 35

## INTRODUCTION

The Secretariat reports to the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation (hereinafter “the Committee”) at its eighteenth session on activities carried out during the eleven months since its seventeenth session, held on 30 June and 1 July 2011 and, in particular, on the follow-up to the recommendations adopted by the Committee.

### I. PROMOTION OF BILATERAL NEGOTIATIONS (Recommendations No. 2 and No. 3)

1. The issue of the Parthenon Sculptures (Greece, United Kingdom and the British Museum) is still under discussion before the Committee. The Khorvin case, involving the Islamic Republic of Iran v Maleki (Belgium), has been suspended pending judgment by the national courts.

#### ***The Parthenon Sculptures***

2. Pursuant to Recommendation No. 2, adopted at the seventeenth session of the Committee (Paris, 30 June - 1 July 2011), the Secretariat maintained contacts with the permanent delegations of Greece and of the United Kingdom to UNESCO and offered the Organization’s assistance in the holding of discussions. Each delegation will report to the Committee on progress achieved in negotiations on the subject.

#### ***The Boğazköy Sphinx***

3. Under the bilateral agreement on the *sui generis* case of the Boğazköy Sphinx, reached in May 2011, the Sphinx was taken to Turkey on 27 July 2011. The official ceremony was held on 26 November 2011 at Çorum’s Boğazköy Museum in the presence of the Minister of Culture and Tourism, H.E. Mr Ertuğrul Günay and the German Ambassador to Turkey, H.E. Mr Eberhard Pohl. At present, the Boğazköy Sphinx is exhibited at Boğazköy Museum in Çorum. The bilateral agreement provides for greater museum and archaeology cooperation between the two countries.

#### ***The Khorvin case: Islamic Republic of Iran v Maleki (Belgium)***

4. On 4 and 5 April 2011, the fourth chamber of the Brussels Court of Appeal heard the case concerning a request for the restitution of Iranian cultural property currently held in a collection in Belgium. In a judgment on 20 June 2011, the Brussels Court of Appeal dismissed the request to send the collection to Iran and invited the curator of the Cinquantenaire Art Museum (where the collection had been impounded) to return it to Ms Dutreix (daughter of Ms Wolfcarius-Maleki). The Islamic Republic of Iran appealed against that judgment to the Supreme Court on 27 October 2011.

### II. MODEL PROVISIONS DEFINING STATE OWNERSHIP OF CULTURAL PROPERTY (Recommendation No. 4)

5. In accordance with the Committee’s fourth recommendation, adopted at its seventeenth session (Paris, 30 June – 1 July 2011), the UNESCO and UNIDROIT secretariats disseminated the model provisions and explanatory notes adopted in July 2011 to Member States, which were invited to take them into account when drafting or strengthening their national legislation. For that purpose, in early 2012, a letter signed jointly by the Director-General of UNESCO and the Secretary-General of UNIDROIT was sent to all Member States of the two organizations, officially transmitting the results of the work performed by the experts under the Committee’s supervision. The official letter included a background description of the project, the model provisions and explanatory notes. The UNIDROIT and UNESCO secretariats will continue to promote the model provisions at training workshops held worldwide and by calling for support from national governments to disseminate and promote this new tool effectively.

### **III. INTERNATIONAL COOPERATION (Recommendation No. 6)**

#### ***New States Parties to the UNESCO 1970 and UNIDROIT 1995 Conventions***

6. Since the last session of the Committee, the Secretariat has been informed that two new States have become Parties to the 1970 Convention – Kazakhstan, on 9 February 2012 and Palestine on 22 March 2012. The 1970 Convention currently has a total of 122 States Parties. Moreover, several countries are seriously considering or preparing for its ratification.

7. The 1995 UNIDROIT Convention now has 32 States Parties, after being ratified by Sweden in June 2011.

#### ***Cooperation with intergovernmental and non-governmental organizations***

##### International Institute for the Unification of Private Law (UNIDROIT)

8. In view of the complementarity between the 1970 and 1995 Conventions, the UNESCO and UNIDROIT Secretariats cooperate continually, in particular through their joint participation in statutory meetings and training workshops held throughout the world, mutual legal assistance and near-daily exchange of information on the implementation and ratification of the Conventions and on combating trafficking in cultural property.

9. In 2011, they cooperated on the drafting and adoption of model provisions on State ownership of undiscovered cultural objects.<sup>1</sup>

10. Lastly, to mark their close cooperation, the first meeting of UNIDROIT's special committee on the practical operation of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects was hosted at UNESCO Headquarters on 19 June 2012.

##### INTERPOL

11. In much the same way as in cooperation between UNESCO and UNIDROIT, the UNESCO and INTERPOL Secretariats contact each other several times per week. UNESCO is thus informed of the tangible results of the implementation of the 1970 Convention's provisions, of the effectiveness of action taken against trafficking in cultural property and of subsequent restitutions.

12. UNESCO's secretariat participates in the meetings of the INTERPOL Expert Group on Stolen Cultural Property.<sup>2</sup> The Secretariats also cooperate by regularly exchanging information on thefts of cultural property from States that report them to UNESCO or INTERPOL. INTERPOL's database is thus a key tool for seeking and monitoring information on such cases.

##### European Union

13. At the Committee's seventeenth session, a European Commission feasibility study entitled "HERMES 2011" on methods of preventing and combating trafficking in cultural goods was submitted by Ms M. Cornu, leader of the European research team that won the tender.

14. This project, implemented with support from UNESCO,<sup>3</sup> UNIDROIT, INTERPOL and some European universities, was submitted to the European Commission in November 2011.<sup>4</sup> It was instrumental in identifying bottlenecks and constraints resulting from the legal framework and the

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<sup>1</sup> See Section II, paragraph 5.

<sup>2</sup> The INTERPOL Expert Group (IEG) on Stolen Cultural Property meets annually, usually at INTERPOL's headquarters in Lyon. The ninth meeting was held on 28 and 29 February 2012.

<sup>3</sup> UNESCO provided key support for the award of the tender and financial and intellectual support for the conduct of the study.

<sup>4</sup> Available online at [http://ec.europa.eu/home-affairs/doc\\_centre/crime/crime\\_prevention\\_en.htm](http://ec.europa.eu/home-affairs/doc_centre/crime/crime_prevention_en.htm).

practice of those involved in preventing and combating trafficking in cultural goods in the European Union and in other States (in particular Iraq) and resulted in a series of proposals for solutions and legal and operational recommendations to be implemented in Europe.

15. Following this study, in December 2011, the Council of the European Union adopted conclusions on preventing and combating crime against cultural goods.<sup>5</sup> In those conclusions, the Council recommended, in particular, setting up the expert group under the Work Plan for Culture 2011-2014 to produce a toolkit on the fight against trafficking and on thefts of cultural goods. This group held its first meeting on 14 March 2012, which was attended by members of several European Directorates-General and UNESCO's representative in Brussels, who drew up and submitted proposals for the establishment of a partnership. The aim was to encourage the Commission to cooperate with UNESCO in training on combating trafficking in cultural property (particularly in Africa, the Caribbean, the Maghrib and conflict and post-conflict countries).

### ***The United Nations***

16. UNESCO continues to work with the United Nations Office on Drugs and Crime (UNODC) to support action taken by this United Nations Office against cultural property crime. The Organizations' specialists worked together, in particular, at an informal meeting of the expert group on trafficking in cultural property convened in Vienna from 21-23 November 2011 to examine specific draft guidelines on crime prevention and criminal justice responses to trafficking in cultural property. The draft guidelines will be considered anew in an intergovernmental setting from 25 to 28 June at UNODC.

### ***UNESCO's action to protect cultural heritage in Syria and Mali***

#### Heritage protection in Syria

17. In March 2012, after receiving alarming reports that historical sites had been damaged and cultural property looted in various regions of Syria, the Director-General alerted the international community in a press release issued on 30 March 2012, setting out the obligations incumbent upon States signatories to the 1970 Convention and to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.

18. In April 2012, the Director-General wrote to UNESCO's partners in action against trafficking in cultural property (INTERPOL, WCO, OCBC and the Italian police force) to put them on heightened alert for movements of cultural property. To combat effectively the risk of illegal exports of cultural property, Syria's neighbours, too, were alerted.

19. Lastly, referring to United Nations Security Council resolution 2043 (2012),<sup>6</sup> the Director-General formally contacted the United Nations Secretary-General and the President of the Security Council to report specific threats to Syria's heritage and requested them to alert the United Nations Special Envoy and the League of Arab States to the importance of ensuring compliance with the provisions of the various international conventions on the protection of cultural property.

#### Heritage protection in Mali

20. In March and April 2012, when Mali's cultural heritage was seriously at risk, the Director-General issued press releases (on 3 and 15 April and 9 May 2012) to alert the international community. UNESCO's partners in combating trafficking in cultural property and Mali's neighbours

<sup>5</sup> See 3135th Justice and Home Affairs Council meeting (Brussels, 13-14 December 2011).

<sup>6</sup> Resolution 2043 (2012) of the United Nations Security Council, establishing a United Nations supervision mission in Syria (MISNUS) to monitor a cessation of armed violence "in all its forms by all parties" as well as the full implementation of the six-point proposal of the Joint Special Envoy of the United Nations and the League of Arab States.

were again alerted to avoid thefts and the illegal export of Mali's cultural property as much as possible.

21. Furthermore, the Director-General drew the attention of the Chairperson of the Commission of the African Union to the state of Mali's cultural heritage and, in particular, to the world heritage sites at Timbuktu and Gao. Similar representations were made to the President of the Economic Community of West African States.

### ***Training workshops***

22. Since the seventeenth session of the Intergovernmental Commission, the Secretariat has organized or participated in the training workshops described below. Training and capacity-building are crucial and the Secretariat will increase such activities during the 2012-2013 biennium, owing to support granted by the Director-General under the Emergency Fund. These workshop projects will cover all world regions. A detailed description of each project is provided in document C70/12/2.MSP/INF.2.

### **Africa**

23. On 14 and 15 September 2011, the UNESCO Offices in Harare (Zimbabwe) and Windhoek (Namibia), in cooperation with governmental partners in Namibia, held a training workshop in Windhoek entitled "Prevention and fight against illicit traffic of cultural goods in the southern African region". The purpose of the workshop was to assess the current situation in the institutional network for preventing and combating trafficking in cultural property and to identify ways of strengthening cooperation nationally and subregionally in this field on the basis of UNESCO's 1970 Convention and UNIDROIT's 1995 Convention. Representatives of eight African countries (Botswana, Lesotho, Malawi, Namibia, South Africa, Swaziland, Zambia and Zimbabwe) participated in the workshop, to which representatives of INTERPOL and UNIDROIT contributed their expertise.<sup>7</sup>

### **Arab States**

24. An international conference on the return of Saudi Arabian antiquities was held in Riyadh from 12 to 14 February 2012 by the Saudi Commission for Tourism and Antiquities, with UNESCO's assistance. On that occasion, various events were held on the return of cultural property, such as an exhibition on recovered antiquities and a workshop for a national audience comprising representatives of public institutions, private companies and civil society. Some 120 participants attended, including delegates from Egypt, Oman, Qatar, Saudi Arabia and United Arab Emirates and experts from INTERPOL and UNIDROIT. As shown by the diversity of the participants, the objective was to integrate the issue of combating trafficking regionally (through the League of Arab States and the Gulf Cooperation Council (GCC)). It is now essential to increase the number of training courses and workshops on the legal and practical implementation of heritage protection in that region.

25. On 7 March 2012, a working group on practical legislative measures in the Islamic Republic of Iran, research, international cooperation, the return of cultural property, artefacts and antiquities was convened jointly by the offices of UNESCO and the United Nations Office on Drugs and Crime (UNODC) in Tehran, in close cooperation with Iran's Cultural Heritage, Handicrafts and Tourism Organization (ICHHTO). The aim was to focus on legal and practical issues in transnational crime and money laundering relating to trafficking in cultural property, artefacts and antiquities. In that connection, a working group composed of national experts was formed in 2011 to discuss those issues in close collaboration with UNESCO and UNODC. At the first meeting, priorities and strategies were recommended in order to have a better understanding of those issues in Iran. The meeting brought all competent authorities and experts active in protecting cultural property,

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<sup>7</sup> [http://portal.unesco.org/en/ev.php-URL\\_ID=48622&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=48622&URL_DO=DO_TOPIC&URL_SECTION=201.html)

artefacts and antiquities together in order to facilitate internal cooperation and implement strategies to develop international collaboration.

26. In May 2012, the UNESCO Office in Tehran was invited to speak on the 1970 Convention and the secretariat's activities relating to its implementation at a training workshop, in Iran, on international mechanisms used in the search for stolen and illegally exported cultural objects. The discussion on combating trafficking in cultural property led participants to call for more training workshops on the topic to be organized in Iran.

#### South-East Europe

27. In the context of *awareness-raising and communication strategies to combat trafficking in cultural property in South-East Europe*, the UNESCO Office in Venice, in cooperation with the Macedonian National Commission for UNESCO and the Ministry of Tourism, Culture and Sports of Albania, held two international expert meetings in the former Yugoslav Republic of Macedonia (Skopje, 13 October 2011) and in Albania (Tirana, 23 November 2011) respectively. The second meeting received support from Albania's One UN Coherence Fund.

#### **IV. UNESCO DATABASE OF NATIONAL CULTURAL HERITAGE LAWS** **(Recommendation No. 6)**

28. Launched in 2005 at the thirteenth session of the Intergovernmental Committee, this database – which contributes to the cultural-heritage protection programme and to combating the looting, theft and illicit traffic of cultural property – is still operational owing to extrabudgetary contributions from the United States of America. It currently comprises 2,367 national cultural laws from 180 countries. The texts are all available online at <http://www.unesco.org/culture/natlaws>.

29. In order to make the database known to as wide a public as possible, it is described systematically at meetings, conferences and training workshops on the protection of cultural heritage. Since 2011, in order to continue effectively to raise the profile of the database, its content has been added to the World Heritage Centre's States Parties web pages ([whc.unesco.org](http://whc.unesco.org)), the aim being to increase the number of users. Moreover, two consultants are working specifically to promote this tool in Africa, Latin America, Asia, the Arab States and Europe.

30. States are still strongly encouraged to submit their national cultural heritage legislation to the Secretariat for inclusion in the database.<sup>8</sup> The Secretariat recently received new texts and updates from Armenia, Cambodia, Germany, India, the Netherlands, Poland and the United Kingdom. In addition to updating incoming texts regularly, the Secretariat continues to inform Member States and the public of the existence of this tool. To that end, a brochure was drawn up and published in the six languages of the Organization in 2009. It is also available online, together with a glossary of keywords. The updates, translations and publications are funded by the Department of State of the United States of America.

#### **V. MEDIATION AND CONCILIATION**

31. The Secretariat is working to develop, for the benefit of States and in close cooperation with several renowned international experts, new tools for non-judicial conflict resolution in matters of cultural property ownership. In addition to the model provisions defining State ownership of cultural property (see Section II above), "a list of potential mediators and conciliators shall be drawn up and maintained by the Secretariat for the information of, and possible use by, the Parties in appointing mediators or conciliators" (Article 2.6 of the Rules of Procedure for Mediation and Conciliation). To

<sup>8</sup> States are invited to provide information officially to UNESCO in electronic format (on diskette, CD-ROM or email), together with official written authorization from the competent national authority so that UNESCO may reproduce the legislation and the export/import certificates on its website and insert a link between the website and the official national website, unless it is expressly specified that such a link is barred or not desired. [www.unesco.org/culture/natlaws](http://www.unesco.org/culture/natlaws)

that end, each Member State of UNESCO is invited “to nominate two individuals who could fulfil the role of mediator or conciliator in international cultural property disputes” and to communicate the names to the Secretariat. The list of the experts’ names is annexed to this document. All States that have not yet done so are expressly invited to appoint two representatives to discharge these functions. The list is reviewed every two years.

## **VI. PUBLICATIONS**

### **Cultural-heritage protection handbook No. 6. Securing religious heritage (2012)<sup>9</sup>**

32. A series of cultural-heritage protection handbooks on various practical subjects such as museum security, documentation of artefact collections and museum disaster-risk management has been published under UNESCO's movable heritage outreach programme. The purpose of the programme is to inform museum staff, owners of collections and the general public about the protection and preservation of different types of movable cultural property (works of art, manuscripts, cultural items, and so forth) and to promote appropriate management of collections.

33. A new handbook in this series was published in 2012 on the security of heritage in places of worship. The 1970 Convention secretariat contributed and INTERPOL's Works of Art Unit participated actively.

## **VII. EXTRABUDGETARY FUNDS**

34. For the organization of the eighteenth session of the Intergovernmental Committee, the Secretariat received financial support from Greece (€10,000).

## **VIII. DRAFT RECOMMENDATION 18.COM 3**

35. In view of the foregoing, the Intergovernmental Committee may wish to adopt the following recommendation:

The Intergovernmental Committee,

1. *Having examined document ICPRCP/12/18.COM/3;*
2. *Adopts the report of the Secretariat contained in the above-mentioned document.*

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<sup>9</sup> <http://unesdoc.unesco.org/images/0021/002162/216292E.pdf>

**ANNEX**

**LIST OF MEDIATORS AND CONCILIATORS SELECTED BY THEIR COUNTRY**

- Belgium: Mr Johan Erauw  
Mr Pierre De Maret
- China: Mr Jianxin Zhang  
Ms Ye Zhu
- Guatemala: Mr Alfonso Ortiz Sobalvarro  
Mr Juan Carlos Melendez
- Mexico: Dr Jorge Sánchez Cordero  
Mr Eduardo Matos Moctezuma
- Rwanda: Mr Marcel Kabanda  
Mr Jean Mukimbiri
- Turkey: Ms Sibel Özel  
Ms Esra Gül Dardagan Kibar