

The Act on the return of cultural objects unlawfully removed from the territory of a Member State of the European Economic Area 1276/1994 (Unofficial translation)

It is hereby enacted in accordance with the decision of Parliament:

Section 1

The scope of application of the Act

A cultural object within the meaning of Article 1 Section 1 of Directive 93/7/EEC of the Council of the European Communities on the return of cultural objects unlawfully removed from the territory of a Member State, when the cultural object is in Finland and it has been removed unlawfully from the territory of another State in the European Economic Area, shall be returned to the State concerned as prescribed in this Act.

Section 2

Definition

The unlawful removal of a cultural object in this Act means taking the object out of the territory of a State in the European Economic Area in contravention of the State's legislation concerning the protection of national treasures or in contravention of the Council Regulation of the European Communities on the export of cultural goods (EEC) No. 3911/92. The unlawful removal of an object also means the non-return of an object in contravention of the law of a State in the European Economic Area from where the object has been taken with permission for the purpose of an exhibition, examination, reconditioning or other similar purpose of temporary or fixed duration, or in contravention of some other condition set for the permissible removal.

Section 3

The central authority

The Ministry of Justice shall be the central authority entrusted with the tasks prescribed in this Act. As the central authority, the task of the Ministry of Justice is, in collaboration with the competent authority in Finland, to:

- 1) be in contact with the central authorities and the competent authorities in the States of the European Economic Area and to promote collaboration between Finland and the competent authorities in the States concerned;
- 2) search for unlawfully removed cultural objects located in Finland and give a report of the finding of the objects to the States requesting their return;
- 3) arrange, when necessary, an opportunity for the State requesting the return of an object to inspect the object within two months of giving the report mentioned in paragraph 2;
- 4) act as an intermediary in the negotiations between the owner or holder of the object and the State requesting the return of the object in order to bring about a settlement concerning the return;
- 5) take measures to protect unlawfully removed cultural objects and safeguard their return;
- 6) institute legal proceedings and give other legal assistance at the request of the State demanding the return of the object;
- 7) send requests to the authorities of the States in the European Economic Area for the return of objects unlawfully removed from Finland;
- 8) inform the central authority in the State where an object unlawfully removed from Finland is located concerning the institution of proceedings in that State for the return of the object; and
- 9) take other necessary measures within the scope of this Act and the Directive mentioned in Section 1.

Section 4

Application concerning the return

A cultural object located in Finland that has been taken unlawfully from the territory of a State in the European Economic Area shall be ordered to be returned under an application submitted by the State concerned. The application shall be submitted to the local court in whose judicial district the object is located or the judicial district where the owner or holder of the object is domiciled or the place of residence where he/she resides. The application shall be accompanied by a document describing the object the return of which is requested, and stating that it is a cultural object within the meaning of Section 1. The application shall also be accompanied by a written confirmation by a competent authority of the State requesting return stating that the object has been unlawfully removed from the territory of the State concerned.

Section 5

Precautionary measures

In order to ensure the return of the cultural object, the local court referred to in Section 4 may order the seizure of the object, or shall resort to other precautionary measures as prescribed in Chapter 7 of the Code of Judicial Procedure. The application for precautionary measures may be submitted by the Ministry of Justice or by the State from where the object was unlawfully removed. The precautionary measure shall become void if the application mentioned in Section 4 is not made within two months of the decision ordering the precautionary measure.

Section 6

Limitations

The application prescribed in Section 4 shall be submitted within one year from the time when the State, from whose territory the object was unlawfully removed, has received information of the location of the object and of the identity of the owner or holder. However, the application shall be submitted, at the latest, within 30 years of the unlawful removal of the object. If the matter concerns an object belonging to a public collection or if it is an ecclesiastical object within the meaning of Article 1 Section 1 of the Directive mentioned in Section 1 and it is an object under special protection in the State requesting the return, the application shall be submitted within one year as stated in paragraph 1 and at the latest within 75 years of the unlawful removal of the object.

Section 7

Entitlement to compensation

If the object is ordered to be returned, the person who, after the unlawful removal, has obtained right of ownership, right of lien or other rights to the object, is entitled to receive reasonable compensation from the State requesting the return for loss or detriment arising from the return. The local court, where the matter concerning the return is under consideration, shall order compensation if the holder of a right mentioned in paragraph 1 did not know and cannot be expected to have known of the unlawful removal of the object and if he/she can prove that he/she has exercised due care in acquiring the right. The compensation shall be paid before the object is returned. When evaluating the amount of the compensation, the following matters shall be taken into consideration: the effect of the return on the right of ownership or other rights related to it, the purchase price of the object, changes in the value of the object since it was acquired, the costs incurred in acquiring and storing it, the special sentimental value of the object to its owner, and other comparable considerations. The person who has obtained the right of ownership or some other right to the object through inheritance or has otherwise gratuitously acquired the object ordered to be returned, does not have a better right to compensation than the person from whom the object was obtained gratuitously.

Section 8

Costs

The government of Finland shall not claim compensation from the State requesting the return of a cultural object for the costs incurred by the central authority and the competent authority for executing the measures under this Act. The State requesting the return of the cultural object shall bear the costs for legal proceedings instituted in Finland and for the costs incurred by other separately initiated procedures as prescribed. The State requesting the return shall also be responsible for the costs which have been incurred in Finland for storing, protecting and returning the object.

Section 9

The law governing acquirement of ownership

When the cultural object has been returned from Finland to another State in the European Economic Area in accordance with this Act and the Directive mentioned in Section 1, the law of the State to which the object is returned shall be applied with regard to obtaining the right of ownership during the period between the unlawful removal and the return of the object.

Section 10

Entry into force

This Act shall enter into force on the 1st day of January 1995. The Act shall be applied to a cultural object located in Finland which has been unlawfully removed from the territory of another State in the European Economic Area after the Act has entered into force. Measures required for the execution of this Act may be taken before its entry into force.