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## **Federal Act on the International Transfer of Cultural Property (Cultural Property Transfer Act, CPTA)**

of 20 June 2003 (Status as of 1 February 2021)

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*The Federal Assembly of the Swiss Confederation,*

on the basis of Articles 69 paragraph 2 and 95 paragraph 1 of the Federal Constitution<sup>1</sup>,

in implementation of the Convention of 14 November 1970<sup>2</sup> on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970 UNESCO Convention)

and of the Convention of 2 November 2001<sup>3</sup> on the Protection of the Underwater Cultural Heritage (2001 UNESCO Convention),<sup>4</sup>

*decrees:*

### **Section 1    General Provisions**

#### **Art. 1            Subject matter and purpose**

<sup>1</sup> This Act regulates the import of cultural property into Switzerland, its transit and export as well as its repatriation from Switzerland.

<sup>2</sup> By this Act, the Confederation intends to contribute to preserving mankind's cultural heritage and to prevent the theft, looting and illegal import and export of cultural property.

#### **Art. 2            Definitions**

<sup>1</sup> *Cultural property* means property that is important on religious or secular grounds to archaeology, pre-history, history, literature, art or science and which belongs to

AS 2005 1869

<sup>1</sup> SR 101

<sup>2</sup> SR 0.444.1

<sup>3</sup> SR 0.444.2

<sup>4</sup> Amended by Annex No 1 of the FD of 21 June 2019 on the Approval of the Convention on the Protection of Underwater Cultural Heritage, in force since 1 Nov. 2020 (AS 2020 3793; BBl 2019 467).

one of the categories specified in Article 1 of the 1970 UNESCO Convention or Article 1 paragraph 1 letter a of the 2001 UNESCO Convention.<sup>5</sup>

<sup>2</sup> *Cultural heritage* means the entirety of cultural property belonging to one of the categories specified in Article 4 of the 1970 UNESCO Convention.

<sup>3</sup> *Contracting states* means states that have ratified the 1970 UNESCO Convention.

<sup>4</sup> *Specialised Body* means the administrative body responsible for carrying out the tasks specified in Article 18.

<sup>5</sup> *Unlawful import, transit or export* means any import, transit or export that violates an agreement pursuant to Article 7 or a measure pursuant to Article 8 paragraph 1 letter a.<sup>6</sup>

## Section 2 Registers of Cultural Property

### Art. 3 Federal Register

<sup>1</sup> Cultural property owned by the Confederation that is of essential importance to cultural heritage shall be registered in the Federal Register.

<sup>2</sup> Registration has the following effect:

- a. the cultural property may neither be acquired by adverse possession nor be acquired in good faith;
- b. the right to recovery is not subject to a statute of limitations;
- c. the definitive export of the cultural property from Switzerland is prohibited.

<sup>3</sup> The entry in the Federal Register relating to an item of cultural property may be removed if:

- a. the cultural property is no longer of essential importance to cultural heritage;
- b. the cultural property is to be made part of an ensemble;
- c. the Confederation loses or waives its ownership of the cultural property.

<sup>4</sup> The Specialised Body shall maintain and publish the Federal Register in the form of an electronic database.

### Art. 4 Cantonal registers

<sup>1</sup> In order to simplify border controls, cantons that regulate the export of cultural property on their territories may link the following to the federal database:

- a. registers of their cultural property;

<sup>5</sup> Amended by Annex No 1 of the FD of 21 June 2019 on the Approval of the Convention on the Protection of Underwater Cultural Heritage, in force since 1 Nov. 2020 (AS 2020 3793; BBl 2019 467).

<sup>6</sup> Amended by No I of the FA of 25 Sept. 2020, in force since 1 Feb. 2021 (AS 2021 50; BBl 2020 3131).

- b. registers of privately-owned cultural property, provided the owners have given their consent thereto.

<sup>2</sup> The cantons may declare that cultural property in their registers may neither be acquired by adverse possession nor acquired in good faith and that the right to recovery is not subject to a statute of limitations.

### **Section 3    Import, Transit and Export<sup>7</sup>**

#### **Art. 4a<sup>8</sup>**        Customs declaration

Any person who imports, carries in transit or exports cultural property as defined in Article 2 paragraph 1 must declare it to customs.

#### **Art. 5**            Export licence for cultural property in the Federal Register

<sup>1</sup> Any person who wishes to export from Switzerland cultural property that is registered in the Federal Register shall require a licence from the Specialised Body.

<sup>2</sup> The licence shall be granted if:

- a. the cultural property is being exported temporarily; and
- b. the cultural property is being exported for the purpose of the research, conservation, exhibition or for similar reasons.

#### **Art. 6**            Swiss right of repatriation

<sup>1</sup> If cultural property registered in the Federal Register has been exported unlawfully from Switzerland, the Federal Council shall exercise its right of repatriation against other contracting states. Any compensation and costs shall be paid by the Confederation.

<sup>2</sup> If cultural property registered in a cantonal register is exported unlawfully from Switzerland, the Federal Council shall at the request of the canton concerned exercise its right of repatriation against other contracting states. Any compensation and costs shall be paid by the requesting canton.

#### **Art. 7**            Agreements

<sup>1</sup> To safeguard cultural and foreign policy interests and to preserve our cultural heritage the Federal Council may enter into international treaties with contracting states on the import and repatriation of cultural property (agreements).

<sup>7</sup> Amended by No I of the FA of 25 Sept. 2020, in force since 1 Feb. 2021 (AS 2021 50; BBl 2020 3131).

<sup>8</sup> Inserted by No I of the FA of 25 Sept. 2020, in force since 1 Feb. 2021 (AS 2021 50; BBl 2020 3131).

<sup>2</sup> The following conditions must be met:

- a. the subject matter of the agreement must be cultural property of essential importance to the cultural heritage of the contracting State concerned;
- b. the cultural property must be subject to provisions on export in the contracting State concerned that aim to protect cultural heritage; and
- c. the contracting State must grant reciprocal rights.

**Art. 8** Temporary measures

<sup>1</sup> In order to protect from damage the cultural heritage of a State that is endangered due to exceptional events, the Federal Council may:

- a. permit, place conditions on, restrict or prohibit the import, transit and export of cultural property;
- b. participate in joint international operations as defined in Article 9 of the 1970 UNESCO Convention.

<sup>2</sup> The measures must be temporary.

**Art. 9** Repatriation actions based on agreements

<sup>1</sup> Any person in possession of cultural property that has been unlawfully imported into Switzerland may be sued for repatriation by the State from which the cultural property has been unlawfully exported. The plaintiff State must in particular prove that the cultural property is of essential importance to its cultural heritage and was unlawfully imported.

<sup>2</sup> The court may postpone repatriation until the cultural property is no longer at risk on its repatriation.

<sup>3</sup> The costs of the measures required to secure, preserve and repatriate the cultural property shall be borne by the plaintiff State.

<sup>4</sup> The State's right of repatriation is subject to a statute of limitations of one year from the date on which its authorities became aware of where and with whom the cultural property is located, but 30 years at the latest after the cultural property was unlawfully exported.

<sup>5</sup> Any person who has acquired the cultural property in good faith and must return it is entitled at the time of repatriation to compensation based on the purchase price and any expenditure that was required and beneficial for the preservation and maintenance of the cultural property.

<sup>6</sup> The compensation must be paid by the plaintiff State. The person that is required to return the cultural property has a right of retention pending payment of the compensation.

## Section 4 Guarantee of Return

### Art. 10 Application

If cultural property of a contracting State is lent temporarily by a contracting State to a museum or another cultural institution in Switzerland for an exhibition, the borrowing institution may request the Specialised Body to issue the lending institution with a guarantee of return for the duration of the exhibition agreed in the loan agreement.

### Art. 11 Publication and objection procedure

<sup>1</sup> The request shall be published in the Official Federal Gazette. The notice published shall contain a precise description of the cultural property and of its origin.

<sup>2</sup> If the request clearly does not meet the requirements for granting a guarantee of return, it shall be rejected and not published.

<sup>3</sup> Any person who is a party under the Federal Act of 20 December 1968<sup>9</sup> on Administrative Procedure may file a written objection within 30 days with the Specialised Body. The 30-day period begins on publication of the notice.

<sup>4</sup> Unless a person has filed an objection, they may not participate in the remainder of the proceedings.

### Art. 12 Issuing the guarantee

<sup>1</sup> The Specialised Body shall decide on the request for issuing a guarantee of return.

<sup>2</sup> The guarantee of return may be issued if:

- a. no one has filed an objection claiming ownership of the cultural property;
- b. the import of the cultural property is not unlawful;
- c. the lending agreement provides that the cultural property shall be returned to the contracting State from which it has been borrowed on conclusion of the exhibition.

<sup>3</sup> The Federal Council may specify additional requirements.

### Art. 13 Effect

The guarantee of return has the effect that private individuals and public authorities may not claim any legal rights to the cultural property while the cultural property is in Switzerland.

<sup>9</sup> SR 172.021