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Ordinance on the International Transfer of Cultural Property (Cultural Property Transfer Ordinance, CPTO)

of 13 April 2005 (Status as of 1 July 2017)

The Swiss Federal Council,

on the basis of Article 31 of the Cultural Property Transfer Act (CPTA) of
20 June 2003¹,

ordains:

Section 1 General Provisions

Art. 1 Definitions

In this Ordinance:

- a. the *description of an item of cultural property* means:
 - 1. the nature of an item of cultural property, the materials from which it is made, its dimensions and/or weight, any inscriptions or markings thereon, and any special features (in particular damage and repairs),
 - 2. its era or date of creation, creator and its name, insofar as these details are known or can with reasonable expense be established;
- b. the *origin or provenance of an item of cultural property* means the place an item of cultural property comes from or its place of manufacture or, if it originates from archaeological or palaeontological excavations or discoveries, the place where the item of cultural property was found;
- c.² *federal institutions* means:
 - 1. the Swiss National Museum and the National Museum Zurich, the Château de Prangins, the Forum der Schweizer Geschichte Schwyz and the Sammlungszentrum Affoltern am Albis,
 - 2. the Swiss National Library with the Swiss Literary Archives and the Prints and Drawings Department, and the Centre Dürrenmatt in Neuchâtel,

AS **2005** 1883

¹ SR **444.1**

² Amended by Art. 10 of the Ordinance of 21 May 2014 on the Federal Register of Cultural Property, in force since 1 July 2014 (AS **2014** 1451).

3. the Oskar Reinhart Collection «Am Römerholz» in Winterthur,
 4. the Museo Vela in Ligornetto,
 5. the Seewen Museum of Music Automats,
 6. Federal Institute of Technology in Zurich and its collections,
 7. the collection of art and cultural property held by Gottfried Keller Foundation,
 8. the Swiss Federal Art Collection;
- d. *lending institution* means both public and private institutions that lend cultural property, and private lenders;
- e. *persons active in the art trade and the auction business* means:
1. natural persons domiciled in Switzerland and companies with registered office in Switzerland that are required to be entered in the commercial register and that either acquire cultural property for the purpose of resale for their own account or that trade in cultural property for the account of others, and
 2. natural persons domiciled abroad and companies with registered office abroad that carry out more than ten commercial transactions involving cultural property in a calendar year and thereby achieve a turnover of more than 100,000 francs and that either acquire cultural property for the purpose of resale for their own account or that trade in cultural property for the account of others;
- f. *transfer of cultural property* means a transaction for a consideration in the art trade or in the auction business that leads to a person becoming the owner of an item of cultural property;
- g. *estimated value* means the value that corresponds to the market value of an item of cultural property. The customary practices for establishing the estimated value in auctions are reserved;
- h. *supplier* means the person who instructs another person active in the art trade and the auction business to transfer of an item of cultural property;
- i. *exceptional events*:
- 1.³ armed conflicts,
 2. natural disasters,
 3. other exceptional events that endanger the cultural heritage of a state.

³ Amended by No II 1 of the Ordinance of 29 Oct. 2014 on the Protection of Cultural Property during Armed Conflicts, in force since 1 Jan. 2015 (AS 2014 3555).

Section 2 Cantonal Registers of Cultural Property

(Art. 4 CPTA)

Art. 2

¹ The content of cantonal registers are not included in the Federal Register. A link connects to the Federal Register. The Federal Office of Culture (FOC) shall resolve the modalities of connections in consultation with the cantons.

² The Federal Government shall ensure that the authorities and the public can access the cantonal registers electronically (Internet) without restriction and at no charge.

³ The cantons are responsible for the content of the registers.

Section 3 Import and Export

Art. 3 Application for a temporary export licence

(Art. 5 CPTA)

¹ The application for an export licence for cultural property registered in the Federal Register must be submitted to the specialist service, at the latest, 30 days prior to the intended export from Switzerland.

² The application must include the following information:

- a. the purpose of the temporary export;
- b. the export date of the cultural property;
- c. the repatriation date of the cultural property.

³ The following must be enclosed with the application:

- a. a description of the cultural property;
- b. the Federal Register inventory number for the cultural property.

Art. 4 Notice of repatriation to Switzerland

(Art. 5 CPTA)

Notice of repatriation to Switzerland must be given within 30 days thereof to the specialist service.

Art. 5 Swiss repatriation rights

(Art. 6 CPTA)

¹ The specialist service is responsible for exercising repatriation rights pursuant to Article 6 CPTA.

² It shall initiate the exercise of repatriation rights for cultural property protected against export by cantonal law in consultation with the responsible cantonal authorities.

Art. 6 Temporary measures
(Art. 8 CPTA)

Temporary measures may also include licensing and reporting requirements.

Section 4 Guarantee of Return

Art. 7

¹ The institution borrowing one or more items of cultural property must submit a request for the issue of a guarantee of return to the specialist service, at the latest three months before the intended import of the cultural property into Switzerland.

² The request must include the following information:

- a. name and address of the lending institution;
- b. a description of the cultural property;
- c. as precise a description as possible of the cultural property's origin;
- d. the intended date of the temporary import of cultural property into Switzerland;
- e. the intended date of the export of the cultural property from Switzerland;
- f. the duration of the exhibition;
- g. the requested term of the guarantee of return.

³ The request must be submitted in an official language. The information specified in paragraph 2 letters b and c must be submitted in electronic form. This information may also be submitted in English.

⁴ A copy of the loan agreement with the lending institution must be enclosed with the request. The copy must indicate that the cultural property will return to the contracting state from which it was borrowed at the completion of the exhibition in Switzerland or at the completion of a travelling exhibition through multiple countries.

⁵ The specialist service shall allow the borrowing institution a period of 10 days to rectify incomplete requests or requests without a copy of the loan agreement. It shall combine the deadline with the warning that the request may be rejected without publication (Art. 11 para. 2 CPTA) if the request is not rectified within the deadline or a copy of the loan agreement is not submitted.

Section 5

Financial Assistance for the Preservation of Cultural Heritage

Art. 8 Application for financial assistance (Art. 14 CPTA)

An application for financial assistance for the preservation of cultural heritage of another country must be submitted to the specialist service before conducting the planned project.

Art. 9 Authority to grant financial assistance (Art. 14 CPTA)

¹ The FOC shall decide on applications on financial assistance for the temporary fiduciary custody and conservational supervision of cultural property pursuant to Article 1 paragraph 1 letter a CPTA.

² The FOC shall decide in consultation with the Swiss Agency for Development and Cooperation and the Directorate of Political Affairs of the Federal Department of Foreign Affairs on applications for financial assistance for projects pursuant to Article 14 paragraph 1 letter b CPTA, and projects facilitating the restitution of cultural heritage under Article 14 paragraph 1 letter c CPTA.

Art. 10 Maximum rate of financial assistance (Art. 14 CPTA)

¹ Financial assistance may amount to a maximum of 50 per cent of the costs claimed.

² Financial assistance may only be granted as part of the approved credits.

Art. 11 Financial assistance for fiduciary custody (Art. 14 para. 1 let. a CPTA)

¹ Financial assistance for the fiduciary custody and conservational supervision shall amount to a maximum of CHF 100,000 per annum.

² Financial assistance shall only be granted to museums or similar institutions that:

- a. are active in a significant and recognised manner in the corresponding specialty, and
- b. conduct their activity based on the deontological rules of the museum profession, for example, the ICOM⁴ Code of Ethics for Museums of 4 November, 1986 (amended on 6 July 2001 and revised in October 2004)⁵, in particular with regard to its purchasing and exhibition policies.

⁴ International Council of Museums

⁵ Available at the FOC's Specialized Body for the International Transfer of Cultural Property, Hallwylstrasse 15, 3003 Bern.