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COUNCIL DIRECTIVE 93/7/EEC

of 15 March 1993

on the return of cultural objects unlawfully removed from the territory of a Member State

(OJ L 74, 27.3.1993, p. 74)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Directive 96/100/EC of the European Parliament and of the Council of 17 February 1997	L 60	59	1.3.1997
►**M2**	Directive 2001/38/EC of the European Parliament and of the Council of 5 June 2001	L 187	43	10.7.2001

NB: This consolidated version contains references to the European unit of account and/or the ecu, which from 1 January 1999 should be understood as references to the euro — Council Regulation (EEC) No 3308/80 (OJ L 345, 20.12.1980, p. 1) and Council Regulation (EC) No 1103/97 (OJ L 162, 19.6.1997, p. 1).

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COUNCIL DIRECTIVE 93/7/EEC

of 15 March 1993

on the return of cultural objects unlawfully removed from the territory of a Member State

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission [1],

In cooperation with the European Parliament [2],

Having regard to the opinion of the Economic and Social Committee [3],

Whereas Article 8a of the Treaty provides for the establishment, not later than 1 January 1993, of the internal market, which is to comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaty;

Whereas, under the terms and within the limits of Article 36 of the Treaty, Member States will, after 1992, retain the right to define their national treasures and to take the necessary measures to protect them in this area without internal frontiers;

Whereas arrangements should therefore be introduced enabling Member States to secure the return to their territory of cultural objects which are classified as national treasures within the meaning of the said Article 36 and have been removed from their territory in breach of the abovementioned national measures or of Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods [4]; whereas the implementation of these arrangements should be as simple and efficient as possible; whereas, to facilitate cooperation with regard to return, the scope of the arrangements should be confined to items belonging to common categories of cultural object; whereas the Annex to this Directive is consequently not intended to define objects which rank as 'national treasures' within the meaning of the said Article 36, but merely categories of object which may be classified as such and may accordingly be covered by the return procedure introduced by this Directive;

Whereas cultural objects classified as national treasures and forming an integral part of public collections or inventories of ecclesiastical institutions but which do not fall within these common categories should also be covered by this Directive;

Whereas administrative cooperation should be established between Member States as regards their national treasures, in close liaison with their cooperation in the field of stolen works of art and involving in particular the recording, with Interpol and other qualified bodies issuing similar lists, of lost, stolen or illegally removed cultural objects forming part of their national treasures and their public collections;

Whereas the procedure introduced by this Directive is a first step in establishing cooperation between Member States in this field in the context of the internal market; whereas the aim is mutual recognition of the relevant national laws; whereas provision should therefore be made, in particular, for the Commission to be assisted by an advisory committee;

Whereas Regulation (EEC) No 3911/92 introduces, together with this Directive, a Community system to protect Member States' cultural

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(1) OJ No C 53, 28. 2. 1992, p. 11, and OJ No C 172, 8. 7. 1992, p. 7.
(2) OJ No C 176, 13. 7. 1992, p. 129 and OJ No C 72, 15. 3. 1993.
(3) OJ No C 223, 31. 8. 1992, p. 10.
(4) OJ No L 395, 31. 12. 1992, p. 1.

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goods; whereas the date by which Member States have to comply with this Directive has to be as close as possible to the date of entry into force of that Regulation; whereas, having regard to the nature of their legal systems and the scope of the changes to their legislation necessary to implement this Directive, some Member States will need a longer period,

HAS ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive:

1. '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 administrative procedures within the meaning of Article 36 of the Treaty,

   and

   — belongs to one of the categories listed in the Annex or does not belong to one of these categories but forms an integral part of:

      — public collections listed in the inventories of museums, archives or libraries' conservation collection.

        For the purposes of this Directive, 'public collections' shall mean collections which are the property of a Member State, local or regional authority within a Member States or an institution situated in the territory of a Member State and defined as public in accordance with the legislation of that Member State, such institution being the property of, or significantly financed by, that Member State or a local or regional authority;

      — the inventories of ecclesiastical institutions.

2. 'Unlawfully removed from the territory of a Member State' shall mean:

   — removed from the territory of a Member State in breach of its rules on the protection of national treasures or in breach of Regulation (EEC) No 3911/92, or

   — not returned at the end of a period of lawful temporary removal or any breach of another condition governing such temporary removal.

3. 'Requesting Member State' shall mean the Member State from whose territory the cultural object has been unlawfully removed.

4. 'Requested Member State' shall mean the Member State in whose territory a cultural object unlawfully removed from the territory of another Member State is located.

5. 'Return' shall mean the physical return of the cultural object to the territory of the requesting Member State.

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

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

Article 2

Cultural objects which have been unlawfully removed from the territory of a Member State shall be returned in accordance with the procedure and in the circumstances provided for in this Directive.

Article 3

Each Member State shall appoint one or more central authorities to carry out the tasks provided for in this Directive.

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Member States shall inform the Commission of all the central authorities they appoint pursuant to this Article.

The Commission shall publish a list of these central authorities and any changes concerning them in the C series of the *Official Journal of the European Communities*.

Article 4

Member States' central authorities shall cooperate and promote consultation between the Member States' competent national authorities. The latter shall in particular:

1. upon application by the requesting Member State, seek a specified cultural object which as been unlawfully removed from its territory, identifying the possessor and/or holder. The application must include all information needed to facilitate this search, with particular reference to the actual or presumed location of the object;
2. notify the Member States concerned, where a cultural object is found in their own territory and there are reasonable grounds for believing that it has been unlawfully removed from the territory of another Member State;
3. enable the competent authorities of the requesting Member State to check that the object in question is a cultural object, provided that the check is made within 2 months of the notification provided for in paragraph 2. If it is not made within the stipulated period, paragraphs 4 and 5 shall cease to apply;
4. take any necessary measures, in cooperation with the Member State concerned, for the physical preservation of the cultural object;
5. prevent, by the necessary interim measures, any action to evade the return procedure;
6. act as intermediary between the prossessor and/or holder and the requesting Member State with regard to return. To this end, the competent authorities of the requested Member States may, without prejudice to Article 5, first facilitate the implementation of an arbitration procedure, in accordance with the national legislation of the requested State and provided that the requesting State and the possessor or holder give their formal approval.

Article 5

The requesting Member State may initiate, before the competent court in the requested Member State, proceedings against the possessor or, failing him, the holder, with the aim of securing the return of a cultural object which has been unlawfully removed from its territory.

Proceedings may be brought only where the document initiating them is accompanied by:

— a document describing the object covered by the request and stating that it is a cultural object,

— a declaration by the competent authorities of the requesting Member State that the cultural object has been unlawfully removed from its territory.

Article 6

The central authority of the requesting Member State shall forthwith inform the central authority of the requested Member State that proceedings have been initiated with the aim of securing the return of the object in question.

The central authority of the requested Member State shall forthwith inform the central authorities of the other Member States.

Article 7

1. Member States shall lay down in their legislation that the return proceedings provided for in this Directive may not be brought more than one year after the requesting Member State became aware of the