

**DEVELOPMENT OF THE RULES OF THE COUNCIL OF EUROPE, THE
EUROPEAN UNION AND THE CIS IN THE FIELD OF RETURN OR
RESTORATION OF CULTURAL ASSETS**

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Abstract

The UNESCO Convention is based mainly on the government's philosophy. Therefore, cultural property objects require the state to be "marked" to claim return. This results in most states leaving a private owner without a claim unless the state has "designated" a proper objection, or the state refuses to take action. The political philosophy here strongly supports minimal government action, especially in matters of cultural property, preferring to leave maximum freedom to citizens to organize their own affairs. This means that countries with this political philosophy either did not designate such cultural property objects at all or designated very few of them. This encouraged museums or private citizens who would benefit greatly from it to become members of the UNESCO Convention because they could not see their own convention. The UNIDROIT Convention is largely dependent on the scheme under private law, a private act and reflects this in the definition, as it does not require cultural property to be "designated" by the State for the object to be covered by the Convention.

Keywords: *UNESCO Convention, UNIDROIT Convention, cultural property, international private law, objects of cultural property.*

First of all, the most important international treaties for the protection of cultural assets include:

- 1) Hague Convention of 1954, Convention for the Protection of Cultural Property in the Event of Armed Conflict, Protocol of the Convention (2 copies);
- 2) Convention "On the Protection of the World Cultural and Natural Heritage" (17th session of the General Conference of UNESCO, November 16, 1972);
- 3) **UNESCO Convention of 1972;**
- 4) **UNIDROIT Convention of 1995;**
- 5) **Convention "On the Protection of Underwater Cultural Heritage" (31st session) of this General Conference of UNESCO, in Paris, November 2, 2001);**

6) "Regulations of the International Research Center for Nature Protection" "On Research and Restoration of Cultural Properties" (Rome Center) December 5, 1956¹.

In addition, there are regional conventions and agreements as well as multilateral conventions. On May 15, 1992, the agreement "On cooperation in the field of culture" was signed between the CIS countries. Also, the Agreement of September 28, 2012 "On Export and Import of Cultural Assets" and others.

It also includes Regional Agreements, particularly Europe. of December 19, 1954²**European Convention "On Cultural Property"**.accepted. The European Convention on the Protection of Archeology of the Council of Europe was adopted on May 6, 1969. In addition, the European Convention on Cultural Property Crimes was adopted on June 23, 1985.³

Convention for the Protection of Archaeology, Art, Historical and Artistic Heritage of the Peoples of the Americas June 16, 1976 (San Salvador Convention)⁴accepted.

Therefore, within the framework of the European Union, there are the following main cultural property documents:

Directive No. 3911/92 of December 9, 1992 "Directive of the European Council on the export of cultural goods"⁵;

Articles No. 93/7 of March 15, 1993 "On the return of cultural property illegally removed from the territory of a member state of the European Community"⁶;

Council of Europe Regulation 752/93, 3911/92 of March 30, 1993⁷directiveis carrying out its activities through the continuous implementation of

However, there is an important difference in how the two conventions relate. The UNESCO Convention is based mainly on the government's philosophy. Therefore, cultural property objects require the state to be "marked" to claim return. This results in most states leaving a private owner without a claim unless the state has "designated" a proper objection, or the state refuses to take action. The political philosophy here strongly supports minimal government action, especially in matters of cultural property, preferring to leave maximum freedom to citizens to organize their own affairs. This means that countries with this political philosophy have not designated such cultural property objects at all or very few. This encouraged museums or private citizens who would benefit greatly from it to become members of the UNESCO

¹UNESCO conventions. UNESCO Code of Practice. Legal documents on issues of international cultural assets AS Zapesotsky; Introduction LN Galenskaya. SPb., 1996; Text of the 1995 UNIDROIT Convention on the Protection of UNESCO's Cultural Property.

²Collection of normative legal documents of the Council of Europe on preservation of cultural heritage. SN Molchanov. Part 1. Yekaterinburg, 2001; Part 2. Yekaterinburg, 2003.

³167 League of Nations Treaty Series 289; Am. J. of Int. Law. 1936. No. 30. Suppl. P. 195-197

⁴UNESCO (ed) Conventions. P. 209.

⁵OJ. EC, 1992. No. L395. P. 1.

⁶OJ. EC, 1993. No. L. 74. P. 74

⁷OJ. EC, 1993. No. L. 77. P. 189-197.

Convention because they could not see their own convention. The UNIDROIT Convention is largely dependent on the scheme under private law, a private act and reflects this in the definition, as it does not require cultural property to be "designated" by the State for the object to be covered by the Convention. Accordingly The UNIDROIT Convention is largely dependent on the scheme under private law, a private act and reflects this in the definition, as it does not require cultural property to be "designated" by the State for the object to be covered by the Convention. Accordingly The UNIDROIT Convention is largely dependent on the scheme under private law, a private act and reflects this in the definition, as it does not require cultural property to be "designated" by the State for the object to be covered by the Convention. Accordingly⁸, objects of cultural wealth stolen from private homes, all kinds of religious buildings, unregistered and traditional private collections, even if the State has not registered or not registered, All teams are eligible for withdrawal. The UNIDROIT Convention also includes provisions on restitution. This means that all cultural assets that have been smuggled out will be returned. This Convention goes a step further than the UNESCO Convention. The UNIDROIT Convention clearly states that "the property rights of each individual, its cultural heritage and any actions taken to restore the objects, the State is not bound by the guidelines that constitute this heritage."

1989 decision on the Cyprus caseaccepted.⁹In this case, the Indiana court determined the issue of whether Autocephalus was Greek-Orthodox. The Church of Cyprus or the defendant Holberg, an Indianapolis art dealer, will be entitled to ownership of the four Byzantine mosaics that were removed. In 1979, the ceiling of the church of Kanakaria in Northern Cyprus, which Holberg bought from a dealer in Switzerland, was a criminal act, which the court recognized from a historical, cultural and religious point of view. When asked what the importance of the mosaic is to the Republic of Cyprus, the district court answered that it is "enough to legitimately have an interest in the mosaic" in the Republic of Cyprus. The court then had to decide which substantive law would apply, ie whether Indiana or Swiss law would apply in this case. Comparing Indiana's and Switzerland's choice-of-laws, he found that the substantive law that "has the most important connection" with the cause should apply. The court did not apply Swiss law because the mosaics were placed in the free port at Geneva Airport for only four days before they were moved to the United States. Under Indiana law, a thief does not have title to the thing stolen; Thus, a bona fide buyer does not acquire the right to stolen property. On the other hand, under Swiss law, a bona fide purchaser owns stolen property. Because Holberg failed to check enough in front of him, that is, he continued to buy, and also

⁸UNESCO and UNIDROIT: a partnership against trafficking in cultural objects. Lyndel W. Prott. 1996.

⁹The District Court's judgment was made on Aug. 3, 1989 (717 F Supp 1374). The appeal judgment on Oct. 24, 1990.

the purchase was not made in good faith. Thus, the court ordered the mosaics to be returned to Cyprus.

Since its inception, UNESCO, the main body of the United Nations, has been responsible for the preservation of cultural heritage. However, its impact is limited by the fact that only a few of the "market" states have become parties due to its shortcomings. The 1995 UNIDROIT Convention on Stolen or Illicit Exports is a positive result in further limiting theft of cultural property.¹⁰ The main focus of these measures is mainly on the protection of cultural assets.

In accordance with Article 14 of the Vienna Convention of 1983, the issue of succession to state property is decided by agreement between the predecessor state and the successor state. If there is no such agreement, the transfer of a certain part of the state territory is carried out on the following grounds: a) if the immovable property of the predecessor state is located in the territory of the state, which is considered the object of legal succession; b) movable property related to the activities of the predecessor state shall be transferred to the successor state if it is directed to the territory of the object of legal succession. If one state ceases to exist and another state is established in its place, the new state that replaces the previous state is the heir of the property. However, if two or more states have been created in place of the dissolved state,

In this Convention, property is divided into two types and the status of "movable property" and "immovable property" is interpreted differently from the point of view of legal succession. This situation is manifested primarily in the integral connection of immovable property with the land, and in the second case, it is significant in the fact that the immovable property to be inherited is located in the territory of another state. After all, the succession of the state in relation to immovable property is always related to entering into legal relations with other states on equal grounds and using the status of a legal entity of the state from a civil-legal point of view.

It should be noted that in order to own immovable property located on the territory of another state on the basis of legal succession, the state must recognize that it is the heir of its predecessor-state, and the state where the property is located must recognize this state, or such legal succession must be determined by international norms and the international community. it is required to recognize it.¹¹

At the same time, the succession of the state to the collective property of the predecessor-state located abroad, along with the right of ownership of this property, imposes existing obligations regarding the property. In other words, the responsibility for servicing the property, providing

¹⁰International Aspects of Cultural Property An Overview of Basic Instruments and Issues THERESA PAPADEMETRIOU.

¹¹Hakimov R.T. The concept of succession in international law // Life and law. 1997. - #11. -39 p.

it with electricity and water, paying debts, etc., is also assigned to the successor state. In this case, the successor state's refusal to pay the predecessor state's debts is the basis for limiting its right to inherited property.

Legal succession to movable property also passes to the legal successor in the case of debts of the predecessor-state. State succession to movable property differs from state succession to immovable property, if it is located in the territory of another state, the successor state has the right to transfer it to its territory on legal grounds.

The fate of the fortunes of Said Olimkhan, the last emir of the Manghit dynasty¹², **the fate of the material and spiritual assets of the Khanate of Khiva¹³, priceless works of Hazrat Imam Moturudi that have not been found yet¹⁴, Medina (Saudi Arabia)¹⁵, Baghdad (Iraq)¹⁶, Jerusalem Sharif¹⁷, Egypt¹⁸**the fate of takiyas on the ground, as well as in the museums and libraries of Cairo, Istanbul, Louvre, Tehran, Moscow, HermitageThe fate of rare works still remains abstract. In world practice, the experience of countries that manage to return their national wealth to their country (for example, according to the agreement between the Netherlands and Indonesia, many cultural treasures that were taken to Indonesia at one time were returned... Similar agreements were concluded between France, New Zealand and other countries¹⁹) must encourage us to be vigilant.

At this point, it is necessary to pay special attention to cultural resources. In our opinion, the Civil Code of the Republic of Uzbekistan has established an advanced norm in this regard. of the Codex²⁰**to Article 163**according to this, the claim period is not introduced in relation to the demands for the return of the property of historical, cultural, scientific and artistic value, as well as other valuable objects, which were taken out of its borders before the declaration of the country's independence.

1970 Convention "On the Prohibition of the Illicit Importation, Export and Transfer of Ownership of Cultural Property and Measures to Prevent It"according to the cultural heritage of each state, which is important for this state and was created in that place by foreign citizens or stateless persons residing in the territory of this state; found in the national territory; these riches were obtained in various expeditions with the consent of the competent authorities

¹² Amir Sayyid Olim Khan. The history of the suffering of the people of Bukhara. -Tashkent: Science, 1991. -28 p.

¹³ Narrative. Shajarai Khorezmshahi. From the Heritage series. -Tashkent: Kamalak, 1991. -181 p.

¹⁴ I. Karimov. Each of us is responsible for the development of the country. T.9. -Tashkent: Uzbekistan, 2001. -129 p.

¹⁵ http://www.al3ez.net/mag/the_education_1.htm

¹⁶ <http://www.alhandasa.net/forum/showthread.php?t=119288>

¹⁷ U. Uvatov. Naqshbandi takiyas in Jerusalem Sharif // People's word, September 29, 1999.

¹⁸ http://www.islamport.com/b/4/tareekh/%DF%CA%C8%20%C7%E1%CA%C7%D1%ED%CE/%DA%CC%C7%C6%C8%20%C7%E1%C2%CB%C7%D1_1/%DA%CC%C7%C6%C8%20%C7%E1%C2%CB%C7%D1%20028.html; Abdurrahman ibn Hasan al-Jibirti. Tarikh ajaib al-asor fi at-tarajim wa al-akhbar. 3 volumes. - Beirut: Dor al-jil. The year of publication is not indicated. -470 p.

¹⁹ Hakimov R. Cultural wealth is public property // Life and law. 2001. - #4. -17 p.

²⁰ <https://lex.uz/docs/-111189> Civil Code of the Republic of Uzbekistan. 01.03.1997.

of the country of origin; received as a result of voluntary exchanges; Cultural assets received as a gift and legally acquired with the consent of the competent authorities of the country of origin are included. Also, on February 14, 1992, the CIS countries concluded the Agreement "On the return of cultural and historical assets to the country of their origin". It is not for nothing that we are talking about these things. After all, Uzbekistan owes its ancient and rich history, it is a country with national and cultural wealth. Unfortunately, in the last hundred years of our history, they have been scattered to different parts of the world...

Article 4 of the Agreement signed in Moscow on December 4, 1991 "On legal succession to foreign state debts and assets of the USSR" According to the unified indicator of the property of the former SSRI located abroad, the percentage share among the successor states is as follows: Republic of Azerbaijan - 1.64; Republic of Armenia – 0.86; Republic of Belarus - 4.13; Republic of Kazakhstan - 3.86; Kyrgyz Republic - 0.95; Republic of Moldova - 1.29; Russian Federation - 61.34; Republic of Tajikistan – 0.82; Turkmenistan – 0.70; Republic of Uzbekistan - 3.27; Ukraine - 16.37. The combined share of Georgia, Latvia, Lithuania and Estonia is 4.7%.

According to the Agreement of the heads of the CIS countries of December 30, 1991 and the Agreement of December 30, 1992 "on the distribution of the entire property" of the former USSR, their participants have the rights and interests of each party to own, use and dispose of its share, also noted compliance with the law of the countries where the property included in this share is located in the territory²¹.

In this case, the object of inheritance is not only the real estate used by the embassies, consular offices and representative offices of the former SSRI, but also legal entities located abroad, funds in foreign banks, space, air, sea, ground infrastructures and systems, as well as the income received from their use. is considered

In the case of succession to state debts, when one state ceases to exist, the new state that has emerged in its place assumes all the financial obligations of the predecessor state. In this case, the date of legal succession is recognized as the time of transfer of debts.

If a certain part of the territory of one state is given to another state, the debts of the predecessor state will be settled on the basis of a mutual agreement between the predecessor state and the successor state. If there is no such agreement, the debts of the predecessor state will be distributed in fair shares based on the economic position, importance, rights and interests of the territory transferred to the successor state.

If the successor state is a newly independent state, none of the obligations of the predecessor state are transferred to it. When two or more states merge, the debts of the predecessor state are transferred to the successor state.

²¹Odilkoriev H.T., Ochilov B.E. Modern international law. -Tashkent, 2002. -93 p.

If the state splits and ceases to exist, if two or more successor states arise on the territory of the predecessor-state, the debts of the predecessor-state shall be divided among the successor states in fair shares, based on the rights and interests, and the share of the separated property. The share of the Republic of Uzbekistan in the debts of the former SSRI, as well as its share in the property, is 3.27 percent in accordance with the 1991 Agreement "On the Legal Succession of the External State Debts and Assets of the SSRI". Later, bilateral agreements were concluded on the debts of the former SSRI, and the shares in the state debts were transferred to the Russian Federation.

When the state thinks about the succession of debts of the predecessor state, it is necessary to mention the division of state debts into internal and external debts. External debts arise as a result of the state's non-fulfillment of its obligations under agreements concluded with foreign states, legal entities and international organizations, while internal debts are related to the state's indebtedness to its citizens in connection with contracts and agreements. Of course, the obligations of the state regarding the foreign debts of the predecessor state are in almost all cases an international public legal relationship and are not regulated by the norms of private law. However, the issues related to the state's succession in relation to its obligations under agreements and contracts concluded with foreign legal entities are an object of private law. Consequently, the succession of the state is decided by civil legal norms. For example, if the state did not fulfill its obligations under the agreement on product distribution, the successor state that came into being in its place will have to fulfill the obligation based on the conditions established by the predecessor state.

In any case, succession to the internal debts of the predecessor-state is the responsibility of the newly created state. In this case, there is no exchange of persons in the obligation, but legal succession²² and the responsibility of the successor state for the debts of the predecessor state is accepted without any objection. One of the most complex problems of legal succession is the right of succession to state debts, - says A. Saidov, - in Article 38 of the 1983 Vienna Convention "On Legal Succession of States to State Property, State Archives and State Debts"²³ the principle of non-transferability of public debts of the predecessor-state to the successor-state was adopted. This rule is very important for countries that have escaped colonialism. However, the Convention does not deny the possibility of concluding agreements on the right of succession to state debts²⁴.

²²Khakimov R.T. International legal issues of recognition and recognition of the Republic of Uzbekistan. - T.: University of Human Economy and Diplomacy. 1996. -98 p.

²³ https://legal.un.org/ilc/texts/instruments/english/conventions/3_3_1983.pdf Done at Vienna on April 8, 1983. Not yet in force. Official Records of the United Nations Conference on Succession of States in Respect of State Property, Archives and Debts, vol. II (United Nations publication, Sales No. E.94.V.6)

²⁴ A. Saidov. International law. -Tashkent: Adolat, 2001. -75 p.

In general, the issue of legal succession of states is understood as the transfer of property, rights and obligations of the predecessor state to another state as a legal entity.

The status of the state of the Republic of Uzbekistan as a subject of legal succession in the internal relations of the country also has its own characteristics. First of all, in the period of the former SSRI, legal succession is important in relation to the relationship of obligations between the state and citizens. In particular, it will be necessary to assess the state's inheritance of deposits of citizens deposited in the Republic and SSRI banks before 1991. It should be noted that after the dissolution of the Soviet Union and the UzSSR and the establishment of the independent Republic of Uzbekistan, the obligations of all deposits placed in the banks of the Republic until September 1, 1991 were assigned to the Republic of Uzbekistan. It is worth noting that payments on securities have been suspended in all countries except Uzbekistan (meaning the CIS). According to the decision adopted by Uzbekistan, all savings and deposits of the population had to be paid within ten years. Ten years have passed since then. Now there is no depositor who did not withdraw the deposits placed in banks in the Soviet era in accordance with the existing law and its conditions. That is, in practice, the demand of the population in this matter has been met. The return of these deposits, payment of interest on them and restoration of deposit relations were determined as the obligation of the Republic of Uzbekistan as the legal successor of the UZSSR. It should be noted that after the dissolution of the SSRI, the Agreement between the CIS countries on the mechanism and principles of servicing the internal debts of the former SSRI entered into force on March 13, 1992. deposits were to be repaid within ten years. Ten years have passed since then. Now there is no depositor who did not withdraw the deposits placed in banks in the Soviet era in accordance with the existing law and its conditions. That is, in practice, the demand of the population in this matter has been met. The return of these deposits, payment of interest on them and restoration of deposit relations were determined as the obligation of the Republic of Uzbekistan as the legal successor of the UZSSR. It should be noted that after the dissolution of the SSRI, the Agreement between the CIS countries on the mechanism and principles of servicing the internal debts of the former SSRI entered into force on March 13, 1992. deposits were to be repaid within ten years. Ten years have passed since then. Now there is no depositor who did not withdraw the deposits placed in banks in the Soviet era in accordance with the existing law and its conditions. That is, in practice, the demand of the population in this matter has been met. The return of these deposits, payment of interest on them and restoration of deposit relations were determined as the obligation of the Republic of Uzbekistan as the legal successor of the UZSSR. It should be noted that after the dissolution of the SSRI, the Agreement between the CIS countries on the mechanism and principles of servicing the internal debts of the former SSRI entered into force on March 13, 1992. Now there is no depositor who did not withdraw

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²⁵ <https://docs.cntd.ru/document/1902932> Agreement "On the mechanism and principles of servicing the internal debts of the former SSRI" 13.03.1992.

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