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Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation

**Twenty-third Session
Paris, UNESCO Headquarters, Room XI
18-20 May 2022**

Provisional Agenda item 5: Report of the Secretariat on the follow-up to the recommendations and decisions adopted during the Twenty-second Session

The Secretariat reports to the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation at its Twenty-third Session on its activities carried out since its Twenty-second Session, held on 27-29 September 2021 and, in particular, on the follow-up to the recommendations and decisions adopted by the Committee.

Decision required: Paragraph 27

Introduction

1. The Secretariat reports to the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation (hereafter “the Committee” or “ICPRCP”) at its Twenty-third Session, on the follow-up to the recommendations and decisions adopted by the Committee in its Twenty-second Session, held on 27-29 September 2021.

Model Provisions on the Prevention and Fight against the Illicit Trafficking of Cultural Property

2. Pursuant to [Resolution 6.MSP \(7\)](#) of the Sixth Meeting of States Parties to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (2021) (hereinafter, the “1970 Convention”), a Drafting Committee of the Model Provisions on the Prevention and Fight against the Illicit Trafficking of Cultural Property (hereinafter, “the Drafting Committee”), composed of six experts in the field of cultural property law, was established in December 2021. The Drafting Committee, chaired by Professor Mr. Vincent Négri, Doctor in public law and researcher at the French National Center for Scientific Research (CNRS), is mandated to elaborate model provisions based on the recommendations of the Consultative Body of the Model Provisions of April 2021.
3. In its [Decision 22.COM 16 \(4\)](#) adopted at its Twenty-second session (2021), the Committee requested the Secretariat to inform the Committee of the progress made regarding the elaboration of these model provisions. Since December 2021, the Secretariat has organized four meetings with the Drafting Committee and has established the following timeline for its work:
 - a. The Drafting Committee has until the beginning of June 2022 to submit the first draft of the model provisions to the Secretariat;
 - b. The Secretariat will convene a second meeting of the Consultative Body in July 2022 to review the first draft of the model provisions. During this meeting, the Chair of the Drafting Committee will be asked to present the work of the Drafting Committee;
 - c. The Secretariat will then consult stakeholders, including civil society, the art market and UNESCO's partner organizations on the model provisions between July and November 2022;
 - d. The Secretariat will convene a third meeting of the Consultative Body in January 2023 to examine comments from stakeholders.
 - e. The Drafting Committee will review the draft taking into account the comments and recommendations of the Consultative Body as well as the results of the consultation and provide a final draft to the Secretariat by February 2023.

Bilateral Agreements

4. Regarding the submission of bilateral agreements, in accordance with Decision [22.COM 16 \(6\)](#), an email was sent to Member States in February 2022 requesting them to submit to the Secretariat their bilateral agreements.¹

¹ The working document on the “Bilateral agreements” (ICPRCP/22/23.COM/14) provides more extensive information on this subject.

International Code of Ethics for Dealers in Cultural Property

5. Following [Decision 8.SC 6 of the Eight session of the Subsidiary Committee of the Meeting of States Parties to the 1970 Convention \(2020\)](#), the Secretariat was requested to “present an updated proposal to the International Code of Ethics for Dealers in Cultural Property to the ICPRCP and the Subsidiary Committee”.
6. During its Twenty-second session, the ICPRCP acknowledged in its [Decision 22.COM 13](#) the need to update the [International Code of Ethics for Dealers in Cultural Property](#) (hereinafter, “International Code”) and supplement it « by a commentary annexed to the Code that would provide useful guidance for its application and interpretation ». Pursuant to [Decision 22.COM 13 \(7\)](#), a Working Group on the revision of the International Code was established with the mandate to reflect on the revisions of the International Code and to submit its recommendations to the 23rd session of the ICPRCP. The Working Group was composed of the members of the ICPRCP and one additional representative of each electoral group, and, as observers, the Bureau of the Subsidiary Committee of the Meeting of States Parties to the 1970 Convention. This Working Group met on 21 March 2022 online and at UNESCO.²
7. Following [Decision 22.COM 13 \(9\)](#), the Secretariat was requested to pursue consultations with the art market and report to the Working Group. In this regard, UNESCO is working since 2021 in consultation with the art market on the revision of the International Code in order to strengthen and clarify the ethical principles that should govern the art market. The consultation started in June 2021, when the Secretariat drew up a [survey](#) for representatives of the art market, aimed at understanding the current practices of traders. The survey was sent to all Member States of UNESCO on 24 June 2021 for distribution to the dealers operating on their market. A reminder email to distribute the questionnaire was sent to all Member States of UNESCO and States parties to the 1970 Convention on 26 November 2021. The questionnaire consisted of 21 multiple choice questions with an extra text box for complementary comments. As of 11 January 2022, the UNESCO Secretariat had received 39 responses from the actors operating in the 17 following Member States: Belgium, Brazil, Brunei Darussalam, Bulgaria, Côte d’Ivoire, Finland, France, Georgia, Germany, Honduras, Italy, Nigeria, Peru, Poland, Saudi Arabia, Spain, and United Kingdom of Great Britain and Northern Ireland.

Forum of Discussions on Return and Restitution

8. The Committee had decided, per [Decision 20.COM 5](#) of the Twentieth Session of the ICPRCP, to allocate one day, during its ordinary sessions, to a Forum of discussions for an exchange of good practices and promotion of multilateral and bilateral cooperation with a view to the restitution and return of cultural property to its countries of origin. Pursuant to Decision 22.COM 19 (2), the Forum of discussions of the Twenty-third session of the ICPRCP will focus on the regional frameworks, the concept of “good faith” and colonial cultural goods as well as success stories as a result of bilateral cooperation.
9. The Forum will be organized on 20 May and will include presentations from experts. In order to ensure a balanced geographical representation, the Secretariat sent a letter to the Presidents of each electoral group on 28 February 2022 to initiate a consultation in order to designate three experts per group to intervene at the Forum.

² The working document on the “Recommendations of the working group on the revision the UNESCO International Code of Ethics for Dealers in Cultural Property” (ICPRCP/22/23.COM/12) provides more extensive information on this subject.

Mediation and Conciliation Procedure

10. As part of the [Strategy to facilitate the restitution of stolen or illicitly exported cultural property](#), the General Conference adopted at its 33rd session (Paris, October 2005) [Resolution 33C/44](#) adding the functions of mediation and conciliation within the mandate of the ICPRCP, with a view to facilitating and supplementing the action of the Committee. Thus, any request submitted to the ICPRCP concerning the return or restitution of cultural property can henceforth be dealt with in the framework of a mediation or conciliation procedure, if the parties to the dispute so agree.
11. In order to exercise these functions of mediation and conciliation, the ICPRCP then adopted, at its 16th session (2010), after three years of negotiations, the [Rules of Procedure for Mediation and Conciliation](#). The Rules of Procedure apply to mediation and conciliation procedures submitted to the ICPRCP unless the parties decide to modify them before the procedure.
12. In this regard, by its [Decision 22.COM 10](#), the ICPRCP at its 22nd session requested the Secretariat to consult members of the ICPRCP on the possible interpretation of Article 4 of the [Rules of Procedure for Mediation and Conciliation](#).³ As of March 2022, the Secretariat is in the process of collecting responses.
13. The Secretariat was also requested by the ICPRCP pursuant to [Decision 22.COM 10](#) (8) to prepare an analytical document for the 23rd session of the ICPRCP in order to « reflect on successful cases of return and restitution and draw conclusions and lessons learned for future cooperation for mediation and conciliation ». ⁴

Database on Return and Restitution Cases

14. Pursuant to Decision [20.COM/5 \(10\) and \(11\)](#), adopted at the twentieth session of the Committee (2016), the Secretariat carried out research and feasibility studies on the best way to establish a database on return and restitution cases. This decision suggested not to create a new database but to support and consolidate the already existing “ArThemis database”, and to establish a strengthened partnership with the Art-Law Centre of the University of Geneva (Switzerland), which is a well-established and active UNESCO Chair in International Law of the Protection of Cultural Heritage. The Secretariat signed a strengthened partnership agreement with the University of Geneva in February 2019. Out of the 158 case studies made available on the website of the ArThemis database, 100 have been translated.

Cases of Return and Restitution

15. Following the redesign of the [illicit trafficking page of the UNESCO website](#) and the Forum of discussions on return and restitution on the occasion of the twenty-second session of the ICPRCP, the Secretariat updated the page on “[Cases of returns and restitutions under the aegis of the ICPRCP](#)”. On 3 December 2021, the Secretariat requested the Member States concerned to send updated information (text and image) on each case of return or restitution for this purpose. In this regard, the Secretariat wishes to thank the Member States that have already sent updated information. The following cases are now online : German Democratic Republic - Turkey, and Germany – Turkey.

³ The working document on the “Mediation and conciliation: successful cases and Article IV of the Rules of Procedure for Mediation and Conciliation » (ICPRCP/22/23.COM/9) provides more extensive information on this subject.

⁴ The working document on the “Mediation and conciliation: successful cases and Article IV of the Rules of Procedure for Mediation and Conciliation » (ICPRCP/22/23.COM/9) provides more extensive information on this subject.

16. Within the framework of Decision [22.COM 5\(9\)](#), which “encourages Member States to conduct bilateral negotiations on the return and restitution of cultural property and submit to the Secretariat information on ongoing bilateral negotiations as well as on the successful conclusion of such cases”, the Secretariat would like to encourage Member States to periodically share information on return and restitution cases with the Secretariat. A selection of recent cases is set out below:

- [Norway, June 2021](#): On 23 June 2021, the Norwegian Culture Minister returned more than 600 artefacts to the competent authorities of eight countries. These cultural objects, mainly ancient coins and archaeological artefacts, were imported to Norway without the necessary export licenses.
- [Italy - France, July 2021](#) : A restitution ceremony was held on 14 July 2021 at the French Embassy in Rome, in the presence of the authorities of both countries, to return five volumes of the story entitled: *Voyage de la Pérouse autour du monde*, printed edition of 1797, stolen during a burglary from the municipal library of Provins in France.
- [United States of America - Iraq, September 2021](#) : Following the voluntary repatriation in July 2021 of 17,000 artefacts to the Republic of Iraq by the United States of America, the latter also handed back to Iraq, in an event jointly organized by the Embassy of Iraq to the United States, the Smithsonian Institute and UNESCO on 23 September, a rare cuneiform tablet bearing a portion of the Epic of Gilgamesh. The ceremony was held at the Smithsonian Institution’s Museum of the American Indian in Washington, D.C. with the participation of the Director-General of UNESCO, Audrey Azoulay.
- [Guatemala, October 2021](#) : On 25 October 2021, UNESCO hosted a ceremony for the voluntary handover by a private collector of a fragment of stela from the Piedras Negras archaeological site in Guatemala to the Ambassador of Guatemala to UNESCO.
- [France – Benin, October 2021](#) : On 27 October 2021, France returned twenty-six looted royal treasures of Abomey to the Republic of Benin on the occasion of the ceremony organised at the Musée du Quai Branly-Jacques Chirac. The law adopted on 24 December 2020 has allowed the definitive restitution of these works of art.
- [Netherlands – Mexico, February 2022](#) : The Ministry of Foreign Affairs announced that 17 archaeological pieces were voluntarily returned to Mexico by two Dutch citizens. Prior to their restitution, the pieces made of clay were ruled by experts from the National Institute of Anthropology and History, who determined that thirteen of them are huastec style, made on the Gulf Coast of Mexico during the Mesoamerican Postclassic period.
- [Lebanon – Iraq, February 2022](#) : On 6 February 2022, the Lebanese authorities officially handed over to Iraq 337 archaeological pieces that were on display in Lebanon and that Baghdad claims were smuggled. The handover took place at a ceremony at the National Museum of Beirut.
- [United States – Greece, February 2022](#) : Greece recovered 55 smuggled antiquities, valued at several million euros, seized and returned by the American justice system on 25 February 2022. The repatriation of these antiquities is the result of several years of investigation for illegal trafficking in antiquities, concluded in December 2021 by the Manhattan District Attorney's Office.

The Parthenon Sculptures

17. The case of Parthenon Sculptures was submitted to the Committee in 1984. Since then, the Committee has been examining the case during its successive sessions and has adopted several recommendations for a mutually acceptable solution to be reached and inviting the Director-General to facilitate encounters to that effect. On many occasions, UNESCO reiterated its readiness to act as facilitator between Greece and the United Kingdom of Great Britain and Northern Ireland in this regard.
18. The 22nd session of the ICPRCP (September 2021) adopted Recommendation 22.COM 6 calling upon Greece and the United Kingdom to “intensify their efforts with a view to reaching a satisfactory settlement of this long-standing issue, taking into account its historical, cultural, legal and ethical dimension” (paragraph 9), and calling on the Director-General to “assist in convening the necessary meetings between Greece and the United Kingdom with a view to reaching a mutually acceptable solution on this issue” (paragraph 10). Decision 22.COM 6 was adopted during the same session, which, among others, “calls on the United Kingdom to reconsider its stand and proceed to a bona fide dialogue with Greece on the matter [of the Parthenon Sculptures]”. Following Recommendation 22.COM 6, the Secretariat sent two letters to the United Kingdom and Greece in March 2022 requesting information and proposing to facilitate dialogue.
19. The United Kingdom and Greece responded to the Secretariat on 8 April and 18 April 2022 respectively, describing the actions undertaken to pursue the dialogue on this case. In this regard, both Member States mentioned the bilateral meeting between Prime Minister Boris Johnson and Prime Minister Kyriakos Mitsotakis in London in November 2021, during which Prime Minister Johnson reiterated the United Kingdom’s long-standing position that this issue remains one for the Trustees of the British Museum. The United Kingdom informed the Secretariat of its suggestion to organize a meeting between the Greek Minister of Culture, Lina Mendoni, and the Minister of the United Kingdom Department for Digital, Culture, Media and Sport, Lord Parkinson, which they hope would receive a positive response from the Greek authorities. In this regard, Greece informed the Secretariat that the suggestion of the United Kingdom was sent to the Greek Minister of Culture on 29 April 2022, was immediately accepted and a meeting between the parties is about to be arranged in due course.

The Broken Hill Man Skull

20. The Broken Hill Man Skull was discovered in 1921 during a mining operation in Kabwe when Zambia was under the British rule. The skull was taken to the United Kingdom of Great Britain and Northern Ireland to be studied and was then donated to the Natural History Museum in London when it was still a part of the British Museum.
21. In 2016, Zambia sent a letter to the Director-General of UNESCO requesting the inclusion of the case of the Broken Hill Man Skull to the agenda of the 20th session of the ICPRCP. As the Broken Hill Man Skull case was not presented six months before the opening of the 20th session, it could not be included on the agenda. Following the reception of a Standard Form concerning the request for return or restitution within the prescribed period, the case was included in the agenda of the 21st session in 2018 during which the parties were able to present their respective positions.
22. Recommendation 22 COM 7 (7) adopted by the twenty-second session of the ICPRCP Invited the Director-General “to facilitate in convening necessary meetings between the United Kingdom of Great Britain and Northern Ireland and Zambia which may also be attended by the Secretariat of UNESCO”. Pursuant to this Recommendation, the Secretariat sent a letter on 4 March 2022 to Zambia and the United Kingdom of Great Britain and Northern Ireland expressing its availability for

a constructive exchange of information to facilitate dialogue. As of April 2022, the Secretariat had received no response.

The Ife II Bronze Head

23. An Ife bronze head was bought by a Belgian collector in Belgium in 2007, who tried to sell it to a London-based auction house in February 2017. Since then, it has been proven that the Ife head was stolen from the National Museum in Jos, Nigeria, in 1987. The cultural property is now held by the Metropolitan Police Service in London.
24. Following the reception of a Standard Form concerning the request for return or restitution within the prescribed period, the case will be examined and discussed at the 22nd session of the Committee. The authorities of the United Kingdom of Great Britain and Northern Ireland have informed the Nigerian Government of their willingness to assist in facilitating liaison with the Metropolitan Police. The United Kingdom claims that the object can only be released in the event of an agreement between the Nigerian authorities and the Belgian collector resolving the question of ownership or in response to a court order directing its return to one of the parties.
25. The Secretariat sent a letter to the Belgian Ambassador to UNESCO in November 2020 asking for Belgium's willingness to cooperate on this case "in the spirit of the 1970 Convention" to facilitate the restitution. In its reply sent in January 2021, Belgium recalled that it had encouraged contacts between the Nigerian authorities and the Belgian buyer, which has requested financial compensation, and considered that this case was a civil one between private parties, in which it cannot intervene due to the fact that Belgium ratified the 1970 Convention in 2010. In a letter to Belgium in March 2021, the Secretariat called for a spirit of open and constructive dialogue between Member States.
26. The twenty-second session of the Committee acknowledged, per Decision 22.COM 5 (7), the submission of this new case on the Ife Bronze Head by Nigeria to the Committee. During this session, Belgium stated that it was ready to facilitate dialogue between Nigeria and the Belgian collector. Following bilateral meetings between the parties with the participation of the Secretariat, a Recommendation was agreed upon, which was not submitted on time to be adopted by the Committee. On 29 October 2021, UNESCO sent a letter to both the United Kingdom of Great Britain and Northern Ireland and Nigeria acknowledging receipt of the draft Recommendation concerning the case and assuring the parties that the Recommendation would be presented to the next session of the Committee. In its letter, the Secretariat also encouraged the parties to implement, at the earliest opportunity, the various initiatives and measures proposed by the Recommendation, in order to reach a mutually acceptable solution for both parties.
27. The Committee may wish to adopt the following Decision:

DRAFT DECISION 23.COM 5

The Committee,

1. *Having examined* document ICPRCP/22/23.COM/5.Rev,
2. *Recalling* its Decisions 20.COM/5, 21.COM/6 and 22.COM/5 for the establishment of a partnership with the University of Geneva concerning the consolidation of the ArThemis Database,
3. *Takes note* of the report of the Secretariat on the follow-up of the recommendations and decisions adopted during the 22nd session in 2021;
4. *Welcomes* the organization, within the framework of the 23rd session of the ICPRCP, of a Forum of discussions aimed at exchanging good practices and promoting multilateral and bilateral cooperation in the field of return and restitution of cultural property;
5. *Invites* the Secretariat to pursue the partnership the University of Geneva in order to support and consolidate the ArThemis database;
6. *Welcomes* the consultations with the art market pursued by the Secretariat regarding the Code of Ethics for Dealers in Cultural Property;
7. *Also welcomes* the progress made regarding the Model Provisions on the Prevention and Fight against the Illicit Trafficking of Cultural Property;
8. *Further welcomes* the organization, within the framework of the 23rd session of the ICPRCP, of a Forum of discussions aimed at exchanging good practices and promoting multilateral and bilateral cooperation in the field of return and restitution of cultural property;
9. *Invites* the concerned parties, in conformity with Recommendation 22.COM/6 concerning the issue of the Parthenon Sculptures, to continue making all necessary efforts in order to find an equally acceptable solution;
10. *Also Invites* the concerned parties, in conformity with Recommendation 22.COM/7 concerning the issue of the Broken Hill Man skull, to engage in negotiations with the view to finding a mutually acceptable solution;
11. *Further invites* the concerned parties involved in the case of the Broken Hill Man skull, to engage in negotiations with the view to finding a mutually acceptable solution;
12. *Encourages* Member States to make more extensive use of the mediation and conciliation procedure in order to facilitate the resolution of cases of return and restitution of cultural property under discussion before the Committee, and in this context, encourages Member States to designate experts, who could be appointed as mediators and conciliators, and submit their curriculum vitae to the Secretariat;
13. *Also encourages* Member States to conduct bilateral negotiations on the return and restitution of cultural property and submit to the Secretariat information on ongoing bilateral negotiations as well as on the successful conclusion of such cases;
14. Requests the Secretariat to submit a report on its activities to the ICRC at its twenty-fourth session.