



## Recommendation 1372 (1998)<sup>1</sup>

# Unidroit Convention on stolen or illegally exported cultural property

Parliamentary Assembly

1. The Parliamentary Assembly of the Council of Europe regards the 1995 Unidroit Convention on stolen or illegally exported cultural property as an important contribution to the preservation of the cultural heritage of mankind and fully endorses it. It calls upon the members of the Assembly to work towards ratification of the convention in their own parliaments.
2. The Council of Europe has itself addressed the question of the illicit movement of cultural property, notably in the Assembly's [Recommendation 1072 \(1989\)](#) on the international protection of cultural property and the circulation of works of art and in the European Convention on Offences relating to Cultural Property (Delphi, 1985).
3. The Unidroit Convention aims to provide a substantial benefit for owners whose property is stolen in having the market tightened to try to avoid the present easy passage of stolen goods into the licit market. A significant advance is in the potentially worldwide scope of the convention and the restrictions this should place upon the pillage of cultural property from developing countries or areas of conflict.
4. The Unidroit Convention can, however, only develop its full effect when the same number of states producing cultural property accede to it as states importing cultural property.
5. The Unidroit Convention cannot solve all the problems which the transfer of cultural objects poses. Because the convention does not apply to cultural objects taken before its entry into force, it will not provide remedies, for example, for the theft of cultural objects in the former Yugoslavia or Jewish cultural objects transported from the Baltic states into many countries as a result of the second world war, or for the national treasure which the Romanian Government sent abroad for safekeeping during the first world war and which was never returned. However, other remedies are already available under the Protocol to the 1954 Convention, the Unesco Convention on illicit traffic of 1970 and by application to the Unesco Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation.
6. The Unidroit Convention does not deal with criminal law. But while it will not of itself completely solve the problem of international crime rings dealing in cultural property, the effect of the convention should diminish the profitability, and increase the risks, of criminal activity.
7. Further international efforts are necessary to go beyond the convention in protecting – while respecting countries' right to their own heritage – the cultural heritage of humanity and allowing as wide public access to it as possible.
8. The Assembly recommends that the Committee of Ministers:
  - 8.1. call on all member, Observer and Special Guest states to become parties to the convention and incorporate it into their national law;

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1. See [Doc. 8001](#), report of the Committee on Culture and Education, rapporteur: Mrs Terborg; and [Doc. 8095](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteurs: MM. Kostytsky and Schwimmer. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 26 May 1998.



- 8.2. create, through the Council of Europe and the European Union, the material means by which experts of the Unidroit Institute could assist those states seeking advice on incorporating the convention into national law;
- 8.3. promote an exchange of good practice in the application of the Unidroit Convention, especially in the field of customs and police activities;
- 8.4. call on the North-South Centre in Lisbon to encourage non-European countries to ratify the convention and implement it with the help of Unesco and the Unidroit Institute, and extend, if necessary, the mandate of the North-South Centre to this effect;
- 8.5. invite the states which have signed the convention to deposit the text of the law which incorporates the convention into their national legislation, in an official language of the convention, at the Unidroit Institute;
- 8.6. contribute to ensuring that, in addition to the known international courts of arbitration, the states establish an arbitration commission at the Unidroit Institute that can be called upon by the States Parties to assist in the event of disagreements concerning the interpretation of the text of the convention;
- 8.7. promote the results of the conference organised by the Paul Getty Institute in Amsterdam in May 1997 on the identification, origin, legal acquisition, transport and ownership of cultural property and to solve other outstanding problems as soon as possible;
- 8.8. ask member governments to take steps to ensure that special attention is devoted to combating international crime rings in the area of cultural property, ensure that there are sufficient police officers specialised in criminality concerning art objects and step up international police co-operation in this field.