

A Critical Analysis of the Agreement between Türkiye and Switzerland on Preventing Illicit Import and Facilitating the Repatriation of Cultural Property



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ABSTRACT

International agreements are important instruments for preventing the illicit trade of cultural property and in strengthening cross-border cooperation to address this global challenge effectively. However, asymmetrical power dynamics between culturally rich nations and market-oriented countries are sometimes evident in certain provisions of these agreements. The agreement between Türkiye and Switzerland on the prevention of the illicit import and the repatriation of cultural property traces this asymmetry. Although certain imbalances in bilateral international agreements suggest that the interests of market-oriented countries are prioritized at the expense of culturally rich nations, this does not imply that the agreements are entirely ineffective in combating illicit trade in cultural property. This study examines the rise in illicit cultural property trade, the actors combating it at national and international levels, and highlights the role of international agreements in this context. Subsequently, the general framework of the agreement between Türkiye and Switzerland will be analyzed, along with the measures it contains to combat illicit trade and facilitate repatriation. Under the Agreement, Türkiye is expected to submit the largest number of repatriation claims. The final part of the study discusses the asymmetrical aspects of the Agreement that may hinder the effective repatriation of cultural property that was illegally imported into Switzerland from Türkiye.

Keywords: asymmetrical provisions, illicit import, illicit trade in cultural property, repatriation of cultural property, Türkiye - Switzerland Agreement.

Introduction

ANNUAL DATA ON THE ILLICIT TRADE IN cultural property indicate that national laws, international treaties, intergovernmental cooperation, and administrative, criminal, and law enforcement measures have been insufficient in preventing this trade. The data varies from year to year. For example, a 1999 report estimated that the annual volume of illicit trade in cultural property amounted to \$7.8 billion. (Calvani, 2009, p. 29).

Additionally, an article published in 2003 stated that this value was approximately 2 billion dollars per year (Forrest, 2003, p. 593). According to 2026 data from the United Nations Office on Drugs and Crime (UNODC), this figure is estimated to range between 3.4 and 6.3 billion dollars (OSCE, n.d.). Moreover, the trafficking of cultural property constitutes a form of money laundering and accounts for a substantial portion of such illicit activity (Schneider, 2013, p. 96). Some countries play a key role in the illicit trade of cultural property.

In other words, certain market countries can facilitate this trade by creating demand for cultural property, thereby enabling its circulation through illegal channels and legitimizing it through money laundering processes. Switzerland is both a target country and a transit country for cultural property smuggling (Federal Department of the Interior, 2001, p. 183). It is well known that this country is an attractive market, especially for the purchase and sale of illegally unearthed archaeological artifacts. Additionally, during World War II, Switzerland was used as a transit point or temporary storage centre for artworks and cultural objects removed from Europe's war and occupation zones. Switzerland continues to maintain this role even today. Indeed, it has provided temporary protection for numerous cultural properties brought from Afghanistan.

The Agreement between the Government of the Republic of Türkiye and the Swiss Federal Council on the Prevention of the Illicit Import and Transit and the Repatriation of Archaeological Cultural Property was signed in Ankara in 2022 and entered into force in 2023 (Official Gazette, 2023).

In 2003, Switzerland implemented the *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* (United Nations Treaty Series, 1972), commonly referred to as the “1970 UNESCO Convention”, into its domestic law and introduced comprehensive legal regulations against

the illicit import and export of cultural property. In recent years, Switzerland has taken a more active role in combating trafficking through international cooperation and repatriation mechanisms. In other words, although Switzerland's role in the international circulation of cultural property has occasionally been subject to criticism, it has recently been making efforts to align its practices more closely with the principles of combating illicit trade through the legislation it has adopted and the international treaties it has ratified.

The Agreement between the Government of the Republic of Türkiye and the Swiss Federal Council on the Prevention of the Illicit Import and Transit and the Repatriation of Archaeological Cultural Property was signed in Ankara in 2022 and entered into force in 2023 (Official Gazette, 2023). By entering into this Agreement with Türkiye, Switzerland aims to improve its image regarding perceptions of association with illicit trade, promote the exhibition of Turkish cultural property, continue collaborative excavations and research, and strengthen bilateral efforts against illicit trade. However, certain provisions in the Agreement indicate that Switzerland has not fully abandoned its past practices and reveal an ongoing intention to retain illicitly traded cultural property within its territory.

This study will first examine the reasons behind the increase in the illicit trade of cultural property, followed by a discussion of the various actors involved in combating it at both national and international levels. It will then consider the role of international agreements in regulating cultural property trafficking. The main focus of the study will be an in-depth analysis of the Agreement between Türkiye and Switzerland, with particular attention to its provisions governing cooperation and the repatriation of cultural property. From

Türkiye's perspective, certain elements of the Agreement are asymmetrical, favoring Switzerland. However, despite these imbalances, Switzerland has facilitated the repatriation of some cultural property to Türkiye under the Agreement.

Reasons for the Increase in Illegal Trade of Cultural Property and Actors in the Fight Against This Trade

Factors Increasing the Illicit Trade of Cultural Property

Several factors contribute to the rise of illicit trade in cultural property. Among these, the de-

mand for such cultural property is a fundamental driver directly encouraging this trade. As long as there are collectors and institutions willing to pay high prices, illegal excavations and illicit trade will continue. Some countries, particularly the US, France, Switzerland, the UK, and Germany, have traditionally been target markets due to their strong art markets, high purchasing power, and well-developed auction infrastructures.

In response to this persistent demand, traffickers employ various methods to supply the illicit market. Illegal excavations, theft of cultural objects, and the production of replicas or forgeries are among the primary techniques used to move cultural property from source countries to buyers.



Following the agreement, the cultural artifacts, which were officially handed over during a ceremony held at the Turkish Embassy in Bern on October 11, 2023, were brought from Switzerland to Türkiye and placed in safekeeping at the Museum of Anatolian Civilizations (Photo: KVMGM, 2023).

In addition to traditional methods, advances in technology and the use of new equipment have facilitated access not only to terrestrial cultural sites but also to underwater heritage, thereby increasing illegal excavations and looting. Developments in laboratory techniques have also contributed to a rise in the production of forgeries and replicas, making it easier to create items that even experts find difficult to distinguish from authentic artefacts. For instance, the bronze cast statue of Alexander the Great, returned to Greece, sparked debate among experts, archaeologists, and academics over whether it was genuine or a forgery (Deutsche Welle Documentary, n.d.).

Cultural property is frequently used in money laundering activities. Illegally obtained proceeds can be legitimized through the purchase, sale, or export of such property, giving the appearance of lawful economic activity.

In recent years, the use of cultural property as a tool to finance terrorism, as seen in the case of Isis, the systematic destruction of cultural heritage belonging to a particular ethnic group in order to erase their historical and cultural traces, as observed in Bosnia and Herzegovina, and the ease of smuggling cultural property abroad due to regime changes, civil wars, and armed conflicts, as in Afghanistan, Cambodia, Iraq, and Syria, have all contributed to the global rise of illicit trade in cultural property. It is estimated that between 2003 and 2005 alone, approximately 400,000 to 600,000 artefacts were removed from Iraqi terri-

tory, three to four times the number of items collected through excavations by the Iraq National Museum since the 1920s (Koush, 2005, p. 32).

Cultural property is frequently used in money laundering activities. Illegally obtained proceeds can be legitimized through the purchase, sale, or export of such property, giving the appearance of lawful economic activity. In particular, the introduction of cultural property obtained through undocumented or illicit excavations into the market facilitates the injection of illicit proceeds into the economy without leaving a trace in financial transactions. Indeed, among the *obliged persons and entities* listed in Article 2(1)(d) of *Law No. 5549 on the Prevention of Laundering Proceeds of Crime* (Official Gazette, 2006b) are “those engaged in the trade of historical, artistic, or antique objects, or intermediaries in such activities.” It should be noted that the terms “...those engaged in the trade” or “intermediaries in such activities” are narrowly defined. Article 26 of Law No. 5549 repealed certain provisions of *Law No. 4208 on the Prevention of Money Laundering*. Under Article 2(a)(4) of Law No. 4208, the sources of illicit funds included money or any material benefit and value obtained through acts defined under *Law No. 2863 on the Protection of Cultural and Natural Property* (Official Gazette, 1983). This provision was repealed by Article 26 of Law No. 5549. In other words, unlike Law No. 5549, Law No. 4208 explicitly included crimes specified in Law No. 2863 within the scope of money laundering (Başak, 1998, p. 27). Due to the repeal of the provision in question, doubts may arise as to whether the proceeds derived from the crimes set out in Law No. 2863 qualify as proceeds of the crime of money laundering. However, there is no ambiguity in this regard. This is because Article 2(1)(f) of Law No. 5549 defines “assets derived from crime”



The smuggling of cultural heritage and the nexus with terrorism pose a multifaceted threat to peace, security, and cultural diversity worldwide (Photo: UNICRI, 2024).

as criminal proceeds; accordingly, revenues obtained from crimes related to cultural property under Law No. 2863 are also processed within the scope of Law No. 5549.

National and International Actors in the Fight Against Illicit Trade in Cultural Property

Different actors at the international and national levels are fighting the illicit trade in cultural property. The key actors among these are international organizations, non-governmental organizations, national and international law enforcement agencies, and customs authorities. In addition to UNESCO, various international organizations in particular the International Council

of Museums (ICOM), the International Council on Monuments and Sites (ICOMOS), the World Customs Organization (WCO), and the international or European Union law enforcement agencies INTERPOL (International Criminal Police Organization) and EUROPOL (European Union Agency for Law Enforcement Cooperation); national law enforcement agencies are responsible for implementing national legislations and international treaties (Nafziger, 1985, p. 852) and for combating the illicit trafficking of cultural property. INTERPOL, an intergovernmental organization, does not have its own law enforcement force (Ekşi, 2026, p. 283). Therefore, INTERPOL operates in the field through the law enforcement agencies of its member countries.

INTERPOL facilitates cooperation among the law enforcement agencies of its member states; it conducts effective operations involving many countries, particularly including customs authorities and EUROPOL in this cooperation (Kind, 2011, pp. 175–182).

In countries that have successfully exhibited cultural property obtained legally or illegally from other countries, the illegal trade in cultural heritage is not as widespread as in some culturally rich countries, including Egypt, Greece, Türkiye, Cambodia, Syria, and Iraq.

INTERPOL has developed tools to aid in the repatriation of cultural property: “the Stolen Works of Art Database” and “the ID-Art App” (INTERPOL, n.d.-b; INTERPOL, n.d.-a). Created in 2009, the Interpol Stolen Works of Art Database contains information on stolen or missing artworks. As of 27 February 2026, descriptions and photographs of 57,000 works have been compiled. The Interpol ID-Art App was launched in 2021. This application is open to everyone and can be easily downloaded to a mobile phone. Through the Interpol ID-Art App, users can access information in the Interpol Stolen Works of Art Database, which contains more than 57,000 cultural objects from 196 member countries. Additionally, reports can be generated using the Interpol ID-Art App. Registering a cultural property in the INTERPOL Stolen Works of Art

Database ensures that it is sought in all 196 INTERPOL member countries, thereby serving as a deterrent to illicit trafficking (Ekşi, 2026, p. 283). Combating the illicit trade in cultural property is among EUROPOL’s tasks. EUROPOL carries out its activities on this issue under the category of organized property crime (Europol, 2022).

Various administrative units, law enforcement agencies, courts, and customs authorities in Türkiye work to combat the illicit trade of cultural property and its illegal export abroad. Outside the customs area, personnel of the Land Forces Command provide law enforcement services in first-degree military forbidden and security zones on land, while Coast Guard personnel serve in naval military forbidden and security zones. Police and gendarmerie personnel are responsible for areas outside these military zones; customs officers are tasked with preventing cultural objects from being subject to illicit trade at air, sea, land, and railway customs points, as well as in free zones (Ekşi, 2024, pp. 100-102). Assistance from INTERPOL may be sought to locate and return cultural heritage that has been illegally taken abroad.

In addition to various state institutions, collectors, museums, heads and staff of archaeological excavations, cultural and natural heritage boards, auction and antique houses, and companies involved in the transportation, packaging, and insurance of cultural property can also play an effective role in combating the smuggling of cultural artifacts. In fact, although Article 63 of the *Constitution* assigns the state the duty to protect cultural property, it is important for the entire society to support efforts to combat its illicit trafficking. In countries that have successfully exhib-

ited cultural property obtained legally or illegally from other countries, the illegal trade in cultural heritage is not as widespread as in some culturally rich countries, including Egypt, Greece, Türkiye, Cambodia, Syria, and Iraq. Among the reasons for this are societal awareness that cultural property should be preserved as a shared value rather than exploited for personal gain, strict supervision, and effective enforcement of legislation. On the other hand, economic difficulties, lack of oversight, and political instability are the main factors that increase smuggling in regions rich in cultural property.

When cultural objects are removed from the country as a result of illegal excavations, proving that they belong to Türkiye becomes quite difficult

because there is no official record, photograph, or visual documentation of them. In contrast, illicitly traded artefacts that have been placed in museums, exhibited, photographed, documented, studied in scientific research, or included in domestic and international exhibition catalogues make it easier to establish Türkiye's ownership. The creation of a comprehensive and systematic inventory of cultural property could facilitate the process of sharing information about stolen artefacts and help address any deficiencies (Akipek, 1999, p. 82; Ekşi, 2024, pp. 517–518). Therefore, maintaining a national inventory of cultural heritage objects and ensuring that this inventory includes not only images but also detailed information about each object is of critical importance.

INTERPOL

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LES PLUS RECHERCHÉES**

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WORKS OF ART**

**N°55 (b)
Décembre / December 2025**

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TABLEAU / PAINTING
Par/By: Rene Magritte
Dimensions: 46 x 38,8 cm
Vol/Theft: 26 Sep. 2025
Dossier/File: 2025/24979
B.C.N./N.C.B.: BERN

SCULPTURE / SCULPTURE
Par/By: Oskar Hollnager
Dimension: 35 cm
Vol/Theft: 13 Jun. 2025
Galerie d'Art/Art Gallery
Dossier/File: 2025/24011
B.C.N./N.C.B.: WENNA

SCULPTURE / SCULPTURE
Dimensions: 9,2 x 9,6 cm
Vol/Theft: 1 Jan. 2011 – 31 December 2011
Musée/Museum
Dossier/File: 2025/2381
B.C.N./N.C.B.: SANA

PHOTOGRAPHIE / PHOTOGRAPH
Par/By: Jan Hoeks
Dimensions: 21 x 40 cm
Vol/Theft: 10 Jul. 2024 – 17 Jan. 2025
Galerie d'Art/Art Gallery
Dossier/File: 2025/2719
B.C.N./N.C.B.: WESGADEN

PETITE D'OR / GOLD NUGGET
Dimensions: 3 x 6 x 3 cm
Vol/Theft: 15 Sep. 2025
Musée/Museum
Dossier/File: 2025/2347
B.C.N./N.C.B.: PARIS

ILLUSTRATION / ILLUSTRATION
Par/By: Henri Matisse
Dimensions: 24 x 44 cm
Vol/Theft: 07 Dec. 2025
Bibliothèque/Library
Dossier/File: 2025/4015
B.C.N./N.C.B.: BRASSIA

Every year in June and December, INTERPOL highlights a list of the most wanted works of art through a poster distributed to countries (Photo: INTERPOL, 2025).

Indeed, in 2014, the Ministry of Culture and Tourism, through the General Directorate of Cultural Heritage and Museums, launched the “National Museum Inventory System” (MUES) project. The MUES, which is still under development, is an integrated system that includes modules such as the Inventory System, the Commission and Artefact Evaluation System, the Museum Information System, the Laboratory System, the Anti-Smuggling System, and the Private Museum and Collector System (Ministry of Culture and Tourism, n.d.-b). It will serve as an important tool in combating illicit trade, as it provides a system in which the inventory of cultural heritage objects is maintained in detail.

In some operations, the quantity of seized cultural heritage objects approaches the total number of heritage objects of an entire country.

As previously noted, the fight against the illicit trade of cultural property in Türkiye is carried out by the police, gendarmerie, coast guard, and customs enforcement. The Department of Anti-Smuggling, affiliated with the General Directorate of Cultural Heritage and Museums of the Ministry of Culture and Tourism, conducts preventive and protective measures to stop the illicit export of cultural and natural heritage. However, this unit does not have direct operational or law enforcement authority (Akkuş & Efe, 2015, p. 418). Unlike Italy, where the *Comando dei Carabinieri per la Tutela del Patrimonio Culturale* operates

as a specialized law enforcement unit for the protection of cultural property, Türkiye does not have a specialized police unit devoted exclusively to cultural property (Armağan, 2022; Nistri, 2011, pp. 183–192). The Department of Anti-Smuggling carries out various initiatives to facilitate the restitution of cultural heritage objects illicitly removed from Türkiye (Akkuş & Efe, 2015, p. 418).

Law No. 2863 on the Protection of Cultural and Natural Heritage defines 34 distinct types of crimes related to cultural heritage and prescribes severe punishment for these crimes (Ülgen, 2020, p. 57; Ülgen, 2026, pp. 161–218). Cases related to crimes specified by this law are heard in criminal courts. One of these crimes is the illegal export of cultural property abroad. Article 32 of Law No. 2863 regulates the prohibition on taking cultural property abroad, while Article 68 criminalizes violations of that prohibition (Umar & Çilingiroğlu, 1990, pp. 244–248; Ülgen, 2020, pp. 135–174; Töngür, 2018, p. 108). Despite the severe punishment imposed by legislation on cultural property smuggling, such activities have not been effectively prevented. A significant number of objects considered cultural property have been seized in operations conducted by the General Directorate of Security or the Gendarmerie Command. In some operations, the quantity of seized cultural heritage objects approaches the total number of heritage objects of an entire country. For example, during operations carried out in Istanbul between January and February 2020, a total of 3,718 objects potentially classified as historical artefacts were seized, including 3,451 coins and 267 other objects (General Directorate of Security Department of Anti-Smuggling and Orga-

nized Crime, n.d.). Under the coordination of the General Directorate of Security's Department for Combating Smuggling and Organized Crime, the Adana Anti-Smuggling and Organized Crime Branch conducted the "Anadolu" operation on 10 August 2021, targeting a criminal organization engaged in international trafficking of historical artefacts across 30 provinces simultaneously. During this operation, a total of 13,398 historical artefacts were seized, of which 9,276 had been illegally excavated (Haberler.com, n.d.).

As a result of the "Peaceful Streets Operation" conducted nationwide in 2025 by the General Directorate of Security and the Gendarmerie General Command, 688 historical artefacts were seized (General Directorate of Security,

2025). It is determined through investigations which of the artefacts seized by the police or gendarmerie are considered cultural and natural property. The lists of cultural properties stolen or lost from museums or units affiliated with the Ministry, as well as from private collectors, published on the Ministry of Culture and Tourism's website are comprehensive (Ministry of Culture and Tourism, 2026; Ministry of Culture and Tourism, n.d.-a). As a result of the efforts of the Directorate for Combating Smuggling within the General Directorate of Cultural Heritage and Museums affiliated with the Ministry of Culture and Tourism, the repatriation of certain artefacts has been successfully achieved (Ministry of Culture and Tourism, n.d.-c; Habertürk, 2026).



Operations in Istanbul between 13 January 2020 and 25 February 2020 resulted in the seizure of 3,718 objects believed to be historical artifacts (Photo: EGM, n.d.).

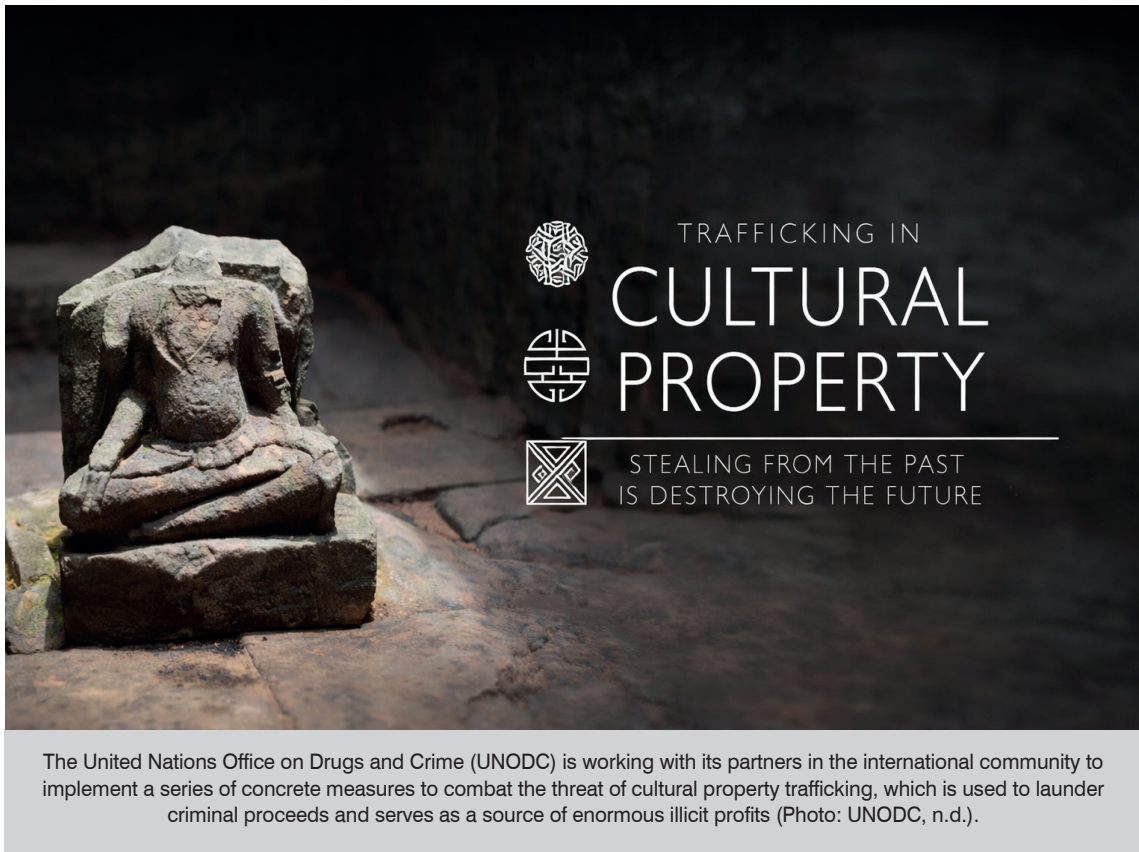
The Role of International Treaties in Combating the Smuggling of Cultural Property

Preventing the smuggling of cultural property requires cooperation between states. Through international treaties, cooperation can be established among administrative authorities, judicial institutions, law enforcement agencies, and customs authorities. Such cooperation may also take place on the basis of international comity, even in the absence of an international treaty. However, the principle of international comity does not obligate states to cooperate. In contrast, establishing cooperation through an international treaty grants it a legally binding character, defines the rights and obligations of the contracting states, creates transparency, and thereby enables cooperation to be carried out more effectively. In particular, bilateral treaties may produce results more quickly than multilateral treaties.

Other states that possess cultural property illegally removed from a country may voluntarily return it. However, in some cases, requests for repatriation may be rejected due to the expiration of the statute of limitations, the inability to prove that the cultural property belongs to the requesting state, or the failure to pay the compensation demanded by the party that acquired the property in good faith. In such situations, states seeking the return of cultural property may resort to guerrilla tactics (Ekşi, 2024, pp. 291–295). These tactics also include refusing to lend cultural property for exhibitions in the state that is unwilling to return it, as well as denying permission to individuals from that country to participate in scientific research and archaeological excavations (Ekşi, 2024, p. 238). To provide a legal framework for addressing the problems arising in the repa-

triation of cultural property between states and to promote international cooperation, both multilateral and bilateral international agreements are concluded. These agreements typically regulate matters such as the categories of cultural property subject to return, the procedures and conditions governing repatriation, and mechanisms for cooperation and information exchange between customs authorities and law enforcement agencies. A state party that fails to comply with its obligations under such an agreement is considered to be in breach of the treaty and, consequently, to have engaged in conduct contrary to international law.

Various multilateral agreements have been concluded to combat the illicit trade in cultural property and to promote cooperation (Ekşi, 2024, pp. 123–213). Commonly known as the “1970 UNESCO Convention,” the *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property* (United Nations Treaty Series, 1972) was ratified by Türkiye in 1981 (Official Gazette, 1981). The 1995 UNIDROIT *Convention on Stolen or Illegally Exported Cultural Objects* is regarded as a complementary instrument to the 1970 UNESCO Convention (Roca-Hachem, 2005, p. 536; Schneider, 2001, p. 482). The *United Nations Convention against Transnational Organized Crime* (UNTOC) was opened for signature in 2000 and entered into force in 2003 (United Nations Treaty Series, 2000; Official Gazette, 2003). This Convention, which has also been ratified by Türkiye, covers crimes committed against cultural property. Commonly known as the “Nicosia Convention,” the *Council of Europe Convention on Offenses Relating to Cultural Property* (CETS No. 221) was opened for signature in 2017 in the Greek Cypriot Administration of



Southern Cyprus (Council of Europe, 2022). The Nicosia Convention, which entered into force on 1 April 2022, has neither been signed nor ratified by Türkiye.

As noted by Boz (2023, p. 101) and Ekşi (2024, pp. 212–213), although some multilateral conventions do not explicitly include “cultural property” in their titles, they are still applicable to crimes concerning cultural property (for a list of these conventions, see Boz, 2023, p. 101; Ekşi, 2024, pp. 212–213). Some of these conventions were adopted by the Council of Europe, while others were adopted by the United Nations. The international treaties concluded by the Council of Europe and ratified by Türkiye are as follows: *1959 European Convention on Mutual Assistance*

in Criminal Matters (Official Gazette, 1968), *1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime* (Official Gazette, 2004a), *1999 Criminal Law Convention on Corruption of the Council of Europe* (Official Gazette, 2004b), and *2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism* (Official Gazette, 2016a). The international treaties concluded by the United Nations and ratified by Türkiye are as follows: *2000 United Nations Convention against Transnational Organized Crime* (Official Gazette, 2003) and *2003 United Nations Convention against Corruption* (Official Gazette, 2006a).

Bilateral cooperation agreements concerning cultural property have also been concluded. The titles of these agreements vary depending on the areas they cover. In fact, one cannot infer from the title of some agreements that they contain provisions on the illicit trade in cultural property. However, when the content of the agreement is examined, it becomes clear that cooperation in combating the illicit trade of cultural property is envisaged. To clarify the issue, examples will be given of the titles of bilateral international agreements, along with the specific provisions that establish cooperation for the protection of cultural property and the prevention of its illicit trade.

Cutting off the financial sources of terrorist acts is essential not only for the protection of cultural property but also for ensuring national and international security.

(1) Some of the bilateral agreements on cultural cooperation concluded by Türkiye also include provisions concerning cultural property. For example, the *“Agreement on Cultural Cooperation between the Government of the Republic of Türkiye and the Government of the Republic of Panama* (Official Gazette, 2016b), in Articles 1-3 and 5-13, provides for cooperation in areas including art, culture, archaeology, museology, librarianship, and the protection of intangible cultural heritage. It also covers the preservation, restoration, and scientific study of cultural heritage, as well as participation in related congresses, symposiums, and exhibitions” (Ekşi, 2024, pp. 85–86).

(2) Several bilateral agreements on customs cooperation contain provisions designed to prevent the illicit trafficking of cultural property. For ex-

ample, *the Agreement between the Government of the Republic of Türkiye and the Republic of Angola on Mutual Administrative Assistance in Customs Matters* was signed in 2021 in Luanda (Official Gazette, 2024). Article 8 of the Agreement, titled “information on the illicit trade in sensitive goods,” provides for the exchange of information between the two states concerning acts that violate the customs laws of either party in connection with the illicit trade of works of art of significant historical, cultural, or archaeological value (for more information on the agreement between Angola and Türkiye, see Ekşi, 2024, pp. 87–89).

(3) Some bilateral security agreements contain provisions addressing both transnational organized crimes and the illicit trafficking of cultural and natural property. “The illicit trade in cultural property is one of the methods used to finance terrorism and launder money. Cutting off the financial sources of terrorist acts is essential not only for the protection of cultural property but also for ensuring national and international security. Indeed, the *Security Cooperation Agreement between the Government of the Republic of Türkiye and the Government of the Republic of Azerbaijan*, signed in Ankara in 2013 (Official Gazette, 2017a), includes cooperation in combating transnational crimes related to cultural and natural property” (Ekşi, 2024, pp. 89–90).

(4) “Numerous bilateral agreements have been concluded between Türkiye and other states to protect and promote foreign investments in Türkiye. A significant number of these agreements include provisions stating that measures taken to protect cultural and natural property cannot be interpreted as restrictions or prohibitions on foreign investment. For example, under Article 4(1)(c) of the *Agreement between the Government of the Republic of Türkiye and the Government of the Socialist Republic of Vietnam Concerning the*



Minister of Culture and Tourism Mehmet Nuri Ersoy and Swiss Minister of the Interior Alain Berset signing the Agreement on the Prevention of the Illicit Import and Transit of, and the Return of, Cultural Property (Photo: Republic of Türkiye Ministry of Culture and Tourism, 2022).

Reciprocal Promotion and Protection of Investment (Official Gazette, 2017b) states that nothing in this Agreement shall be construed to prevent a Contracting Party from adopting, maintaining, or enforcing any non-discriminatory measures aimed at protecting national treasures of artistic, historic, or archaeological value” (Ekşi, 2024, pp. 90–91).

(5) Türkiye has concluded bilateral international agreements on the prevention, illicit trade, and repatriation of cultural property (Ekşi, 2024, pp. 68–81). For example, agreements providing for mutual assistance in preventing the smuggling of cultural property and ensuring its return have been concluded with Turkmenistan (Official Gazette, 1999) and Uzbekistan (Official Gazette, 1998).

Among the bilateral agreements categorized

under the five headings above, we will focus exclusively on the Agreement with Switzerland concerning the illicit trade of cultural property. This agreement was briefly addressed in our previous work (See Ekşi, 2024, pp. 81–83). In this study, the agreement will be analyzed in detail, particularly to reveal its asymmetrical features, arising from the fact that it was concluded between a country rich in cultural property and one skilled in exhibiting cultural property borrowed from abroad. While the agreement is ostensibly designed to foster cooperation in combating the illicit trade of cultural property, we aim to show how, in practice, market countries have successfully employed legal provisions within such agreements to avoid returning cultural property that has entered their territory illegally, despite originating from resource-rich countries.

The Agreement between the Government of the Republic of Türkiye and the Swiss Federal Council on the Prevention of the Illicit Import and Transit and the Repatriation of Archaeological Cultural Property

As previously noted, international agreements serve as essential tools for combating the illicit trade of cultural property. One such agreement is the one signed on 15 November 2022 in Ankara between the Republic of Türkiye's Ministry of Culture and Tourism and the Swiss Federal Council. *The Agreement between the Government of the Republic of Türkiye and the Swiss Federal Council on the Prevention of the Illicit Import and Transit and the Repatriation of Archaeological Cultural Property* states in its preamble that it was concluded to implement the 1970 UNESCO Convention, to which both states are parties. Moreover, the preamble underlines that "the theft, looting and illicit import and export of cultural property hinders legal cultural exchange," highlighting a key concern addressed by the Agreement.

Before proceeding to the analysis of the agreement, it is useful to clarify one point. The terms "treaty," "convention," and "agreement" are translated into Turkish in the Official Gazette sometimes as "antlaşma," sometimes as "andlaşma," and especially in recent years as "sözleşme." Here, without discussing the occasional improper use of these Turkish equivalents, I would like to note that the reason for using the term "anlaşma" in the following explanations is that the same term is also used in the text published in the Official Gazette.

Subject and Scope of the Agreement

The main aim of the Agreement between Türkiye and Switzerland is to prevent the illicit transfer of cultural property. To achieve this aim, the Agreement regulates the import, transit, and repatriation of cultural property between the two countries (Article I/1).

The annex to the Agreement specifies the categories of cultural property for which both Türkiye and Switzerland may request repatriation. For Switzerland, the categories listed in the annex include stone, metal, ceramics, glass and glass paste, bone, wood, leather/fabric/various organic materials, paintings, and amber. However, it is stated that this enumeration is not exhaustive. On the other hand, a time limitation has been set regarding the cultural properties subject to restitution. The Agreement applies to objects dating from prehistoric times through to 1500 A.D. The same time limitation is also foreseen for the cultural properties for which Türkiye may request repatriation. The categories of cultural property for which Türkiye may request repatriation include stone, metal, ceramics, wood, bone and ivory, glass, documents, textiles, plaster and stucco, human and animal remains, fossils, and others (such as wall paintings, stone art, panel paintings), although this enumeration is not exhaustive.

According to Article IV(1)(b) of the Agreement, the request for repatriation applies only to cultural property illicitly imported after the Agreement enters into force. Therefore, the repatriation of cultural property illicitly taken to Switzerland before 2023 cannot be requested under the Agreement. However, there is certainly no obstacle to their voluntary return based on legislation or other international treaties to which both States are parties.

Duration of the Agreement

According to Article XV of the Agreement, the Agreement has a duration of 5 years. However, if the parties do not give 6 months' notice, the Agreement will automatically be extended for successive 5-year periods. Even if the Agreement is terminated, ongoing lawsuits will not be affected. The Agreement, being made for a fixed term, was not appropriate. In the event of political or diplomatic tensions arising between Türkiye and Switzerland regarding

the repatriation of a cultural property, it would be possible to suspend the obligations by waiting for the Agreement to expire. This situation would also provide a basis for terminating the Agreement by giving 6 months' prior notice.

The Competent Administrative Bodies of Switzerland and Türkiye and Their Duties in the Implementation of the Agreement

According to Article IX of the Agreement, the competent authority on the part of Türkiye is the Ministry of Culture and Tourism; on the part of the Swiss Confederation, it is the Federal Department of Home Affairs, Federal Office of Culture, Specialized Body for the International Transfer of Cultural Property. These administrative bodies are authorized to communicate directly with each other. The annex to the Agreement specifies the categories of cultural properties covered by the Agreement for both Türkiye and Switzerland. The competent administrative authorities of both States shall notify each other, through the authorized bodies, of theft, looting, loss, and other incidents affecting cultural properties listed in the categories contained in both lists (Article X/1). Switzerland and Türkiye shall promptly and mutually notify each other of any changes to their domestic legislation regarding the transfer of cultural property (Article X/2). The competent authorities may regularly review the implementation of the Agreement and propose amendments if necessary. They may also discuss proposals to encourage greater cultural exchange cooperation.

Representatives of the competent administrative authorities of both States shall meet no later than at the expiry of this Agreement, either in Switzerland or in Türkiye. Additionally, meetings may be convened, especially regarding significant changes in legal regulations or administrative structures related to the transfer of cultural properties (Article XII).

Notification to the Swiss and Turkish Authorities Directly or Indirectly Involved in the Implementation of the Agreement

Article VII of the Agreement regulates the principles regarding the notification of the content of the Agreement to the relevant authorities or institutions. Accordingly, Türkiye and Switzerland are obliged to disclose the contents of the Agreement, particularly to those directly affected, including the cultural and art sectors, collectors, and relevant customs and law enforcement authorities (Article VII). The purpose is to notify administrative and judicial authorities involved, directly or indirectly, in combating the illicit trade in cultural property about the existence of the Agreement.

Prohibition of Illicit Importation

Illicitly traded cultural objects can sometimes be declared to customs as worthless, or other measures are taken to prevent them from being recognized as cultural property. In addition, the legislation of the country importing the cultural property may not require an export and import permit. Therefore, Article II of the Agreement stipulates that if the other party to the Agreement requires permission to export cultural property, such permission must be presented to the customs authorities. Article II further stipulates that the customs officials of the importing State must be furnished with evidence demonstrating compliance with the legal requirements of the exporting State. There is a possibility that export documents, including export permits submitted to the customs authorities of the importing country, may be fraudulent. If it is determined that the documents are false, the cultural property must be returned to the exporting country. If the documents are not recognized as fraudulent, the import of the cultural property may be allowed; however,

in such cases, the property must still be returned in accordance with the procedures outlined in the Agreement. Furthermore, the customs declaration should include, in addition to “the cultural property object, the detailed description as possible on the place of provenance, or, if the result of archaeological or paleontological excavations, the place where the cultural property was found” (Article II).

Repatriation of Cultural Property Subject to Illicit Importation under the Agreement

Voluntary Repatriation

According to Article IV(4) of the Agreement, the primary principle in restitution is voluntariness. Moreover, no limitation period shall apply to cultural property returned voluntarily. Pursuant to this Article, Türkiye and Switzerland “support negotiations about the voluntary repatriation of cultural property that was illicitly imported to the other in the framework of good faith without limitation in time”. If cultural property illicitly imported into a contracting state is not returned voluntarily, then a lawsuit will be filed.

Judicial Repatriation of Cultural Property

Jurisdiction and Applicable Law

Article III of the Agreement governs the court with jurisdiction, the applicable law, and the administrative procedures facilitating the repatriation of cultural property. It provides that Switzerland or Türkiye may initiate proceedings for the repatriation of cultural property against the other Party in whose territory the property was illicitly imported. In such proceedings, the national law of the State where the cultural property is located shall apply.

Switzerland has enacted a specific law for the restitution of cultural property abroad. This law, formally known as the *Federal Act on the International Transfer of Cultural Property* (Cultural Property Transfer Act-CPTA) (Swiss Confederation, 2021), regulates the import, transit, and export of such property into and through Switzerland, its restitution by Switzerland, and the measures to be taken against illicit transfers.

As stated in the preamble of the Cultural Property Transfer Act, the legal basis of this Act is provided by Articles 69(2) and 95(1) of the Swiss Federal Constitution, as well as the 1970 UNESCO Convention and the *2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage*. According to Article 7 of the Cultural Property Transfer Act, an export permit must be presented at the time of import. Switzerland has also concluded bilateral agreements with certain States Parties to the 1970 UNESCO Convention to facilitate its implementation (Siehr, 2008, p. 409). For cultural property illicitly imported into Switzerland from other countries with which Switzerland has concluded bilateral agreements, including Türkiye, an export permit is required. The Federal Council has concluded bilateral agreements with Italy, Greece, Colombia, Egypt, the Greek Cypriot Administration of Southern Cyprus, China, Peru, Mexico, Türkiye, and Bolivia (Federal Office of Culture, 2026).

Under Article 3 of the Cultural Property Transfer Act, cultural property belonging to the Swiss Confederation that is of significant importance to Swiss cultural heritage and registered in the Federal Registry may neither be acquired through adverse possession nor in good faith, and Switzerland’s right to restitution is not subject to any statute of limitations. Moreover, the permanent export of such cultural property from Switzerland is prohibited.

Contrary to Switzerland, Türkiye does not apply a statute of limitations for the repatriation of state-owned cultural property. According to Article 9(1) of the Cultural Property Transfer Act, “any person possession of cultural property that has been lawfully imported into Switzerland may be sued for repatriation by the from which the cultural property has been lawfully exported.” However, a lawsuit to be filed by a foreign state for the repatriation of cultural property is subject to the statute of limitations. Article 9(4) stipulates that “the State’s right of repatriation is subject to a statute of limitations of one year from the date on which its authorities became aware of where and with whom the cultural property is located”. But the lawsuit shall not be filed “later than 30 years at the latest after cultural property was unlawfully exported”. The statute of limitations was one of the most controversial issues during the negotiations of the Cultural Property Transfer Law (Noth & Noth, 2005, p. 81). The legislative reasoning indicates that, during the discussions on Article 9, the possibility of setting a 75-year limitation period for public collections and ecclesiastical collections subject to special protection under national legislation, or of exempting repatriation cases from any limitation period, was considered; however, it was later decided not to adopt this approach (Federal Department of the Interior, 2001, p. 197).

Law Governing the Statute of Limitations in Repatriation Cases

According to Article IV(3) of the Agreement, the repatriation request is subject to the legislation of the state where the cultural property is illegally located. For example, if Türkiye files a lawsuit for the repatriation of a cultural property illegally removed from its country and imported into Switzerland, the statute of limitations will be

determined according to Swiss law.

Support of the State Against Which a Return Lawsuit Is Filed

The competent administrative authority of each State where the cultural property is located, namely the Ministry of Culture and Tourism for Türkiye and the Federal Department of Home Affairs, Federal Office of Culture, Specialized Body for the International Transfer of Cultural Property for Switzerland, advises and supports the requesting State regarding the location of the cultural property. In addition, the competent administrative authority of each State shall provide the requesting party with administrative support and advice regarding the determination of the court having jurisdiction; the expert lawyers; the temporary custody and protective conservation of the cultural property until its restitution; the investigation of how the cultural property was unlawfully imported into the country; and the sharing of the information obtained with the other party (Article III/4).

Issues the Plaintiff State Is Required to Prove

Article IV provides that the State filing a lawsuit for the repatriation of cultural property “must demonstrate that the cultural property belongs to one of the categories listed in the appendix, and that it was illicitly imported to the other Party after the Agreement entered into force.” The Agreement’s weaknesses also emerge in the evidentiary burdens it places on the requesting State. First, Article 1(2) of the Agreement states that the Agreement applies exclusively to the categories of cultural property listed in the annex. This provision may give the impression that the scope of the Agreement is strictly limited to those categories.

However, thanks to the phrase in the annex of the Agreement stating “including but not limited to the listed objects,” it is understood that the scope is broader and not limited solely to the specified categories. In addition, excluding from its scope the repatriation of cultural property that was illicitly imported into Switzerland or Türkiye before the Agreement entered into force represents another significant weakness.

Circumstances in Which a Return Request Will Be Suspended

Under the circumstances listed in Article IV(2) of the Agreement, the court hearing the case shall not grant the repatriation request and may suspend the proceedings. These circumstances are as follows: The requesting State’s inability to protect the cultural property due to (1) natural disasters in its territory; or (2) armed conflicts; or (3) other exceptional events that endanger the cultural property.

It should be noted that the repatriation request is not rejected; rather, it is suspended due to force majeure. Although no maximum duration for the suspension is specified, Article IV(2) implies that the suspension continues for as long as it is impossible to protect the cultural property due to the said events. However, the Agreement does not clarify whether the requesting State may seek the transfer of the cultural property to another country. Since the Agreement is concluded between the two States, it is based on the understanding that repatriation is made to one of these two States. For example, if a cultural property could not be repatriated to Türkiye due to an earthquake and it was requested to be repatriated to the TRNC (Turkish Republic of Northern Cyprus) instead,

the Agreement does not provide an answer as to whether Switzerland would be obliged to accept this. Nevertheless, as the law applicable to the repatriation case will be Swiss law, this question will be addressed in accordance with Swiss law.

Costs and Compensation to Be Borne by the Requesting State

The Contracting State requesting the repatriation of a cultural property shall bear the expenses necessary for its protection, maintenance, and return (Article V/1). In addition, as foreseen in Article 7(b)(ii) of the 1970 UNESCO Convention, the requesting Contracting State shall pay fair compensation to any person who acquired the cultural property in good faith. The amount of such compensation shall be determined according to the law of the State in which the case is brought. One of the most delicate situations in repatriation cases is that a State, while recovering a cultural property that belongs to it, may be obliged to pay compensation. Moreover, since this compensation is determined according to the law of the State affecting the repatriation, it may sometimes result in a relatively high amount. For example, although Türkiye is the State bringing the case for repatriation, a Swiss court will apply its own law in determining the amount of compensation. In addition to the amount, the fairness of the compensation will also be assessed according to Swiss law.

Post-Return Obligations Concerning Cultural Property

Article VI of the Agreement imposes certain obligations on the State receiving the cultural

property after repatriation. The State that recovers a cultural property through legal proceedings shall: (1) protect it to a reasonable extent; (2) ensure its accessibility; and (3) send it to exhibitions to be organized in the State from which the property was repatriated. Here, “ensuring accessibility” refers to making the cultural property available for scientific research, open to visits, and suitable for exhibition.

Article VI, which regulates the post-repatriation obligations of the State recovering the cultural property, shall apply only in cases where legal proceedings are initiated for repatriation. In contrast, it shall not apply in the case of voluntary repatriation, since Article VI uses the expression “the party filing suit.”

Article VI of the Agreement indicates that Switzerland, which is not as rich as Türkiye in terms of cultural property but is highly successful in organizing exhibitions, will continue to benefit from the cultural properties it returns.

Türkiye–Switzerland Cultural Cooperation and Promotion of Education

Article VIII of the Agreement regulates cultural cooperation and the promotion of educational activities between Switzerland and Türkiye. Under this article, the Parties undertake to encourage activities such as the exchange of experience, the implementation of joint projects, and the organization of seminars, workshops, and similar events. Preservation and promotion of archaeological sites and monuments, as well as matters related to archaeology and ethnography museums, are also listed among the areas of cooperation. In addition, the reciprocal exchange or joint organization of archaeology exhibitions of interest to both Parties is included among the cooperative

activities envisaged under this article.

Cooperation is not envisioned solely between the two states. As previously noted, UNESCO, INTERPOL, ICOM, and WCO are organizations that combat the illicit trade of cultural property at the international level. Although an agreement has been concluded between Türkiye and Switzerland to establish a framework for combating illicit trade in cultural property, the implementation of the Agreement may necessitate obtaining information, support, and assistance from these organizations. For this reason, Switzerland and Türkiye are expected, under Article XI, to cooperate with international institutions responsible for combating the illicit transfer of cultural property, including UNESCO, INTERPOL, ICOM, and WCO, in the implementation of the Agreement.

Relationship of the Agreement with Other Multilateral and Bilateral Agreements on the Prevention of the Illicit Trade in Cultural Property

The Agreement between Türkiye and Switzerland was concluded to ensure the implementation of the 1970 UNESCO Convention. In addition, it regulates its relationship with other international treaties. According to Article XIII of the Agreement, entitled “relationship to other international treaties,” this Agreement in no way impacts obligations of the parties arising from other international agreements to which Switzerland and Türkiye are parties. Moreover, the *European Convention of 20 April 1959 on Mutual Assistance in Criminal Matters* (Official Gazette, 1968) is particularly important for the prevention of the illicit transfer of cultural property, and this Convention shall be applicable.

Settlement of Differences between Türkiye and Switzerland Arising from the Implementation and Interpretation of the Agreement

Article XIV of the Agreement provides that disputes arising between the two states regarding the interpretation and application of the Agreement shall be settled by peaceful means. A distinction is made between differences in interpretation and application that have not yet reached the level of a dispute and those that have. Regarding the implementation of the Agreement, the Ministry of Culture and Tourism of Türkiye and the Swiss Federal Department of Home Affairs, through the Federal Office of Culture's Specialized Agency for the International Transfer of Cultural Property, shall exchange views either orally or in writing concerning general or specific situations. Disagreements relating to the interpretation, application, and implementation of the Agreement may be subject to consultations and negotiations.

Conclusion

Switzerland both borrows and exhibits cultural property from third countries (Noth & Noth, 2005, p. 73) and provides extraterritorial safe havens or extraterritorial refuge for endangered cultural objects (Ekşi, 2025, pp. 126–127). In addition, since World War II, Switzerland has become one of the major markets for the import of cultural property, alongside the USA, England, and France (Federal Department of the Interior, 2001, pp. 183–184; Gisler, 2016; Noth & Noth, 2005, p. 73). The Explanatory Report of the Cultural Property Transfer Law states that billions of dollars' worth of cultural property has been brought into the country and that the filed lawsuits demonstrate the country's role as a hub in the unlawful transfer of cultural property. The Explanatory Report also noted that media coverage

and the filed lawsuits in this regard have caused serious harm to Switzerland's protection of cultural property and its expertise in this field. One of the main reasons Switzerland became a hub for the illicit trade in cultural property was that, prior to the entry into force of the Cultural Property Transfer Law, which implemented the 1970 UNESCO Convention, and before bilateral agreements were concluded, cultural property could be freely imported into Switzerland without regard for the export restrictions of other countries (von Segesser & Jolles, 2005, pp. 187–188). Since its entry into force in 2005, the Cultural Property Transfer Law has required bilateral agreements to ensure compliance with the export regulations of the other state. In particular, the agreement with Türkiye mandates that Swiss customs be furnished with evidence that Türkiye's export regulations have been duly observed.

International agreements serve as crucial instruments for the repatriation of cultural property that has been stolen or illicitly exported. This is exemplified by the agreement with Switzerland, which, despite its asymmetrical features, has resulted in the return of 37 cultural objects. Also under this agreement, seven cultural objects were repatriated from Switzerland and are now on display at the Bodrum Underwater Archaeology Museum (Ministry of Culture and Tourism, 2023; Ministry of Culture and Tourism, 2025).

It should be noted, however, that this agreement is deficient in certain respects and asymmetrical to Türkiye's detriment. In our assessment, the following are the agreement's weak and asymmetrical features:

(1) The fact that the agreement is concluded for a period of five years and automatically renews for successive five-year terms unless terminated by Türkiye or Switzerland six months before the expiry of the term may pose a risk that the agreement is not renewed.



(2) The requirement that a cultural object subject to repatriation must have been illicitly imported into the country only after the agreement's entry into force (Art. IV/1-b) represents the agreement's most significant weakness.

(3) The application of the law of the state where the illicit import occurred in a repatriation case (Article III/3) constitutes an asymmetry from Türkiye's perspective.

(4) Under Article IV(3), the fact that the limitation period for repatriation cases is governed by the law of the state responsible for returning the cultural property may, particularly when artefact and its location are identified many years later, result in repatriation claims being denied on the basis of the statute of limitations.

(5) Article 7(b)(ii) of the 1970 UNESCO Convention recognizes that the requesting state may be required to pay compensation when the indi-

vidual returning the cultural property has acted in good faith. This principle is reflected in Article V(2) of the agreement between Türkiye and Switzerland, which stipulates that the requesting state shall provide fair compensation to any person who acquired the cultural property in good faith.

The following section examines the reasons why the issues outlined above, under five headings, result in outcomes that are asymmetrical to Türkiye's detriment.

Under this Agreement, the state most likely to request repatriation is Türkiye. If Switzerland frequently faces the repatriation of cultural property requested by Türkiye, or if differences arise between Switzerland and Türkiye in the interpretation and application of the Agreement, this may create a risk that the Agreement will be terminated and its term not extended six months before the expiration of the five-year period.

Limiting cultural property subject to return to specific categories carries the risk of narrowing the scope, potentially excluding significant objects and imposing restrictive conditions on their integrity. However, the Agreement clarifies that the categories listed for both Türkiye and Switzerland in the two annexed lists are not exhaustive. Consequently, in practice, this categorical definition in the annexed lists does not restrict the Agreement's overall application.

However, the two temporal limitations imposed on the Agreement narrow its scope. The first limitation is set out in the annexes of the Agreement, according to which the Agreement applies to objects "from prehistoric times up to the year 1500 AD." The second limitation is established in Article IV(1)(b) concerning repatriation claims, allowing only the return of objects that were illicitly imported after the Agreement entered into force. Restricting the application of the Agreement to claims for cultural property illegally imported only after its entry into force excludes illicit trade that occurred beforehand, thereby weakening the Agreement's overall comprehensiveness.

The country most likely to submit repatriation claims under the Agreement is Türkiye. In repatriation cases initiated by Türkiye, applying the law of the state where the illicit import occurred would result in Swiss law, which favors the returning party rather than the claimant.

Under Article IV(3) of the Agreement, the fact that repatriation claims are subject to the law of the state where the cultural property was illicitly imported may lead to the rejection of legitimate claims. One commonly known practice among actors dealing with cultural property is to store objects until the statute of limitations expires and only then bring them to light (Velioğlu Yıldızcı, 2023, p. 67). Since the purpose of the Agreement is

to combat the illicit trade of cultural property and to ensure the return of cultural objects removed illegally, it would have been more appropriate for the Agreement to include a provision stating that the statute of limitations would not apply in repatriation cases, even if such a limitation exists under national law.

Finally, under the Agreement between Türkiye and Switzerland, the state requesting repatriation is obliged to pay a certain amount to a person who acquired the cultural property in good faith, even when reclaiming an object illegally removed from its territory and rightfully belonging to that state. Requiring the claimant state to provide fair compensation to a good-faith possessor effectively victimizes the state a second time, as the cultural property was already subject to illicit trade. It is unrealistic to assume that actors involved in the trade of cultural property would be unaware that the object had been subject to illegal transactions and could be considered good-faith acquirers. This issue warrants reconsideration in the drafting of future international agreements addressing the illicit trade of cultural property. Moreover, the burden of proving good faith requires a separate assessment.

Under the Agreement between Türkiye and Switzerland, the compensation to be paid is to be determined in a "just" manner, taking into account expenses incurred for the protection and maintenance of the cultural property, as well as its purchase price. Therefore, the amount of compensation the claimant state must pay to a good-faith possessor of an illegally traded cultural object will be assessed on a case-by-case basis. The Agreement does not require the exact repayment of the amount paid by the good-faith possessor, but rather the payment of fair compensation. Under Articles 9(5) and 9(6) of the Cultural Proper-

ty Transfer Law, a person who acquires a cultural property in good faith is entitled to compensation, which includes the purchase price claimed by the party requesting its return, as well as any expenses incurred for the preservation and maintenance of the property. Until such compensation is paid, the *bona fide* acquirer may exercise a right of retention. One view holds that it is sufficient for compensation to be calculated based on the purchase price rather than the market value, with the addition of interest, transaction costs, and necessary preservation expenses (Noth & Noth, 2005, p. 82). Notably, whereas Article 9(5) of the Cultural Property Transfer Law refers simply to “compensation,” Article V(2) of the Agreement between Türkiye and Switzerland specifies “just compensation.”

In particular, as in the case of cultural property purchased for money laundering purposes, the purchase price may be set far above the object’s actual value. In our view, if the person claiming to be a good-faith possessor does not provide evidence, such as a bank receipt or similar documentation, regarding the payment made, the existence of good-faith acquisition should not be recognized. Under Article 200 of the Code of Civil Procedural Law, claims exceeding a certain amount must be proven with written evidence. However, under the Agreement, both compensation claims and the proof of good faith are governed by the law of the court hearing the case. If the state requesting repatriation is Türkiye, Swiss law, rather than Turkish law, will apply to these matters. Consequently, certain provisions of the Agreement between Türkiye and Switzerland produce an asymmetrical effect favoring the market state in matters of repatriating cultural property involved in illicit trade. In contrast, one might expect it to favor Türkiye, a country rich in cultural heritage. 🌸

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