



Duties of diligence under the Cultural Property Transfer Act (CPTA)

In the art trade and auctioning business, cultural property may only be transferred when it can be assumed that the property is not stolen or otherwise lost against the will of the owner, illicitly excavated or illegally imported into Switzerland. The CPTA and the associated ordinance (CPTO) further impose special duties of diligence on persons active in the art trade and the auctioning business with regard to the transfer of cultural property.

Special duties of diligence

Special duties of diligence (Art. 16, para. 2, CPTA) are derived from the general principle that no illegally acquired cultural property may be transferred (Art. 16, para. 1, CPTA), applying to all persons active professionally in the art trade and auctioning business (Art. 16, para. 1.b, CPTO).

Persons, subject to these duties of diligence, must:

- establish the identity of the supplier or seller during initial contact (Art. 16, para. 2.a); the required information includes: last name, first name, birth date, domicile address and citizenship of persons and company name and domicile address of legal entities (Art. 17, para. 1, CPTO).
- review information based on probative documents to the extent questions exist requiring a challenge to the correctness of the information (Art. 17, para. 2, CPTO);
- obtain a written declaration on the *right to dispose* of the cultural property from the supplier or seller (Art. 16, para. 2.a, CPTA);
- inform customers on existing → [import and export regulations](#) from → [contracting states](#) to the 1970 UNESCO Convention (Art. 16, para. 2.b, CPTA);
- maintain *records* on the acquisition of cultural property (Art. 16, para. 2.c, CPTA); the required information includes: description and origin or provenance of the cultural property, date of transfer of ownership, sale price or appraised value as well as information on identity and declaration on the right to dispose.

Details on object description are regulated in Art. 1, provisions a and b, CPTO.

Records and receipts on the cultural property must be stored for 30 years (Art. 16, para. 3, CPTA).

Important

These duties of diligence apply only to:

- persons active on a *professional basis* in the art trade and auctioning business (refer to Art. 1, provision e, CPTO for more on the term);
- transactions as of June 1, 2005;
- cultural property with a purchase price or appraised value of *more than CHF 5,000* (Art. 16, para. 2, CPTO) and in all cases to archaeological, palaeontological or ethnological objects and portions of dismembered artistic or historical monuments (Art. 16, para. 3, CPTO).