



Information on Return Guarantee

General

The grant of a return guarantee is increasing in importance for international loans among museums. Numerous loaning institutions now require a return guarantee from the host country prior to sending objects from their collections to a foreign exhibition. Any such guarantee is intended to protect the loan from legal claims by third parties and the corresponding court cases (key words: “safe conduct” or immunity).

A return guarantee was introduced as part of the Cultural Property Transfer Act (CPTA) to promote the exchange of cultural property among museums. The Specialized Body for the Transfer of Cultural Property at the Federal Office of Culture (Specialized Body) is responsible for granting the return guarantee.

Procedure

Should cultural property of one contracting state be on temporary loan for an exhibition in a museum or another cultural institute in Switzerland, the institution borrowing the cultural property may request that the Specialized Body issue a return guarantee to the loaning institution for the period of the exhibition (Art. 10, CPTA). The application must be submitted to the Specialized Body at least three months prior to the intended import date of the cultural property into Switzerland (Art. 7, para. 1, CPTA). An application form can be downloaded from the Specialized Body’s homepage (www.bak.admin.ch/kgt under "Cultural Property Transfer"). A copy of the loan agreement (extract) must be included.

The application form together with a description of the item and information on the provenance of the cultural property will be published in the Federal Bulletin when the prerequisites are met (Art. 11, para. 1, CPTA). A written objection may be filed to the Specialized Body within a deadline of 30 days since publication (Art. 11, para. 3, CPTA).

In particular, persons asserting title to the cultural property would qualify as a party. The Specialized Body decides on the request for a return guarantee (Art. 12, para. 1, CPTA). A return guarantee may be granted, when (a) no one makes a claim to ownership through an objection, (b) the import of the cultural property is not illicit in terms of Art. 2, para. 5, CPTA and (c) the loan agreement stipulates that the cultural property will be returned to the contracting state of origin following the conclusion of the exhibition (Art. 12, para. 2, CPTA).

Effect

Under the return guarantee pursuant to Art. 13, CPTA, neither private parties nor authorities **may make legal claims to the cultural property as long as the cultural property is located in Switzerland.**