

# THREE "SYNAPSES" OF THE LEGAL PROTECTION OF MACEDONIAN CULTURAL HERITAGE

## A Reconsideration of Capacities and Perspectives

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## **Abstract**

This paper examines the Macedonian legal framework for the protection of cultural heritage through three lenses: the internal legal framework, the international legal framework and cultural heritage as a human right. Each of these frameworks does not exist by itself, but are all intertwined in certain synapses, with a common goal – better protection of cultural heritage. The internal legal framework is constructed around the Law for the Protection of Cultural Heritage, which is a basic law that protects movable and immovable cultural heritage. However, certain issues related to cultural heritage transcend territorial boundaries and are covered by the Private International Law Act. On the other hand, illegal trade transcends the country's territorial borders, hence, the impact of the UNESCO 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects on national legislation is enormous. The Treatment of Cultural Heritage

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as a Human Right and the Obligation to Protect Cultural Property, provide legal protection by the European Court of Human Rights, which, through the protection of property rights under Article 1 of Protocol 1 to the European Convention on Human Rights and Fundamental Freedoms, closes this synapse of protection of cultural heritage. This paper aims to map this complex matrix of the legal protection of cultural heritage and to point out the need to develop the capacities of all relevant institutions dealing with the protection of cultural heritage and to point out certain improvements to the legal regulation in order to reconcile the possible overlaps and interferences of these three legal frameworks.

**Key words:**

Law for the Protection of Cultural Heritage, Private International Law, UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property of 1970, UNIDROIT Convention on Stolen or Illegally Exported Cultural Property of 1995, Protocol 1 of the ECHR and the ECtHR.

## 1. Introduction

Cultural heritage is one of the most complex terms to define. This term is multifaceted, close through diverse meanings to every person, and it describes so many things that synthesizing it into a single definition seems almost impossible. Syntactically, this term is a group of words, consisting of two terms "culture" and "heritage", concepts that at first glance originate from two different domains. The word "culture" is intended to define the values of individuals and groups that share them with each other. The word "inheritance" is legal in nature and defines the transfer of property and values from one generation to another.

Thus, by this word group, one explains the transmission and protection of the entire material and intangible culture created from one generation to the next. But such transmission does not refer only to a short period of time. Instead, it spans decades, centuries, and millennia.

That is why the protection of this complex term is not only a challenge for any state, but also a challenge on the international stage, since cultural heritage and interest in its protection transcend the territorial borders of any state. That is to say, protection is exercised at multiple levels, nationally, internationally, and through the prism of human rights. On the other hand, the systematization of the protection of cultural heritage through legal provisions cannot perfectly follow the dimensions and the "deep" branching and multiplicity of cultural property on movable or immovable property; cultural goods of greater or lesser importance, i.e. endangered and not endangered. A properly established law should aim to protect and preserve cultural heritage in order to ensure its survival in its original state, but also to allow its approximation to new generations as well as opportunities for its cultural and scientific exploitation. In other words, cultural heritage should be the bridge of the transmission of ideas, concepts and the existence of generations, i.e. linking space, people and time, and legal protection should be the guarantor of this.

This paper will commence by defining the national legal framework, but first of all, the Cultural Heritage Protection Act (CPA).<sup>1</sup> The second part will focus on the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property, the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Property, the two most important international treaties on the protection of cultural property and the prevention of their illicit export. The third part will cover the protection of cultural heritage through the European Convention on Human Rights and Fundamental Rights freedom. The concluding section will provide a summary of findings.

## **2. The National Framework for the Protection of Cultural Heritage**

Cultural heritage is a particularly important aspect of any society, which is why the Macedonian Constitution itself<sup>2</sup> establishes this protection in the highest legal act. Article 56

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<sup>1</sup> "Official Gazette of the Republic of Macedonia" no. 20/04, 71/04, 115/07, 18/11, 148/11, 23/13, 137/13, 164/13, 38/14, 44/14, 199/14, 104/15, 154/15, 192/15, 39/16, 11/18 and "Official Gazette ...." no. 20/19, 3/25 and 160/25

<sup>2</sup> Official Gazette of the Republic of Macedonia no.52/1991, 1/1992, 31/1998, 91/2001, 84/2003, 107/2005, 3/2009, 13/2009, 49/2011, 6/2019, 36/2019

of the Constitution provides for special protection of cultural property.<sup>3</sup> In addition, it guarantees the protection, promotion and enrichment of the historical and artistic wealth of the Republic and of all its communities, as well as of the goods that make it up regardless of their legal regime.<sup>4</sup> In this way, the significance of cultural heritage is raised to the highest pedestal and acquires the highest degree of protection from all objects and special rules apply to them. These special rules are enshrined in a number of laws such as the Law on Culture,<sup>5</sup> the Law on Memorial Monuments and Memorial Landmarks,<sup>6</sup> the Law on Museums<sup>7</sup> and the Cultural Heritage Protection Act. In addition to these legal acts, there are a number of by-laws that govern this legal matter. A more detailed elaboration of all these legal acts will go beyond the area of interest of this scholarly article, and therefore this section will be limited to the narrower legal framework defined by the Cultural Heritage Protection Act.

The Law on Culture in Art. 5 gives a general definition of cultural heritage and according to this act it defines it as a subtype of cultural wealth which:

„... is of lasting value to history, culture, art, science and technology...”

This general definition in the Law on Culture coincides with the much more detailed definition of the Cultural Heritage Protection Act, according to which:

"Cultural heritage within the meaning of this law are tangible and intangible goods which, as an expression or testimony of human creation in the past and present or as joint works of man and nature, by virtue of their archaeological, ethnological, historical, artistic, architectural, urban, ambient, technical, sociological and other scientific or cultural values, properties,

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<sup>3</sup> All natural treasures of the Republic, flora and fauna, goods of general use, as well as objects and objects of special cultural and historical significance determined by law are goods of general interest to the Republic and enjoy special protection.

(Article 56 of the Constitution).

<sup>4</sup> Amendment IX to the Constitution.

<sup>5</sup> "Official Gazette of the Republic of Macedonia" No. 31/98, 49/03, 82/05, 24/07, 116/10, 47/11, 51/11, 136/12, 23/13, 187/13, 44/14, 61/15, 154/15, 39/16, 11/18 and 11/18 - Decision of the Constitutional Court of the Republic of Moldova, U.no.196/2007 of 16.1.2008, published in "Sl. of the Republic of Moldova" No. 15/2008

<sup>6</sup> "Official Gazette of the Republic of Macedonia" no. 66/04, 89/08 and 152/15

<sup>7</sup> "Official Gazette of the Republic of Moldova" No. 66/2004, 89/2008, 116/2010, 51/2011, 88/2015, 152/2015 and 39/2016

content or functions, have cultural and historical significance and are subject to the protection and use of them in accordance with this and other laws." <sup>8</sup>

One of the characteristics of the national legal framework on cultural heritage is the lack of coordinated activity in systematizing this matter. This position is evident from the large number of legal amendments to these legal acts,<sup>9</sup> and the result of such frequent changes is the existence of different definitions. Hence there is challenge and need for a more thorough coherent activity of the Ministry of Culture and the creation of synchronized legal rules. Despite the definition of "cultural heritage", the CPA also provides for the definition of 43 additional terms, relevant to the narrow definition of the different segments of cultural heritage.<sup>10</sup>

One significance of this law is the systematization of all segments of the protection of cultural heritage from its discovery and identification, through the protection of cultural heritage to the ownership of cultural property and the regimes of use.<sup>11</sup> Such a setting of the CPA is achieved through the three types of objectives that the law has to achieve, namely: basic, operational and ultimate. The primary goal refers to the preservation of cultural heritage in its original state, preservation of integrity, dissemination of awareness, training for cultural/scientific needs. Operational objective means prevention of damage, destruction or illegal appropriation and the ultimate goal is the transmission of cultural heritage to future generations.<sup>12</sup> Basically, the state is obliged to implement these objectives through the construction of a network of institutions, such as the Administration for the Protection of Cultural Heritage, museums and other competent institutions.

One of the fundamental points of protection of cultural heritage is the correct determination of ownership of cultural property, since this achieves the operational goal of the protection of cultural heritage, i.e. its prevention from damage, destruction and **misappropriation**. It is in this segment that the second challenge of the CPA arises, since the provisions on the acquisition of ownership of cultural heritage are, at least, not synchronized

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<sup>8</sup> Art.2 of the CPSC

<sup>9</sup> Over 40 amendments to these laws since 1998.

<sup>10</sup> Art.11 of the CPA

<sup>11</sup> Art. 1 of the CPA

<sup>12</sup> Article 4 of the CPA

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with the provisions of the Law on Property and Other Real Rights (LPORR)<sup>13</sup>. To begin with, the CPA does not confirm the constitutional qualification of objects (things) of special cultural and historical significance as things (goods) of general interest. Such a qualification is given in the LPORR in Article 16 but not in the CPA. Secondly, and even without this remark, the CPA and the LPORR provide for rules that may cause different application. Thus, LPORR in Art. Article 142 provides for provisions for the acquisition of ownership of hidden treasures and cultural goods. In contrast, Art. Article 10 of the CPA provides for provisions for the acquisition of ownership rights to cultural heritage. Indeed, such a qualification of acquisition of ownership of cultural heritage is problematic, since in accordance with Art. 2 of the CPA, cultural heritage is defined as tangible and intangible goods. The application of Article 10 to tangible goods is understandable, but indeed it is not appropriate in the context of intangible goods. Moreover, Article 10 (1) of the CPA defines the subject of ownership that may be of immovable and movable cultural heritage.

Another problem may arise in relation to hidden treasures and their distinction from cultural property. Namely, in Article 142 of the LPORR, the hidden treasure qualifies as such if it is a matter of

[... money, gold, silver, jewellery, precious stones, things made of precious metals, and other valuables, **which have been hidden for so long**, that it cannot be ascertained with certainty who their owner was.]

This provision creates two challenges with regard to the qualification of cultural heritage under the CPA. First of all, the relationship between hidden treasure and its conversion into cultural heritage is problematic. Article 10. Article 3 of the CPA provides that

[...Cultural heritage and property reasonably presumed to be cultural heritage **to be found in land or water, whether extracted or not**, shall be deemed to be state-owned.]

Such differences raise the question of which items will be considered hidden treasures and which will be considered cultural goods. Will 19th-century silver or gold jewellery be considered a cultural property or a hidden treasure? This is of particular importance because in the context of Article 143 Article 1 of the LPORR, regarding the hidden treasure and cultural property, if the owner is not found, it becomes the property of the Republic of

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<sup>13</sup> "Official Gazette of the Republic of Macedonia" No. 18/2001, 92/2008, 139/2009 and 35/2010. By Decision of the Constitutional Court of the Republic of Macedonia, U.no.173/2007 of 20.02.2008 published in the Official Gazette of the Republic of Macedonia No. 31/08 Article 101 paragraph 1 in the section: "on business premises" was repealed

Macedonia (state property), while according to Art. 10 par. 3 of CAP there is no conditionality on finding the owner. So, this will pose a really big challenge for the competent authorities to delimit cultural heritage from the hidden good and apply the appropriate legal regime. The second challenge will concern determining the timeframe for a hidden treasure to be considered a cultural property. In other words, are found jewelry and gold coins from the early 20th century considered a cultural property or a hidden treasure?

In this direction of the definition of what constitutes a "cultural property" rises another potential inconsistency. Article 142 of the LPORR provides that cultural property:

[... It is considered to be a thing of general cultural significance or of public interest and as such is under a special legal regime for its protection and use (cultural monument, museum material, library material, archival material, natural rarity, etc.).]

In contrast to this fairly basic definition, the CPA does not provide for a single definition of cultural property, but rather provides for different definitions of cultural heritage,<sup>14</sup> primarily immovable,<sup>15</sup> movable<sup>16</sup> and intangible<sup>17</sup> cultural heritage. The law also makes other distinctions and definitions according to various criteria such as the significance of cultural heritage<sup>18</sup> and its endangerment<sup>19</sup>. With regard to the types of cultural property provided for by Article 142 of the LPORR (monuments of culture, museum material, library material, archival material, natural rarity, etc.), the CPA deals with the types of cultural heritage in Chapter II where the following types are provided: monuments, memorial units, cultural landscapes, archaeological objects, ethnological objects, historical objects, art objects, technical objects, archival materials, library materials, audiovisual materials, phonetic materials, folklore materials, language, and place names. In this context, the

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<sup>14</sup> Article 2 of the CPPA.

<sup>15</sup> Article 3, paragraph 2 of the LOC provides: "Immovable cultural heritage is tangible property with the status of cultural heritage erected on or dependent on land, i.e. which cannot move or move from one place to another without damaging their essence (immovable goods in nature), as well as goods which are movable by their physical properties, and for justifiable reasons, they are part of any immovable good, such as: installations, equipment, ornamental elements, etc., which are permanently connected with the immovable good or permanently serve its use (immovable goods for its intended purpose)."

<sup>16</sup> Article 3 (3) of the CPA provides: "Movable cultural heritage is material goods with the status of cultural heritage which can move or move from one place to another without damaging their essence."

<sup>17</sup> Article 3, paragraph 4 of the CPCC provides: "Intangible cultural heritage is the various forms and phenomena of human spiritual creation in the past, which communities, groups and individuals recognize as their cultural heritage and which is transmitted from generation to generation on the territory of the Republic..."

<sup>18</sup> Art. 3 Art. Article 5 of the APPA provides for the following division according to this criterion: of particular and of other cultural and historical significance (significant cultural heritage).

<sup>19</sup> Art. 3 Art. Article 6 of the APPA provides for the following division according to this criterion: not endangered and endangered (cultural heritage in danger).

legislator had regard to the provision of Art. 142 of the LPORR and provided for much more detailed provisions for the determination of types of cultural heritage in the CPA. This is evident from Article 176 of the CPA which provides for the revaluation of certain natural rarities, a term that existed under the previous legal regulations.

### **3. International Framework for the Protection of Cultural Heritage**

The achievement of the operational objective of preventing the misappropriation of cultural heritage goes far beyond domestic borders. If the cultural property leaves the country (Macedonian borders) illegally, the protection itself and its return may be carried out through the appropriate public authorities, but the protection of the cultural property and its return may also be requested through the national courts of the country where the cultural property is currently located.

#### **3.1 Protection of cultural heritage through international treaties**

The two most important international treaties that achieve crossborder cooperation between States with regard to the return of illicit cultural property are the 1970 UNESCO Convention on the Means of Preventing and Suppressing the Illicit Import, Export and Transfer of Cultural Goods and the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Property.

##### *3.1.1 UNESCO Convention of 1970*

The UNESCO Convention was adopted on 14 November 1970 by the UNESCO General Conference in Paris, at its 16th session. It is a response to the growing problem of illicit trade in cultural goods, which leads to the impoverishment of the national heritage. The Convention entered into force on 24 April 1972, after ratification by three states. By 2023, it is ratified by over 140 countries, including most countries in Europe, Africa, Asia and the Americas. It promotes international cooperation, ethical practices, and the restitution of goods. This convention aims to protect cultural heritage from theft, clandestine excavation and illegal transfer; promotion of scientific, cultural and educational exchanges of goods;

encouraging ethical practices in institutions and commerce; and ensuring international cooperation for the recovery of illegally transported goods. What is relevant to the application of this convention is the definition of the term "cultural property". Article 1 defines cultural property as property which, is found on religious or secular grounds, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science.<sup>20</sup> Furthermore, this convention defines the types of cultural goods in considerable detail, encompassing a large number of material goods.<sup>21</sup> This definition seriously deviates from the definition provided for in the LPORR, and especially with regard to the types of cultural goods. It largely corresponds to the definition provided for in the CPA, however Article 1 of the UNESCO Convention is to some extent more detailed. The basis of this Convention is to distinguish from legal and illegal import and export of cultural goods. Every export or transfer contrary to the Convention is considered illegal, including the acquisition of ownership of cultural property by states under coercion by occupation. The Operational Guidelines for the application of the Convention emphasize that illegality is determined according to the laws of the country of origin.

This Convention provides for pro-active and reactive measures that public authorities need to take in order to deter the illegal trade with cultural property. The pro-active measures include the introduction of an export certificate, the introduction of an export ban without an export certificate, and the public publication of these prohibitions among people dealing with cultural goods.<sup>22</sup> With regard to reactionary measures, the UNESCO Convention provides for

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<sup>20</sup> Art. 1 of the UNESCO Convention

<sup>21</sup> (a) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;

(b) Property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artist and to events of national importance;

(c) Products of archaeological excavations (including regular and clandestine) or of archaeological discoveries ;

(d) Elements of artistic or historical monuments or archaeological sites which have been dismembered;

(e) Antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;

(f) Objects of ethnological interest;

(g) Property of artistic interest, such as:

(i) pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);

(ii) original works of statuary art and sculpture in any material;

(iii) original engravings, prints and lithographs ;

(iv) original artistic assemblages and montages in any material;

(h) Rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections ;

(i) Postage, revenue and similar stamps, singly or in collections;

(j) Archives, including sound, photographic and cinematographic archives;

(k) Articles of furniture more than one hundred years old and old musical instruments.

<sup>22</sup> Article 6 of the UNESCO Convention

the following: to take measures, in particular, by museums and other institutions to prohibit them to obtain illegally exported cultural goods, to prohibit the import of cultural goods stolen from museums and religious and secular monuments, and, at the request of the countries of origin, to take steps for the return of these cultural goods.<sup>23</sup> To meet these measures, states need to cooperate and make adjustments to their legislation.

The CPA in essence address matters of cooperation and fulfilment of obligations arising from this Convention. Thus, Art. 10 of CPA specifies that it is possible to claim the return of illegally exported and imported cultural goods on the basis of the CPA as well as on the basis of international treaties. To this end, the Ministry of Culture has been designated as the central body that carries out cooperation related to the return of cultural property.<sup>24</sup>

#### *3.1.2 UNIDROIT Convention of 1995*

Very often, the UNIDROIT Convention is seen as a complementary instrument to the UNESCO Convention.<sup>25</sup> The Convention focuses on international cooperation for the protection of cultural heritage through restitution (return of stolen objects) and return (illegally exported objects). The Convention is not a comprehensive solution, but a minimum standard to be applied together with national laws, the UNESCO 1970 Convention, registers of stolen objects (such as the INTERPOL database) and other measures. The Convention aims to regulate those cases of cross-border stolen cultural property by establishing provisions for the restitution and return of cultural property, promoting cultural exchanges and protecting cultural heritage.<sup>26</sup> The definition of the term cultural property is given in Article 2 and corresponds to the greatest extent with Article 1 of the UNESCO Convention. The operational part of the Convention is provided for in Articles 3 and 4 which provide for the stages of the procedure for the return of cultural property by identifying and proving ownership of the cultural property, submitting the application for return and the return itself, compensation to the person who has the subject in bona fide, and interim measures.

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<sup>23</sup> Article 7 of the UNESCO Convention.

<sup>24</sup> Art.100 – a of the Law on the Protection of Persons with Disabilities

<sup>25</sup> Cecchi, A., *Disputed Resolution of International Cultural Heritage*, Oxford University Press, 2014, p.106

<sup>26</sup> Article 1 of the UNIDROIT Convention

### 3.2 Protection of cultural heritage before national courts

In addition to the protection of cultural heritage, which is achieved through international treaties, protection is also provided by the Private International Law Act<sup>27</sup>. This protection is provided in such a way that the courts can in civil proceedings argue issues arising from the right of ownership of cultural property. Fundamental to such protection is first to establish international jurisdiction of the Macedonian courts. Thus, according to Art. 142 of the Law on Property Rights, the Macedonian court also has jurisdiction over disputes over real rights to movable property, if the movable property is located in the Republic at the time of the proceedings. This provision provides for the principle of *forum rei sitae* (place of finding of the property) as the basic jurisdictional criterion for cases of actual rights over movable property. The PILA also provides for a conflict-of-laws rule that will determine the applicable law for a claim for restitution of an unlawfully exported cultural property. These provisions apply combination of the law of the country from which the good originated (*lex originis*), and the law of the State in whose territory the matter is located at the time the claim for restitution is made (*lex rei sitae*).<sup>28</sup> In the event that the law of the State which declared the thing to be its cultural property does not confer protection on the conscientious holder of the cultural property, he may invoke the protection conferred on the right by the State in whose territory the matter is located at the time the claim for the return of the cultural property is made.<sup>29</sup> With this, our law is included in the list of states that introduce a mixed system of determining applicable law regarding the illegality of acquiring ownership of a cultural property by introducing *lex originis* as one of the rights that will determine applicable law. This right should essentially constitute a deterrent to persons in possession of a cultural property from choosing a legal system that provides for relaxed conditions for the acquisition of property by a non-owner. The fundamental problem encountered by the principle of *lex originis* in relation to cultural goods is the very determination of the origin of the cultural good. The term has deep historical and cultural implications that may present problems in its precise definition.

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<sup>27</sup> Official Gazette ... no. 32/2020

<sup>28</sup> Art.67 Article 1 of the Law on the Protection of Persons with Disabilities

<sup>29</sup> Art.67 Article 2 of the Law on the Protection of Persons with Disabilities

#### 4. The protection of cultural heritage through the European Convention on Human Rights and Fundamental Freedoms (ECHR)

Cultural heritage is understood as the sum of tangible heritage and intangible heritage reflecting the history, art and identity of a nation or civilization and is part of the ECHR's area of interest. In the judgments of the European Court of Human Rights (ECHR), the protection of cultural heritage is considered to be a legitimate "general interest" under Article 1 of ECHR Protocol No. 1 (peaceful enjoyment of property). This means that states can intervene in private property (e.g., through confiscation or preemptive purchase) if it serves to recover artefacts that have been illegally exported or stolen, but only if the measure is proportionate and fair. The ECHR does not act independently on the return of cultural property, but is linked to other international instruments such as the UNESCO Convention, the UNIDROIT Convention and the EU Directive 2014/60/EU on the Return of Cultural Property. These instruments require states to protect heritage from illegal excavations and illegal sales and to provide broad access to cultural goods for the public. Hence the ECHR practice itself points out that cultural goods are "unique and irreplaceable", so states have a wide margin of discretion (i.e. freedom of decision), but must avoid arbitrariness.<sup>30</sup> The ECHR's own jurisprudence with regard to cultural heritage has a serious practice from which certain obligations arise. A notable case is the case of *Getty v. Italy*. This case concerns a bronze statue from the Hellenistic period, known as the "Victorious Youth" or "The Athlete of Fano". The statue was found in the Adriatic Sea in 1964 and was illegally exported from Italy and bought by the Getty Trust in 1977. Italian authorities issued a confiscation warrant in 2007, claiming that the statue was part of Italian cultural heritage and that the Getty Trust had purchased it without provenance checks. The Court ruled that there was no violation of the right to property provided for by Article 1 of Protocol 1 of the ECHR, because the measure was proportionate, lawful and in the public interest (protection of cultural heritage). Getty Trust has owned the statue for 47 years, but the Court noted that the absence of a time limit for confiscation is acceptable in cases of cultural objects, under international conventions such as the 1970 UNESCO Convention. This illustrates how states have a wide margin of discretion when it comes to returning illegally exported artifacts. Another notable case is *Bayler v. Italy*. This case concerns a painting by Vincent van Gogh, Portrait of a Young Peasant. Beyeller bought it through an agent in 1977 without a full declaration by the

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<sup>30</sup> J Paul Getty Trust and Others v. Italy Application No. 35271/19 (ECtHR, 18 January 2024).

Italian authorities. In 1988, Italy exercised the right of preventive purchase at the original 1977 price, which was much lower than the market value. The court ruled that there was a violation of the right to property because the authorities acted with a delay (5 years after the inquiry), creating uncertainty and unjust enrichment for the state. Beyeller waited six years to report the purchase, but the Court condemned the negligence of the authorities, who oscillated in their position and did not act in a timely manner. This shows that states must act in a "timely and appropriate manner and with the utmost consistency" to achieve a fair balance.<sup>31</sup>

## **5. Conclusion**

The Macedonian legal framework for cultural heritage protection, analysed through its national, international, and human rights "synapses," reveals a robust yet imperfect matrix designed to preserve tangible and intangible assets amid transnational threats like illicit trade. While the Cultural Heritage Protection Act establishes core mechanisms for identification, ownership, and institutional oversight, persistent inconsistencies—such as those between CPA Article 10 and LPORR Article 142 on treasures—undermine operational efficiency, compounded by frequent amendments signalling coordination gaps.

Recent developments, including the EU Twinning project for combating heritage crimes and drafts for a new National Strategy (2021-2025), highlight ongoing efforts to align with UNESCO and UNIDROIT standards through specialized units and reduced bureaucracy. The Macedonian ratification of the 1970 UNESCO Convention and partial UNIDROIT implementation enable restitution claims, yet judicial application of Private International Law's *lex originis* remains challenged by provenance disputes.

Learning from ECtHR precedents might be of high importance for small countries, and Macedonian institutions and legal framework should be prepared for this increasingly complex international dimension. Proceedings like *Getty v. Italy* (2024, issued in the period of final corrections of this paper), for example, that affirm states' wide discretion for proportionate interventions under ECHR Protocol 1, prioritizing heritage's "unique" status over long possession, might be a valuable lesson and potential roadmap for some cases related to Macedonian cultural heritage. However, other proceedings, like *Beyeler v. Italy*

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<sup>31</sup> *Byeler v. Italy*, Application No. 33202/96 (ECtHR, 5 January 2000)

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(2000), that mandate timely action to balance property rights, reminds us of the need for awareness and preparedness of the national system and the national institutions.

In that context, enhancing national capacities, legislative harmonization, inter-institutional cooperation, appropriate legal and other training, and proactive state and para-state diplomacy, remain some of the main avenues that will ensure that the Macedonian cultural heritage will continue to serve as enduring bridge across generations and important element of the national and communal social cohesion.