

On October 2, 2019, the U.S. Department of State published notification in the Federal Register of the receipt of a request from the Government of Turkey to the Government of the United States of America for import restrictions on archaeological and ethnological material from Turkey. The following public summary does not contain sensitive or privileged information. This summary does not represent the position of the Government of the United States, which has yet to review the request under the Convention on Cultural Property Implementation Act.

PUBLIC SUMMARY

Request by the Government of Turkey to the United States of America for Imposing Import Restrictions to Protect its Cultural Patrimony under Article 9 of the 1970 Convention

Communities and civilizations existed within the territories of modern day Turkey since prehistoric times. In Turkey, the concept of cultural property is one that includes movable and immovable cultural and natural properties and intangible cultural heritage. Turkey, considering cultural heritage has a social and scientific function in the formation of the public memory and of the identities that modern humans have, develops integrated strategies towards protecting this heritage. Cultural property is viewed as one of the most tangible indicators of cultural heritage and as a tool that promotes the common history and values, and strengthens intercommunal mutual understanding and respect. Thus, cultural property is protected for the sake of all humanity.

Taking into account that this endeavor at the national level should be strengthened by international and bilateral cooperation, and in order to ensure an effective and sustainable fight against illicit trafficking of cultural property, a Memorandum of Understanding that would bring import restrictions in the United States for cultural property originating in Turkey would compose a strong and essential step to mitigate illicit trafficking.

Protection is sought for the archaeological materials representing the following periods and cultures: Paleolithic (1200000-10.000 BC); Neolithic (10.000-5500 BC); Chalcolithic (5500-3200 BC); Bronze Age (3200-1200 BC); Hattis (2500-2000 BC); Assyrian Trade Colonies (2000-1750 BC); Hittites(1800-1200 BC); Mycenaean (1600-1200 BC); Iron Age (1200-750 BC); Protogeometric and Geometric Periods (1100-700 BC); Phrygians (1200-680 BC); Neo-Hittite City States (1200-700 BC); Urartians (900-580 BC); Orientalizing Period (750-600 BC); Archaic Period (650- 474 BC); Classical Period (480-330 BC); Karians and Lykians (700-300 BC); Lydians (700-540 BC); Persian Period (546- 331 BC); Macedonian Empire Period (334-323 BC); Hellenistic (330- 30 BC); Roman Period (130 BC- 395 AD); Byzantine (East Roman, 395 - 1453 AD); Great Seljukian Period (1071- 1300 AD); Anatolian Seljukian Period (1071-1308 AD); Anatolian Beyliks Period (1256- 1522 AD) - Ottoman Period (1299- 1770).

The ethnological materials include objects produced between 1st Century AD and 1923 that includes Ottoman Period and Independence War that led to establishment of Republic of Turkey. This category also includes items that belonged to Mustafa Kemal Atatürk, founder of Turkish Republic.

The loss caused by clandestine excavations in Turkey is a loss at an international scale when considered on the basis of the universality of scientific information. Because, not only Turkish scholars but numerous foreign scholars carry out archaeological excavations with their own teams and these excavations are encouraged by Turkish Republic. Clandestine excavations carried out especially at mounds, sites, tumuli, and necropolis areas with the thought of obtaining finds that are valuable and easy to carry have been reduced drastically owing to protective measures taken at these areas but cannot be prevented completely.

Theft incidents restrict scientists' to study the stolen cultural assets, takes away the benefit that children and young people gain from educational activities and deprives people of discovering significant historical and cultural artifacts. Furthermore, theft attempts from religious places such as churches, mosques, synagogues, tombs and graves can result in stealing of heritage that people attribute to sacred values. These cases offend the sense of cultural heritage of the people of Turkey and its continuity and especially the communities with ethnic groups, religious and sects that are parts of their cultural identity.

General Directorate for Cultural Heritage and Museums within the Ministry of Culture and Tourism is the core body with its specialized staff upon Turkey's fight against illicit trafficking in cultural assets. Actions that are taken to prevent illicit trafficking in cultural goods, illegal excavations and the return of illicitly exported artifacts to Turkey are conducted in coordination with internal and external stakeholders by the Anti-Smuggling Unit within the General Directorate for Cultural Heritage and Museums. The Ministry of Interior' Department of Anti-Smuggling and Organized Crime was established in 1980. The Gendarmerie is a military law-enforcement agency which ensures the protection of public safety and fulfills the duties assigned by the laws and regulations. Department of Anti-Smuggling and Organized Crime within the General Command of Gendarmerie takes necessary measures to ensure safety and security, to prevent smuggling and organised crimes, furthermore, for the protection of cultural assets the department carries out concerted efforts with national and international institutions. Other units and ministries support the missions of the national services already mentioned.

Cultural and natural property to be protected in the country cannot be taken abroad. However, on the condition that foreign officials provide guarantee and insurance against the possibility of all kinds of damage, loss, threat or violations, and in respect of national interests, the Council of Ministers shall make decision on a temporary exhibition abroad. Certain ethnographic artifacts can be taken abroad following the Ministry's examination and permission.

Persons who violate the obligation to notify regarding discovery of cultural and natural assets shall be punished with imprisonment from six months up to three years, and persons who put these assets on sale, sell, purchase, accept shall be punished with imprisonment from two years to five years and heavy fine for five hundred days. Persons who take the cultural and natural property in violation to this Law shall be punished with imprisonment from five to twelve years and fines. Persons who excavate without a license shall be punished with imprisonment of two years to five years. However, persons who commit these acts with the aim of smuggling cultural property out of the country and persons who have the duty to protect cultural property shall be given double the penalty.

It is seen that the illicit excavations that threaten the archeological sites drastically in Turkey are mostly conducted in the remote areas or mounds; tumuli or ruins are also at the top of the risk list. Especially the ruins are watched by security staff during day/night, and law enforcement forces carry out continuous patrol. The video cameras are installed at the locations where the risk of smuggling is assessed to be high. Each museum is responsible for the routine control of the sites located in their area of responsibility. Security and Gendarme forces are notified immediately of the illegal excavations and the damages in these areas if discovered during the controls by the museum experts. National Inventory System for Museums mainly aims to systematize museum business processes, to provide automation infrastructure, to generate the necessary data sets by developing standards in this field and, when necessary, to make processes faster and more efficient by using these data sets. The development of the system got started in 2004.

Museums in Turkey give priority to the realization of projects along with social and cultural events that will contribute to the perception of museums as an educational institute. In particular, over the last few years, the museums in Turkey have reviewed their educational programs and started to reform these programs according to people from different age, gender education, and occupation groups. Among the activities to raise the awareness of adults, conferences, temporary exhibitions, meetings, concerts, special days and nights and cultural excursions are organized. On the other hand, summer schools, child/youngster festivities, workshops, dramas are held to introduce awareness of protection of cultural property to the children and the youth.

The high purchasing power of some collectors and museums abroad and the increasing trend of using antiquities as investment instrument create a big international market. The tempting prices realized in the market become a driving force for “suppliers” to commit illegal excavations and theft. Considering that supply and demand represents a vicious circle and the existence of one depends on the other, it is important to disturb this balance for an effective fight.

Despite all of the regulations and corresponding practical implementations to this legal framework, it is known that many cultural objects originating in Turkey exist in several museums and private collections in the USA and Europe. The sales at auction houses abroad as well as the online sales show that there is a flow of cultural property from Turkey to other countries.

Demand generated by the foreign markets for cultural objects is the most important factor triggering smuggling cultural property obtained illegally in Turkey. This argument does not aim at putting all of the burden to the market and Turkey is very aware of the responsibilities of a source country in terms having the law but also enforcing it including providing the intellectual infrastructure to enable the all parts of the society to contribute all of these efforts.

Long term archeological excavations, surveys and renovation works at archeological sites have the greatest importance in the preservation of that type of areas. These areas provide a precious opportunity for the scientists and students. The ongoing works are monitored by the experts from the Ministry of Culture and Tourism. In 2018, 31 excavations were carried out by foreign excavation teams and 8 of these excavations were led by academicians from U.S.A.

Symposiums and publications have a great importance in giving an opportunity to the foreign and Turkish scientists to share their studies such as excavations, registration, inventory and renovation works with the rest of the science world.

In the framework of the “Regulation governing the export and import of the cultural and natural property” which was issued in accordance with Article 32 of Law 2863, the domestic and international exhibitions are organized. These exhibitions are held also with the aim of raising a world wide awareness regarding the protection of cultural assets in addition to sharing these unique national values with all the mankind. Apart from 77 domestic exhibitions, 52 exhibitions were held between 2005–2019.

A Memorandum of Understanding on import restriction is considered to have a significant role in protection of cultural property in Turkey but also keeping the art- market in the USA clean. It is known that in several cases in the USA the importers manipulated the information regarding the source country. As they knew the countries the USA has an agreement with, they mention the country of origin as Turkey to grant a smooth passage across the USA borders.

As a State Party to the 1970 Convention Turkey considers its cultural property in jeopardy because of the cultural objects obtained from illegal excavations and in accordance with Article 9 of the Convention invites the USA to apply import restrictions to the cultural objects originating in Turkey.