

## Chapter IV.

### Special rules for cultural objects

#### Article 15. General provision

*Except as otherwise provided in this Chapter, the provisions of this Regulation apply to cultural objects which have been stolen or illegally removed.*

#### Article 16. Definition

*1. For the purpose of this Regulation, ‘cultural object’ means a corporeal object that is classified or defined by a state, at the time of its removal from the territory of that state, as being among the national treasures possessing artistic, historic or archaeological value under national legislation or administrative procedures.*

*[2. The term ‘cultural object’ also includes a sacred or communally important corporeal object that belongs to and was used by a generally recognised religious, indigenous, tribal or other cultural community as part of the community’s religious, traditional or ritual use at the time of its removal.]*

#### Article 17. The law applicable to claims for the recovery of stolen or illegally removed cultural objects

*1. A claim for the recovery of a stolen or illegally removed cultural object is governed, at the choice of the claimant, by the law of:*

*(a) the state in which the object was located at the time of its theft or illegal removal from that state;*

*(b) the state in which the object was located at the time of the acquisition of possession by the defendant subsequent to the theft or illegal removal; or*

*(c) the state in which the object was located at the time of the filing of the action.*

*2. If the claimant is entitled to recover the object under the law applicable under paragraph 1, but that law does not provide any reimbursement for a defendant who acquired the possession of the object in good faith for the purchase price, if any, and for reasonable expenses incurred in the preservation of the object, the defendant shall be entitled to the reimbursement provided either by the law of the state in which the object was located at the time of the acquisition of possession or by the law of the state in which the object was located at the time of its removal.*

3. For the purpose of this article, the place of acquisition of possession is the place in a state where the cultural object was delivered based on a legal relationship underlying the acquisition.

#### **Article 18. Applicability of public law provisions**

*The public law character attributed to a provision of foreign law designated as applicable under this Chapter shall not prevent the application of that provision.*

#### **Article 19. Overriding mandatory provisions protecting national treasures**

*Without prejudice to Article 9, in legal relationships concerning a cultural object, the court seized may give effect to the overriding mandatory provisions adopted for the protection of the national treasures by a foreign state other than the one whose law governs under this Regulation, and with which the situation has a close connection.*

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#### **Amendments to the Proposal on The law applicable to rights *in rem* in tangible assets:**

- The proposed ‘Special rules for cultural objects’ are to be integrated into the Proposal on The law applicable to rights *in rem* in tangible assets as a new Chapter IV.
- The current Article 15. [Application in time] could be inserted in a separate Chapter V – Final provisions renumbered as Article 20.
- The term ‘tangible’ should be replaced by the term ‘corporeal’ everywhere in the Proposal on The law applicable to rights *in rem* in tangible assets
- Footnote 1 of the Proposal on The law applicable to rights *in rem* in tangible assets is to be replaced by the following text:  
‘Stolen assets other than cultural objects are not covered by this instrument. However, as a next step of the project, GEDIP will consider the possibility of elaborating conflict-of-laws rules concerning stolen assets that do not qualify as cultural object.’