

The Consequences of the fall of Vienna Convention of Succession of States in Respect of State Property, Archives and Debts

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Key points

- The Vienna Convention on Succession of States (1983)
- The letter of the Secretary General of ICA (1984)
- Report of the Director General of UNESCO (1978)
- Professional Advice on the Vienna Convention (1983)
- Position Paper of Guangzhou (1995) and follow up

The Vienna Convention on Succession of States (1983)

- prepared by the most outstanding scientific authorities
- supported by International Law Commission of UN
- including achievements of UNESCO and ICA
- profound analysis of practices

Report of the Director General of UNESCO (1978)

- transfer during wars
- transfer caused by change of sovereignty
 - establishment of a new State
 - colonial system
- back transfer to the country of origin
 - principle of provenance with exception to the principle of functional pertinence
 - conception of the joint archival heritage
 - the right to the historical continuity of nations

Professional Advice on the Vienna Convention (1983)

- disqualification of the Convention?
- prevailing political approach
- primacy of a bilateral (or multilateral) agreement
- deciding about its ownership
- consequences of population displacements

Bankruptcy of the Vienna Convention - Position Paper of Guangzhou (1995)

- only the idea of the reconstitution of the memory of nations
- formal position of ICA on matters related to archival claims
- call for return to traditional methods of settling claims
- the priority of international public law over the legislation of individual States?
- Is the transfer of original archive materials in the course of international claims settling anachronistic ?

The initiative of UNESCO and ICA from 1997-1998

- Disputed archival claims. Analysis of an international survey: A RAMP Study, by Leopold Auer:
- „ Archival claims are still claims for originals and the possibility of their solution with the help of microfilms seems only to be of limited value....
- The concept of joint heritage is favoured only by minority

Agreement on Succession of the Former State of Yugoslavia

- Concluded on June 29, 2002 in Vienna
- Annex D. Archives:
- Article 2 (principles of provenance), Article 3 (functional pertinence), Article 4 (principle of pertinence or territorial provenance), Article 6 (common heritage and respect for the integrity of groups of SFRY State archives).

Traditional practices of States in settling archival claims

- official records kept in archives belong to the territory they were created on
- return archive material taken in the past out of the territory being the subject of succession
- if the origin is known records must be returned to the successor
- owner or successor decision for private archives

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Protection
of

**Cultural
Heritage**

from Natural
and Man-made
Disasters

Thanks for your attention!

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