Table of Contents

Foreword		xiii	
Chaptei	1 Introduction	1	
1.1	Preface	. 1	
1.2	What is immunity from seizure?	2	
1.3	Why would immunity from seizure be necessary?	6	
1.4	Approaches to granting immunity from seizure	7	
1.5	What are cultural objects?	9	
1.6	Cultural objects as good will ambassadors?	15	
1.7	What is a State?	17	
1.8	International agreements related to international cultural cooperation		
1.9	and immunity from seizure	20	
1.9	Method and structure of this study	27	
Chapte	The notion of customary international law	33	
2.1	Custom as a source of international law	34	
2.2	State practice and opinio juris	36	
2.3	Duration of the practice	40	
2.4	Uniformity of the practice	40	
2.5	Practice accepted as law: opinio juris	43	
2.6	Dissenting States	45	
2.7	In conclusion -	46	
Chapte	r 3 State immunity and cultural objects	49	
3.1	Immunity from jurisdiction; from absolute to restrictive immunity	49	
3.2	Immunity from measures of constraint	52	
3.3	2004 UN Convention on Jurisdictional Immunities of States and Their	٠.	
	Property **	59	
3.3.1	General introduction	59	
3.3.2	Commercial transactions and international art loans	63	
3.3.3	State enterprises .	66	
3.3.4	Immunity from measures of constraint	68	
3.4	European Convention on State Immunity	87	

3.5	Inter-American Draft Convention on Jurisdictional Immunity	
	of States	92
3.6	Asian-African Legal Consultative Committee	94
3.7	Draft Convention on State Immunity by the	
	International Law Association	96
3.8	Institute of International Law	99
3.9	In conclusion	101
Chapte	er 4 Situation in the United States of America	107
4.1	State immunity: situation in the United States of America	107
4.1.1	General approach of the United States in respect of State immunity	108
4.1.2	State immunity under the FSIA	111
4.1.3	Retroactive application: Republic of Austria v. Altmann	117
4.1.4	The 'commercial exception':	
	Westfield v. Federal Republic of Germany	121
4.1.5	The 'takings exception': Cassirer v. Kingdom of Spain	122
4.1.6	Once more the 'takings exception': Agudas Chasidei Chabad of United	
	States v. Russian Federation et al.	126
4.1.7	One more time the 'takings exception': Orkin v. Switzerland	132
4.1.8	The 'commercial exception' and the 'takings exception' combined:	
	the Herzog case	135
4.2	Immunity from measures of constraint for State property	139
4.2.1	Sections 1609-1611 of the FSIA	139
4.2.2	Seizure attempts in practice: Rubin v. the Islamic Republic of Iran	145
4.3	Special legislation involving immunity from seizure for	
	cultural objects	152
4.3.1	Federal immunity from seizure legislation	152
4.3.2	Immunity from seizure legislation in the State of New York	161
4.4	Case law with regard to immunity from seizure legislation	163
4.4.1	Romanov v. The Florida International Museum Inc.	163
4.4.2	Magness v. Russian Federation	164
4.4.3	Delocque-Fourcaud v. Los Angeles County Museum of Art	167
4.4.4	Deutsch v. Metropolitan Museum of Art	170
4.4.5	Malewicz v. City of Amsterdam	172
4.4.6	Berckheyde painting The Golden Bend in the Herengracht in Amsterdam	182
4.4.7	Portrait of Wally case	184
4.5	In conclusion	195
Chapte	er 5 Situation in Canada and Central and South America	201
5.1	Situation in Canada	201
5.1.1	State immunity	201
5.1.2	Immunity from seizure of cultural objects	203
5.1.3	Exhibition of the Dead Sea Scrolls	208
5.2	Situation in Central and South America	210
5.3	In conclusion	211

	.	
9.5.3	Immunity from seizure legislation for cultural objects on loan	317
9.6	Liechtenstein	320
9.7	Finland	321
9.8	The Czech Republic	323
9.9	Member States of the European Union which are in the process of	
	enacting immunity from seizure legislation for cultural objects on loan	324
9.9.1	Italy	324
9.9.1.1	Measures of constraint against foreign States in Italy	324
9.9.1.2	The Dance by Matisse	327
9.9.1.3	Discussions with regard to immunity from seizure legislation for cultural	
	objects on loan	328
9.9.2	Hungary	331
9.10	Considerations of several other Member States of the European Union	
	concerning immunity from seizure legislation	332
9.11	The Russian Federation	334
9.12	In conclusion	337
Chapter ·	10 Situation in Asia, Australia and on the African continent	339
10.1	Situation in Asia	339
10.1.1	Israel	339
10.1.1	The Foreign States Immunity Law	339
10.1.1.2	Towards immunity legislation for cultural objects on loan	340
10.1.1.2	The content of the Loan of Cultural Objects (Restriction of Jurisdiction) Law	-
10.1.1.3	The Islamic Republic of Iran	343
10.1.2	The United Arabic Emirates	345 346
10.1.3	Pakistan	348
10.1.4	The People's Republic of China and the territory of Taiwan	
10.1.6	Singapore	349
10.1.7	Japan	350
10.1.7	Other States of the region	351
10.1.6	Situation in Australia	354
10.2.1	Situation with regard to State immunity	354
10.2.1	The 1986 Protection of Movable Cultural Heritage Act	354
10.2.3	The Bark Etchings case	357
_	Situation on the African continent	359
10.3		362
10.3.1	Egypt South Africa	362
10.3.2		363
10.3.3	Other States of the region In conclusion	364
10.4	in conclusion	364
Chapter		367
11.1	International agreements addressing illicit import, export, transfer or	
	expropriation of cultural objects	368
11.1.1	UNESCO	368
11.1.2	Unidroit	371

489