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Case Lebanese Archives – Lebanon and University of Geneva

Lebanon/Liban – University of Geneva/Université de Genève – Maurice Dunand – Archives – Post 1970 restitution claims/demandes de restitution post 1970 – Due diligence – Illicit exportation/exportation illicite – Ownership/propriété – Negotiation/négociation – Settlement agreement/accord transactionnel – Conditional restitution/restitution sous condition

In 2010, the University of Geneva sent back to Lebanon the archives concerning the excavations conducted at Byblos, an archaeological site located in the northern part of Beirut (Lebanon), by the French archaeologist Maurice Dunand. The University had acquired the archives from Dunand in 1984.

I. Chronology; II. Dispute Resolution Process; III. Legal Issues; IV. Adopted Solution; V. Comment; VI. Sources.

I. Chronology

Post 1970 restitution claims

- **1975:** The French archaeologist **Maurice Dunand** (1898-1987) **sent to France** an **archive** of thousands of plans, drawings, photographs and other documents relating to digs conducted at Byblos, in the northern part of Beirut (Lebanon), from 1926 to the 1970s.¹ The shipping of the archives was **authorized** by Emir Maurice Chehab, the then General Director of the Lebanese *Direction générale des antiquités* (DGA).²
- **1977:** Dunand left Lebanon because of the civil war and moved to Loisin, his home-town in the Upper-Savoie (France).
- **1984:** **Dunand** and the **University of Geneva** signed a contract by the terms of which the archeologist committed to bequeath the archives to the Department of Antiquities of the University upon his death in exchange of 50.000 Swiss francs.³
- **1987:** Dunand died in Loisin. His archives were stocked at the University of Geneva.⁴
- **1992 and 1999:** Lebanon requested the return of the archives to the University of Geneva.⁵
- **20-26 July 2010:** The University of Geneva **returned** the archives to Lebanon.⁶

II. Dispute Resolution Process

Negotiation – Settlement agreement

- The Lebanese State had repeatedly asked the University of Geneva to return the archives exported by Dunand since the beginning of the 1990s. The University did not reject these requests, but subjected the return to a condition, namely the existence of sufficient guarantees as to the conservation of the archives. In particular, Professor Antoine Cavigneaux, the person in charge of the Dunand file at the University of Geneva, affirmed that there were concerns as to the safety and accessibility of the archives.⁷ Moreover, the scholars that were working on the archives asked to have more time to complete their research.
- Negotiations entered a decisive phase in 2006/2007, following the publication of the studies conducted by the experts of the University of Geneva.⁸ A decisive turn occurred in 2008, under the impulse of Assaad Seif, the then DGA excavations' director. He facilitated the conclusion of the agreement by committing to digitize and preserve the archives.⁹

¹ Duparc, "La Suisse restitue au Liban les archives du fonds Dunand".

² Seif, "Le « fonds Dunand » et sa récente restitution au Liban", P. 26.

³ Duparc, "La Suisse restitue au Liban les archives du fonds Dunand".

⁴ Seif, "Le « fonds Dunand » et sa récente restitution au Liban", P. 27.

⁵ Duparc, "La Suisse restitue au Liban les archives du fonds Dunand".

⁶ G.H., "International news in brief-October".

⁷ Duparc, "La Suisse restitue au Liban les archives du fonds Dunand".

⁸ Seif, "Le « fonds Dunand » et sa récente restitution au Liban", P. 27-29.

⁹ Duparc, "La Suisse restitue au Liban les archives du fonds Dunand".

III. Legal Issues

Due diligence – Illicit exportation – Ownership

- It is certain that at all times the archives had been part of the Lebanese State patrimony. Indeed, the DGA authorized only a temporary exportation of the archives to allow Dunand to conclude and publish his research work in France.¹⁰ This means that the initial exportation was not in contravention of Lebanese legislation. However, this also means that Dunand was not entitled to transfer the property of the archives.
- It must be noted, however, that the prolonged retention of the documents by Dunand was both illegitimate and unlawful. In this respect, it is worth mentioning Article 5(2) of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects.¹¹ This states that “[a] cultural object which has been temporarily exported from the territory of the requesting State, for purposes such as exhibition, research or restoration, under a permit issued according to its law regulating its export for the purpose of protecting its cultural heritage and not returned in accordance with the terms of that permit shall be deemed to have been illegally exported”.
- In 1984, the French Ministry of Justice sent various formal communications to the University of Geneva stating that Dunand had bequeathed the archives to the Archeological Center of Valbonne (France) in exchange of some funding.¹² But, as said, Dunand was unable to pass title to the French State. However, according to some writers, the deal between Dunand and French authorities was never formally concluded and consequently the ownership of the archives has never passed to the French State.¹³

IV. Adopted Solution

Conditional restitution

- Pursuant to the agreement signed in 2008, the University of Geneva returned the archives to Beirut, whereas the Lebanese Government committed to ensure their digitalization and preservation. It is worth noting that the return was made possible thanks to the funding provided by a number of Lebanese sponsors.¹⁴

¹⁰ Seif, “Le « fonds Dunand » et sa récente restitution au Liban”, P. 26.

¹¹ Adopted 24 June 1995, entered into force 1 July 1998. However, the UNIDROIT Convention was not applicable to this case because, inter alia, none of the States involved were parties to it at the relevant time.

¹² Duparc, “La Suisse restitue au Liban les archives du fonds Dunand”.

¹³ Seif, “Le « fonds Dunand » et sa récente restitution au Liban”, P. 27.

¹⁴ Seif, “Le « fonds Dunand » et sa récente restitution au Liban”, P. 29.

V. Comment

- The return of the Lebanese archives took many years, despite the recurrent requests submitted by the Lebanese Government. As said, the University of Geneva did not challenge Lebanon's ownership title. The return was prevented due to fears that the documents would not be properly conserved. Once Lebanon was able to offer such warranties, negotiations moved forward and the archives were sent back. These were stored in DGA's warehouses¹⁵ and made available to Lebanese scholars.
- The position of the University of Geneva can be criticized, *inter alia*, for the following two reasons. The first is that it adopted a paternalistic stance vis-à-vis an independent and sovereign State and its national patrimony by subjecting the return of the archives to specific conditions. In this sense, therefore, the University behaved just as the former colonial powers that today refuse to return to their former colonies the cultural materials removed in the past. One can recall the case of the Benin Bronzes or the lesser-known case of the Sanggurah Stone retained by the United Kingdom.¹⁶ The second reason is that the University of Geneva acquired the archives seemingly disregarding – or failing to investigate on – the origin of the archives.

VI. Sources

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¹⁵ Seif, "Le « fonds Dunand » et sa récente restitution au Liban", P. 29.

¹⁶ On these cases see Folarin Shyllon, "Unraveling History: Return of African Cultural Objects Repatriated and Looted in Colonial Times".

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