



Council of the
European Union

Brussels, 20 January 2022
(OR. fr)

5371/22

LIMITE

COSI 17
ENFOPOL 18
ENFOCUSTOM 14
CULT 4
JAI 61

NOTE

From:	Presidency
To:	Delegations
Subject:	Trafficking of cultural goods

Courtesy translation:

Over the past decade, the world has witnessed an alarming increase in the destruction of cultural heritage due to armed conflict. This has been accompanied by organised looting and the illicit trafficking and sale of cultural objects that were an integral part of a country's heritage, history and identity.

Attacks on cultural heritage do not only affect objects. The destruction and looting of heritage can be linked to the persecution of individuals and populations on cultural grounds. It can also be a problem for security and stability, as well as a war crime.

Crime targeting cultural property has flourished during the pandemic

An INTERPOL survey to assess crime against cultural property¹ indicates that this form of crime did not decline throughout the COVID-19 pandemic, and in some cases reached new heights.

The study, which is the first of its kind since the start of the pandemic - and the first to be made public - is based on information provided by 72 INTERPOL member states on cultural property crime, arrests and trafficking routes.

In 2020, 854,742 cultural objects were seized worldwide, including numismatic objects (coins, banknotes or medals), paintings, sculptures, archaeological objects and library materials. Two thirds of these objects were seized in Europe. Most of the stolen antiquities seized in recent years in New York have also passed through the European Union, as illustrated in 2020 by the case of the return by the United States to Egypt of a golden sarcophagus, looted in 2011, which had been exhibited at the Metropolitan Museum of Art after having been "laundered" in Member States with false certificates. A heavy fine for tax evasion was also imposed in December 2021 on Galerie Phoenix, which is based in Geneva but has numerous intermediaries in EU Member States.

In addition, a sharp increase in the number of illegal searches was observed in the regions of Africa (32%), the Americas (187%) and, above all, Asia and the South Pacific (3 812%) compared to 2019.

¹ [2020 Assessing crimes against cultural property](#), survey of INTERPOL member countries, september 2021

Translating recognition of the phenomenon into integrated action and giving a strategic dimension to the EU's action.

It is important here to recall the beginning of a response to the recurrent requests of the Council² and the European Parliament³:

- Directive 2014/60/EU of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State;
- Regulation 2019/880 of 17 April 2019 on the introduction and import of cultural goods;
- the application to the art market of the fifth "anti-money laundering" directive 2018/843 of 30 May 2018.

In its strategy to combat organised crime⁴ published on 14 April 2021, the European Commission announces the future publication of an action plan on the fight against the illicit trade in cultural goods, scheduled for 2022.

In September 2021, on the occasion of a conference organised by UNESCO in partnership with the European Union, Vice-President Schinas underlined: "Trafficking in cultural goods feeds money laundering, tax evasion and the financing of terrorism. As Europe is a major destination and transit market for cultural goods, the 2022 Action Plan (...) will seek to increase transparency, traceability and confidence. "⁵

² These include the Council conclusions on combating the financing of terrorism of 12 February 2016 ([6068/16](#)), the Council conclusions on EU external action of 16 June 2020 ([8868/20](#)).

³ These include the European Parliament recommendation of 1 March 2018 cutting off the sources of income of jihadists - targeting terrorist financing ([2017/2203\(INI\)](#)), the European Parliament resolution of 12 December 2018 on the observations and recommendations of the Special Committee on Terrorism ([2018/2044\(INI\)](#))

⁴ [COM\(2021\) 170 final](#)

⁵ [European Commission – Daily News - 14 / 09 / 2021](#)

The discussion at the COSI SG could thus make it possible to support the European Commission in the important work it is currently carrying out to prepare the action plan, particularly with regard to the traceability of cultural goods (especially antiques) and support for law enforcement activity and coordination. This could be at least as ambitious as the strategic text that was produced in 2016 against wildlife trafficking⁶ and provide the necessary framework and impetus.

The announcement by Vice-President Schinas concerning the strengthening of traceability via the action plan is particularly welcome in order to enable the European Union to assert itself today as a global player on a subject whose scale and importance have long been underestimated. Under Article 10 of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (which has been ratified by a large majority of EU Member States), States Parties have undertaken to "oblige, under penalty of criminal or administrative sanctions, Antique dealers to keep a register indicating the provenance of each cultural object, the name and address of the supplier, the description and price of each object sold, and to inform the purchaser of the cultural object of the export ban to which it may be subject. However, it is clear that not all EU Member States have fully implemented the obligation to keep a register. However, in addition to being an international obligation, it is an essential tool to enable law enforcement agencies to fight this crime under the right conditions.

In particular, better traceability of objects can promote transparency and prevent goods that have illegally left their territory of origin (EU or third country) from being considered legal once they are marketed in a Member State. It might be useful in this undertaking to build on the important work already carried out within the "TAXUD" Group under the supervision of the European customs services. It might be appropriate to draw inspiration from the criteria established there to further the work that should be carried out from the point of view of the intra-European circulation of cultural goods.

⁶ [COM\(2016\) 87 final](#)

Finally, in order to strengthen the synergy between specialised actors from different backgrounds (law enforcement agencies, art experts), it would be useful to resume the reflection on the reform of the informal police cooperation network "EU CULTNET". This network could play a more important role in coordination, monitoring and analysis on the basis of a secretariat that could, for example, be provided by Europol. Such a reform, which would give CULTNET a real steering role, would also help to put more emphasis on the training of law enforcement trainers, based on the high quality manual developed in 2018 by UNESCO and funded by the EU⁷.

Questions to delegations

- How can the European police cooperation network CULTNET be effectively reformed and formalised? What role for Europol in this process?
 - How to ensure traceability at European level through the use of transaction logs?
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⁷ <https://unesdoc.unesco.org/ark:/48223/pf0000266098>