



# EU response to the illicit trade in cultural goods

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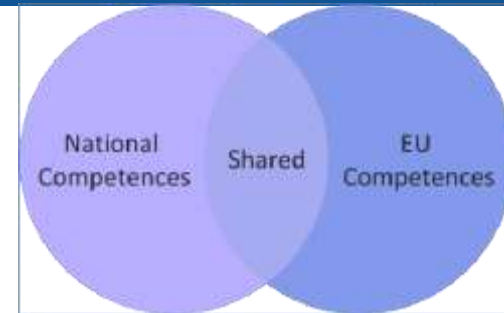
*European Commission*

*Directorate General for Education, Youth, Sport and Culture*

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# 1. EU competence



## **Supporting in the field of culture**

Art. 167 of the Treaty on the Functioning of the European Union

## **Shared in the field of internal market**

Directive 2014/60 of 15 May 2014 **on the return of cultural objects unlawfully removed from the territory of a Member State**

## **Exclusive in the field of customs and trade**

Council Regulation 116/2009 of 18 December 2009 **on the export of cultural goods**

**No legislation** on control of **imports apart from** regulations adopted to prevent illicit imports of cultural goods from Iraq (No 1210/2003) and Syria (No 1332/2013 )



### 3. Turning point

- 2015 - Resolutions of the **European Parliament**
  - Resolution **on the destruction of cultural sites perpetrated by Da'esh** called for international cooperation to implement international conventions and resolutions.
  - Resolution **on the situation in Palmyra** condemned the purposeful and systematic destruction of the site.
- **EU Action Plan to strengthen the fight against terrorist financing** (2 February 2016)
- Joint Communication '**Towards an EU Strategy for International Cultural Relations**' - combating illicit trafficking as one of the fields for international cooperation on culture (8 June 2016)



## 4. Global response

### 4 components of the EU action

A. Completing the  
legal framework

B. Tackling illicit  
trade within the  
EU

C. Measures at  
the borders

D. International  
cooperation



## A. Completing the legal framework

- Council Regulation (EC) No 116/2009 – provisions to ensure that **exports** of cultural goods are subject to uniform controls at the Union's external borders.
- Directive 2014/60/EU on the **return** of cultural objects unlawfully removed from the territory of a Member State.
- Council Regulation (EC) No 1210/2003 of 7 July 2003 and Council Regulation (EU) No 36/2012 the EU introduced restrictive measures in respect of the trade in cultural goods from **Iraq and Syria**.

**Regulation on the import of cultural goods - 13.07.2017 - will complete the EU legal framework.**

**The initiative aims to prevent the import and storage in the EU of cultural goods illicitly exported from a third country.**



## Key Principle

*What is an '**illicit cultural good**' in the context of import?*

*It is the laws and regulations of the **exporting country** which determine whether the cultural good is licit or not*

*Cultural goods illicitly exported from a third country **should not be allowed entry** in the EU customs territory*



## Main features

*A **common definition** of cultural goods for the purposes of import: necessary to ensure they receive the same treatment in all Member States*

*Inspiration drawn from the 1970 UNESCO Convention and the 1995 UNIDROIT Convention as to the **typology** of goods*

*Minimum **age threshold of 250** years inspired by the US laws on the import of cultural goods*



## Main features (2)

*For archaeological finds, elements of monuments that have been dismembered, rare manuscripts and books: requirement to obtain an **import licence** from a competent authority in the Member State of entry*

*For all other cultural goods: requirement to submit a **signed statement** that the goods have been exported lawfully from the third country and an **Object ID** form describing the cultural goods*





## Main features (3)

*If the object is exported to the EU from the source country, i.e. where it was discovered or created: the importer has to demonstrate licit export from there.*

*If the object is not exported from the source country:*

- **if the third country is a signatory State of the 1970 UNESCO Convention, it's enough for the importer to demonstrate that export was in accordance with that country's laws**
- **if the third country is not a signatory State of the 1970 UNESCO Convention, importer has to demonstrate licit export from the source country**



## **Main features (5)**

*The discussion on this proposal is ongoing at Council of the EU and the European Parliament is examining it.*

***The vote is scheduled for 7 June.***



B. Tackling illicit trade within the EU

- *Fighting the illicit trade through **enhanced cooperation***



**EU CULTNET**



Internal Market Information System



## B. Tackling illicit trade within the EU

- ***Strengthening the capacity of law enforcement agencies***  
2018-2019 - Training for the relevant professional groups, including police, judges, prosecutors etc. (EU Pilot Project implemented by UNESCO)
- ***Addressing the demand side***  
2018 - **Engaging the European art market** in the fight against the illicit trafficking of cultural property (implemented by UNESCO)
  - To reinforce due diligence conduct in the European art trade and sensitize relevant stakeholders to the different implications of illicit trafficking in cultural property.
  - Activities: training to selected stakeholders of the European art market and a series of sensitization materials to be distributed among art market stakeholders in the beneficiary countries.



## B. Tackling illicit trade within the EU

- *Improving the **evidence base** and **reinforcing the monitoring***
- **"Study on improving knowledge about illicit trade in cultural goods in the EU, and the new technologies available to combat it"**
  - *The survey has been launched in May 2018: <https://s.chkmkt.com/?e=123080&h=B743F0341F83D7B&l=qb>*



- Project planned under

### **Social platform on cultural heritage in danger and on illicit trafficking of cultural goods**

call published on 27 October 2017, deadline for applications 13 March 2018



# Study on Improving knowledge of illicit trade in cultural goods

- Launched by DG EAC, with support by DG GROW, DG HOME, DG TAXUD
- Launched in January 2018 and will run till the end of 2019
- Objectives:
  - Gather reliable information about the dimensions of illicit trade in cultural goods,
  - Gather information about criminal justice responses and challenges,
  - Analyse the potential of new technologies to improve criminal justice responses,
  - Formulate policy recommendations,
  - Disseminate the findings to the widest audience



# Study on Improving knowledge of illicit trade in cultural goods

- Activities to be conducted during the study:
  - Desk research of open data sources
  - Large survey among national authorities and other stakeholders
  - In-depth interviews with authorities and stakeholders
  - Dissemination of tailored materials among various stakeholder groups
- Current stage of the project: run-up to the large survey
  - Short pilot survey among the stakeholders present at this EU-UNESCO conference

Company executing the study: Ecorys

Contact: [Olga.Batura@ecorys.com](mailto:Olga.Batura@ecorys.com)



## C. Measures at the borders

- ***Helping the EU customs***
  - **Existing cooperation** between customs authorities
    - Providing advice, sharing experience, exchange of good practice
  - **Awareness raising** and **capacity building** activities
  - Enhanced international and **cross-border cooperation**





## D. International cooperation

- Joint Communication "**Towards an EU Strategic Approach to international Cultural Relations**", June 2016 - cultural heritage is a key element of cooperation
- **Friends of the Presidency** - set up in June 2017 to aid implementation of the *Joint Communication towards an EU Strategic Approach to international Cultural Relations*.
  - Focus on:
    - 1/ mobility and people-to-people contacts;
    - 2/ **cultural heritage**; and
    - 3/ culture and development.



## D. International cooperation – with relevant international partners

- **UNESCO** – 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict (and protocols) and 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property
- **UNIDROIT** – 1995 Convention On Stolen Or Illegally Exported Cultural Objects
- **Council of Europe** – 2017 Convention on Offences Relating to Cultural Property
- **World Customs Organisation** – June 2016 – WCO Council Resolution on the Role of Customs in Preventing Illicit Trafficking of Cultural Objects
- **Interpol** – cooperation on fighting organised crime; See Report of March 2017 "Creating a national Cultural Heritage Unit"
- **UNODC** – Practical assistance tool for the implementation of the international guidelines for crime prevention and criminal justice responses with respect to cultural heritage crime
- **UN** - 2199 (2015), 2253 (2015) and 2347 (2017), *Sanctions Monitoring Team*



## D. International cooperation – support to affected countries

- **Syria** Cultural Heritage Action Plan – ongoing since 2013
- "Protecting Cultural Heritage and Diversity in Complex Emergencies for Stability and Peace" implemented by UNESCO - **Iraq, Libya, Syria and Yemen (ICSP/FPI)**
- Assistance to **MENA countries** on fight against illicit trafficking under the programme on anti-money laundering and counter-terrorist financing
- Capacity building of enforcement authorities can be provided through **Technical Assistance and Information Exchange instrument (TAIEX) – Iraq**
  - *30-31 May in Brussels: Workshop on Protecting Iraqi Cultural Heritage and Fighting Terrorism (at the presence of **Mr Ernesto Ottone**, Assistant Director-General for Culture – UNESCO)*
- **Western Balkan** Integrative Internal Security Governance - strengthening the financial investigation and prosecution capacities in the Western Balkans



## D. International cooperation

### European Year of Cultural Heritage 2018

The Year aims to strengthen initiatives designed to **prevent** the **illicit trafficking** of cultural goods. This will be achieved by enhancing cooperation on **risk management** on the one hand, and **raising awareness** about the implications of illicit trade in cultural goods on the other – both within and outside of the EU.

#### Components of the initiative "Heritage at risk":

- Adoption of regulatory measures
  - *Adoption of the regulation on the import of cultural goods expected end of 2018*
- Awareness raising and capacity building activities
  - *Two joint projects with UNESCO*
- Improving evidence and sharing experience
  - *Launch of a Commission study on the dimensions of illicit trade in cultural goods in the EU and on the use of new technologies to combat it*
- Cooperation with third countries:
  - *Joint EU-UNESCO project 'Protecting Cultural Heritage and Diversity in Complex Emergencies for Stability and Peace'*





## D. International cooperation

### **New European Agenda for Culture**

In response to calls from EU leaders for increased EU collaboration on culture, the European Commission adopted on 22 May 2018 a proposal for a New European Agenda for Culture. It proposes to:

- Harness the power of culture and cultural diversity for social cohesion and wellbeing, by promoting cultural participation, mobility of artists and **protection of heritage**
- Support jobs and growth in the cultural and creative sectors
- Strengthen **international cultural relations**
- Put into practice through strong cooperation with Member States and stakeholders, including civil society and international partners.

At the conclusion of the European Year the Commission will Present an **Action Plan for Cultural Heritage**, and ask Member States to draft similar Plans at national level and follow up the 10 European initiatives through the Council Work Plans for Culture.