

Charter of Courmayeur

adopted at the Workshop organized by the Crime Prevention and Criminal Justice Branch at the United Nations Office at Vienna, its International Scientific and Professional Advisory Council (ISPAC) and UNESCO

The International Workshop on the Protection of Artistic and Cultural Patrimony held at Courmayeur, Aosta Valley, Italy, 25 - 27 June 1992, adopted the following recommendations:

I. National and international action against the illicit trade with objects belonging to the cultural patrimony of Nations

Aware of the sharp increase registered in the illicit trade with art objects and archeological items belonging to the cultural patrimony of nations,

Convinced that such criminal activities are causing grave damage to the cultural patrimony of many countries,

Convinced also that its cultural patrimony is a crucial component of the identity and self-understanding of a people,

Mindful of the imperative need to protect the cultural patrimony, preserving thereby the social, historical and artistic components of this identity and self-understanding,

Desirous to assist Governments and international organizations in their efforts to curtail the illicit trade with art objects and items belonging to the cultural patrimony,

Recalling the principles contained in the **International Covenant on Economic, Social and Cultural Rights**,

Recalling also the principles contained in the 1970 **UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of cultural Property**,

Recalling further the principles on protection of moveable cultural property contained in the Protocol to the **1954 UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict**,

Recognizing the usefulness of the model treaty for the prevention of crimes against the cultural heritage of peoples, as annexed to resolution B-1 of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Aware of the draft **Convention on stolen and illegally exported cultural property** which is under preparation in the framework of the International Institute for the Unification of Private Law (UNIDROIT),

Adopts the following recommendations for national and international action aimed at bringing under control the illicit trade with objects belonging to the cultural patrimony of nations:

(I) Concerned Governments should make a concerted effort, on the occasion of the forty-seventh session of the General Assembly of the United Nations and of the next General Conference of UNESCO, to obtain the adoption of resolutions strongly urging Member States to initiate multilateral and bilateral negotiations aimed at concluding treaties for the protection of the cultural patrimony of nations. The same resolution should also urge Governments to upgrade, in their crime prevention programmes, the importance of protecting the cultural property of nations, granting top priority to these activities.

(II) In view of the need for international co-operation to cope with the illicit trade with cultural objects, Governments should establish focal points that would handle, in close collaboration with ICPO/INTERPOL, all matters related with the transnational traffic with art objects and items belonging to the cultural patrimony, including requests for international co-operation.

(III) Detailed and extensive information concerning the cultural patrimony of every nation is of the foremost importance. Consequently, Governments should consider establishing inventories of their cultural patrimony, containing, when possible, a description of each item adequate for its identification and a photographic reproduction of it. In addition, Governments should examine the possibility of establishing public registers of works of art, identified by categories, as goods linked to possessing. Further, national inventories should remain open to new items, as these come to light.

(IV) In view of the scarcity of resources prevailing in many countries, Member States should be disposed to provide technical and, eventually, materials assistance to requesting Governments interested in establishing the above-mentioned national inventories. Such technical assistance could take the form of provision of expert advice, training and/or hardware, as needed, and may be provided bilaterally or through international organizations.

(V) For the purpose of enhancing awareness on the part of Government officials of the seriousness and gravity of the problem in question, the United Nations and UNESCO, in co-operation with ICPO/INTERPOL and interested intergovernmental and non-governmental organizations, are requested to prepare a document, to be submitted to national authorities, explaining in detail the dimensions of the problem, including available relevant statistical data. The document should also cover the links between the illicit traffic with objects belonging to the cultural patrimony of nations, and other manifestations of transnational criminality, such as the illicit traffic with narcotic drugs.

(VI) Governments are urged to consider the introduction of new legislation, as needed, that would criminalize the illicit export and import of cultural objects.

(VII) Governments should consider establishing regulations whereby any imported cultural object should be accompanied by an export permission issued by the relevant authorities of the country of origin. Governments should also determine the adequate sanctions in case of violations of any regulations so established.

(VIII) With respect to the return of illicitly exported objects, it has been noted that excessive demands for information posed by the requested Governments may in practice render ineffective the dispositions of a bilateral agreement. For instance, the request for the exact date of the theft, or the illicit exportation, may be impossible to fulfill. This is particularly true in the case of clandestine archeological digs. Consequently, Governments are urged to show greater flexibility and understanding for the difficulties facing the authorities of the requesting countries.

(IX) In the same vein, it has been observed that high judicial costs in the requested country may deter requesting countries from initiating action for the return of illicitly exported objects. In fact, in some cases, such costs may exceed the price of the item in question. Consequently, Governments are reminded that they are free to explore the possibility of friendly settlement, or, where the parties agree, of binding arbitration procedures in order to secure the return of such illicitly exported objects to their countries of origin.

(X) The United Nations and UNESCO, in consultation with Governments and in co-operation with relevant organizations, should explore the possibility of creating an internationally recognized licensing system for art dealers, which would serve to weed out the criminal elements of an otherwise respectable professional group.

(XI) The co-operation between the United Nations, UNESCO and INTERPOL in the area of the illicit trade with cultural objects should be intensified and streamlined, so as to obtain higher effectiveness and better possibilities of providing advice and assistance to requesting Governments.

(XII) Regional and interregional crime prevention institutes should add to their programmes of work elements concerning the prevention of crimes against the cultural patrimony of nations, go as to be able to assist requesting Governments and to support the corresponding activities of the United Nations.

(XIII) It is indispensable that the international community gain full awareness of the crucial moral dimensions of the illicit transnational trade with the cultural patrimony. It is a fact that a considerable share of this trade flows from developing to developed countries. Consequently, developed countries should be respectful of the cultural heritage of developing countries, and should provide full co-operation to the victims of illicit trade with cultural objects, thereby dispelling any misunderstanding and placing themselves above any suspicion of possible complicity or complacency.

II. Improvement of information exchanges and establishment of data-banks

Recognizing that recording and dissemination of information about the legal status of cultural items and about crimes against the cultural patrimony are important means of combating international illicit traffic in movable cultural property,

Noting with satisfaction the existence of data bases already established, inter alia, by the Italian Republic, Arma dei Carabinieri, since 1980, and by Canada, since 1983, as well as those established by ICPO/INTERPOL and the Art Loss Register,

Acknowledging the action of UNESCO and the International Council of Museums (ICOM) in assisting countries in the preparation of inventories and appropriate legislation, in providing training for specialized personnel and in coordinating the concerns of museums with respect to crimes against cultural property,

Recognizing also the cultural importance of assisting developing countries to protect their cultural patrimonies from the criminal deprivations to which they are increasingly subjected,

Acknowledging with appreciation the willingness of the Governments of Canada and Italy to provide assistance to international efforts to achieve an optimal diffusion of information concerning stolen and illegally exported movable cultural property as well as national laws related to its protection,

Aware of the fruitful co-operation established between the United Nations and UNESCO in relation to the prevention of crimes against the cultural patrimony,

Recalling the **1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property**, in particular **article 5** thereof concerning the need to give appropriate publicity by States parties to the Convention to the disappearance of any item of cultural property,

Noting the 1989 ICOM General Conference resolution on the importance of national inventories,

Strongly underlining the importance of the resolution on the use of automated information exchange to combat crimes against movable cultural property adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Adopts the following recommendations for national and international action aimed at the improvement of information exchanges related to the prevention of crimes against the cultural patrimony of nations:

(I) The United Nations, in co-operation with UNESCO, should play a central role in the co-ordination of information exchanges between Governments, relevant intergovernmental and non-governmental organizations and private institutions, so as to ensure an optimal diffusion of data concerning movable cultural patrimonies and crimes committed against them;

(II) The United Nations, in close collaboration with UNESCO, should organize, subject to the availability of extrabudgetary resources, yearly expert meetings for the purpose of carrying out a continuous technical evaluation of the difficulties encountered in establishing the co-ordination mentioned in recommendation (i), above;

(III) The United Nations, in collaboration with UNESCO and in co-operation with relevant international agencies and organizations, should formulate specific country projects, intended to assist Member States in improving their capability to cope with the challenge of crimes against cultural property. These projects, which should address, inter alia, such areas as legal reforms, establishment of data bases, museum Security and training of law enforcement officials and customs personnel in the identification of cultural objects, would be submitted to potential donor countries for the purpose of funding. The United Nations and UNESCO should act as executing agencies for funded projects;

(IV) Member States should examine the possibility of supporting the United Nations Criminal Justice Information Network (UNCJIN), thus contributing to improve its capability;

(V) The United Nations and UNESCO, in close collaboration with ICOM and other interested non-governmental organizations, should encourage close co-operation between emerging initiatives in the private and public sector that are developing data bases about stolen cultural property. The feasibility of establishing a network of these data bases should be carefully explored;

(VI) The United Nations and UNESCO, in co-operation with ICOM and other relevant non-governmental organizations, should promote the development of national inventories of cultural properties, and should provide expert advice to requesting countries on standards and technical methods for establishing such inventories;

(VII) The intended direct accessibility of the ICPO/INTERPOL Central Data Base on Stolen or Unidentified Works of Art to national law enforcement agencies should be strongly encouraged;

(VIII) The diffusion of information concerning national and international legislation concerning cultural patrimonies should be strongly encouraged. UNESCO should promote the development of a data base about such legislation, making them accessible to Governments, intergovernmental and non-governmental organizations and to relevant private institutions;

(IX) The United Nations and UNESCO, in co-operation with concerned Governments, with ICPO/INTERPOL and with relevant private sector organizations, should provide museums and other public sector organizations with information concerning stolen cultural property, if possible through access to the corresponding data bases;

(X) Since the bulk of information concerning stolen or unidentified works of art is still kept in national registers or data bases, it appears desirable that the INTERPOL Computer Network be granted easy access to this information, particularly in those cases in which the possibility of international illicit traffic cannot be excluded, thereby facilitating an increase of seizures and recovery at the international level.

Report

1. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Havana, Cuba, from 27 August to 7 September 1990, adopted the Model Treaty for the Prevention of Crimes that Infringe on the Cultural Heritage of Peoples in the Form of Movable Property, recommending it as a framework that could be of assistance to Member States interested in negotiating and drawing bilateral agreements in this area. (Congress resolution B1).

2. The Eighth Congress also adopted a resolution on the use of automated information exchange to combat crimes against movable cultural property (Congress resolution C6), in which it requested the Secretary-General of the United Nations, inter alia, to make arrangements, in co-operation with Member States, intergovernmental and non-governmental organizations and other organizations, for

the establishment of national and international computer data bases that would be used by competent authorities for the purpose of preventing and combating crimes against the cultural heritage, which would be available to Member States and to specialized sectors through appropriate information networks. Further, the resolution urged Member States to

3. In pursuance of the above, and for the purpose of assisting the United Nations in the fulfillment of its mandates, an International workshop on the Protection of Artistic and Cultural Patrimony has taken place, organized by the Fondazione Centro internazionale su diritto società e economia. The Meeting was prepared by the International Scientific and Professional Advisory Council of the United Nations for Crime Prevention and Criminal Justice (ISPAC), in cooperation with the Crime Prevention and Criminal Justice Branch of the United Nations Office at Vienna and the Division of Physical Heritage of UNESCO. For the programme outline of the workshop, see Annex I.

4. The Workshop was held at Courmayeur, Aosta Valley, Italy, from 25 to 2, June 1992, and was attended by representatives of 15 countries and of ICPO/INTERPOL and of the International Council of Museums (ICOM). For the list of participants, see Annex II.

5. The Chairman of the Executive Board of ISPAC opened the meeting, welcoming the participants and thanking them for their willingness to participate in the event.

6. The President of the Autonomous Region of the Aosta Valley also addressed the workshop, welcoming the participants and emphasizing the importance for his region of the items to be discussed, in view of the numerous works of art to be found in it, which could quite conceivably arouse the interest of art thieves. Courmayeur had already hosted other meetings aimed at assisting the international community to cope with the problems generated by transitional criminality. He certainly hoped that other similar events would take place in the region in the near future.

7. The representative of the Italian Ministry of Foreign Affairs greeted the Workshop on behalf of the Director-General of Cultural Relations of that Ministry, who took a personal interest in the protection of the artistic and cultural patrimony. Further, she addressed herself to the new circumstances emerging from the establishment of the European Common Market in which national boundaries will disappear, and informed the workshop of the initiatives undertaken by Italy in this connection. In addition, she brought to the attention of the participants the instruments adopted in this respect by the Council of Europe since 1954, the last of which was the **European Convention on the Protection of the Archeological Heritage**, signed at La Valletta, Malta, on 16 January 1992.

8. During the general debate, the participants repeatedly underlined the alarming increase in the illicit trade with artistic and cultural property. The volume of this trade was almost certain to grow and to become more difficult to detect as national borders become more permeable to commerce and travel. This was already an imminent reality in the European Community, where existing barriers were scheduled to disappear as of 1 January 1993.

9. Illicit trade was also being stimulated by recent development in art markets in developed countries. In fact, prices had been mounting during the last decade and many people saw art objects as a safe investment. This trend would most likely continue in the foreseeable future. High prices made illicit trade and art theft more profitable and thus more attractive.

10. Public awareness of the real dimensions and characteristics of the phenomenon appeared to lag behind the reality of the problem. Not many people seemed to know, for instance, that it ranked second in volume to illicit drug traffic. Perhaps an even smaller number of people was cognizant of the linkages between these two transnational criminal activities. These linkages justified indeed integrating the prevention of crimes against artistic and cultural property in the overall schemes and policies aimed at combating serious transnational Crimes, such as the illicit trade with drugs and arms.

11. Consequently, it was necessary to promote a higher awareness of the problem in question, both among the general public and among public officials. Such awareness was a precondition for the necessary reordering of priorities in this respect. In this connection, some delegations expressed the wish that the United Nations, in co-operation with UNESCO and with the assistance of

ICPO/INTERPOL, prepare a document, to be brought to the attention of national authorities, indicating the real dimensions of the problem. If available, statistical data were to be included. ICPO/INTERPOL could be of great assistance in this task. Other delegations felt that, in view of the transboundary nature of the illicit trade, an international patrol should be created for the purpose of pursuing the involved criminals beyond national borders.

12. Several delegations, particularly from developing countries, thought that the problem had to be seen in a broader context. They pointed out that a large share, if not most, of the transboundary illicit trade with artistic and cultural property flowed from developing to developed countries, since the main markets were to be found in the latter. These had, however, rather tolerated this commerce, rather than truly committing themselves to an effective co-operation with developing countries, which were the main victims of these criminal activities. Such laxity could unfortunately be misconstrued as a remnant of colonialist attitudes, which were to be replaced by a new spirit of solidarity and collective responsibility.

13. Further, the same delegations thought that it was mistaken to look at the problem from a purely economic point of view, since such a perspective had prevented that due recognition be given to the moral dimensions of the phenomenon. The constant plundering of the cultural patrimony of a country was bound to inflict grave damage to a people's identity and self-respect. In their opinion, therefore, crimes against the cultural patrimony should be equated to crimes against humanity, and should be pursued accordingly. Criminalization of these activities was fully justified, and could act as a deterrent. An effective sanction could be loss of license for art dealers. New legislation was, in any case, badly needed.

14. Several delegations were of the opinion that bilateral agreements, although valuable and to be encouraged were marked by severe shortcomings. They could be, as the experience of some countries demonstrated, rendered de facto ineffective by the excessive demands for information made by requested countries. Asking, for instance, for the exact date of theft of objects from an archeological site, not always known to the authorities, was demanding information that was impossible to ascertain with any degree of exactitude. Requested countries should be more realistic and less formalistic.

15. An additional obstacle to the recovery of stolen cultural property was the excessive costs incurred by the requesting country when following the judicial proceeding for restitution of stolen or illicitly exported items. In many cases, requesting countries were effectively deterred from initiating legal action by a consideration of such costs. This was particularly true when the costs were higher than the commercial value of the object. This situation had led a country to buy the stolen object from the possessors rather than to try to recover it by judicial means.

16. In view of this, some delegations felt that countries should demonstrate their willingness to co-operate by establishing simpler and less costly procedures that could lead to a prompt restitution of the stolen objects to their rightful owner. This possibility was, however, unacceptable to other delegations, which felt that this would violate domestic law and constitutional guarantees.

17. Some participants felt that an effective measure would be to institute the obligation of importers to prove the legality of imports by means of an export certificate, to be issued by the relevant authorities of the country of origin. In the absence of such proof, and after a reasonable time, the items in question should be seized and returned to the country of origin. Such a procedure would, however, in the opinion of other participants, unlawfully restrict the free movement of goods being established in some parts of the world, such as the European Common Market. The proposal to establish an international licensing system for art dealers met with similar objections.

18. The creation of focal points in national administration was highly recommendable, since this would facilitate international co-operation and centralize the handling of requests for assistance. These focal points should function in close co-operation with local INTERPOL offices, and link with the United Nations.

19. With respect to the creation of national inventories and the establishment of data bases, participants agreed as to their potential value and usefulness. Such registers were indispensable to an effective prevention of crimes against artistic and cultural property. They, however, disagreed

concerning their inclusiveness. While some thought that private collections should be included, other felt that this would represent a potential threat to the private sphere.

20. Some difficulty was also expressed with the very concept of cultural property. Drugs could be easily defined and identified, but this was not the case with cultural items. How would a customs officer know that the imported object was of a cultural nature and thus requiring special attention? Probably the whole question of identifying an item as belonging to the cultural patrimony was an idle one. An object was part of the cultural patrimony from the moment the authorities of the country of origin classified it as belonging there, and, therefore, non-exportable. Customs officers could not be expected to possess university degrees in art history or archeology, but the minimum basic knowledge could be imparted in their training courses.

21. Inventories, in the opinion of some participants, should not be considered as closed. They should remain open so as to allow the inclusion of objects not known at the time they were drawn. Any objects found in archeological digs should be presumed to belong to the cultural patrimony of the country where the dig were located regardless of the legal ownership of the surface. This position, however, was difficult to accept for some countries, in so far as it appeared to violate very strongly held conceptions of private property.

22. Inventories and data bases were very useful, but also costly propositions. As such, they could often be beyond the financial means of many developing countries which, as a matter of fact, usually have more vital tasks to perform with their limited resources. In this situation, the investment needed for the creation of inventories and data bases was perceived as possessing a low priority in comparison with other demands. Accordingly, several delegations felt that projects of this kind could not be implemented in the absence of substantive technical assistance. This assistance should include, inter alia, such items as evaluations of the objective situation expert advice on how to perform the tasks at hand in drawing the inventory and establishing the data base, training of the required personnel, and provision of equipment, as needed.

23. Participants were convinced of the role to be played by modern technology, particularly communications and electronic information processing, in the establishment and functioning of accurate and rapidly accessible inventories and data bases. But it was obvious to all that it would be unrealistic, and perhaps counterproductive, to expect that every country established in the short, or even medium, run, an electronic data base. At the beginning at least, it would probably suffice if the inventory took a much more traditional and modest form, such as index cards and other simple systems.

24. As an illustration of the point under discussion, the Arma dei Carabinieri of Italy gave an excellent demonstration of their extremely advanced electronic data base. Such data base could serve as a model to be followed by interested countries. In fact, the Italian Government felt that the system could be the nucleus for an international network, together with the Canadian Heritage Information Network (CHIN).

25. The representative of IPCO/INTERPOL briefed the Seminar on the establishment, towards the end of 1993, of the INTERPOL Telecommunications Network, linking the central bureau in Lyon, France, with all INTERPOL national offices in member countries. The network, by means of micro-computers, will include text and image retrieval facilities, facilities thereby the rapid dissemination of relevant information, a fact of great importance for effective police work. The system, however, would be only accessible to law enforcement agencies, a requirement that limited its usefulness to other users, such as museums.

26. The Workshop felt that a comprehensive open network, connecting possibly the national data bases, and co-ordinated by the United Nations Secretariat in co-operation with UNESCO, would effectively complement existing private and public information networks. This goal was to be pursued in a parallel form to the establishment of national inventories and data bases.

27. Membership in existing networks was, however, problematic for developing countries suffering serious financial constraints. This difficulty pointed again at the indispensability of technical assistance,

as was repeatedly emphasized by several delegations. In this connection, two delegations signaled the willingness of their respective Governments to explore such assistance.

28. At the conclusion of its works, the meeting was addressed by the Mayor of Courmayeur, who expressed the satisfaction of his city to be able to host such important meeting, adding that he expected other similar international events to take place at Courmayeur in the foreseeable future.

29. The Chairman of the Fondazione Centro internazionale su diritto societa e economia which hosted the proceedings, expressing his satisfaction for their results warmly welcomed all participants and in particular the Delegates of the foreign Governments and the Representatives of international Organizations.

30. The Workshop adopted by consensus the Charter of Courmayeur, containing two sets of recommendations, and expressed the wish that they could be brought to the attention of Governments through the Commission on Crime Prevention and Criminal Justice, at its second session in 1993, and to the next General Conference of UNESCO. It also expressed the wish that meetings like this should be held at regular intervals among experts from interested countries, for the purpose of keeping the situation under review and of devising appropriate strategies, including the elaboration of technical co-operation projects focused on training, exchange and dissemination of information and linkages through adequate data-banks. Finally, all participants extended their thanks to the organizers of the workshop, for the friendly atmosphere and the generous hospitality.

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